



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

# **WEST LINN CITY COUNCIL MEETING NOTES July 17, 2023**

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

### **Council Present:**

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.

### **Staff Present:**

City Manager John Williams, City Attorney Ed Trompke, Assistant Planner John Floyd, and City Recorder Kathy Mollusky.

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

Council President Mary Baumgardner moved to approve the agenda for the July 17, 2023, West Linn City Council Meeting. Councilor Lou Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 4 - 0**

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

#### [Public Comment - John McCabe](#)

#### [Public Comment - John McCabe2](#)

John McCabe discussed the Dollar Street and Brandon Place right-of-way decision, stating that an environmental assessment had not been completed, nor had the work been authorized, but the work from Brandon Place Extension to Dollar Street was now underway. He did not believe it is ADA-compliant, as required. He also questioned why work started the day after he received notice with information about appealing to Land Use Board of Appeals (LUBA) without waiting to see if an appeal was going to be filed. The use of Brandon Place extension to Dollar Street was never authorized, yet it was being done. It was supposed to be for emergency use, but it is used every day.

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

#### [National Farmers' Market Week & Wednesdays In Willamette](#)

##### [Proclamation](#)

Mayor Bialostosky read the proclamation declaring August 6 to 12, 2023 as National Farmers Market Week in conjunction with Wednesdays in Willamette Summer Street Market Week.

Rebecca Hollenbeck, Historic Main Street, and Jody Carson discussed a program in which each child aged 5 to 12 received \$2 in tokens each week to purchase produce-related items at the market.

### [Scheduled Presentations to the Council \[6:30 pm/60 min\]](#)

#### [TriMet Forward Together Presentation](#)

##### [Presentation](#)

City Manager John Williams acknowledged the Community's high-interest in alternatives to single-occupied vehicles, especially as roadwork and possible tolling begins on I-205, and stated both intercity and intra-city transit services were on Council's priority list this year.

TriMet Senior Planner Grant O'Connell updated on Forward Together, included in the packet. Although it was unknown how much the pandemic changed commuting patterns permanently, they had changed enough to warrant revisiting existing services. At the outset of the pandemic, TriMet reduced all services by about 22 percent due to economic concerns and to reserve capacity for people who had no other transportation options. For many reasons, TriMet was now able to grow services back to pre-pandemic levels and even beyond that. To keep costs low, they did not perform a ridership model, but instead chose to measure the gain in access. The study suggested the following would benefit West Linn, specifically:

- There are two lines that run through West Linn. In the context of tolling, TriMet was looking at upgrading Line 35 to operate frequently, every 15 minutes.

- They are looking at extensions of the line along the Highway 43 corridor, and Line 76, which would mirror Highway 217.
- Significant areas of Tigard and Tualatin would be newly reachable within 60 minutes for 20,000 people and 34,000 jobs.
- There would also be a new gain in accessible Lift services by the extension of Line 154 between Tualatin and the west. There may be a decrease in Lift accessibility in the Line 76 proposed route, but the Lift provider indicated there were no known or established customers in that area.

Forward Together was a short-range plan within existing forecast resources to reconfigure services within the Portland Metro area.

Senior Planner O'Connell responded to Council questions and concerns as follows:

- The study was low budget, so a ridership model to predict ridership was not completed. Instead, they chose to measure the gain in access as a proxy for ridership. If the network could get people to more places within the region in one hour, ridership should grow because more of the region would be accessible from West Linn.
- Shuttles provided through House Bill (HB) 2017 were intended for daily fixed routes. Public transits were generally barred from providing services during one-time special events.
- Surveys would be done to determine routes, but the main gating factor in rolling them out was the labor shortage. When gearing up for a new fiscal year, TriMet would conduct outreach to engage and figure out the best routing for that service. Revisions could be done through public feedback through the winter with another round of public outreach if revisions were done. It would then go to Board for consideration in March or April for implementation the following fiscal year.

Senior Planner O'Connell emphasized this was a near-term fiscally constrained plan, but they were building a new baseline of what TriMet service looked like throughout the region. They were planning a follow-up project to redevelop the longer-ranger plan, assuming additional growth or revenue opportunities were available, and TriMet would engage with Staff and Council on it.

President Baumgardner expressed appreciation for Forward Together, as she has had concerns about tolling without proper, adequate access to multi-transit options. She believed that while West Linn had often suffered from ridership issues with TriMet, the intra-city shuttle would provide potential to serve an unmet need the City had while at the same time having difficulty getting enough ridership to justify TriMet lines. With people aging in place who needed to get around West Linn, implementation of tolling, and passage of climate-friendly and equitable cities legislation, she could see the importance of the 15-minute city with a shuttle allowing people to get around inside the city. It would incentivize businesses and economic development to stay within the City if services were available because then they would not

need to get on congested freeways and pay a toll, but they would need a transit system to serve those needs.

Mayor Bialostosky agreed with President Baumgardner and noted he had expressed concern about Line 154 being canceled and Line 76 going on I-205 without stopping in West Linn. Although he knew 154 had ridership issues, he hoped that by opening it up to Tualatin and Tigard and providing that level of service, ridership would increase. That line also served the VA, so there could be veterans who would use it to get to appointments at the VA. He hoped 76 would go through West Linn if Line 154 were canceled.

Senior Planner O'Connell stated TriMet would not eliminate the 154 Line without the Line 76 replacement and agreement on a plan. They would struggle, especially within the context of tolling, if that were to ever happen. There was a tradeoff because if they ran on the freeway, they were fast, making it competitive and attractive, but then the route it would miss destinations. The lynchpin could be a shuttle service through Clackamas County to bridge the gap between quick service to get to destinations and feeding the 76 Line.

City Manager Williams believed this was an excellent concept and was excited about the opportunity to talk about shuttles. The concept made a lot of sense and could be the bridging option making the system work. He asked for clarification on the timeline if the City wanted to have that conversation with TriMet.

Senior Planner O'Connell explained that Forward Together was mostly concluded, but the opportunity for engagement and comments would come when it was put forward as part of the annual service plan. He would let Staff know in advance when it could be part of an upcoming fiscal year plan, which would likely not be until Fiscal Year '26. He would reach out next summer to start the conversation, with Public Comment occurring in the fall of 2024.

### [Water Environmental Services State of the District Presentation](#)

#### [WES Annual Report](#)

City Manager Williams introduced WES, a key service partner with West Linn handling wastewater, stormwater, and education district-wide, noting this kind of presentation would help residents understand who provides what services.

Greg Geist, WES Director, presented the annual report, included in the packet, providing some background and statistical information. WES served about 190,000 residents in Clackamas County's urbanized area, using wastewater to make clean water that went to rivers, electricity to power their facilities, and a natural fertilizer called biosolids. WES treated over 7 billion gallons of water annually, owning and operating over 360 miles of pipes. They also had stormwater and surface water duties in Happy Valley and unincorporated Clackamas County and were co-permittees with West Linn on the State-issued stormwater permit.

- Referring to the map on Slide 2, he explained the skinny area between Johnson City and Gladstone delineated two different rate zones, with the north being Rate Zone II and the south being Rate Zone I.
- They had a strong advisory committee with twenty members, which includes Council President Baumgardner and Greg Diloretto, a West Linn resident with a broad background in public works.
- 66% of every rate dollar went to operations and maintenance, 25% went to infrastructure financing, and 9% went to debt payments.
- The average annual rate increase since 2018 across all service areas is 3.2%.
- West Linn is a wholesale customer, which means the City owned and operated the collection system and receives wholesale rates.
- They were replacing and upsizing the Willamette Pump station and installing a new force main and pipes that will run by gravity across the new Abernethy Bridge. This will help service West Linn drinking water while the City drinking water pipe is being constructed.

Mr. Geist responded to Council questions and concerns as follows:

- Rate increases would cover cost increases adequately. Their goal is moderate and predictable increases over time, and they have been able to be able to do that.
- In 1996, there was about a foot of water in the lab and administration building. Any new project was now built above the 100-year flood plain, as well as any new electrical equipment installations.
- WES monitored sewage for diseases during the pandemic but were not currently collecting samples. He believed the pandemic samples were sent to Oregon State University (OSU).
- There were two pipes running under the Willamette River and one that went over it on Arch Bridge.
- Homeowners could help the system be more efficient by not flushing anything but “toilet paper, pee, and poop.”

Mayor Bialostosky and President Baumgardner expressed their appreciation to WES for working with West Linn and Oregon Department of Transportation (ODOT) to provide drinking water services when the mainline goes offline during the I-205 construction-related shutdown.

### [Consent Agenda \[7:30 pm/5 min\]](#)

### **Agenda Bill 2023-07-17-01: Meeting Notes for April 3, May 15, and June 6, 2023**

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

Council President Mary Baumgardner moved to approve the Consent Agenda for the July 17, 2023, West Linn City Council Meeting which includes the April 3, May 15, and June 6, 2023, meeting notes. Councilor Lou Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 4 - 0**

[Business Meeting \[7:35 pm/30 min\]](#)

[Agenda Bill 2023-07-17-02: Continuation of Public Hearing: Appeal AP-23-03 of the Planning Commission Denial of VAR-23-01](#)

**July 10 Council Meeting**

**Project Page**

[Additional Testimony Transmittal Memo 7-17-23](#)

[Applicant Supplemental Materials](#)

Mayor Bialostosky called the Public Hearing to order, explaining the Public Record had closed, but there would be an opportunity for rebuttal of any new information presented. He invited members of the public who wished to discuss any new information to sign up on the form. The Applicant would have the final word, as required in land use cases.

- This was a de novo hearing for the appeal of the Planning Commission's denial of VAR-23-01, a Class II variance. The decision would be quasi-judicial, requiring it to be grounded in relevant City Code. He explained that the Public Hearing portion was continued until 6:00 pm today to allow Applicant time to prepare an exhibit confirming the viability of the vehicle turnaround. The record had been held open to allow for additional written testimonies. All written testimony had been added to the record, and no further public testimony could be accepted regarding the matter except to rebut specifics of newly submitted testimony.

Mayor Bialostosky read the appeal continuation procedures and called to order the Appeal Continuation Meeting.

City Attorney Trompke explained the criteria to be addressed at the continuation hearing were Community Development Code (CDC) Chapters as they pertained to the newly submitted written testimony and reminded speakers to address new materials rather than repeat earlier testimony. The following Chapters of the CDC were applicable: Chapter 11, The Residential R-10 Zone; Chapter 48, Access Egress and Circulation; Chapter 75, Variances; and Chapter 99, Procedures for Decision Making.

- Only those persons who had previously appeared to City Council in person or in writing, including those who submitted comments during the continuation process by the timed deadlines outlined in the notice given on the motion passed on July 10, 2023, by City Council would have standing to appeal this item to LUBA.

- Failure to have previously raised an issue accompanied by statements or evidence sufficient to allow Council and the parties an opportunity to respond precluded appeal to LUBA based on that issue. Failure of the Applicant to have previously raised Constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the City or its designee to respond to those issues would preclude an action for damages in Circuit Court.

City Attorney Trompke confirmed no Council members had potential or actual conflicts of interest or bias. Regarding ex parte contacts, the following were reported:

- Mayor Bialostosky reported visiting the site on two occasions, once with Assistant Planner Floyd and today with President Baumgardner when they drove by the site to see it.
- President Baumgardner reported she drove by the site today.

City Attorney Trompke confirmed there were no challenges to Council's jurisdiction to hear the matter nor to any Councilor's impartiality.

Assistant Planner Floyd presented the Staff report, explaining five letters from four individuals had been received this week, were placed into the record, and forwarded to Council.

- At last week's meeting, Council had expressed interest in the turnaround design option. The Applicant had prepared an exhibit of what that would like, and Staff had received it this afternoon. The exhibit was displayed for Council and audience members to view and was also posted on the project website. A memorandum from the Applicant was also included in tonight's packet.
- The exhibit showed three changes. The first was the turnaround in the corner, approximately 12 feet wide by 28 deep, to be signed and striped as no parking. It was essentially an off-street turnaround and loading area to allow vehicles to enter the site and turn around without backing into Marylhurst Drive.
- The second change was an area adjacent to the turnaround to place waste bins for collection, addressing concerns about garbage cans on Marylhurst Drive or on the sidewalk.
- The third change was the Applicant had proposed to widen the driveway. The previous design was 20 feet wide for the first two lots and then narrowed to 14 feet all the way to the back. The new design started at 20 feet but then narrowed by only 2 feet to 18 feet. This would allow for greater vehicle movement and easier passage of two vehicles.
- Applicant had demonstrated the ability of three different vehicles to use the turnaround, including an extended van, a mid-sized delivery truck such as FedEx or UPS, and a garbage truck. The Applicant had communicated with the waste hauler over the last week.
- The rest of the Application remained the same with the same general design feature.
- Staff believed the exhibit responded to Council's inquiries.

In response to Mayor Bialostosky's inquiry about whether this could be a condition of approval, Assistant Planner Floyd replied if Council requested it, Staff would come back with a condition mandating the use of this design. It could be enforced through easements, conditions of approval, or through a homeowners' association (HOA).

Hillary Harris, Land Use Planner and Consultant, representing the Applicant, provided additional information, reviewing project site factors that made development difficult. The property owner and consultant team had spent significant time working with the City of West Linn and service providers to provide a design allowing practical development of the site with the minimum relief necessary. Providing the shared driveway would allow the property owner to provide off-street parking for each lot, which was not required by Code but was a preference of the property owner. They realized parking was an issue in suburban communities and believed this would address neighbors' concerns while providing benefit for future residents who may live on the site.

- If the variance was not approved, it would be expensive and physically difficult to provide individual driveways suitable for off-street parking of multiple cars in addition to the future houses on site.
- After hearing concerns at the last meeting, the engineer and property owner had designed the private access to provide a turnaround that would prevent cars and trucks from having to back onto Marylhurst Drive. Adjacent to the turnaround area was an area for garbage cans and a space large enough for the waste provider to pull in, pick up any garbage, and turn around. The waste provider confirmed with the property owner that they had no issues with the turnaround design.
- Regarding concern about the width of the shared private driveway, engineers redesigned the driveway to be a minimum of 18 feet wide, allowing two cars to easily pass side-by-side without having to back up.

Bobby Jacobson, Civil Engineer, further explained the wider road would make it easier for two cars to pass each other at the other same time and make it easier for cars to maneuver in the driveway areas. Eighteen feet was the maximum width they could design the road with the block wall on the north side of the road to fit within the 20-foot easement.

Consultant Harris and Civil Engineer Jacobson responded to Council questions and concerns as follows:

- Some erosion control measures had been included on the original plans. With the steep slopes, they would use measures such as slope fabrics when excavating to stabilize the slope until the buildings were constructed. Sediment protection such as sediment fences or jute matting would also be used. Specific measures would be included in construction documentation to make sure slopes were stabilized.
- They could not answer which design would preserve more trees, as that would partially depend on the ultimate build-out of the actual structures. Trees bordered the Midhill property line, so constructing a driveway from there would impact trees, but the extent

of the impact was unknown. The biggest concern on driveways from Midhill was the slope of the driveway, and they would not be able to meet the City's standard with those driveways, either.

#### Public Comment

Mayor Bialostosky opened Public Testimony for rebuttal of any of the new material.

Elizabeth Apen noted the Applicant did not meet the criteria of providing evidence that the four lots fronting Midhill Circle could not reasonably take access from the street, eliminating the need for the variance. No one had talked about bringing in fill dirt to control the slope of the driveway. While the Applicant had mentioned the expense, they did not know it was impossible. She respectfully requested Council continue to deny the variance.

Tom Tomaszek stated his property directly faced the proposed driveway. He urged Council to sustain the Planning Commission's decision, which upheld City Code. The City Code was more than just about the driveway and picking up the garbage, as it included previously raised issues such as traffic speed on Marylhurst Drive, the deforestation of the parcel, and erosion control. He urged Council to uphold the denial of the variance request and stated doing so would not prevent the petitioners from fully developing their parcels, as they could still put up two to four homes with greater respect for the environment, the neighborhood, and their neighbors.

Tim Manes stated he lived across the street from the parcel, and he sits on his deck looking at the property. The six lots were substandard lots, meaning there would have to be some creative problem-solving to build on them, including some possible variances in the future. He questioned the three-to-four-foot tall retaining wall at the end of the property to level the driveway.

Mayor Bialostosky explained that keeping public testimony to only new evidence was part of the land use law and process and closed the hearing.

Consultant Harris provided Applicant's final argument, reiterating professionally licensed engineers, fire officials, and the property owners believed this was the best option to exercise development of the property with minimum relief and disturbance. West Linn City Planning Staff also recommended approval. The driveway placement was similar to dozens of other driveways on Midhill Circle. Applicant believed that with the original Application materials and information shown at both City Council hearings, they had demonstrated the need for the variance. Granting the variance would prevent future variances to either driveway steepness and slope on Midhill Circle or of spacing standards on Marylhurst Drive. Any future development of the site would be permitted residential use and would have to demonstrate it met all CDC requirements applicable to development on that site.

In response to Councilor Erwin's question about what the property owner would do if the variance was denied, Consultant Harris replied that would have to be explored in the future.

She was not the property owner, so she did not know of any future plans should the variance be denied.

Upon advisement from City Attorney Trompke that it was now time for Council deliberation, Mayor Bialostosky opened the floor for Council comments.

President Baumgardner summarized that concerns she had heard were about the environment, traffic safety, and density. She understood going forward this type of development was important to consider and acknowledged development impacted people closest to it the most. She hoped the City would put conditions about or monitor traffic safety and tree preservation to the greatest degree possible while still allowing development of these sites. She had not made her final decision yet. From driving by, it appeared the concentration of mature trees was on the high side of the lots closest to Midhill Circle, and she could see most of them having to be removed if every single lot had a driveway, giving an advantage to the alley.

Councilor Groner echoed his thanks to the Applicant for their professional presentations and the neighbor's comments, who clearly had a concern about new development, possible removal of trees, and drainage issues. He believed a single driveway was more respectful of the trees than a series of closely spaced driveways along Midhill Circle would be.

Councilor Erwin stated his broader concern was that the standing rule was four residences feeding into a driveway. The increase to six could be looked at as "that's only an addition of two" or "that's a 50 percent increase." He was concerned they would issue other variances, making the Code meaningless. He did not believe this was a good site for development, which was why it had not been developed for a very long time. Granting the variance could create serious issues, especially when considering its position in relation to the big hill. There were various developments that had happened down from the big hill, and some of them had been done in a respectful manner trying to be ecologically sound in those developments, but there were still erosion issues, with a slow-moving landslide coming at some of his neighbors' houses. While it might not look that way right now, 30 years from now, someone considering buying the house would be very concerned, as he was right now.

Mayor Bialostosky stated he had considered all received testimony and comments from neighbors. He believed State housing laws required them to accommodate development, and Council could not outright deny development. His opinion was that if Council refused to grant any variance, they risked getting into a regulatory taking under the Constitution, in which City regulations limited property usage to the point where it was unusable, requiring the City to buy it. After looking everything over, he was convinced some form of variance to the driveway situation would be required to allow development, whether the variance was for the number of homes on the private drive, the slope of the driveway, or spacing issues. He concurred with Staff in that this variance would minimize adverse impacts to Midhill Circle as much as possible.

- Addressing concerns Council had heard, he had a condition regarding trees and was hopeful the private driveway would minimize tree cutting because the more developed trees seemed to be on the street side.
- He believed there had been an evolution of evidence in this process. He recognized the Planning Commission found the Applicant did not provide evidence that the four lots fronting Midhill Circle could not take access from that street, which would eliminate the need for a variance, but he believed it would still require a variance to the slope standard. Site topography would require a variance, which was one of the criteria for granting one.
- He explained Council could not require Applicant to do things off site as a condition of approval, but he did want to direct Staff to do an engineering analysis to determine whether there were traffic calming measures that could be put into place around the property such as speed bumps or stop signs because of the safety concerns about getting out from the private driveway and drivers come down Marylhurst Drive fast.
- He proposed a condition that trees be maintained to the greatest extent possible according to the Tree Ordinance.

Councilor Erwin brought up the concern of headlights being aimed at one of the resident's houses across Marylhurst Drive and asked for a condition that the driveway have a downward angle a few degrees at the end so headlights would not be aimed at window height.

City Attorney Trompke replied that sloping the driveway could be not feasible but Council could direct Staff to return with conditions of approval that avoid headlights in neighbors' windows, protect trees, and include the turnaround as presented with other traffic-calming solutions as appropriate.

Assistant Planner Floyd asked for clarification on whether the headlights were facing Marylhurst Drive or were interior to the site.

Councilor Erwin replied that if someone was driving down the driveway towards Marylhurst Drive and came to a stop, the headlights would shine right into the house across the street. If the driveway had a downward angle of a couple degrees, that would avoid that particular concern.

Assistant Planner Floyd believed it was best practice to place driveways across from driveways or streets across from streets and that that was something they could return with an answer to as a potential condition.

City Attorney Trompke stated he interpreted that as to direct Staff to return with a condition of approval to avoid headlights shining into neighbors' windows to the extent possible. Upon request from Mayor Bialostosky, he reiterated the conditions of approval were to direct Staff to require the driveway to be sited to avoid headlights shining into the neighbors' windows, protect trees as much as reasonably possible, include the turnaround as presented, and to

consider traffic-calming solutions as appropriate. It would be up to Planning Staff to talk to Public Works and any other Staff to ensure that what was brought back as a finding was workable.

Mayor Bialostosky confirmed the directive for traffic calming devices and safety options would be for Engineering Staff because the City could do it on its own but could not require it of the Applicant.

Council President Mary Baumgardner moved to tentatively approve the Appeal of AP-23-03, thereby overturning the Planning Commission's denial of Variance-23-01 at 2622 Marylhurst Drive and 18600-18680-18690 Midhill Circle and direct Staff to bring back the following conditions requiring: the driveway to avoid headlights toward the neighbor's residences, protect trees to the greatest extent possible according to the Tree Code, include the turnaround as presented as well as traffic-calming measures, and direct Staff to bring back findings for adoption. Councilor Lou Groner seconded the motion.

Mayor Bialostosky clarified the traffic-calming devices would be directed towards Staff to have Engineering study the area with the issues presented and determine if traffic-calming measures could be implemented with the topography and traffic flow of the area.

President Baumgardner stated if there were currently dangerous driving conditions on Marylhurst Drive, Council should consider that already.

Councilor Erwin stated Tualatin Valley Fire and Rescue (TVF&R) did not like speed bumps, and he was unsure they would be the best thing in that area. He would prefer curb extensions and crosswalks. To slow people down, the road needed to be pinched.

Mayor Bialostosky stated for the record that any future housing or developments would be reviewed in accordance with City Codes. This was not the end, and this was not approving the building of housing. This was one issue connected to the lots.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 4 - 0**

Mayor Bialostosky thanked the public for its participation and noted that appeals must go through LUBA in accordance with its rules and applicable provisions in the CDC. He confirmed the final order would be considered at the next City Council meeting on August 7, which was still within the required time frame.

**[Adjourn to Work Session \[8:05 pm/5 min\]](#)**

## **Mayor and Council Reports [8:10 pm/30 min]**

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

Mayor Bialostosky reported he was working on a Council update for inclusion in the City newsletter, discussing Ordinances passed and other items. It was great to see the community at The Old Time Fair and he was already looking forward to next year's event. The Regional Toll Advisory Committee (RTAC) would meet on July 24, and communication about traffic closures due to ODOT construction had been released. They were also working with ODOT about traffic mitigation during the closures.

President Baumgardner reported she and Mayor Bialostosky attended the Yakima Nation Lamprey Festival last week and were treated to a river boat tour up to the falls and to watch lamprey being harvested. She was very honored to spend time with the Yakima Tribal Council members to learn more about their stories and history in this area.

Councilor Groner attended the Economic Development Committee (EDC) meeting on July 13, where they discussed business licenses services and what people get for their business license dollars. Right now, all licenses and inspections were based on revenue, but as some inspections were more intense than others, such as gas stations, EDC was discussing higher fees because of potential risks and pollution risks. On Wednesday, he attended the camping discussion at the library. About 20 people attended, and they identified several City-owned sites as potential camping areas.

Councilor Erwin reported the Planning Commission would meet July 19 and discuss House Bill (HB) 2003 and its implementation, including the City's housing capacity, overall proposed comprehensive plan amendments and zoning map amendments. He believed this would be good so the community could understand the base level of what they were dealing with now and in the future. The comment period for Metro's Regional Transportation Plan, which was different from the TriMet plan, would be open for about another month. Metro would have a meeting on July 27.

### **Guidelines for Civil Discourse**

#### **RES 2018-22 Guidelines for Civil Discourse**

Mayor Bialostosky explained the Guidelines for Civil Discourse were produced several years ago but had not been revisited lately.

City Manager Williams added this topic stemmed from recent discussions about behavior and decorum at Council meetings. The issues that led to the creation of this guidelines document in 2018 still existed in the world and even locally sometimes, so this was an opportunity for Council to reflect on the guidelines that were put out at public meeting to make sure they fit Council's needs. Staff did not have any suggested changes.

Council discussed the difficulty in conducting meetings and concentrating on information being presented when people speak out of turn instead of waiting to be called on.

City Attorney Trompke advised that he had previously researched this matter for another city seven to eight years ago. The 9<sup>th</sup> Circuit Court of Appeals had upheld the right of citizens when they come to meetings to be uncivil and to be ugly, if they were not disruptive. While being civil was an expectation they could require of each other on Council and in boards, Council could not mandate it from the public.

Councilor Erwin thought it would be good to break the guidelines into sections which would advise on Council member behavior and the requested behavior of the public participating. He felt there was a way to acknowledge First Amendment rights and have ground rules to conduct a respectful meeting.

President Baumgardner spoke in support for updating the guidelines and a hope that all attendees would have an environment where they could concentrate on the subjects at hand. She noted authentic discourse can be messy and is important, but not everyone has the same tolerance for conflict or interruptions. She asked about a previous suggestion to allow the public to watch the meeting in the lobby or nearby.

City Manager Williams replied that equipment for that was being ordered and quoted but there are delays due to some shortages.

Councilor Groner wanted to emphasize that the guidelines should be focused on disruptive behavior.

City Manager Williams reminded the next item is connected and Section C, Item 7 notes what is an actual disruption, warnings, process for removal, and preventing people from seeing, hearing, or participating in the meeting.

### **Council Rules**

#### **Council Rules - Redlined 5-15-23**

City Manager Williams stated that Council rules were amended from time to time at the Council's direction to suit its needs. These redline proposals came from the retreat discussion in April. Changes could be considered at a regular business meeting and include public testimony if needed.

The Council discussed it was important for the public to know that the first Monday work session would be held at 1:00 p.m., as an experiment. City Manager Williams added that since work sessions were intended as time for Council to discuss with Staff, it would allow more staff to be present and save the City money.

Council discussed how detailed meeting minutes should be, with City Attorney Trompke advising that by law, only the substance of Council discussions were required to be included in the minutes. Public comments were not Council discussion, so there was no legal obligation to include details of the comments in the minutes, as video and audio recordings were acceptable documentation under State law.

Council reached consensus to direct Staff to come back with different options with regard to minutes and to report on how much the City was currently spending on Staff hours and transcription services to produce the written minutes.

Council discussed standardizing all meeting notices, regardless of the type of meeting, to simplify the timeline and process. This would also apply to advisory boards and neighborhood associations.

Council discussed allowing amendments to the agenda by modifying the 10-day rule.

Council reached consensus to limit public comment to three minutes each and move both public comment and advisory group reports to the first section of the meeting. It also recommended standardizing the advisory group report, letting the group drive what was reported rather than the Council liaison trying to determine what was important. City Manager Williams reported Staff had previously developed and proposed a form, and he would send it out for Council to review.

Councilor Erwin asked for an agenda item to discuss West Linn adopting its own Tree Ordinance, modeled after Milwaukee's Chapter 16 Tree Code. President Baumgardner and Mayor Bialostosky agreed, requiring it to be on the agenda later. Mayor Bialostosky suggested a joint meeting with Sustainability Advisory Board (SAB) to discuss the Ordinance and recognize them for their work.

#### **[City Manager Report \[8:40 pm/5 min\]](#)**

City Manager Williams reminded Council that the next meeting was scheduled for August 7. Agenda items would include planning items, discussion of Public Works items, and Council rules. Following that, the next meeting would be a work session on September 5.

#### **[Adjourn \[8:45 pm\]](#)**

Notes approved 9-11-23.



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

## CITY COUNCIL AGENDA

Monday, July 17, 2023

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6:00 p.m. – Special Meeting & Work Session – Council Chambers & Virtual\*

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1. Call to Order Special Meeting [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. National Farmers’ Market Week & Wednesdays In Willamette
5. Scheduled Presentations to the Council [6:30 pm/60 min]
  - a. TriMet Forward Together Presentation
  - b. Water Environmental Services State of the District
6. Consent Agenda [7:30 pm/5 min]
  - a. Agenda Bill 2023-07-17-01: Meeting Notes for April 3, May 15, and June 6, 2023
7. Business Meeting [7:35 pm/30 min]
  - a. Agenda Bill 2023-07-17-02: **Continuation of Public Hearing**: Appeal AP-23-03 of the Planning Commission Denial of VAR-23-01
8. Adjourn to Work Session [8:05 pm/5 min]
9. Mayor and Council Reports [8:10 pm/30 min]
  - a. Reports from Community Advisory Groups
  - b. Guidelines for Civil Discourse
  - c. Council Rules
10. City Manager Report [8:40 pm/5 min]
11. Adjourn [8:45 pm]

*\*City Council meetings will be conducted in a hybrid format with some Councilors, staff, presenters, and members of the public attending virtually and others attending in person. The public can watch all meetings online via <https://westlinnoregon.gov/meetings> or on Cable Channel 30.*

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

*If you cannot attend the meeting in person and would like to speak live at a public meeting by videoconferencing software or by phone, 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

## West Linn, Oregon

**WHEREAS**, farmer's markets are an integral part of Oregon's food system and agricultural economy; and

**WHEREAS**, the farmer's markets in Oregon are important sales outlets for farmers and food business owners, generating revenue that supports the sustainability of family farms and the revitalization of rural communities; and

**WHEREAS**, farmer's markets provide citizens of all income levels with access to healthful, locally produced foods through Oregon markets that accept supplemental nutritional assistance program benefits and other critical food access programs; and

**WHEREAS**, the Power of Produce program offered by the Wednesdays in Willamette Summer Street Market offers children the opportunity to engage in the local food system through conversations directly with farmers and have exposure to new fruits and vegetables; and

**WHEREAS**, the Wednesdays in Willamette Summer Street Market is a cornerstone of our community, well-loved by customers, neighbors, and vendors alike; and

**WHEREAS**, the City Council recognizes the importance of expanding agricultural marketing opportunities that assist and encourage the next generation of farmers and ranchers; generate farm income to help stimulate business development and job creation; build community connections through rural and urban linkages; provide access to fresh healthy food for all of Oregon's citizens; and more.

**NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN**, that August 6 to 12, 2023 is National Farmers Market Week in conjunction with Wednesdays in Willamette Summer Street Market Week.

DATED THIS 17TH DAY OF JULY 2023

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RORY BIALOSTOSKY, MAYOR

ATTEST:

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KATHY MOLLUSKY, CITY RECORDER



July 17, 2023

# Revised Service Concept Overview West Linn



- TriMet's new post-pandemic service concept.
- Network changes that respond to:
  - Changes in demand.
  - Changes in goals and expectations.
  - Changes in resources available to operate bus service.

*The COVID-19 pandemic has changed the way people travel, so we're evaluating our plans to move forward together.*

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# *Access to Opportunity*

**Here is a person.**



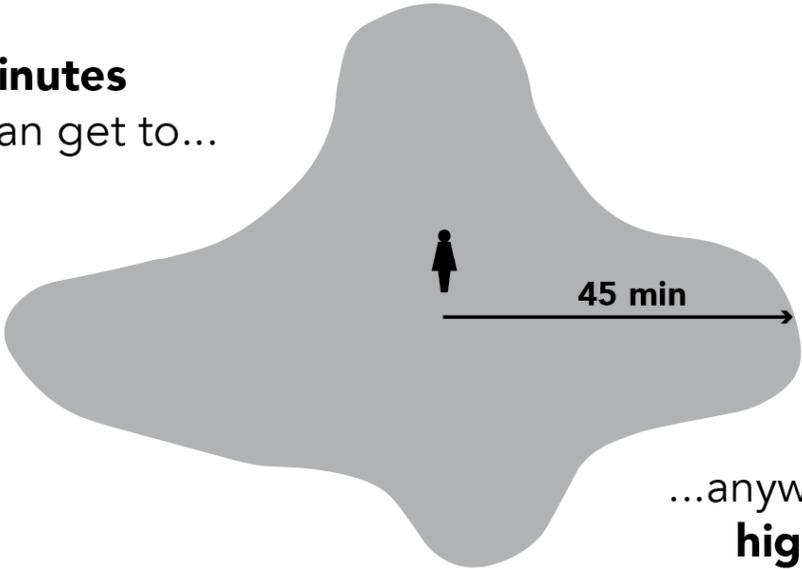
JARRETT  
WALKER  
+ ASSOCIATES





# Access to Opportunity

In **45 minutes**  
she can get to...



JARRETT  
WALKER  
+ ASSOCIATES

...anywhere in the  
**highlighted area.**

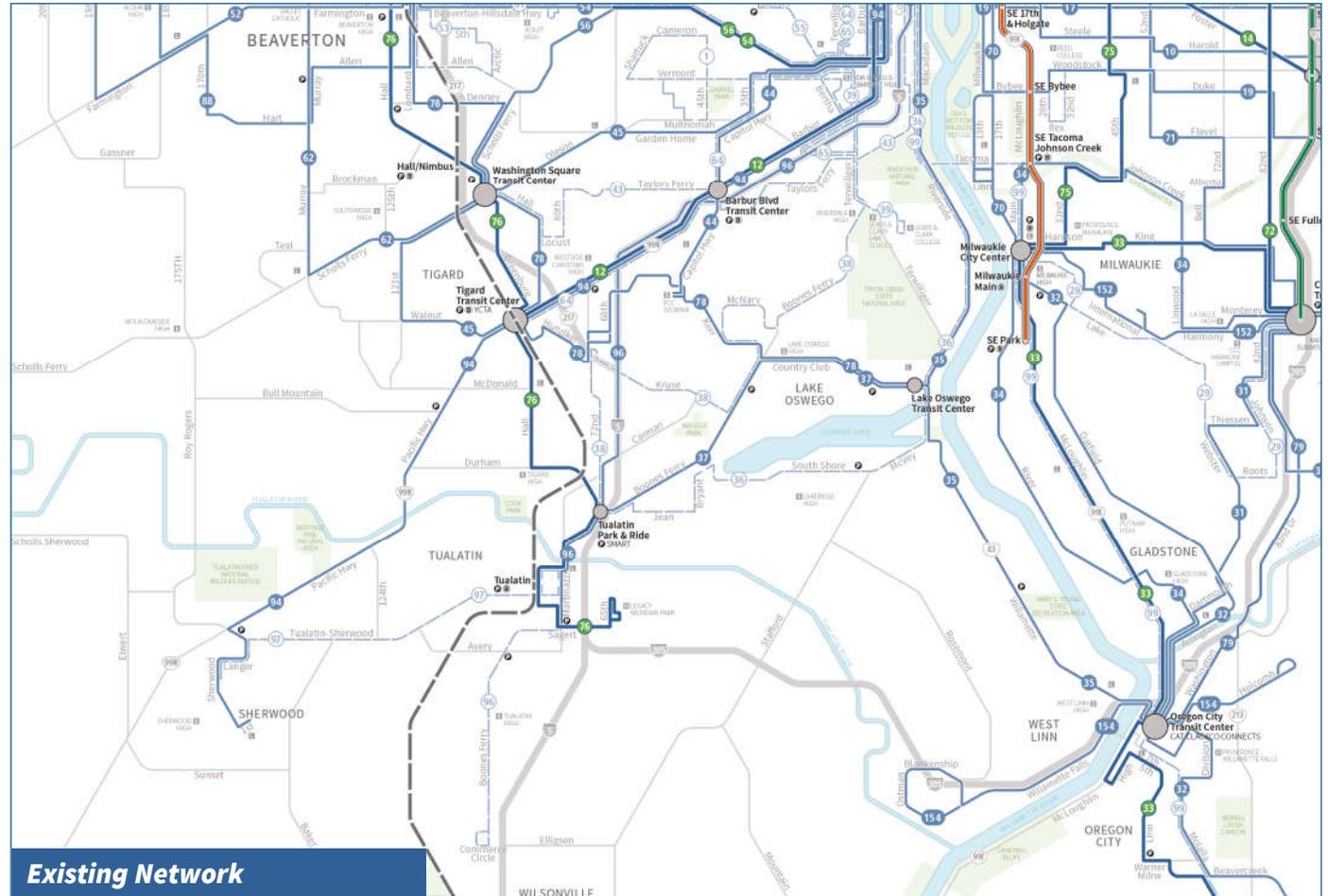
# Southwest

## Key connections

- Peak only services replaced by all-day.
  - Hillsdale-OHSU
  - Boones Ferry
  - Tualatin to Sherwood
- Better access to 72<sup>nd</sup> Ave jobs.
- Access to PCC Sylvania from Tualatin
- New Wash. Co. – Oregon City service.

### New Frequent Service in this area:

- Line 35 – Macadam
- Line 54 – Beaverton Hwy to Beaverton



# Southwest

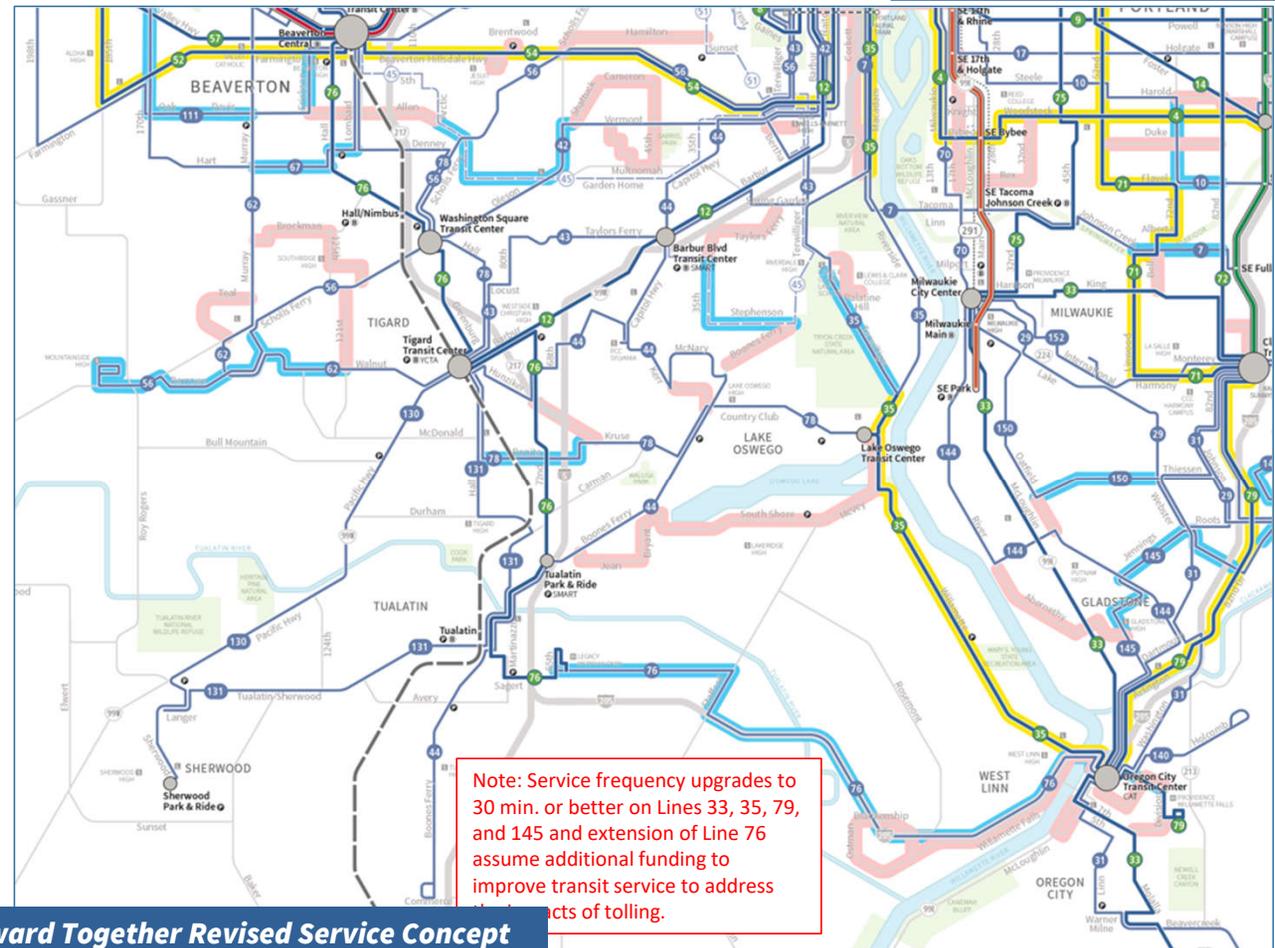
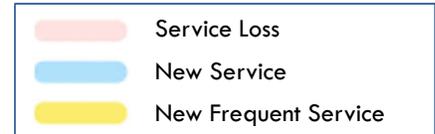
## Key connections

- New Washington County to Oregon City service stopping in West Linn.
- Better access to 217 Corridor Jobs.
- Access to PCC Sylvania from Tualatin

### New Frequent Service in this area:

- Line 35 – Macadam
- Line 54 – Beaverton Hwy to Beaverton

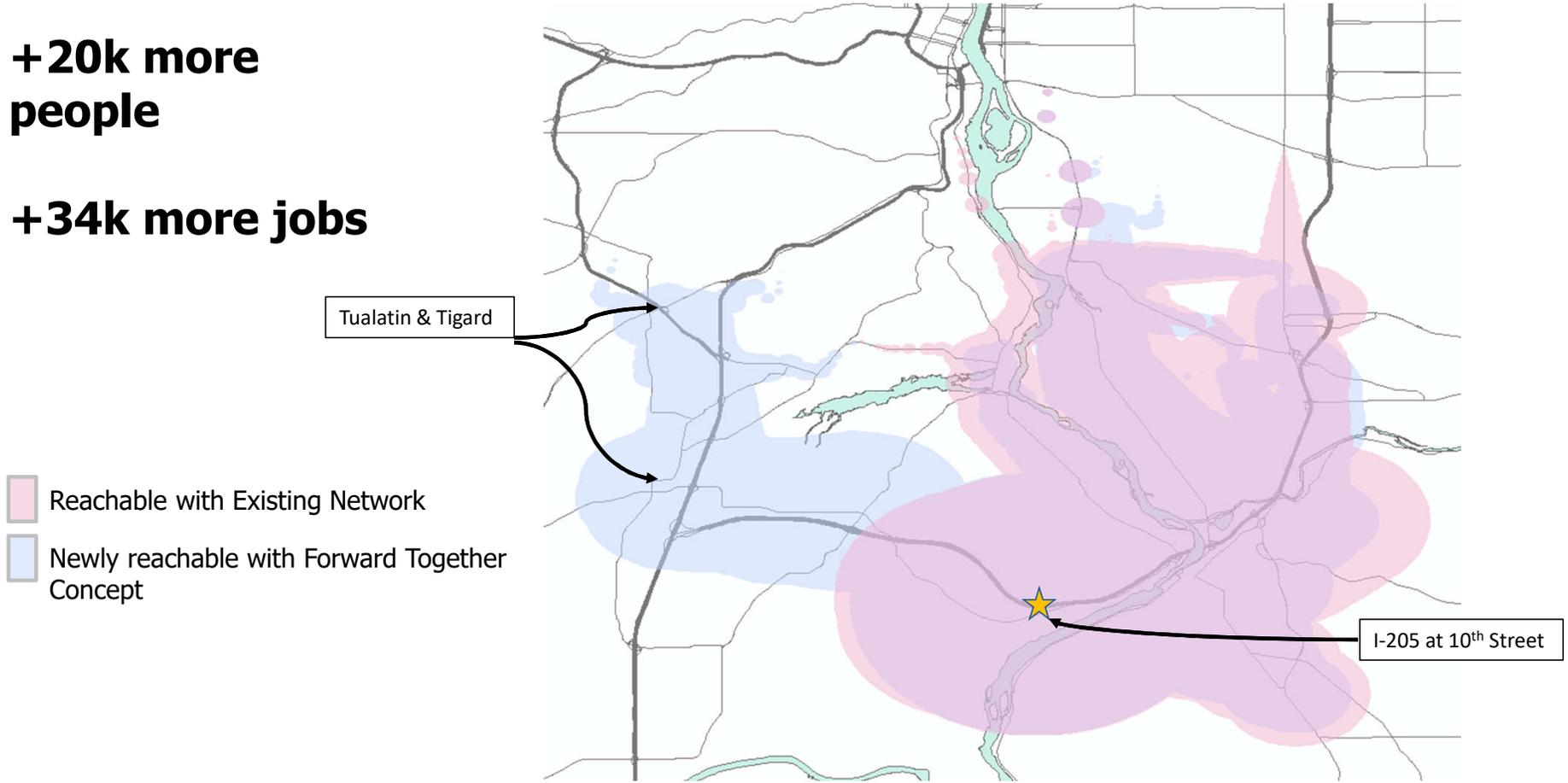
### Forward Together Revised Service Concept



# Where could I travel in 60 minutes from West Linn?

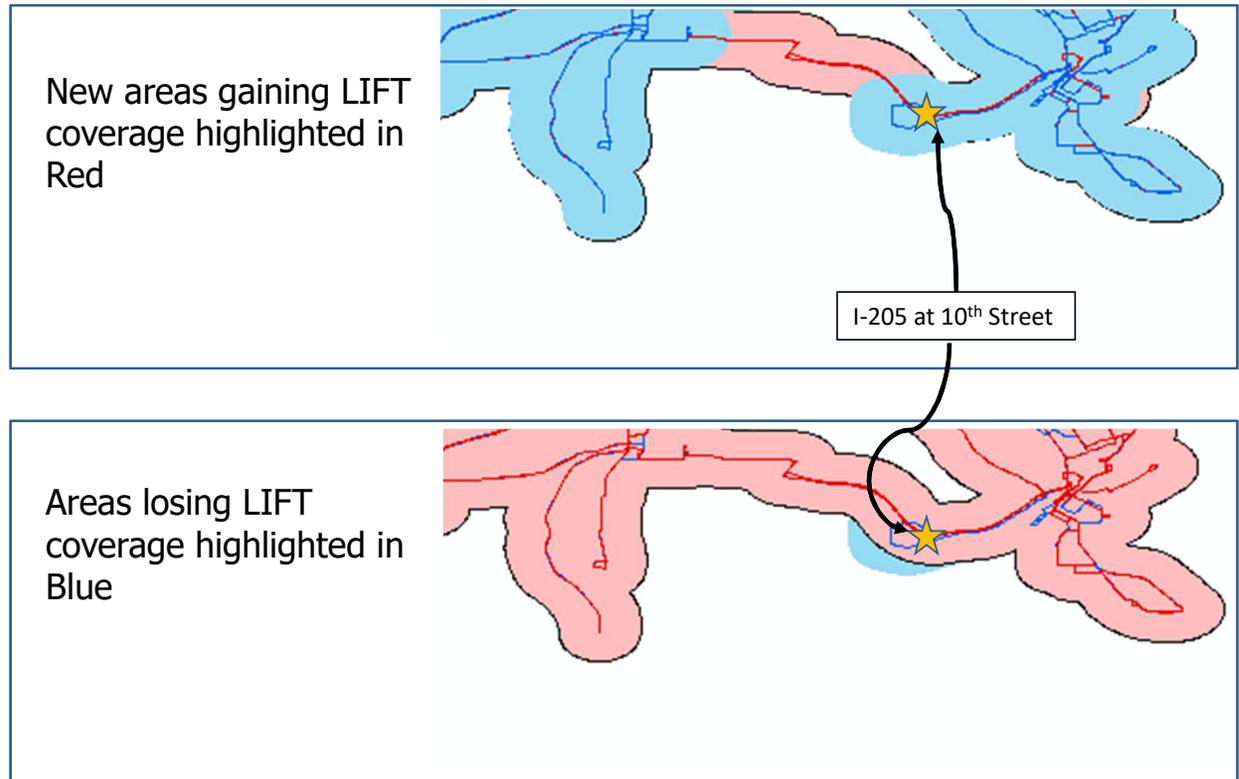
**+20k more people**

**+34k more jobs**



## LIFT Boundary Impacts

- More coverage gained than lost
- LIFT reported no pickups or drop-offs in area losing coverage



TriMet's LIFT Paratransit Service Boundary is measured as  $\frac{3}{4}$  of a mile from any all-day fixed-route TriMet service.

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## ***Statewide Transportation Improvement Fund (STIF)***

- HB2017 established new options for providing transit service to fill gaps in low-demand areas.
- The next biennium starts in FY26 and will be accepting applications for new shuttles next year.

### **Clackamas County Connects Shuttle Service**



We've launched a new transit shuttle service that provides a vital connection to our rural communities and areas that are hard to get to by transit. These shuttles help relieve congestion on county roads and they will provide critical, last-mile connections between service provided by regional transit.

The shuttles are a free "deviated fixed-route" service. Can't make it to the main bus stop or route? Call 24 hours in advance 971-358-0623 to make arrangements and check availability to be picked up or dropped off within ¼ mile from the route. You may also signal/flag the bus to get on or off the bus in-between stops.

---

# Summary

**+38% more  
resources.**

**+45% more  
jobs reachable  
by the median  
resident.**

**+50% more  
people and  
jobs near  
Frequent  
Service.**

**+50,000 more  
residents near  
service.**

**New routes  
serving new  
areas in all 3  
counties.**

**+100,000  
people near  
service running  
on the  
weekend.**

---

## ***Next Steps***

- The Revised Service Concept will guide Annual Service Plans (ASP) of the next 3-6 years.
- Each ASP cycle will include additional public outreach and analysis before TriMet Board adoption
- The FY24 ASP was recently adopted by our Board in April. We will return to the public to engage on our FY25 Service Plans in Fall 2023.

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# Discussion

Grant O'Connell  
[aconnellg@trimet.org](mailto:aconnellg@trimet.org)

**City of West Linn**  
**July 17, 2023**

Greg Geist, Director

# State of the District Report



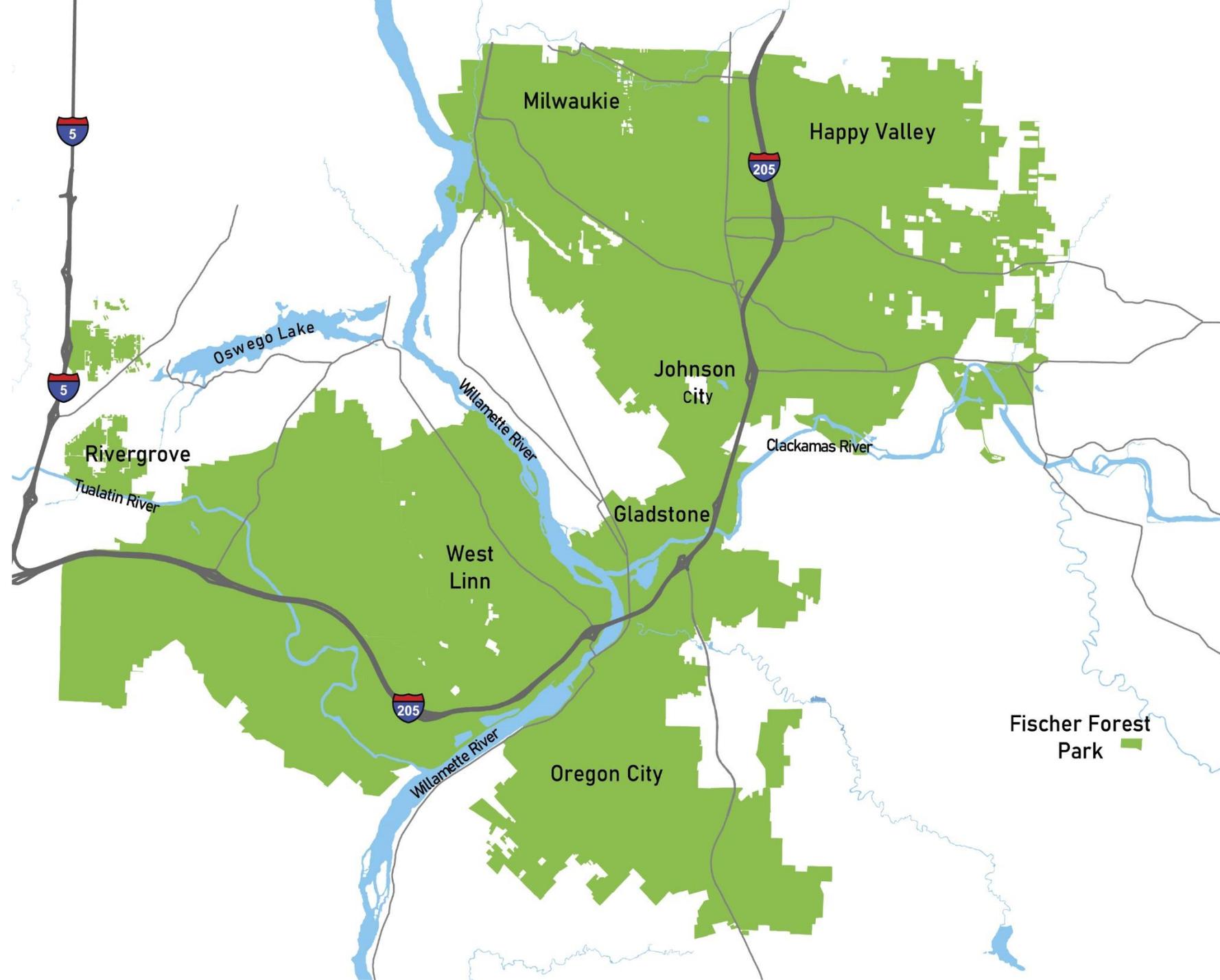
CLACKAMAS

WATER  
ENVIRONMENT  
SERVICES

# About Us

## The WES Service area includes:

- Boring
- Fischer's Forest Park
- Gladstone
- Happy Valley
- Hoodland
- Johnson City
- Milwaukie
- Oregon City
- Rivergrove
- West Linn
- Communities in unincorporated Clackamas County



# Commissioners and Advisory Committee

The Clackamas County Board of Commissioners serves as the governing body of WES.

Commissioners receive recommendations from the WES Advisory Committee.

**West Linn WES AC Members:**  
Councilor Mary Baumgardner  
Greg DiLoreto, Resident



# Financial Stewardship

## Your Rate Dollars at Work

### 66% Operations and maintenance

- All wastewater treatment services, including waste removal, biosolids management, and disinfection of water
- Day-to-day plant maintenance
- Regulatory compliance, including laboratory
- Day-to-day collection system maintenance, including pump stations
- All surface water services, including conveyance and control of stormwater runoff
- Maintenance and cleaning of stormwater infrastructure
- Restoration and enhancement of riparian areas
- Public education related to water quality and stormwater issues
- Watershed planning and regulatory compliance



### 25% Infrastructure financing and reserves

- Equipment replacement
- Reserves for future project needs
- Building treatment capacity for future growth
- Construction projects

### 9% Debt payments

- Principal and interest on long-term debt used to finance capital projects

# Commitment to reasonable and predictable rates

Board-approved annual rate increases for FY 2022/23 averaged 3.2% across all service areas.

The rate increase for customers in the City of West Linn was 4.9%.

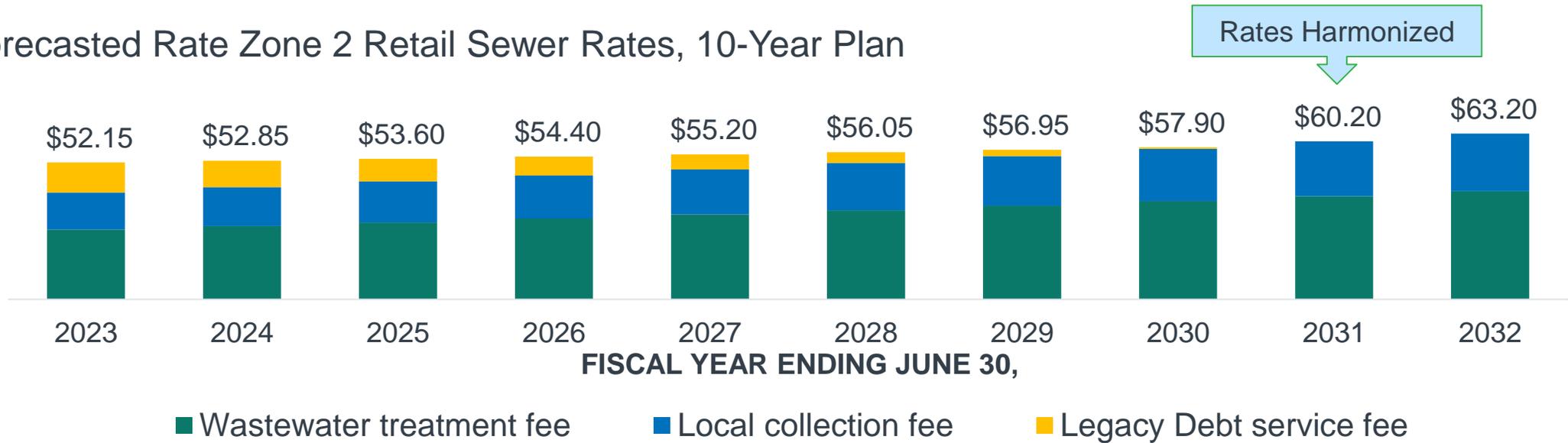
## West Linn Monthly Rate History

— Annual % Increase    - - Average Annual % Increase, FY 2018-19 - FY 2022-23: 3.7%



# Sewer Rate Harmonization

Forecasted Rate Zone 2 Retail Sewer Rates, 10-Year Plan



FY 2022-23 Wholesale Rates

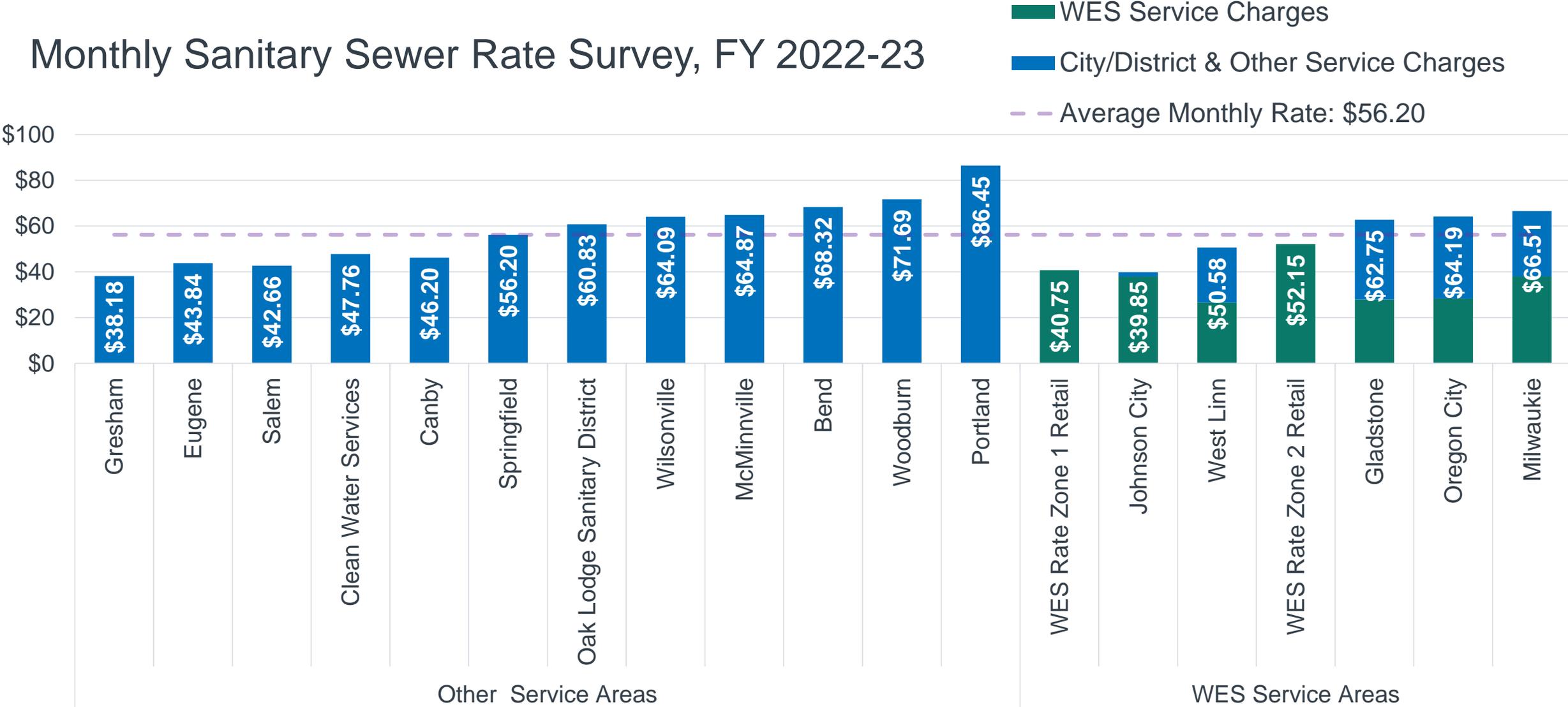


FY 2030-31 Wholesale Rates

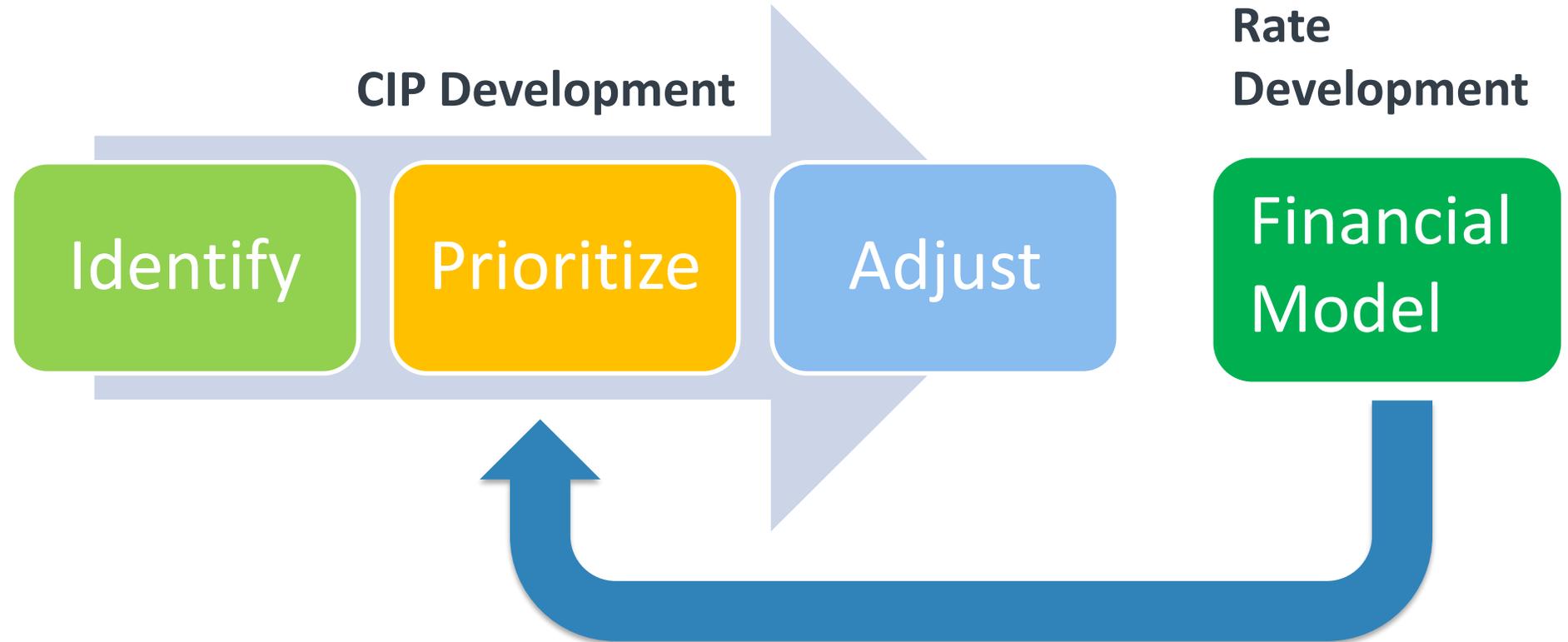


# Fiscally Responsible

Monthly Sanitary Sewer Rate Survey, FY 2022-23



# Capital Improvement Plan (CIP): Roadmap for a Clean Water Future

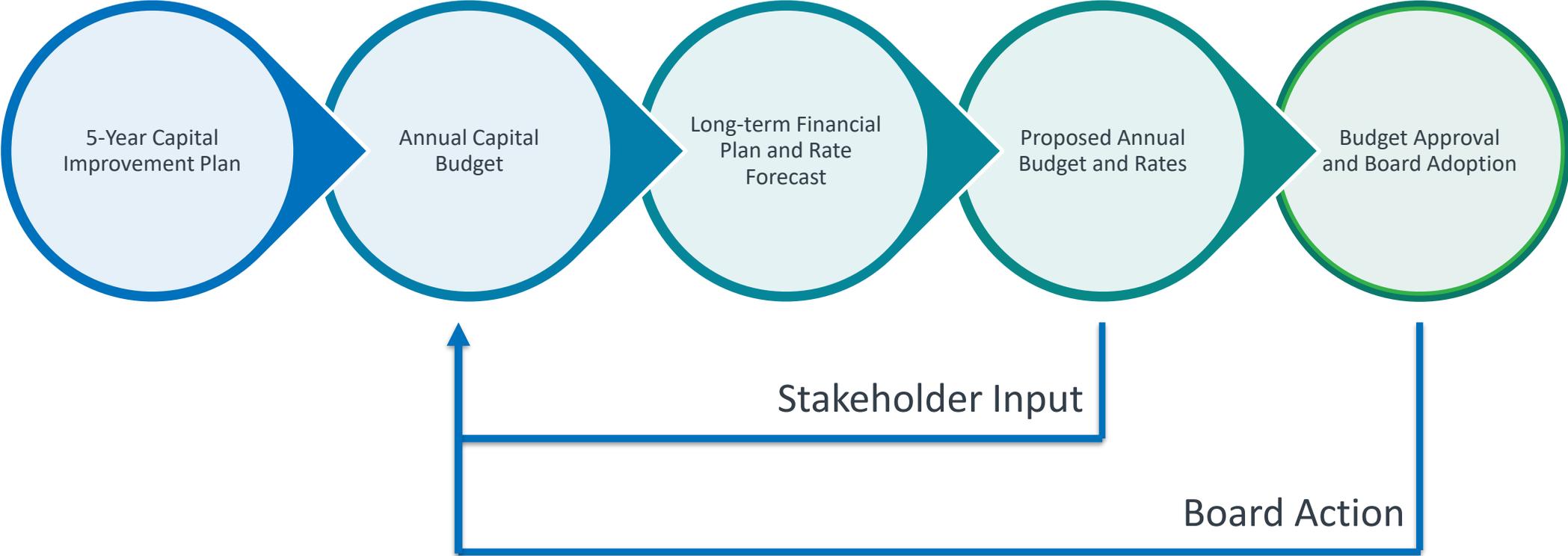


# CIP is Based on Thoughtful Planning



# Financial Planning and Rate Impact

Connection between CIP, Budget, and Rates



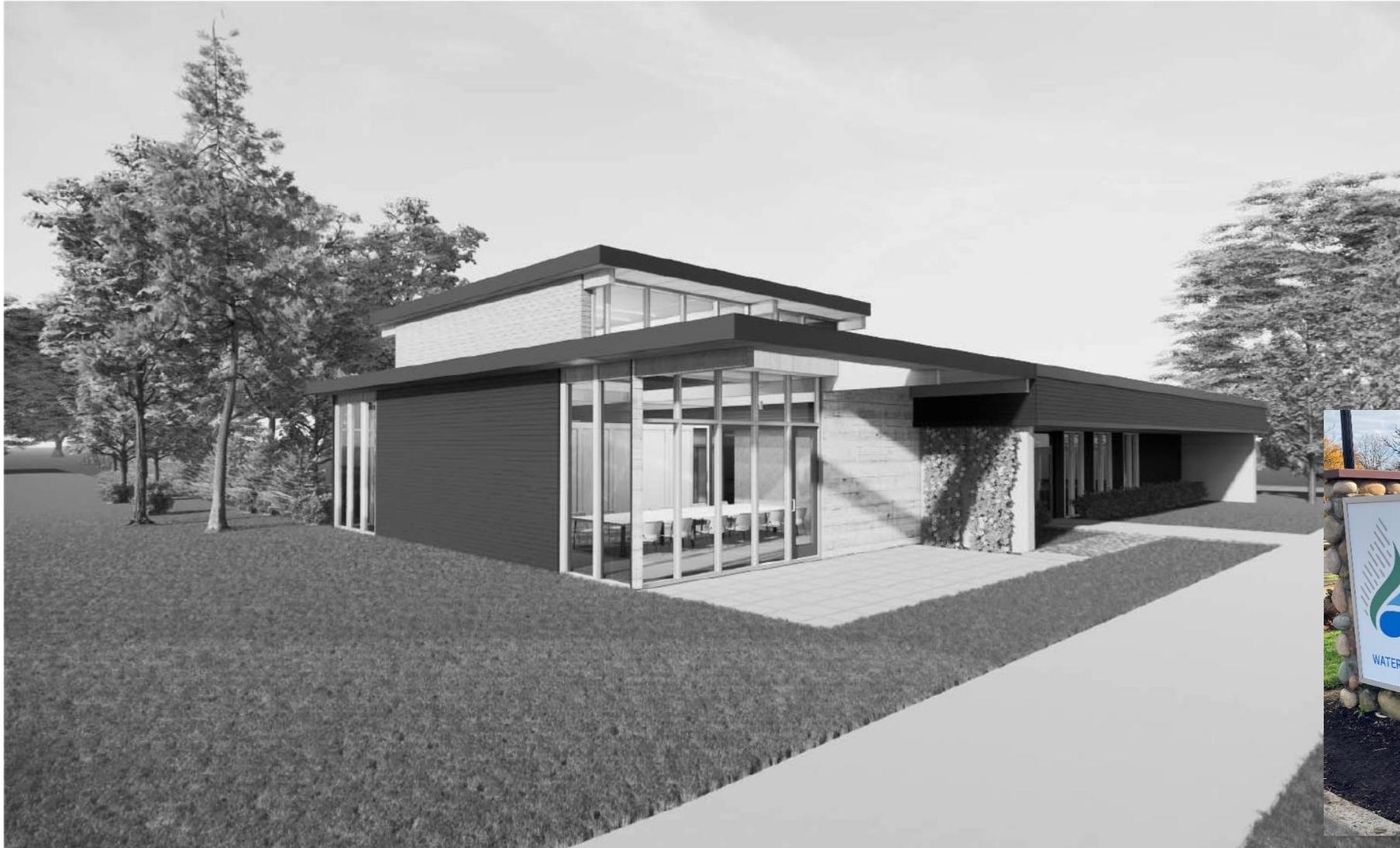
# Kellogg Creek Water Resource Recovery Facility



- LEGEND**
- ① Disinfection System Improvements
  - ② Solids Thickening and Dewatering Building
  - ③ Cake Storage / Truck Loadout
  - ④ Odor Control
  - ⑤ Digester Feed Tank
  - ⑥ Chemical Storage and Pumping
  - ⑦ Dewatering Feed Tank
  - ⑧ Central Equalization Tank
  - ⑨ Digester Modifications
  - ⑩ Digester Gas Storage
  - ⑪ Digester Gas Conditioning
  - ⑫ Cogeneration System Improvements
  - ⑬ Magnetic Recovery Facility (Scenario 3 Only)
  - Disinfection System Improvements
  - Solids Handling Improvements
  - Intensification Improvements
  - Cogeneration / Gas Handling Improvements
  - Existing Fenceline
  - Existing Property Line



# Future Kellogg Creek WRRF Administration Bldg.

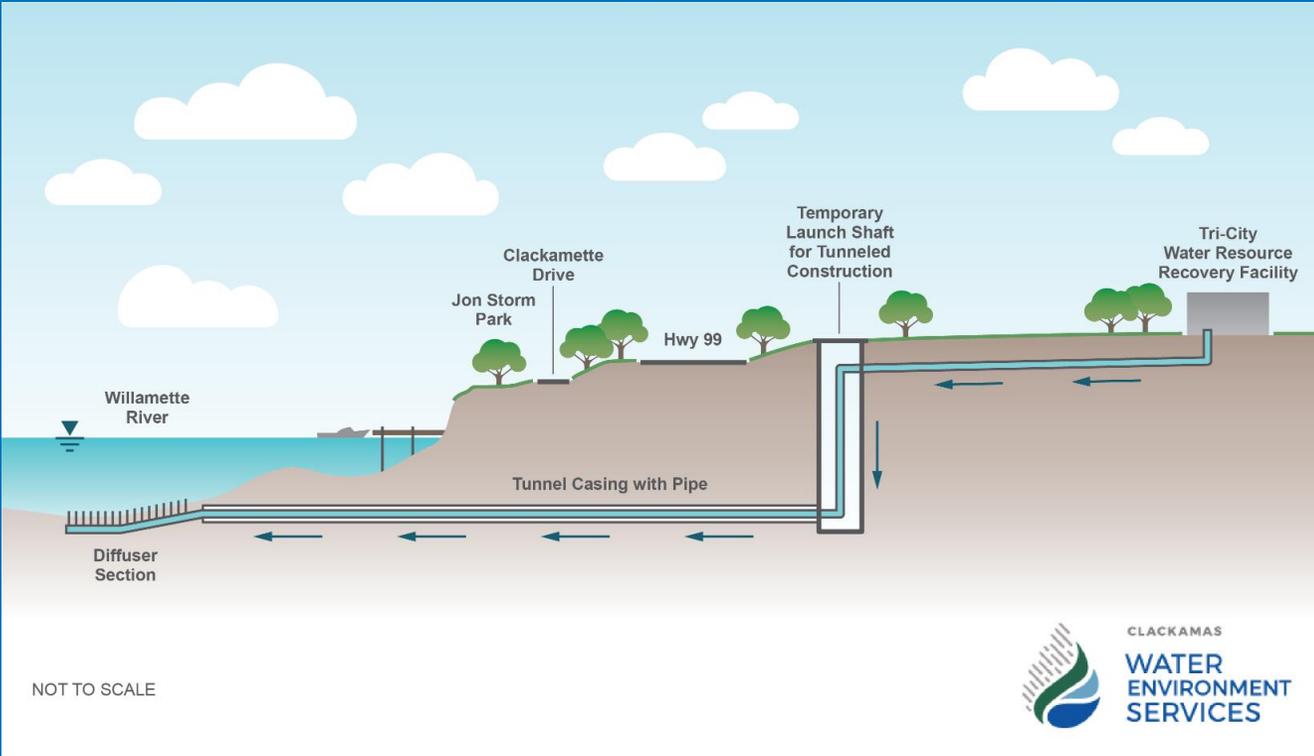


# Upgrading The Tri-City Water Resource Recovery Facility



# Building for Our Future

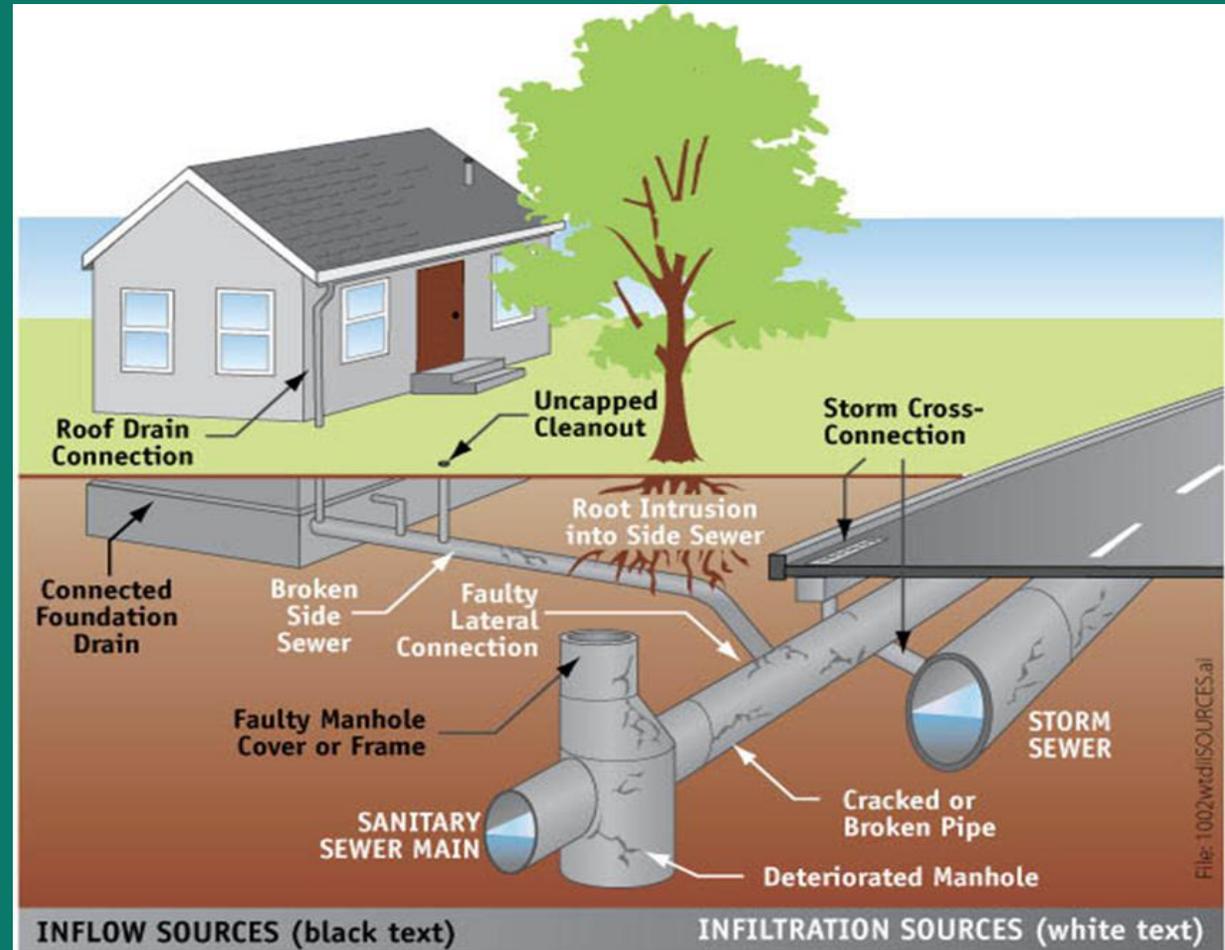
## The New Tri-City Outfall



# Willamette Pump Station & New Force Main Updates



# Partnering to Improve our Shared Sewer System



# 3-Creeks Natural Area Floodplain Enhancement Project



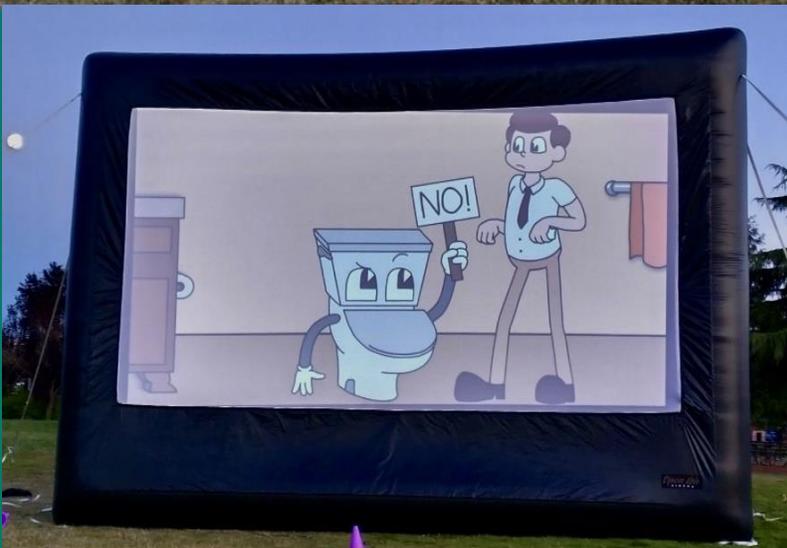
# Creating Watershed Health Partnerships



# Investing in Our Community



# WES-Sponsored Community Events in West Linn



# Questions?





## **Agenda Bill 2023-07-17-01**

Date: July 13, 2023

To: Rory Bialostosky, Mayor  
Members, West Linn City Council

From: Kathy Mollusky, City Recorder *KM*

Through: Elissa Preston, Deputy City Manager *EP*

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. April 3, 2023 Council Meeting Notes
2. May 15, 2023 Council Meeting Notes
3. June 6, 2023 Council Meeting Notes



CITY OF  
**West Linn**

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

# **WEST LINN CITY COUNCIL MEETING NOTES April 3, 2023**

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

### **Council Present:**

Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.

### **Staff Present:**

City Manager John Williams, Deputy City Manager Elissa Preston, City Attorney Bill Monahan, and Assistant to the City Manager Dylan Digby.

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

Council President Mary Baumgardner moved to approve the agenda for the April 3, 2023, West Linn City Council Special Meeting. Councilor Bill Relyea seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.**

**Nays: None.**

**The motion carried 3 - 0**

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

There were none.

### [Robert Moore Award Presentation \[6:20 pm/30 min\]](#)

#### Congratulations Leonard and Margaret Sawchuk

Interim Mayor Bialostosky presented the Robert Moore Award, given to recognize outstanding individuals who contribute to the quality of life in the community, to Leonard and Margaret Sawchuk for their volunteer work to restore the City's natural areas in parks and green spaces, coordinating and leading their own Sustaining Oregon's Legacy by Volunteering at SOLVE restoration events with the community for over two years, and volunteering at the West Linn Food Pantry.

### Public Comments

Public comment forms were submitted during the break from the following individuals, with Interim Mayor Bialostosky allowing them to speak after the break.

Tony Bracco, President of the Robinwood Neighborhood Association and Board Member of the Robinwood Station Community Center, invited both candidates for mayor to their candidate forum on Tuesday, April 11. He asked that Robinwood Station be on the next Council Work Session.

Karie Oakes wanted to follow up on her complaint about the trees that were cut down in Fields Bridge Park and adjacent right-of-way that she believes were cut down without a permit. They were not on the Conditional Use Permit (CUP) Application. There is Development Review Application in now for the project that requires a Water Resource Area Permit, a Tualatin River Protection Permit, and a Flood Management Area Permit that is pending. She is frustrated she has not heard from the City. She read a letter between the School District and Assistant City Engineer that said the school district performed tree removal on the north and south sides of Willamette Falls Drive. Tree Removal occurred based on documents submitted with CUP-21-02. She asked Council to enforce the City Code: Chapter 28, Tualatin River Protection Area Permit and Chapter 32, Water Area Resource Area Permit and 8.570(a)(2) for non-compliance.

Interim Mayor Bialostosky noted that on March 13, the City Manager did respond to Ms. Oakes email and stated this was under investigation.

City Manager Williams noted he also responded the next day to a subsequent email sent from Ms. Oakes and he will resend the emails. They covered many of the points expressed tonight.

## [Proclamations \[6:50 pm/15 min\]](#)

### [Volunteer Recognition Month](#)

#### [Proclamation](#)

Interim Mayor Bialostosky read the proclamation declaring April 2023 Volunteer Recognition Month.

### [Earth Day](#)

#### [Proclamation](#)

Council President Baumgardner read the proclamation declaring April 22, 2023, Earth Day.

### [Distraction Free Driving Awareness Month](#)

#### [Proclamation](#)

Council President Baumgardner read the proclamation declaring April 2023 Distracted Driving Safety Awareness Month.

### [National Library Week](#)

#### [Proclamation](#)

Councilor Relyea read the proclamation declaring April 23–29, 2023, National Library Week.

## [ODOT Presentation on the I-205 Tolling Program Environmental Assessment \[7:05 pm/30 min\]](#)

#### [Presentation](#)

Mandy Putney, Strategic Initiatives Director and Project Director for the I-205 Toll Project, and Della Mosier, Deputy Director Urban Mobility Office, gave a presentation on the I-205 Tolling Program, providing background information.

- In 2017, House Bill (HB) 2017 was passed, providing \$5.3 billion for transportation investments including a toll program for congestion relief. In 2021, the Urban Mobility Strategy was adopted to coordinate projects with focus on climate, equity, safety, and mobility. In 2021, HB 3055 passed to allow financial flexibility to transportation projects including improvements along I-205.
- The I-205 tolling project would manage congestion and raise revenue to build other improvements including an additional lane in each direction for seven miles and upgrading or replacing nine bridges to create a seismically resilient corridor. Construction on some areas was already in progress.

A video providing an overview of the I-205 Toll Project environment assessment was shown, noting tolls would be higher during peak congestion periods, encouraging drivers to change travel times, routes, or carpool to improve traffic flow. Tolls would be collected electronically at Abernethy Bridge and Tualatin River Bridge. Visit [oregontolling.org](http://oregontolling.org) to read the

environmental assessment and provide public comment.

Ms. Putney and Ms. Mosier continued the presentation, discussing the National Environmental Policy Act (NEPA), which required agencies to perform environmental analysis and receive public input to be incorporated in the decision-making process. The Federal Highway Administration (FHA) would oversee the process and make a final decision. An alternative no-build plan was available in the environmental assessment which includes no tolls, and no improvements made.

- Benefits of tolling would include faster travel time, fewer crashes, \$9.8 million annual cost savings for the freight industry, and decreased air pollution. The projects would create jobs. Household travel costs would only increase by 1 percent as travel time would be shorter and less gas would be used. A low-income toll program would be available. Most adjacent routes would experience shorter travel times, and most intersections would not be impacted. Mitigation details were included in the environmental assessment for intersections that would be impacted, and mitigation efforts would be monitored in the future.
- In West Linn, the area of Willamette Falls Drive and 12<sup>th</sup> Street would be impacted, and mitigation efforts have been planned to improve safety for pedestrians, bicycles, and an adjacent school zone.
- Public comment can be submitted before April 21 by completing the form on [OregonTolling.org](http://OregonTolling.org), submitting written comment in person, or via emailed to [1205TollEA@odot.oregon.gov](mailto:1205TollEA@odot.oregon.gov), leaving a voicemail at (503)837-3536, or by attending the public hearing on April 4, from 3:00 to 6:00 p.m. at the Pioneer Community Center in Oregon City either virtually or in person.

In response to Councilor questions and concerns, Ms. Putney and Ms. Mosier responded as follows:

- Oregon Department of Transportation (ODOT) was committed to collaboration with West Linn and other affected cities. City Planners and Technical Staff were invited to participate in planning the modeling and mitigation and all were encouraged to provide feedback.
- Alternative public transport options were not required to be available in tolling areas. ODOT had met with public transport providers to develop public transport strategies, and it was not known if West Linn would receive public transit.
- Low-income driver criteria were being determined by a statewide Tolling Rulemaking Advisory Committee, which provides input to the Oregon Transportation Commission regarding rate structure and tolling policies. A tiered credit, exemption, or discount had been discussed for low-income drivers, and final decisions on low-income policy and how that would be accessed would be upcoming.
- A variety of tabling events have occurred, especially in low-income and BIPOC neighborhoods, or virtually.

President Baumgartner noted many impacted residents in West Linn are not necessarily BIPOC or living in low-income neighborhoods and may not have access to computers or the internet and ultimately are not being reached. West Linn residents needed the opportunity to participate in the discussion as they are most likely to be impacted by the tolling.

Interim Mayor Bialostosky confirmed there currently were tabling events scheduled in other cities, but not in West Linn, and he would like to see West Linn included in the discussion. He noted the tolling program felt frustrating and personal, and there was little promise of real mitigation for the impact the program would have on travel in West Linn.

Ms. Putney relayed the results of the impact analysis were obtained through a process agreed upon by their jurisdictional partners comparing future years with the project, or without the project, and this presentation reflected their findings. She encouraged submitting comments.

Interim Mayor Bialostosky expressed concern over the economic impact of tolling on families in the area, and felt ODOT minimized the seriousness of the impact, both economically and with regard to greatly increased traffic on the streets of West Linn.

Ms. Putney acknowledged there would be significant impact to residents and noted the analysis considered many different factors. Data was based on an average-income household, who could mitigate economic impact by participating in the low-income toll program.

Ms. Mosier emphasized the importance of collaboration with West Linn, affirmed the long-term commitment the Urban Mobility Office had to communities, and reiterated the impact of tolling would be monitored. ODOT was hoping to implement the low-income tolling program on the first day of tolling, the first time this would be done in the nation. She reiterated the encouragement to submit comments.

Council President Baumgardner expressed concern that people who could not afford to alter their travel would be the most negatively impacted. She asked if construction on OR 217 and Rose Quarter were using tolls to fund the improvements.

Ms. Mosier clarified Rose Quarter would have the Regional Mobility Pricing Projects limits on I-5 in that area, but OR 217 would not use tolling as that direction was not given by legislature.

Interim Mayor Bialostosky requested a table event be held in West Linn for public comment. He also noted that West Linn was not on the map during the presentation, and he felt West Linn was being ignored.

### [City Attorney Next Steps and Appointment of Search Committee \[7:35 pm/30 min\]](#)

#### [City Attorney Information](#)

Deputy City Manager/Human Resources Director Elissa Preston and Lynn Barboza, Recruiter for SGR, had assembled a list of questions for Council to discuss to direct recruitment efforts. The

questions addressed job description, salary, support staff, proposed budget, and establishing a Selection Committee, possibly consisting of six members with two being City Council Members. The next step would be to have stakeholder interviews with Ms. Barboza. Because West Linn did not have a prior job description for City Attorney, they were using one from the City of Sherwood as a starting point for discussion.

Ms. Barboza noted the importance of becoming clear about the job description, salary, support staff, and what they are looking for in an ideal candidate before launching the job search so those items could be discussed with potential candidates. Ms. Barboza and Deputy Director Preston hoped these decisions could be made tonight so they could proceed with stakeholder interviews.

Council President Mary Baumgardner moved to approve the job description as posted in the packet. Councilor Bill Relyea seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.**

**Nays: None.**

**The motion carried 3 - 0**

Deputy Director Preston explained according to a market study using the Cities of Sherwood, Milwaukie, Tualatin, and Lake Oswego, the City's highest level on the current pay scale was just under market average. A new pay range at 5 percent higher would put the pay within market average.

Interim Mayor Bialostosky proposed raising the new Director grade with a high of \$167,844 to facilitate successful recruitment.

Council President Baumgardner asked if this would affect other current Director positions or cause other complications by having a new pay grade introduced.

Deputy Director Preston clarified it was not the intent to move other Director positions into that pay grade unless there were reasons to do so in the future.

City Manager Williams remarked that it made sense to have positions reporting directly to Council be paid at the top ranges of the City in a category of their own. Potential candidates would look at what they could make in other places in both private and public sectors.

Councilor Relyea expressed concern over the dynamics of the similarity in pay between the City Manager who had many responsibilities with a lot of direct reporting and managing, and one chief legal officer with one assistant without a lot of reports, and making sure that both positions were compensated fairly. He was unsure if market averages reflected the reality of

the dynamics of those positions, or if this would cause salary dissatisfaction in the future.

City Manager Williams noted his salary was higher than the numbers being discussed, and that all Department Directors would be managing more people than the City Attorney, but the job was very different and had a high degree of visibility sitting next to the City Manager at Council meetings.

Ms. Barboza agreed the position of City Attorney differed greatly from City Manager, and span of control was only one factor in determining a salary range or market compensation. Other responsibilities included managing risk for the entire City, having expertise on a wide array of topics relevant to City affairs, interpreting laws, and providing legal advice to the City.

Councilor Relyea favored creating a new pay grade with a range based on background and level of experience to ensure the City Attorney was compensated adequately.

Council discussed salary ranges offered by nearby cities and options for a pay range that remained negotiable.

Interim Mayor Bialostosky proposed creating a new grade of pay for the position with a range between approximately \$140,000 to \$170,000 to be competitive. Council determined the benefits package would be the same benefits offered to similar positions and could be negotiable.

Council President Mary Baumgardner moved to Post the City Attorney position salary as a Director salary schedule with a range of \$150,000 to \$175,000. Councilor Bill Relyea seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.**

**Nays: None.**

**The motion carried 3 - 0**

Deputy Director Preston recommended the City Attorney be provided with support staff in the position of a Legal Assistant or a Paralegal at an estimated cost of \$137,000.

Councilor Relyea suggested adding language that would allow the City Attorney to negotiate the kind of support staff they would like to hire.

Council President Mary Baumgardner moved to Advertise that the City Attorney would have one support position. Councilor Bill Relyea seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.**

**Nays: None.**

**The motion carried 3 - 0**

Council discussed the proposed budget of \$1.54 million in biennium 2025 (BN 25), which included salaries, materials and services, and contracted legal services, including the City Prosecutor. The budget could be altered in the next month as the budget was finalized.

Council President Mary Baumgardner moved to Advertise that the City Attorney would have a proposed budget of approximately \$1.54 million. Councilor Bill Relyea seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.**

**Nays: None.**

**The motion carried 3 - 0**

Ms. Barboza explained the seven primary steps in recruiting a City Attorney as follows:

1. Position profile development
2. Posting the job which begins the 30-day application period
3. Outreach marketing and recruiter evaluation
4. Initial presentation of candidates
5. Selection of semi-finalists
6. Selection of finalists
7. Finalist evaluation and onsite interviews

The Search Committee would assist with profile development, candidate review sessions, selection of and evaluating materials from semi-finalist candidates to end up with four to six finalist candidates for Council consideration. To keep the application of hiring standards streamlined and consistent, they recommended appointing a six-person Search Committee, being mindful of open meeting laws and not assembling a quorum.

Deputy Director Preston agreed it made sense not to have more than six people appointed to the Search Committee, on top of holding stakeholder interviews to form a candidate profile.

Interim Mayor Bialostosky recommended the Mayor, one member of City Council, the City Manager, Deputy Director Preston, and the Chair of the Planning Commission serve on the Search Committee.

Councilor Relyea suggested the Chair of the Historic Review Board (HRB) serve on the Search Committee.

Council discussed current or incoming Council members who could serve on the Search Committee.

City Manager Williams noted they could appoint a Councilor spot on the Committee and decide later who would fill that spot.

Council President Mary Baumgardner moved to Appoint a Selection Committee for the City Attorney recruitment consisting of the Mayor, a member of Council, the City Manager, the Director of HR, the Chair of the Planning Commission, and the Chair of the HRB or designate. Councilor Bill Relyea seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Bill Relyea.**

**Nays: None.**

**The motion carried 3 - 0**

Ms. Barboza explained stakeholder interviews would be part of the profile development process. The level of engagement from stakeholders would ensure that candidates would be screened properly, resulting in the best candidate being selected as City Attorney. Ms. Barboza would hold the interviews in person to determine what their ideal candidate looked like, what their priorities for the City Attorney would be, what challenges the new City Attorney could face, and what experience and leadership skills were most important. She usually works with 12 to 14 stakeholders, with interviews on site or on Zoom. The public, various committees, and City Staff would have opportunities for engagement later. She invited them to recommend a list of stakeholders to Deputy Director Preston.

Deputy Director Preston had already started a list, including Members of Council, the Planning Commission Chair, and the City Manager, who she hoped could also recommend others who would be working closely with the City Attorney. She invited Council to send her additional recommendations.

Ms. Barboza suggested they could recommend key members of the community or Commissions, local government partnerships such as School District Superintendents, active volunteers, other City or County Administrators, members of the development community, and possibly someone from the finance industry.

Councilor Relyea asked if it was a conflict of interest for candidates to meet with attorneys who were handling the City's currently pending legal issues.

Ms. Barboza confirmed it was a good idea to allow candidates to meet with the attorneys and noted it could help identify ideal candidates and was not likely a conflict of interest.

[Review April 10 Meeting Agenda \[8:05 pm/15 min\]](#)

**April 10 Council Agenda**

Public Comment

CJ Koll provided public comment about the meeting agenda on behalf of the Hidden Springs Neighborhood Association, asking currently seated Council to make the decision on Item 5, Agenda Bill 2023-04-10-03: Appeal (AP-23-01) of a Water Resource Area Permit (WAP-22-02) Decision.

City Manager Williams informed Council what items to expect on the agenda for the April 10<sup>th</sup> Meeting as linked above.

City Manager Williams presented his report, noting the April 17<sup>th</sup> meeting would include the swearing in ceremony of new Council Members, a State of the District presentation by the Deputy Chief of Tualatin Valley Fire and Rescue (TVF&R), and a discussion identifying options for pickleball. In May, Council would discuss camping code, work on the CCI (Committee for Community Involvement) by-laws, follow through on City Hall, address the Police Review, and recommend Committee appointments.

Councilor Relyea requested adding to the April 10<sup>th</sup> Meeting agenda a discussion regarding Senate Bill (SB) 933 to address alternative sources of funding. Instead of tolling they could increase tax rates, or instead of tolling I-205 locally to toll I-5 and I-205 at the Washington State borders. He hoped Council and Staff could review the bill and make a recommendation on whether to support the bill and send a letter to Senator Wagner in support of that measure. Council agreed this should be added to the agenda.

Council President Baumgardner asked what was being done to get the word out about the opportunity to provide public comment to ODOT regarding the proposed tolling, especially as there had not been outreach to the public of West Linn by ODOT, and they could be greatly impacted if the tolling program was implemented.

City Manager Williams replied that the environmental assessment had been featured on the City's social media pages and in the newsletter. ODOT based its outreach on data and focused resources mostly in high needs areas, and as West Linn appears to be a less diverse and affluent area, they had not received outreach despite the direct impact on their community. He suggested looking into making the issue more visible.

Council President Baumgardner suggested keeping public messages about proposed tolling at a simple level so that people would quickly understand the issue and submit comment.

City Manager Williams agreed and noted the diversity of opinion on the matter in the

community.

Councilor Relyea noted toll booths would be more effective at the Glenn Jackson Bridge or Columbia River Bridge where traffic could not be diverted to avoid the toll. He noted ODOT had created problems previously with the way they constructed roads in West Linn, including Highway 43, and had never resolved the issues. He and Interim Mayor Bialostosky expressed hope that SB 933 would help solve the issues by moving tolling away from local areas.

#### **[Mayor and Council Reports \[8:20 pm/10 min\]](#)**

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

Council President Baumgardner reported that she visited Washington D.C., meeting with regional City partners who were at the League of Cities conference. She met with Representative Chavez-Deremer, Senator Wyden, and Senator Merkley, who were advocating for funding the waterline assistance request.

Councilor Relyea updated on SB 974, the measure that adds a criminal charge to those who use their medical position to exploit those that have suffered at the result of sexual proliferation at the hands of medical practitioners. He felt moved by those who had testified, and he expressed hope they would see that measure passed.

#### **[City Manager Report \[8:30 pm/5 min\]](#)**

City Manager Williams had nothing further to report.

#### **[Adjourn \[8:35 pm\]](#)**

Draft Notes



22500 Salamo Road  
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# WEST LINN CITY COUNCIL MEETING NOTES May 15, 2023

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

### **Council Present:**

Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.

### **Staff Present:**

City Manager John Williams, City Recorder Kathy Mollusky, City Attorney Bill Monahan, Deputy City Manager Elissa Preston, Library Director Doug Erickson, Administrative Assistant Janene Richards, and Assistant City Engineer Erich Lais.

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

Council President Mary Baumgardner moved to approve the agenda for the May 15, 2023, West Linn City Council Meeting moving proclamations to item 4, before the Camping Code discussion and removing 6a. Water Environmental Services State of the District Presentation from the agenda. Councilor Leo Groner seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 4 - 0**

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

Elizabeth Rocchia in defense of Fields Bridge Park.

Anthony Bracco inviting everyone to the Robinwood Station open house on June 4th.

Alice Richmond voiced displeasure with the Oregon State Legislature walk out.

Kathy Halicki has traffic concerns as listed on her submittal.

[Public Comment - Kathie Halicki](#)

**[Proclamations \[6:50 pm/10 min\]](#)**

**[Congenital Disorders of Glycosylation](#)**

[Proclamation](#)

Council President Baumgardner read the proclamation declaring May 16 Congenital Disorders of Glycosylation Awareness Day.

**[Public Works Week](#)**

[Proclamation](#)

Councilor Erwin read the proclamation declaring May 21 to 27 National Public Works Week.

**[West Linn Lions Month](#)**

[Proclamation](#)

Interim Mayor Bialostosky read the proclamation declaring May 15 to 21 West Linn Lion's Week.

**[Camping Code Discussion \[6:20 pm/30 min\]](#)**

[Camping Code Information](#)

Library Director Erickson gave the staff presentation and reviewed what was discussed last week.

[Presentation](#)

In response to Council Questions, staff replied:

- There is the potential to have increased waste and theft, no community is immune from that, the problem has remained manageable in West Linn.

- West Linn has not enforced the camping rules since 2019 and there are five houseless people

here. Staff have built personal relationships with them so they can help them individually.

- The largest camp, that has three people in it, was in West Bridge Park. The number of houseless has been reduced due to the I-205 construction. Many of the people who are houseless in West Linn have a connection here, they either grew up here or their family live here.

- Staff advises Council remove the camping restrictions from the ordinance and wait and see what happens in the surrounding cities. If West Linn does something different, it shines a light on our community.

- Staff does not want to be put in the position of deciding who gets to stay in the shelter, if one was built, and who gets turned away if there were not enough beds. They want to continue to be compassionate with the houseless people on an individual basis as they are currently doing.

- The resources are limited. The laws are restrictive as to what staff can and cannot do. If Council decides to provide services in the City, the services will need to be on the property the City owns. Staff recommends we continue to approach with kindness and compassion on a case-by-case basis.

- Staff suggests creating a task force of community members, faith, and civic leaders to get some ideas of what could and could not be possible and what the barriers are.

#### Public Comment

Alice Richmond is stunned West Linn has this problem and that we need to pay attention to this situation. She is happy staff is on top of it.

Rick Stiggins is concerned about fires at Burnside Park since they live near there. He is willing to pay for services to help the homeless.

Christina Dunham lives by the bridge where homeless people camp and it is scary when they come to your house. She detailed a lot of the problems they have had with the homeless there.

Jonie O'Brian is disappointed West Linn waited five years to think about this topic. She hopes Council will listen to the public and listed items for Council to consider.

George Harper spoke about reasonable restrictions, making it as difficult as possible to let the homeless come into the community.

Clint Wieler urged Council to use the strongest language possible to mirror the current no camping policy. His properties in Portland are inundated with homeless and the crimes that come along with it.

Lisa Wolff believes we need to meet the requirements while protecting the community. If Council doesn't regulate, money will have to be spent. If Council does regulate, money will have to be spent. She wants Council to spend money to regulate and protect the community.

Diana Jimenez would like the City to plan and find solutions for the different issues the homeless individuals face.

In response to Council's questions, staff responded:

- Code Section 5.115 regulates camping, this is not consistent with cases nor the house bills that have been made into statute. Communities in Oregon are being required to determine if there will be regulation. If there is not going to be regulation, the City can remove the language from the Code that regulates camping.
- The City can modify the Code and there is draft language in the packet that would create a new Section 5.116. This language is patterned after other communities and legislation that says the City can adopt time, place, and manner restrictions. This must be complete by July 1. If the existing Code is in place after July 1, we believe it is contrary to the new statute and subjects the City to potential exposure.
- If Council regulates camping, then you must regulate where it is allowed. Staff has supplied a map Council will need to identify where there will be restrictions (i.e., not in parks or residential areas). You cannot state that no public lands are available.
- Council can place restrictions. For instance, if there is an area with 10 acres, Council could state where, within those 10 acres, camping can and cannot occur and how close those camping areas can be to each other. Council needs to determine if they are going to regulate camping.
- If Council is going to regulate camping as of July 1, we should have something in our ordinance that shows we have objectively reasonable standards in place. If we do that, after July 1, we can take on the second requirement of the statute which is if the City determines at some point and time that it needs to remove a camp site, whether the City is regulating camping or not, there may be campgrounds that occur that need to be removed. The City needs to at some point adopt a policy that's consistent with the statute. The determination of whether you want to regulate camping and are going to have any regulations on the books as of July 1 is the decision that needs to be made in the next month and a half.
- The City is focused on addressing the sit, lie, and sleep human activities that we would need to be regulating overnight camping. Council could place regulations, for example, between 8:00 am and 9:00 p.m., against camping.
- It is not clear whether the City must provide sanitation such as restrooms, hand wash

facilities, and garbage removal if they allow camping. There is some proposed language where camping is allowed on private property. When they do that on private property, they must make sure those facilities are available. If Council allows camping on public property, they should make sure there are suitable facilities available. Allowing camping on private property does not address the City's need to comply with the new laws. Council could have a private-public partnership and could limit camping in the Code to those near the private facilities, but that is an exercise they would have to go through to see if it could be done or assign to a task force.

- One recent cleanup of a campsite off Territorial cost around \$2,000. The City worked with ODOT's Urban Camp Coordinator who has a contract with a Hazmat organization who can do a correct cleanup.

Councilor Erwin stated if there were a clear spot where camping would work for everyone, he would green light it and move forward; however, looking at the map, there is no such spot. With the wait and see approach, that would give Council information to go forward. He does not want it to just travel throughout West Linn and have it become everyone's problem. Entities like Central City Concern and Bradley Angel do good work to help houseless people improve their circumstances, but those services do not exist here. He does not like how the law put it on the municipality. He would like to work with the League of Oregon Cities to try and get a legislative fix. The City must choose between high-cost litigation, restrictions that will invite people to come and challenge us, or do not do any restrictions at all and respond to the individuals who are causing issues. He would like to convene a task force and outreach to the churches and other private entities to come together and find the best solution.

Interim Mayor Bialostosky spent time looking at other cities. Lake Oswego, Oregon City and Clackamas County are doing the wait and see approach. Canby, Forest Grove, Wilsonville, McMinnville, Milwaukie, Happy Valley, Sherwood, and Tualatin are working on regulations. He is concerned about not regulating. When camping happens, the City will not have a way to address it within the confines of our ordinances. He understands the City is not currently enforcing the camping ban and is hearing there are already isolated problems. At some point we are going to have to figure when and where, he proposes starting the process to regulate it now.

Council President Baumgardner stated in 2018, a resident let them know there were sound walls that were being presented to property owners by ODOT along I-205 as a federal requirement for their lane expansion project. At the time there was a concern that sound walls were attractive to people to use as a shelter. There is only one section of sound walls going up above the Blankenship overpass on I-205. She would like to go back to ODOT to have a revote to rethink the sound walls. The sound walls were rejected by every section except that one. The City property that was just purchased for a facility site could potentially be a location for limited services. It is right off I-205 southbound before the 10th Street exit.

City Manager Williams informed Council that the project has been put on hold by the state. That area is outside of the project area now with the tolling two-year hiatus because there is not funding. ODOT is required by federal law to have votes about sound walls. The City could ask for a revote in that area, given the pause on tolling there may be time.

Interim Mayor Bialostosky stated Council doesn't have to state the regulations to put into place right now or potential sites since they have time to go through that process. When discussing sites, like the new property, he would like to include the neighborhood about what it could potentially look like. Council needs to decide if they want to move forward with regulating or not.

City Attorney Monahan stated Council doesn't have to have all the services set up if they regulate camping. The statute says if there are going to be regulations in place. It does not say it has to be simultaneous with the services, but there may be some nuances that we are not anticipating. Any regulations that make it a crime to sit, lie, or sleep in a public place needs to be removed by July 1, 2023. The City can continue to work on regulations to make it clear what we are going to ultimately be allowing. We are hoping to learn from other communities what objectively reasonable terms are so we know what will be acceptable and what will lead to potential litigation.

Councilor Groner proposed deciding to remove offensive language that is outside of compliance, and then create language to regulate with proper time, place, and manner, later.

City Attorney Monahan noted that would be acceptable because it would address eliminating the offensive language prior to July 1. Later, Council could regulate time, place, and manner with language that is objectively reasonable based on going through a process to get a better understanding of what that language is that would make that suitable to meet the statute.

Interim Mayor Bialostosky noted two councilors are in favor of removing the camping ban language and then going through a process that may or may not put regulations into place by July 1. He thinks there is enough time to receive a briefing on the comprehensive policies other cities have gone through to regulate this and create regulations by or around July 1. He wants to have a process in place so there is a way to address issues that may arise in the community.

Council President Baumgardner does not want a gap either and proposes regulating whatever is legally allowable. The City might not be able to provide services immediately; however, we are working toward it.

Interim Mayor Bialostosky stated through a process of looking at what regulations Council wants to enact (i.e., how many feet from a school), we can come up with where camping can occur. This could naturally identify which places are not a part of the camping ban. Some communities have identified where they are going to have camping, others have regulated it by stating where it is not allowed. The key issue is if we regulate it, do we have to say where it is going to be because we do not know of a good spot yet. He is in favor of regulation.

In response to Councilor Groner's question, City Manager Williams responded staff can investigate the pros and cons of the potential sites that have been raised tonight. For instance, the I-205 site doesn't have a road into it or utilities; however, it has the advantage of being separated. All the sites that have utilities available to them are near existing uses and are challenging.

Interim Mayor Bialostosky believes there is consensus on regulating, just not by which date.

Councilor Erwin stated if Council sees a place and wants to regulate it, he is for it. He is just concerned a good answer will not easily come. He does not want to force it to meet the July 1 deadline. He likes the task force idea. He wants to keep the City safe and clean and would like input from the neighborhood associations.

In response to Council President Baumgardner, City Attorney Monahan stated the Grants Pass case was settled in December 2022. The cities were hoping that case would clarify some of the regulations; however, it did not, and it made things more difficult. The lack of lawsuits between December and now is because communities are heeding the suggestion from the League of Oregon Cities to engage in community discussions, to make the community aware of addressing the regulations. Bend had completed their process and most attorneys thought they had a reasonable approach; however, the ACLU and others notified them that if they do not change their regulations, they will face litigation.

In response to Councilors questions, City Manager Williams replied that staff have taken down the questions asked and will get responses back. We will schedule continued discussions on this and will reach out to community leaders. Staff just needs to know which way Council wants to move and will go in that direction. There are some blank lines in the ordinance that need to be filled in if Council wishes to go down the path of regulation. Staff can assemble what other cities are doing and bring that to Council.

Interim Mayor Bialostosky wants to meet in June on this topic. He will send the information he has to staff about what the other cities are doing and would like a briefing about what all the other cities, that are like West Linn, are doing. Council has consensus on regulating and would like to get the regulations in place as soon as possible.

Council President Baumgardner stated the community is concerned about safety and livability and wants to make sure Council is being careful and protecting their interests. Council may decide to regulate and have the intention of providing services but may find no one wants services in our community and we may have to change and remove the regulations depending on what the community wants.

Councilor Erwin agrees Council needs to do what is legally required. It would be good to have policy in place so there's clarity and understanding in the community.

Councilor Groner stated the draft, Section 5.116, has a lot of blanks. Perhaps Councilors can fill it out and use that as starting point.

City Manager Williams summarized Council wants to remove the camping code language, is interested in regulation, and wants to receive a briefing on what the other cities are doing. Council is interested in receiving advice from neighborhoods, private owners, and organizations about whether there are places that make sense or if they would be interested in partnering with the City. Staff will bring back the answers to Council's questions and will schedule the next discussion about this in June.

### [Scheduled Presentations to the Council \[7:00 pm/50 min\]](#)

#### [~~a. Water Environmental Services \(WES\) State of the District~~](#)

##### [Annual Report](#)

##### [Presentation](#)

This item was removed from the Agenda under Approval of Agenda.

### [West Linn Refuse & Recycling](#)

Josh Brown and Kris Wright, West Linn Refuse & Recycling, gave the presentation regarding the annual rate review, Metro Business Food Waste Policy, Community Clean Up Event, and the Recycle+ program.

##### [Presentation](#)

### [Consent Agenda \[7:50 pm/5 min\]](#)

#### [Agenda Bill 2023-05-15-01: Meeting Notes for March 13, 2023](#)

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

##### [Public Comment - Russ Axelrod](#)

Council President Mary Baumgardner moved to Pull the Consent Agenda for the meeting notes for March 13, 2023. Councilor Leo Groner seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 4 - 0**

### [Business Meeting \[7:55 pm/30 min\]](#)

#### [Agenda Bill 2023-05-15-02: Adoption of Standards and Criteria of City Attorney](#)

##### [City Attorney Information](#)

Deputy City Manager Preston summarized the staff report reminding Council they have chosen SGR to coordinate the City Attorney recruitment process and have adopted the recruitment process. The next step is for Council to adopt the candidate profile, also known as the standards and criteria. She also asked Council to appoint a second member to the selection committee.

Council President Mary Baumgardner moved to adopt the City Attorney candidate profile developed by the City's recruiter as the standards and criteria that will be used in this City Attorney recruitment process. Councilor Scott Erwin seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 4 - 0**

Deputy City Manager Preston reminded Council they had a meeting April 3 where they elected to have a selection committee. The Interim Mayor is on the selection committee and now that the election is over, she asked Council to appoint another member.

Lynn Barboza, SGR, informed Council the committee will assist Council in narrowing the candidate pool to a group of semi-finalists who will be asked to provide deliverables. The committee will review the deliverables and narrow the group decide who to invite to interview. The full Council will be a part of the interview process. The time commitment will be in five to six weeks from today, around the first week of July, and the time commitment will be a 90 minute to 2-hour meeting to select the finalists. Two weeks after that, the committee will meet again to narrow down the pool of candidates and two weeks after that, the candidates will be invited onsite.

Council discussed the timeline and who would be available to participate in the process and appointed Councilor Groner to be the other councilor on the selection committee.

Interim Mayor Rory Bialostosky moved to Appoint Councilor Groner as the second representative from Council on the search committee. Council President Mary Baumgardner seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 4 - 0**

### [Agenda Bill 2023-05-15-03: Prosecuting Attorney Contract Approval](#)

#### [Prosecuting Attorney Information](#)

City Manager Williams informed Council there is a Prosecuting Attorney vacancy in West Linn and explained some of the items this position takes care of. The City sent out a Request for Proposal (RFP) and recommends Kyndre Lundquist for the position.

Councilor Scott Erwin moved to Authorize the City Manager to enter into a personal services agreement with Kyndre A. Lundquist for prosecuting attorney services. Council President Mary Baumgardner seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 4 - 0**

### [Mayor and Council Reports \[8:25 pm/10 min\]](#)

#### [Draft Meeting Notes for March 13, 2023.](#)

City Attorney Monahan stated the meeting minutes reflect what Council's actions were, the matter that was before it, Council's motions, and a representation of the public comments received. The minutes are significant because they will be helpful for the Appellant and City to identify within the record when it is prepared of the local proceedings what was stated throughout the process. He explained the way the Land Use Board of Appeal (LUBA) process works. The City also makes available the videotape of the hearing. He is not aware of what the complaint is about the minutes of what was misrepresented since this was not provided to him and the minutes are very lengthy.

Interim Mayor Bialostosky read the letter submitted from Russ Axelrod regarding his complaint.

City Manager Williams informed Council these minutes were not drafted from City staff, they were provided by the contracted transcription company.

In response to Councilor's questions, staff replied that the minutes are adequate to meet the legal standard, the video is available and may be reviewed. If the record challenge is to a specific statement that needs to be changed to a different specific statement, then we could correct the error. To try to make these more complete would be to make a transcript. The Appellant has a right to have a transcript done of the meeting and submit it as an objection to the record. When the record is produced, it will be presented to the partitioner and any interveners, and they may file a record objection.

Council President Mary Baumgardner moved to approve the meeting minutes for March 13, 2023. Councilor Leo Groner seconded the motion.

**Ayes: Interim Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 4 - 0**

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

Councilor Groner stated the Economic Development Commission (EDC) recommend a change in the Code regarding a quorum only including active members.

Councilor Erwin stated on Wednesday, the Planning Commission will be having a hearing regarding the Auxiliary Dwelling Unit rules change; the Bolton Neighborhood Association is having its meeting tomorrow at 7:00 pm regarding emergency preparedness, discussion of the potential new rec center, and public transportation; next Tuesday, the 23rd at 7:00 pm the Hidden Springs Neighborhood Association is meeting about their summer social and any other new business.

Interim Mayor Bialostosky reported the Youth Advisory Council are eager to get involved with the rec center, the waterfront, and Hwy 43 visioning plan. He provided them an update on the tolling pause. He updated the Utility Advisory Board on what Council is doing regarding the Abernathy Bridge, the waterline, and the lobbying they are doing at the federal and state government. They want to support our request and the UAB Chair will write letter about HB 5030. They will be working on the water master plan later in the year and want to explore Plan B if the City doesn't get funding support for the water infrastructure.

### **Police Review & Recommend Committee Appointments**

Interim Mayor Bialostosky stated Council went through a process to select people to interview, interviewed 14 community members, and individually sent their top seven applicants to staff who compiled the list. There are four people with a Council majority to be appointed and six people with two votes left to fill three remaining spots. Council will do a second round, selecting three of the six people who were tied and will send their preferences to staff. Council can make appoints at their next meeting.

### **City Manager Report [8:35 pm/5 min]**

City Manager Williams stated it is being announced this week regarding the change in the plans for the Highway 43/Hidden Springs/Cedar Oak intersection. The improvements have not been fully vetted by the community nor has there been enough of a benefit described to move forward at this time. The City has worked out an agreement with the Oregon Department of Transportation (ODOT) and Metro to apply the funds received to the intersection at Marylhurst and Highway 43. This project includes ADA ramps, drainage, new traffic signal, poles, and

protected bike and pedestrian movement. With all the cost increases in construction, we were overbudget, so this is going to save the taxpayers money. A press release will be going out tomorrow and the church already knows about this change. Staff has put together a scope of work for the indoor rec center and is looking forward to speaking with Council about the two phases of the project as soon possible. There will be a Historic City Hall meeting next week to talk about the construction process.

**City Attorney Report [8:40 pm/5 min]**

City Attorney Monahan stated there has been an appeal filed on AP 23-01 to the Land Use Board of Appeals (LUBA). Up to six individuals had the ability to appeal. The process will take some time as the appeal record will have to be compiled which can be quite lengthy since there were multiple meetings. There will be more sets of minutes and they can go in a draft form. This does not prevent the Applicant from proceeding; however, the Applicant does not have a development plan. If they did have a plan, they would be allowed to proceed at their own risk.

**Adjourn [8:45 pm]**

Draft Notes



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

# WEST LINN CITY COUNCIL MEETING NOTES June 6, 2023

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

### **Council Present:**

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.

### **Staff Present:**

City Manager John Williams, City Attorney Bill Monahan, Planning Manager Darren Wyss, Assistant City Engineer Erich Lais, Attorney Peter Watts, Library Director Dough Erickson, Administrative Assistant Janene Richards, and Assistant to the City Manager Dylan Digby.

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

Council President Mary Baumgardner moved to approve the Agenda with the addition of the Pride Month Proclamation. Councilor Lou Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 4 - 0**

### **Pride Month Proclamation**

Mayor Bialostosky read the proclamation declaring June 2023 as Pride Month in West Linn.

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

John McCabe spoke against traffic impacts when Oregon Department of Transportation (ODOT) implements tolling on the interstate and the City's decision to allow a stormwater outlet to be placed on Clackamas County Property 21E34CA04000, owned by Portland General Electric, without the owner's knowledge, when it was on a known flood plain.

CJ Koll, Hidden Springs Neighborhood Association (HSNA) President, spoke about traffic issues, the Water Area Permit 22-02 appeal process, and fee reimbursement for the Appellant. On behalf of the Neighborhood Association Presidents (NAP), he corrected comments from the June 1<sup>st</sup> budget meeting, noting that no agreement had been reached to combine the Neighborhood Associations into one entity and that the NAs have not had an increase in their yearly stipends to facilitate events.

Elizabeth Rocchia spoke in defense of Fields Bridge Park and questioned the wisdom of the huge wall required to support road expansion to accommodate parking and the ADA sidewalk.

In response to President Baumgartner's question, Ms. Rocchia provided background information, stating the final outcome was slightly different than planned. The Neighborhood Association backed the bond issue and lobbied for the City to purchase waterfront property for the Park. Baseball was to be an adjunct activity, and they were promised the baseball fences and scoreboards would be removed at the end of the season. She believed the City paid for the park, but the baseball club owned it, leaving City residents without use of the Park.

Alice Richmond stated West Linn was in much better condition than when she arrived from New York City. She spoke about the Robinwood Neighborhood Association event this past Sunday, which she had been invited to attend, and wished the neighborly connectivity was more prevalent in the City.

### **Public Hearing: Appeal of Planning Manager Decision in WAP-23-01/WRG-23-01/FMA-23-01 [6:20 pm/60 min]**

[WRA Appeal Information](#)

[Appellant Submittal](#)

[AP-23-02 Appellant Presentation](#)

[AP-23-02 Applicant Response](#)

[AP-23-02 Public Comment June 1](#)

[AP-23-02 Public Comment June 6](#)

[Appellant June 6 Letter](#)

Mayor Bialostosky read the introduction and procedures for the appeal hearing and called the Public Hearing to order, emphasizing this was a quasi-judicial decision, which required rulings to be grounded in relevant code. If the Application met Code requirements, it should be approved.

City Attorney Monahan cited the criteria that should be addressed in this quasi-judicial hearing and the rules of appeal. He asked if any Councilor had a conflict of interest or bias to declare, and Mayor Bialostosky referenced a letter the City had received alleging bias. City Attorney Monahan recommended discussing it during the challenge portion of the hearing. He confirmed no Councilors had actual or perceived conflicts of interest or bias.

Regarding ex parte contacts and site visits:

- Mayor Bialostosky stated he lived near Fields Bridge Park and walks the area almost daily and had looked at the area since the appeal was filed.
- President Baumgartner also lived nearby and had a garden plot in the Park, which she visits daily and had been there recently.
- Councilor Groner walks in Fields Bridge Park.
- Councilor Erwin has walked his dog in the Park. He was on the Planning Commission and had prior discussions of development in the area.
- Mayor Bialostosky reported Council had received an email from the Appellants, but they were instructed to not reply to avoid creating an ex parte contact. They also received public testimony in preparation for the hearing.

City Attorney Monahan confirmed all emails received by Council members were in the public record.

City Attorney Monahan confirmed no member of the audience challenged Council's jurisdiction to hear the matter.

City Attorney Monahan asked if any member of the audience wished to challenge the conflict of interest or impartiality of a Council member or rebut or ask questions about the ex parte disclosures of any Council member.

Karie Oakes, Appellant, challenged the qualifications of Councilor Erwin to hear this appeal due to his role on the Planning Commission when the decision was made.

Theresa Cummings, Appellant, challenged all Council members' impartiality, citing a discussion at the May 2, 2023, Special Meeting about whether the proposed roundabout and transportation improvements on the south side of Willamette Falls Drive were approved when the Athey Creek School application was approved and if mitigation would be adequate. During an appeal hearing, Councilors must be open-minded to any new information or opinions they may receive and be committed to enter the decision-making process without bias. Staff made numerous persuasive statements appearing to influence Council members to believe that the

act of calling a decision up for review amounted to an appeal, which equated to a lack of confidence in the Planning Manager's professional expertise. The City Attorney, City Manager, and Planning Director inaccurately informed Council that the proposed roundabout and other transportation improvements could not be discussed during a review or appeal because the proposed improvements were already approved when the school application was approved. Staff failed to disclose that the Department of Land Conservation and Development (DLCD) had confirmed that a separate review of this City's proposed transportation improvements was necessary. She believed that pre-judgment statements made by Council members during the May 2<sup>nd</sup> City Council Special Meeting have led to a complete lack of confidence in Council member's ability to participate in the appeal hearing in an unbiased manner as required by the officially adopted 2019 City Council rules, Section D, Quasi-judicial land use matters. She requested that every email between City Council members, Staff, and members of the public on the topic of the decision to call the Planning Manager's decision up for review from the dates of April 20<sup>th</sup> through May 2, 2023, be added to the record of the May 2, 2023, meeting and the previously-mentioned emails and written submissions and videotape of the West Linn City Council May 2, 2023, Special Meeting to the record of the Appeal today of the Planning Manager's decision on Water Resource Area 23-01/WRG 23-01/FMA 23-01.

City Attorney Monahan clarified that the Community Development Code (CDC) gave someone the ability to file an appeal of a land use decision, and the City Council could also call up a decision. Council received communications from several individuals suggesting the matter be called up, so the May 2, 2023, Special Meeting was scheduled to determine if the application should be called up for a complete review. Within that meeting, there were efforts made to make statements that it was not the Appeal hearing, and there would be an opportunity for a full discussion of the merits of the matter if in fact it was called up by Council or by appeal. In either situation, Council would have the opportunity to decide based on the criteria in that setting. The May 2, 2023, meeting to determine whether to call the matter up was not to look at the merits. Council had questions and wanted clarity on certain elements included in the Application. City Attorney Monahan declared they would let the record show what it says, and there is a tape of the meeting that shows what was said. Should there be an appeal based on that, it could be reviewed to determine whether it was done properly.

City Attorney Monahan explained the rules regarding challenges as found in Council Rules Section D.1a. He recommended starting with Councilor Erwin since two challenges were made regarding his participation. After his response, the remaining Council members would vote on whether his participation should be allowed.

Ms. Cummings asked that Council acknowledge the statements that are perceived as biased because the public would not know what was being talked about, and she also would not know which ones they think are relevant or not.

City Attorney Monahan explained the issue was if a Councilor has the ability tonight, in this forum, to participate impartially to decide. The challenge is to prior activities, in particular each

member's participation in the May 2, 2023, Special Meeting. Council needs to go through the process to determine the outcome.

City Attorney Monahan reviewed the standards for disqualifying bias based on *Columbia Riverkeeper versus Clatsop County*, 267 4 APP 578, Page 602 (2014) and summarized *Gerry Aboud versus City of Stayton*, LUBA 2017-131, in which a City Council member had stated he had made up his mind before the hearing but was willing to listen to the evidence presented at the hearing and change his mind if necessary. LUBA ruled it was not bias.

Councilor Erwin responded first to the challenge from Ms. Oakes, based on his prior position on the Planning Commission, citing previous professional experience as a law school graduate, an adjudicator from the Employment Department for nine years, and working for the Bureau of Labor and Industries as a decision-maker. He understood the concept of fully hearing all the facts and not deciding until all the facts have been presented by all interested parties. While he may have voted as a Planning Commissioner, he was now in a different position as a member of the City Council and was being presented information, which he would review and listen to the arguments presented and consider what would be the best decision for today based on new information that he had. He had not decided based on his prior decision as Planning Commissioner. If he heard information that was persuasive and showed there should be a modification or a reversal, then he would do so.

City Attorney Monahan recommended Council vote on whether it accepted or denied the first challenge from Ms. Oakes against Councilor Erwin before proceeding with the second challenge.

Council President Mary Baumgardner moved to Deny the challenge of Ms. Oakes to Councilor Erwin's bias. Councilor Lou Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 3 - 0**

Councilor Erwin addressed the second challenge provided by Ms. Cumming, stating Council had been asked to have the meeting for that conversation, during which there was no appeal, and no information was provided by the Appellant. To say that whatever he said during that meeting simply to decide whether to call up the decision did not mean he would decide based on information he did not already have. He reiterated his qualifications and stated was willing to receive new information and consider all the information provided by both parties, deciding based on the complete record.

Council President Mary Baumgardner moved to Deny the challenge of Ms. Cummings to Councilor Erwin's bias. Mayor Rory Bialostosky seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 3 - 0**

City Attorney Monahan presented options for dealing with the challenge against the three remaining Council members, with Mayor Bialostosky preferring to preside over the challenges against President Baumgardner and Councilor Groner first.

In response to President Baumgardner's question about what would happen to the appeal if all Councilors were disqualified, City Attorney Monahan explained the intent of the Oregon Land Use System was to have local decisions made by the local governing body, leaving two ways to address the Appeal. If less than a majority of the Council remained, the Rule of Necessity would prevail, wherein Council members disqualified by conflict of interest or bias could make an effort to restore the person with the least challengeable issue, with bias probably being less of a concern than an actual conflict of interest. If all members were not able to participate, there could be a process available to try to bump the decision to another body, the County Board of Commissioners, but that would not work under the 120-day clock under which they needed to operate.

Councilor Groner responded to the challenge, stating he believed that at the May 2<sup>nd</sup> meeting, the only decision Council was making was whether to call the decision for an additional hearing or review. He had received some information from Staff, but he did not accept that information as gospel and was open to new information to decide.

Council President Mary Baumgardner moved to Deny the challenge of Ms. Cummings to Councilor Groner's bias. Councilor Scott Erwin seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, and Councilor Scott Erwin.**

**Nays: None.**

**The motion carried 3 - 0**

President Baumgardner responded to the challenge by Ms. Cummings, stating that to gather information to be an informed Council member, she did talk to Staff. She read statements from the May 2, 2023, meeting highlighted in Ms. Cummings' transcript, acknowledging she did make the statements. She stated she does take in all information, as she was doing today. She

did not come to this Appeal with a preconceived idea of how she was going to decide, and she was doing what she could to inform herself. She felt confident she could make this decision.

Councilor Scott Erwin moved to Deny the challenge of Ms. Cummings to President Baumgardner's impartiality. Councilor Lou Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 3 - 0**

Mayor Bialostosky turned the hearing over to President Baumgardner for Council to decide regarding Ms. Cummings' challenge against his bias. He read statements from the May 2, 2023, meeting highlighted in Ms. Cummings' transcript, acknowledging he did make the statements. He did not feel the prior statements influenced his ability to consider the Appeal or constituted bias and stated he came to the meeting with an open mind, having read the public testimony as well as having read and studied Appellants' testimonies at length. He confirmed he was able to hear the matter impartially and had substantive questions of the Applicant and Appellants.

Council President Mary Baumgardner moved to Deny the challenge of Ms. Cummings' to Mayor Bialostosky's bias. Councilor Lou Groner seconded the motion.

**Ayes: Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 3 - 0**

Mayor Bialostosky resumed chairing the hearing, concluding the challenges and legal matters.

Planning Manager Darren Wyss presented the Staff Report, enumerating items already included in the record as well as additional items received about the Hearing and giving a timeline of the Application process.

- If the improvements were not adjacent to the resources, it would not have required a Tualatin review permit and would have been permitted outright with the improvements going straight to construction. However, since the improvements were adjacent to these resources, a Development Review Board Application was needed.
- Three CDC chapters were relevant to the Application, with conditions of approval based on Chapter 27, Flood Management Areas; Chapter 8, Willamette and Tualatin River protection; and Chapter 32, Water Resource Area protection.
- Appellant's materials and timelines, included in the record, were reviewed and a response was provided for each of their eight questions.

In response to Council questions and concerns, Planning Manager Wyss responded as follows:

- The Application was presented to Staff for review and a decision proposed the removal of seven trees associated primarily with the stormwater facility on the south side of Willamette Falls Drive within the Water Resource Area buffer.
- The proposed stormwater facility would be on the south side of Willamette Falls Drive east of the ball fields and parking area, was located within Park property, and was already being used as a stormwater catchment area. He was unsure what would change and deferred to the Applicant's presentation for that information.
- The City Arborist and Code Enforcement were looking into last summer's tree removal to determine if it was authorized. If the removal was unauthorized, the City's Municipal Tree Code Ordinance would be the triggering factor of whether punitive damages would be assessed or mitigation required. This Application proposed the removal of seven trees associated with the stormwater facility and included in the planting mitigation plan provided by the Applicant.
- CDC Chapter 28 required avoiding impacts on Habitat Conservation Areas (HCA) to the greatest degree possible. Staff reviewed the Application as presented against Code criteria and the Applicant's submitted materials. He displayed a map depicting the HCA and explained its impacts. Temporary impacts would be mitigated by revegetation in accordance with Chapter 32.
- The two 100-year-old Douglas firs were cut due to poor health resulting from being buried under roadway improvements when the roadway was rebuilt. PGE applied for and received a removal permit from the City Arborist under Municipal Code requirements for the work.
- Revegetation plans were provided in the original Application and approval and showed exactly what would be planted.
- New on-street parking areas would be located on the east end adjacent to the area shaded in green on the map. Grading would be required whether parking was there or not, providing temporary impacts to the grade that goes up to the street. He believed there was grading along the entire corridor but deferred to the Applicant for a definitive answer.
- The Applicant would be responsible for all the revegetation work, and it was part of the partnership with the School District, included in the construction plans for both sides of the street. He deferred to the Applicant on whether the City or the School District would actually do the planting work.

President Baumgartner expressed concern about temporary impacts becoming permanent damage. The City had limited capabilities and was not a habitat restoration specialist unless it had the money and hired one. She was unsure if that was a priority for the community and didn't know if it would be a reasonable expenditure. Looking at the City's various properties, she believed they lacked the funds, means, and resources to keep them up. Although the intent was to return to a certain standard, she believed the reality would be that it wasn't necessarily a benefit. She also commented that she still did not understand the 10 to 15 feet tall retaining wall along the bank, with no replacing or mitigating lost habitat.

Staff continued to address Council's concerns and questions as follows:

- It was not typical for tree removal to be done before permits were issued, as it was usually done as part of development review.
- Staff could get back to Council about the timeframe of that decision.
- City Attorney Monahan indicated the 120-day deadline for a decision was July 12.

Ms. Oakes presented the Appellant argument, included in the packet, emphasizing the goal was not to deny the proposed transportation improvements but to get to a better solution. They recommended several conditions for approval as well as Code amendments and other actions for Council to consider.

In response to Council concerns, Appellants noted the 41 trees marked for removal on the Application had always been represented on maps that they would be cut. However, the School Application specifically stated the trees would not be removed and were not part of that Application.

Assistant City Engineer Erich Lais presented the Applicant's argument, included in the packet. He provided background on the issue, stating that the new Athey Creek school application was received in early 2021, while the Willamette Falls Drive concept plan was adopted in July 2021. With the school improvements on the north side, the City decided to partner with the school to construct the improvements along the park frontage, including the roundabout on the west entrance of the future Brandon Place extensions. Once the street design was completed, it was evident that a WRA permit, Willamette River Greenway permit, and Flood Management permit would be required. Design plans went through several rounds of plan review with three extensive revisions and the concept plan showed the possibility of on-street parking, which was needed because of the parking deficit at the Park. Public safety is a concern with any project, and the Applicant believed having on-street parking coming out of a roundabout at slower speeds would improve things.

Attorney Watts continued the Applicant's argument, noting that tonight's decision was about two issues, the cut-fill permit and vegetation mitigation for removing seven trees. The School District would plant the trees with a performance bond issued to ensure the mitigation takes place. If Council did not believe the removal of the seven trees and the addition of 195 was a net positive, they should give a condition of approval tonight because the City was on the clock with about a month left. The School also would like to open the school as safely as possible, so it would like to complete the mitigation work soon.

In response to a question from Mayor Bialostosky, Mr. Watts explained that CDC Chapter 27 on Flood Management Areas discussed the cut-and-fill requirements. City plans showed a fill of 460 and a cut of 497, or a cut of about 8 percent above the fill, fulfilling Code requirements. He continued to address potential questions, noting the roundabout was in the transportation improvements for safety reasons, as studies show street parking slows down car traffic.

- One of the maps labeled the roundabout as “potential” because all future streets on the Transportation System Plan are potential streets. Streets would not be constructed until the adjacent property was developed, so the development of the property would trigger a half-street improvement, which was required.
- A full street improvement would be done for cost savings. If both sides could be done at once, it would be a lot less expensive than doing half and then trying to improve the other half later.
- The roundabout was part of the Transportation System Plan acknowledged by DLCD and would be built. It was not accurate to say other options were considered, and an analysis of why the City chose to construct the roundabout was attached to the City memo.
- ODOT specs dictated the height of the wall along a pedestrian path, with the minimum height increasing if bicyclists would use the path.

Attorney Watts acknowledged trees may have been removed before approval and believed that needed to be investigated. Anyone with photo evidence should provide that to Code Enforcement.

In response to Councilor Erwin’s concerns, Applicant noted the retaining wall on the west driveway entrance, which wraps around where one of the big fir trees was, would be about 8 feet tall. There would not be a 15-foot wall along the path or proposed road improvements. There was a short one along the back of the outfield fence. The taller wall, currently measuring 15 to 20 feet but still under design, would be in the cut-and-fill balance area on the east end as the path goes down towards the river.

President Baumgartner believed it would be helpful if more specific information was provided. They all had common goals of safety and livability, but they couldn’t take a bad idea and make it fit. While she respected legal requirements, she believed livability, nature, and conservation were being ignored. For years, she had heard from community members regarding Fields Bridge Park. The City needed to be careful to protect riparian zones and fragile habitats, and the Park had a baseball park that does not fit its location. She questioned whether the proposed improvements were a good idea for the area and believed eight parking spots would not solve the parking insufficiency at the Park.

Assistant City Engineer Lais acknowledged there were always opportunities for future improvement, citing Willamette Falls Drive’s past curbs, later ground down, as an example. Even if Council decided to change the use of the Park as it develops other parks, there would still be a need for adequate parking and the cut-fill would still be needed to meet standards.

Mayor Bialostosky noted a decision did not need to be made tonight, and if more information was desired on a particular point, they could get that in the next few days if a continuance was granted.

Assistant City Engineer Lais noted the 153 pages of detailed plans had been posted on the website since approval, including diagrams showing the heights of the wall. The one still in the design phase would not be included, but it was out of the flood plain so the environmental impacts would be minimized.

John van Staveren, Pacific Habitat Services (PHS), addressed the mitigation issue raised in Question 8, sharing his screen to show the wetland delineation his company conducted and approved by the Department of State Lands. The area adjacent to the wetland was an upland, characterized as low quality due to the dominance of non-native species, and was an ideal mitigation area, buffering and providing habitat benefits to the wetland. While the number of trees and shrubs did seem dense, it was following the City's requirements of five trees and 25 shrubs for every 500 square feet, resulting in a high-quality mitigation area. Graphics depicting the landscape planting were done by Walker-Macy, landscape architect, resulting in the disconnect between PHS's mitigation area and Walker-Macy's revegetation plans.

President Baumgartner and Mr. van Staveren discussed the location of the mitigation area, non-native species currently present, and trees chosen for planting, with President Baumgartner having concerns about the Douglas Firs and White Oaks.

Mayor Bialostosky asked for more specifics on the location of the mitigation area and what would be planted and whether the plantings would be compatible with the environment.

Council and Staff discussed the possibilities and impacts of eliminating on-street parking, including whether the retaining wall would be needed and at what height.

President Baumgartner commented the City had a history of not listening to community members, wanted the City to do better, and believed their requests for this project were reasonable.

In response to confusion about the number of trees removed before approval, Assistant City Engineer Lais explained it was alleged that at some point prior to approval, 41 trees were removed from the site. Staff believed the tree removal needed to be investigated to verify whether it happened and how. Traditionally, the City has had robust enforcement related to tree removal, and Assistant City Engineer Lais believed the Arborist and Code Enforcement would take this allegation very seriously. Based on the facts as they occurred at the time of the Application, only seven trees would be removed.

#### Public Comment

Kathie Halicki, Willamette Neighborhood Association President, spoke in favor of the appeal due to ecological decimation and destruction of the Park's riparian habitat and water quality. Jeff Hood's email regarding his concerns about the project was read into the record by Kathie Halicki.

Victoria Frankeny, Tualatin Riverkeeper Staff Attorney, expressed concerns over the project and its impact on the Tualatin River, citing unlawful construction by the West Linn-Wilsonville School District and Emmer Construction, resulting in an \$80,000 fine for failing to comply with the Clean Water Act Construction permit requirements, discharging significant sediment loads directly into the Tualatin River. She also noted Tualatin Riverkeeper had not received notice of the project and asked they be included in future notices.

John McCabe believed Council had received bad advice from Staff about the school decision when two Council members did not vote, had concerns about the ecological impacts on ducklings nesting in the area now, and believed the roundabout was unnecessary because it would just lead into the parking lot now that Brandon Place Extension was closed. He asked Council to vet the construction company due to prior history of not following regulations.

Betty Reynolds spoke in favor of the Appeal, citing impacts on the community, livability, and the environment, having a significant risk of harm.

Alice Richmond believed progress and progression were not the same and urged Council to follow rules and Codes in its decision-making.

Ed Schwarz asked Council to approve the Appeal to protect the environment and the right to a fair land use process, discussed Item 1 of his letter already included in public testimony, and suggested alternate traffic-calming devices.

Attorney Watts provided the Applicant's rebuttal, noting the proposed amendments to the TSP would have included a public process that included, but was not limited to, this project. He believed there was no other road alignment that would work on the site. Roundabouts do calm traffic, with DKS data demonstrating a roundabout was the recommended approach. Regarding the ballot measure, he believed the title was clear and the measure listed many of the proposed improvements for Willamette Falls Drive. The TSP had been adopted and acknowledged at the time of the ballot title, but he acknowledged it could be difficult for someone to understand the TSP. A significant amount of voters approved the ballot for site development and road improvements. Regarding bias, he had read the most recent LUBA case regarding bias so Council could make an informed decision.

Assistant City Engineer Lais added the reason the roundabout would not have a 150-foot diameter was a mini-roundabout of 90-foot diameter had been constructed to minimize impacts to existing sensitive environmental areas and to work within the right-of-way.

Wade Scarborough, Kittelson, provided additional information, noting the 150-foot diameter would be for a multi-lane roundabout like what was at the Stafford-Borland intersection. The roundabout on Willamette Falls Drive was smaller but still within allowable ranges for roundabouts. There was no need to change speed limits when roundabouts were constructed because the geometry would force drivers to slow down, achieving speed reduction without changing posted speed limits. Roundabouts tend to avoid high-speed collisions often found in

signals and other traffic calming devices. Intersection sight distance requirements for roundabouts were different from other intersection forms, so some of the criteria shown may not apply to the roundabout. Criteria could be provided to Council if needed.

In response to Councilor's questions, the Applicant responded as follows:

- Roundabouts going in two directions into parking lots are done, including at Lewis and Clark College in southwest Portland, the economy parking lot at the airport, and several in Bend.
- Construction of roundabouts on roads expected to have doubled traffic load, such as Willamette Falls Drive, would be part of the traffic analysis. The DKS study evaluated Willamette Falls Drive and showed the roundabout could handle the projected increase in traffic, but other alternatives did not handle it as well.
- The DKS study for the school did not factor in the impacts of tolling diversion.

President Baumgartner had witnessed a near collision on the Rosemont-Stafford roundabout due to a driver accelerating past the driveway into the nursery because of frustration trying to get out of the roundabout. She expressed concern about frustrated drivers diverting off toll roads who aren't community members going through the area impacting an already-failing roadway system with traffic congestion. She was unsure how the City could responsibly say the roundabout would make it better.

Ms. Oakes provided the Appellant's rebuttal, noting Code Chapter 46.130 states off-street parking criteria require active parks, such as Fields Bridge Park, to provide off-street parking. Park deficiencies were created when the Park was approved and the active baseball diamond was added. The eight parking spaces would not solve the parking problem and would come at the expense of the environment. If more time was needed, the City could extend the timeline, negating concern over the ticking 120-day clock. The design plan process was objectionable to the public because it happened with no public input.

The Appellant reviewed the timeline of the TSP adoption, stating the School Application was deemed complete on April 30, 2021. At that time, the 2016 TSP applied, and it did not have the amended Willamette Falls Drive concept plan. However, it was included in the School Plan as well as the full street improvements and the entrances to the Park. None of the testimony during the School Application ever addressed any of those issues, but the community had been told that was when this was decided and approved. Council did not adopt the Willamette Falls Drive concept plan until August 2, 2021, because after making the decision on July 11, a second reading was required. The school did no environmental review, which is what the Appeal was about.

The illegal cutting of 41 trees happened soon after the Intergovernmental Agreement (IGA) was approved, and work started because they believed no permit was needed. She started asking questions in September, but the City would not provide answers. By October 10 she had

testified twice before Council with no response and filed an official complaint about the tree removal. Since that time, she had not received any information except that the City provided the bogus permit for the two trees in this Application.

The Appellant asked PHS to provide the date it conducted the field assessment for the environmental review of the Application. She was unaware of the memo received by Council and referenced by Attorney Watts. The Appellant asked for a continuance so they could look at the memo and to give everyone time to review the Application and testimony presented tonight. She also requested the opportunity to provide more rebuttal with the continuance and answer Council's questions after reviewing the record.

Ms. Cummings understood Council members were interested in the public process and in protecting environmentally sensitive areas in the City as much as possible. She reminded the Appellant had offered some potential conditions of approval for consideration. Council should establish a better process for seeing new plants properly planted and have better enforcement for illegal tree cuts, noting that happened almost a year ago and nothing had been done about it to date.

Mayor Bialostosky assured Council was taking the alleged tree cutting seriously and it was under investigation.

City Attorney Monahan advised the continuance request was mandatory because this was the first evidentiary hearing. The Applicant's final arguments may not be necessary because Council would have to accept written comments and have a rebuttal or continue to a date certain and re-open the hearing for further public comment, which would be the time for final arguments.

Mayor Bialostosky acknowledged Council did receive a memo, dated today, June 6<sup>th</sup>, from City Engineer Lais and noted Staff would send a copy to the Appellant.

Assistant City Engineer Lais noted the School had done an environmental review for its Application and read a few sentences from the evidence they submitted, and the Appellant's statement regarding the lack of environmental review was a disservice and inaccurate. In response to President Baumgartner's question about which side of the road that review included, Assistant City Engineer Lais noted the review was for the north side. The south side would happen in the future, and was the cut fill portions and habitat mitigation, occurring after the email he had read but five months before the School Application was submitted.

City Attorney Monahan advised the continuance date could not be next Monday's meeting because the statute required at least seven days, leaving the earliest date for a continuance hearing of June 13. Council discussed potential dates and scheduling issues.

Mayor Rory Bialostosky moved to Continue the hearing until June 20, 2023; to leave the record open for additional written testimony on Tuesday, June 13, 2023, at 5:00 p.m.; to allow written rebuttal of written submissions only to be received by Tuesday, June 20, 2023, at noon. Council President Mary Baumgardner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Scott Erwin, and Councilor Lou Groner.**

**Nays: None.**

**The motion carried 4 - 0**

Mayor Bialostosky sought advice on hearing more public input, specifically about parking on Willamette Falls Drive.

City Attorney Monahan advised that would open the requirement for any participants in the process to rebut that new information, but suggested Council give specific direction to Staff as to what information it would like and a timeline. If it was possible to get the information by July 13, then other participants would have the opportunity to rebut that information. If Council wanted to ask for new information and it came in through the hearing, the process would be further extended because the public must have the opportunity to challenge any new information.

Mayor Bialostosky wanted more information and public input on the parking issue and wanted to set the stage for Council to make determinations on issues that had been raised.

President Baumgartner concurred and asked if new information included clarification on material already in the record.

City Attorney Monahan advised new information, in the context of the hearing, would be anything not already included in the record, such as approval criteria related to parking not in the record now.

President Baumgartner asked for clarification on what Council just decided regarding communicating with Staff.

City Attorney Monahan advised Council could communicate with Staff about the Application and standards, but if Council wanted information not already included in the record, it should ask Staff now if it could be provided and how quickly. Any new analysis of the impacts of removing parking would be new information and require the hearing to be reopened for public input.

Mayor Bialostosky asked if the IGA could be modified and wanted to know the impacts of removing on-street parking, as both community members and Councilors had expressed interest in that.

City Attorney Monahan advised the IGA was not part of this Application and not part of the criteria, but it could be looked at for what it presently says. If Council wanted to talk about altering the IGA, that could be discussed after making the land use decision if needed.

Attorney Watts believed the continuance was for the Appellant to review the memo and submit additional information, and then Staff would have seven days to review the additional information and submit its rebuttal. The Appellant also asked that everyone be cognizant of the fact that the City was the Applicant, and if there were going to be conversations with City Staff, that they be documented. The Appellant clarified that they would like any input to be in writing because a Staff member had been the decision maker and to avoid ex parte contact with a biased party.

City Attorney Monahan asked if Council intended to limit submittals to just the Applicant and Appellant.

Ms. Oakes understood the record would be left open for any new evidence and arguments for one week. The Applicant would then have one week to rebut that new information, with a hearing following. She understood Council to be asking if at that hearing they could ask new questions or evidence. If that was allowed, then the public, Applicant, and Appellant all have the right to submit testimony about that new evidence.

City Attorney Monahan clarified that in the next week, anyone could submit information, but both parties would have rebuttal opportunities. When the hearing was opened on June 20, Council would already have received the rebuttal, and the Applicant would have the final word. If additional information was requested at that meeting, reopening the public hearing would be required.

#### [5. Police Review & Recommend Committee Appointments \[7:20 pm/15 min\]](#)

Mayor Bialostosky tabled this item until June 12, 2023.

#### [Camping Code Discussion \[7:35 pm/30 min\]](#)

[Agenda Bill](#)

[Staff Memo](#)

[City Owned Property Map Scenario 1](#)

[City Owned Property Map Scenario 2](#)

Attorney Watts provided case background regarding the Camping Ordinance, reviewing Johnson v. Grants Pass (50 F. 4th 787), in which the 9<sup>th</sup> Circuit Court of Appeals ruling essentially eliminated Grants Pass' right to regulate camping in the city, as its laws violated the 8<sup>th</sup> (Cruel and Unusual Punishment) and 14<sup>th</sup> (Equal Protection) Amendments. In his work with other cities, he recommended the following:

- Wooden structures of any type, open flames, and propane space should not be allowed.
- Camping locations should be hardscape or specific areas.
- Tarps should be fireproof.
- Hours need to be reasonable, allowing people adequate time to sleep.
- Campers should be required to take all their belongings with them to allow cleanup without inadvertently throwing away someone's valuable items.
- Regulations should be focused on health and safety reasons to avoid potential lawsuits.

In response to Council questions and concerns, Attorney Watts responded as follows:

- Hardscaped camping areas should allow people to sleep. The City could, but would not be required, to provide additional amenities in the space.
- Cities are required to have enough space to accommodate the current homeless population. An influx would require additional space to accommodate new campers.
- Other cities using the 10 pm to 7 am timeframe have not received any negative feedback. He suggested providing a minimum of eight to nine hours.
- He was not in favor of allowing camping at the Police Department parking lot because of safety issues. Some cities were designating camping near Police Departments so Narcan could be administered more quickly, and he would be comfortable with that location if it were in the record.
- He agreed to send Council regulations he had worked on with other cities.

City Attorney Monahan asked Council to advise if Staff should bring an Ordinance related to time, place, and manner restrictions.

Library Director Doug Erickson presented GIS maps with two locations, noting neither one was a good place for camping. The City had parks, facility buildings, and rights-of-way but no industrial areas under its control. Time, place, and manner ordinances could be enacted after July 1 if everything was taken off the books right now. Right now, there were no homeless at the traditional location between the two bridges, and he was committed to continuing ongoing work with people that do go there. He recommended removing current regulations and getting time, place, and manner ordinances right the first time to avoid future lawsuits.

Councilor Groner, Councilor Erwin, and President Baumgartner concurred with removing current camping ordinances and enacting Ordinances appropriate for West Linn after July 1.

Mayor Bialostosky disagreed, having concerns about removing the Ordinances without having a plan in place to accomplish the goal of time, place, and manner. He believed reasonable restrictions, such as no camping in parks, on sidewalks, or in residential neighborhoods, could be enacted.

City Manager Williams noted the Camping Ordinance issue was already on next week's

meeting agenda.

City Attorney Monahan advised Staff would come back to Council with some language on how it could remove existing Code in violation of the statute and talk about modifying Code language dealing with what to do if removal of a homeless camp is needed because the current language was not compliant with the statute. He reviewed the required timeline for posting and reading Ordinances, concluding the earliest the Ordinance could be adopted would be June 20, in two readings with an emergency clause.

**Adjourn [8:05 pm]**

Draft Notes.

DRAFT



# CITY OF West Linn

## Memorandum

Date: July 17, 2023

To: Mayor Bialostosky  
West Linn City Council

From: John Floyd, Associate Planner

Subject: Additional Materials Received for AP-23-03

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On July 10, 2023, the City Council voted to leave the record open for written testimony as part of the AP-23-03 appeal hearing. As of 3:30pm today, four individuals have submitted five comment letters. Comments are attached and names listed below:

- Shannen Knight (7/11/23)
- Elizabeth Apen (7/11 & 7/17/23)
- Susana and Mike Sandmann (7/13/23)
- Tom Tomaszek (7/14/23)

**From:** [A Sight for Sport Eyes](#)  
**To:** [City Council](#); [Floyd, John](#)  
**Subject:** Testimony for AP-23-03  
**Date:** Tuesday, July 11, 2023 11:42:51 AM

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I was listening to the hearing last night as I waiting to testify. While listening, something came to mind during public testimony after hearing the neighbors give their testimony. I tried to raise my hand on WebEx to give testimony but I guess it wasn't seen. I'm glad you continued the hearing so I could give this testimony. If I was in the room, I would have been able to give a slip to testify, but since I was on WebEx I guess that I have to sign up in advance to testify for a different topic.

I haven't read through this application. But it sounds like there is no actual plan for the number of homes. It is just about "lot" access, if I'm correct? If so, does that mean with HB2001 there could there could potentially be 4x's the number of households on these lots? Just because they are "lots" does not mean that it will be a single family home. HB2001 will allow for up to a 4-plex be built on each individual lot. That's potentially 24 households using a single alleyway.

I'm assuming there was some logic in creating the code with a maximum of 4 homes from one driveway, and that code was before HB2001. I think at the very least council needs more information as to what type of dwelling units will be built. If single family homes will be built, then 6 may be ok. But if duplex/tri/quads, then that will be too many households using a single driveway.

I understand developers want to get these variances done before they invest in design. However, my issue in the last appeal for the WRA intrusion, without really knowing what is going to be built, it is hard to know the impacts. Again, my concern is that these decisions happening without any actual designs. We've now set this precedence for developers to just skip the design process. We won't know what the final product is going to be until it is too late. Again, I understand why developers want to do it, I'm just worried that at some point it may come back to be a huge problem. This is one scenario in which it may be a problem. If you allow the 6 lots access, that means you can't do anything to stop it from being 24 households that use the driveway as HB2001 prohibits the city from treating a 4-plex any differently than a single family home. For this application, I really think you need design on the homes being proposed before you can truly understand the impacts.

Also, parking is not required with any new build. So if I buy that 6th house, I could potentially have to park on the street or have my visitors park on that street and walk over a block just to visit my home. It is not very practical design without parking requirements. Again, if you had full design of the homes, and saw adequate on site parking was being proposed, then you could make a better decision about impacts.

This project needs to be built out more before a decision can be made. How many households will there be, will the homes have on site parking including garages for household members and guests, etc. Without this kind of information, it could turn out to be a disaster if 24

households are built without any garages or places to park. I also agree that a turnaround would be ideal. As someone who has difficulty backing up, I could turn on that alley by mistake trying to find another address and be stuck without the ability to get out of there. A full block is a long way to have to back up a vehicle of any size.

Thanks as always for your time and thoughtful consideration of this matter.

Shannen Knight

A Sight for Sport Eyes

1553 11<sup>th</sup> St.

West Linn, OR 97068

503-699-4160

888-223-2669

Fax: 888-240-6551

[www.sporteyes.com](http://www.sporteyes.com)

**From:** [ElizabethApen](#)  
**To:** [Bialostosky, Rory](#); [Baumgardner, Mary](#); [Groner, Lou](#); [Erwin, Scott](#)  
**Cc:** [City Council](#); [Floyd, John](#)  
**Subject:** Revised request and additional testimony for VAR-23-01 (Marylhurst Drive/Upper Midhill development project)  
**Date:** Tuesday, July 11, 2023 9:44:00 PM  
**Attachments:** [Screenshot 2023-07-11 at 7.22.40 PM.png](#)

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Mr. Mayor, Council President Baumgardner, Councillors Groner and Erwin:

Thanks for the opportunity to address you yesterday. In my haste to start discussing the issue, I forgot to give a very kind thank you to Mr. Floyd for making himself available to me during this process. He has been a great help providing context on the variance and information on state statutes and how the apply to this situation.

That said, a comment I heard during the proceedings last night caught my attention and I think in fairness to the applicant, I need to modify my request. The comment was made by Mr. Floyd during the staff question section towards the end of the meeting. The question put to him was about the typical time a full program plan is available for a project this size. Mr. Floyd indicated that it is typical to not have a full plan at this point in the process. My understanding from his comment and subsequent discussion is that is because development cost for a set of plans is high and if the applicant is not granted the variance, there would be a negative impact to the applicant to have to revise the pans. Based on this new information, I believe my request to review the full set of development plans is not reasonable.

I would like to revise my request as follows:

1. The applicant's representatives mentioned multiple times that there were three (3) options considered and the one presented was the one they felt best. Can all plans or a summary document describing the plans and why they were rejected be provided?
2. Was there ever a plan considered that did not require a variance? If no, why not?

In addition I would like to submit the following additional testimony.

In my opinion, the cause for rejection by the planning commission was not adequately addressed last night. The clip below is the section I am referring to.

2. CDC Chapter 75.020.B.1(a) – Minimum variance necessary to make reasonable use of the property

The Commission finds the applicant did not meet its burden of proof to show all six lots required shared access from one driveway. The applicant did not provide evidence that either the four lots fronting Midhill Circle could not reasonably take access from that street, which would eliminate the need for a variance, or that the spacing standards along Marylhurst Drive could not be met if multiple access points were utilized.

The applicant did show that the code was inconvenient for their development plans, but provided no data on how compliance was preventing them from developing the site. On the

drive home my husband Tim and I were brainstorming and came up with the following concepts in the 10 minute drive home from City Hall.

1) Have 4 lots use the shared access drive and two lots have driveways on Midhill Circle. The 5th and 3rd lot on Midhill Circle would be good choices for single driveways as they are away from the corner and will be separated by the 4th lot. This would require the applicant to bring in fill dirt for those two driveways to level out the slope to meet code.

2) Put duplexes on combined lots facing Midhill Circle. Shared access drive would only be serving 4 structures which I believe would comply with the code.

Whether these ideas do comply with the code is not clear, but at first glance, it seems they could — which begs the repeat of question 2 above.

To be clear, my comment about not making it easy for the builders to receive variances is not to prevent change from happening in my neighborhood. I believe the lady with the knitting had a very valid point — we live in a city, if you want to live in a low density setting, the city is not the place for you! That argument needs only to be tempered by: we live in a city with rules that apply to everyone. We ask that you show why you cannot comply with them before requesting relief — and “it is hard” or “it costs too much” are not valid reasons. The failure of imagination of developers should not be funded by the citizens of West Linn.

In closing, I humbly request that you consider rejection of the appeal. If it is even possible, I would advocate for the applicants to resubmit of the variance request if they are able to demonstrate to the City Council, the Planning Commission and the citizens of West Linn that compliance with the development code is too onerous to allow them develop their lots — I think the Council might even have the authority to waive the fee for the resubmission :-)

Thanks for your consideration. If you have any questions or would like to meet with me, the neighbors or view the property from my place, please let me know.

Respectfully,

Elizabeth Apen

2615 Marylhurst Drive

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On May 9, 2023, at 11:44 AM, Floyd, John <JFloyd@westlinnoregon.gov> wrote:

Hi Elizabeth,

I have a meeting until 2pm but am free after that. Just call whenever's convenient for you.

John

---

**From:** Elizabeth Apen [REDACTED]

**Sent:** Tuesday, May 9, 2023 8:46 AM

**To:** Floyd, John <JFloyd@westlinnoregon.gov>

**Subject:** Re: Question on File no VAR-23-01

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John:

Thanks so much for the fast follow up. I have a quick question for you and then will dig into the details of what you sent. Are you free between 1 and 2 for a quick call? If that time is not free, please suggest an alternate. Should take no more than 15 minutes.

Thanks,  
Elizabeth

Sent from my iPhone

On May 8, 2023, at 11:49 AM, Floyd, John <[JFloyd@westlinnoregon.gov](mailto:JFloyd@westlinnoregon.gov)> wrote:

Hi Elizabeth,

I am the assigned city planner reviewing this application and will be presenting to the Planning Commission next Wednesday night. Hopefully the information below resolves your questions. If not, please feel free to contact me at 503-742-6058 if you wish to discuss further.

1. The current application does not include a specific development proposal for each lot. Rather, the proposal is to establish consolidated access for six residential lots created in 1926 under the attached plat map. Specifically, lots 2 and 15-19 of Block 5. No further subdivision of these lots is required to construct a dwelling, and compliance with zoning standards will be verified through the normal building permit process. A copy of the staff report to the Planning Commission is below.  
[https://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/55449/var-23-01\\_staff\\_report.pdf](https://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/55449/var-23-01_staff_report.pdf)
2. I believe the historical application you are referring to is VAR-03-03, a Class II variance to develop two lots that were below the minimum lot width of 45', which at that time was the minimum standard for a non-conforming lot. I see your name included as a party of record to that application. Attached are the minutes of the 9/25/03 meeting of the Planning Commission, though the entire file is too large to share by email. To get around the size requirement, I've asked the records department to send you a link to the file under a separate email.
3. One thing to note is that the state legislature has changed the regulatory landscape since the 2003 public hearing. Per [ORS 197.761](#) and the City Attorney, we can no longer enforce our minimum dimensional standards for non-conforming lots. In other words, if a lot was legally platted as part of a residential subdivision, we generally have to allow development even if the lot is smaller and narrower than the current zoning requires. That is why this application is proceeding a little differently than in 2003.

Regards,

John

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**From:** Schroder, Lynn <[LSchroder@westlinnoregon.gov](mailto:LSchroder@westlinnoregon.gov)>  
**Sent:** Monday, May 8, 2023 8:55 AM  
**To:** Floyd, John <[JFloyd@westlinnoregon.gov](mailto:JFloyd@westlinnoregon.gov)>  
**Subject:** FW: Question on File no VAR-23-01

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**From:** ElizabethApen [REDACTED]  
**Sent:** Saturday, May 6, 2023 4:33 PM  
**To:** Planning Commission (Public) <[askthepec@westlinnoregon.gov](mailto:askthepec@westlinnoregon.gov)>  
**Subject:** Question on File no VAR-23-01

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Hello, WL planning commission!

I received notice for public hearing on variance noted in subject line and have a few questions.

-Since the current variance request does not include plans for development, where in the process going forward will ensure that current the R10 zoning will be complied with? If this is to be some type of subdivision that does not require a zoning change, can you please let me know where to review this in the CDC? I pulled what I think is the relevant information on minimum lot size from the COWL website as below. Based on the lot size posted on Redfin (0.7 acres), my estimate would be there should be no more than 3 or perhaps 4 houses in that area to comply with current zoning.

-We went through a similar experience with the planning commission in 2003 on the tax lots designated 2671 and 2695 Marylhurst Drive. The outcome of that meeting was not to allow the building of two houses on those tax lots because it would be a de facto change in the zoning.

Also during that meeting, evidence was presented by a Mr. Seims of Marylhurst Drive which described the creation of tax lots in 1929 not as intended to be the determinant for the number of houses in the neighborhood, but were used to ensure septic systems had large enough leach fields for the structures built (3 bathrooms required a set number of lots, 2 bathrooms fewer lots, etc.). Is there a way that the records related to that commission meeting could be pulled/reviewed in this case as well?

Lastly, how can I obtain a copy of the summary/notes from that commission meeting? My recollection is that the meeting was held in Sept or Oct 2003 so the records are not available on the COWL website that I can find.

If you are not the correct team to address this request, please let me know who I should contact.

Thanks in advance for your help!

Elizabeth Apen



<Screenshot 2023-05-06 at 4.12.38 PM.png>

**Lynn Schroder**

*Administrative Assistant*

Community Development

[#6061](#)



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**John Floyd**

*Associate Planner*

Planning

Pronouns: he, him, his

22500 Salamo Rd.

West Linn, Oregon 97068

[JFloyd@westlinnoregon.gov](mailto:JFloyd@westlinnoregon.gov)

[westlinnoregon.gov](http://westlinnoregon.gov)

503-742-6058



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<WLMR 15 682 Planning Commission Meeting 2003-09-25 Minutes.pdf>

**From:** [Susana Sandmann](#)  
**To:** [City Council](#)  
**Cc:** [Floyd, John](#)  
**Subject:** VAR-23-01  
**Date:** Thursday, July 13, 2023 1:41:28 PM

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July 12, 2023

Dear Members of the West Linn City Council:

We are writing in regards to the appeal by Tracey and Derek Peterson of VAR-23-01. We wrote a previous letter for the meeting that took place on July 10 and also presented orally our concerns about this variance and the related development. Thank you for the continuance dealing with this matter as you examine the request. The care with which you are evaluating the appeal is extremely important to us and we deeply appreciate it.

Given that the developers did not provide much new information during that meeting and that the turn around added to the plan does not change much of our concerns, we would like to emphasize some of the points we made previously. Contrary to what the developer of the property owners' team projected about our intentions in presenting our concerns on the development, we do not oppose starter homes nor change. After being on this earth for more that seventy years we are very well aware that change is constant. We don't live in a mansion nor in a neighborhood of luxury homes. To insinuate that elitism is the reason for our concerns is trying to distract from the real and serious problems with their plan. We also understand the present housing needs of our state. Our concerns are based on the density of the planned development on a small space that presents many problems. Those are the issues that cannot be ignored and that must be examined before accepting the variance and the plan. As was stated in the meeting, if they were planning for only four homes, they wouldn't need the variance. Who would benefit from those extra two units? Certainly not the neighborhood nor the future residents of those housing units.

The developer from the property owners' team also belittled our concern for the number of garbage containers that would have to be lined up on Marylhurst Dr. for collection. It's not a light or silly concern. Imagine 18 containers lining up next to each other on that block. Doesn't it look not only ridiculous but also dangerous as the waste collection trucks spend a lot of time emptying so many containers and blocking traffic on that busy road?

We reiterate our concern over traffic safety, as other neighbors also pointed out last Monday. The high number of vehicles entering and exiting a driveway shared by so many homes presents serious safety concerns on Marylhurst Dr., which is a busy street and likely to get busier when the tolls begin on highway 205. The Fire Department's approval of the driveway is not a blanket endorsement of safety. They are evaluating their needs for rapid and efficient responses to an emergency and do not address the day to day safety and logistical concerns we have.

There are also concerns about the environmental damage that the elimination of so many trees will have on the neighborhood. Erosion and water runoff are definitely going to negatively affect the area.

Therefore, there is a need for a study on the environmental and traffic impact of this development before any variances are approved. We emphasize: giving the variance now with so many unknowns is asking for trouble later on and perhaps with irreparable damage. Promises written in the wind are easily put aside.

We are part of those who will be directly affected by this development, either in a positive or negative way. At the moment we see negative outcomes for the neighborhood. We don't have lawyers or a team that can present our point of view and interests. We are trusting you, our city councils, to make fair decisions that give as much importance to our rights, views and needs as you give to those of the developers. After all, we pay property taxes, have been part of the West Linn community for a long time and contribute to it not only with money but also hard work to maintain a healthy and safe neighborhood. Please consider the impact of this development on the neighborhood as you evaluate the developer's proposal.

Thank you very much,

Sincerely,

Susana and Mike Sandmann

2655 Marylhurst Dr.

West Linn, OR 97068

**From:** [Mollusky, Kathy](#)  
**To:** [Floyd, John](#); [Schroder, Lynn](#)  
**Subject:** Fwd: Regarding VAR-23-01 and Appeal AP-23-03 of Class II Variance at 2622 Marylhurst Drive, et al  
**Date:** Friday, July 14, 2023 5:06:32 PM

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**From:** Tom Tomaszek [REDACTED]  
**Sent:** Friday, July 14, 2023 2:44:36 PM  
**To:** City Council <citycouncil@westlinnoregon.gov>; Bialostosky, Rory <RBialostosky@westlinnoregon.gov>  
**Cc:** Baumgardner, Mary <MBaumgardner@westlinnoregon.gov>; Erwin, Scott <SErwin@westlinnoregon.gov>; Groner, Lou <LGroner@westlinnoregon.gov>  
**Subject:** Regarding VAR-23-01 and Appeal AP-23-03 of Class II Variance at 2622 Marylhurst Drive, et al

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Regarding VAR-23-01 and Appeal AP-23-03 of Class II Variance at 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle.

Honorable Mayor and Distinguished Councilors:

First, thank you for your service to our citizens and city. These are challenging times, and your commitment and leadership are greatly appreciated.

**Denial of Variance at Appeal.** At the council meeting last Monday, July 10, 2023, you heard testimony from developers regarding their appeal of the denial for variance by the WL Planning Commission from the city code allowing only 4 lots (instead of the six platted in 1926) to access a common driveway to a collector or arterial street, in this case Marylhurst Drive. The grounds for appeal, stated in the public hearing notice, is that the “result is more beneficial to the City than standard development.” I challenge that conclusion.

At that council meeting, you also heard testimony from me and other neighbors who live adjacent to the parcel in question that approving variance disregards the prudent decision made by the WL Planning Commission to affirm the limitations of the city code.

**Responsible Development.** I urge you to sustain that wise decision by the Planning Commission to deny the variance and defend reasonable and responsible development of the collective parcels. There are reasons for the limitation to access that go beyond the measure of a driveway and ability for service vehicles to turn around. While those access issues have been the focus of this appeal, they are intertwined with other issues that demand the Council’s consideration.

The appellants are pursuing the variance in response to steep slopes and nonconforming lot configuration that make compliance with access standards difficult. The appellants knew the challenges and limitations of slope and circumstance when they purchased the properties.

However, the developer's plan for increased access to Marylhurst Drive for additional housing units than the city code allows not only places greater burden on traffic safety and neighborhood access but risks a significant environmental impact as our neighborhood testimony tried to point out. While these related issues are not the direct subject of the appeal, they deserve due consideration by the City Council's overall responsibility to its citizenry. I described it as "not seeing the forest for the trees." These other factors are not insignificant and should not be dismissed as having no bearing on the situation, as the appellant's advisor opined.

**Mayor Bialostosky**, your proposal on Monday to delay the council's decision until additional information could be studied, respects the need for considering the greater context of this development. I would urge you and the other councilors to visit the property – especially on a Friday afternoon – when many cars speed up the steep grade of Marylhurst Drive – to observe some of these issues of responsible development that we raised. Several additional assessments of impact are needed.

**Councilor Erwin**, as you stated during Monday's meeting, the Council has a responsibility not only to the petitioners, but also to the citizens of the neighborhood, and to the future residents of these properties. Your call to consider the rights of all – including the environmental impact – is paramount. The context of a development plat from 1926 cannot possibly account for the number of vehicles, persons, or even size of buildings in our current times. There is no amount of man-made or engineered erosion control that would replace the natural control that destruction of 50 trees on that parcel of land would eliminate.

**Councilors:** I urge you to uphold the denial of variance by the Planning Commission. Doing so does not prevent the petitioners from fully developing their properties. In fact, affirming the denial would encourage a more reasonable and balanced plan for two, three, or four homes on these parcels, and maintains the city code limits.

Their neighbors would welcome such a balanced and responsible development plan that respects the rights of all neighbors, our treasured natural environment, and the future citizens of this part of West Linn.

Respectfully,

Tom Tomaszek  
2671 Marylhurst Drive  
West Linn OR 97068



**From:** [Elizabeth Apen](#)  
**To:** [Floyd, John](#)  
**Subject:** I heard we could not make any public comments tonight. Could you please forward this to the council? Or let me know what I need to do to get it into the record. Thanks!  
**Date:** Monday, July 17, 2023 1:37:30 PM  
**Attachments:** [image001.png](#)

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Mr. Mayor, Council President, and Councilors.

I have learned from last week that reading from a script might be much easier on all of us – so here we go

After listening to the testimony last week, I have come to the conclusion that discussions of safety and environmental concerns, logistical concerns such as delivery trucks and trash cans are all potential outcomes of the decision you make on this variance today, but they will all be hypothetical until your decision is made and a significant amount of time has passed.

My 3<sup>rd</sup> grade level understanding of the applicant's rights here are that if the city development codes are shown to be too onerous as to not allow the applicant to develop her property, she could and should be granted a variance that would then give her the opportunity to develop the land in accordance with all other applicable statutes. Is that basically correct?

Expecting a YES...

Continuing with my 3<sup>rd</sup> grade understanding, I would like to call to the fore something we all learned there – SHOW YOUR WORK.

The applicant has provided one proposal in her original application and during this appeal and has showed no detail on how a lot access plan which complies with the code is impossible – or so complicated as to make it impossible. Her representatives have NOT SHOWN THEIR WORK.

Instead, the applicant's representatives come here with loud voices to talk about land use rights, belittle the concerns of the citizens as NIMBY mentality and use any argument available to distract us from the fact that they have not met the criteria for a variance.

There is no evidence that I have access to which demonstrates that they have even considered how to do this without a variance. This is at best a failure in imagination and at worst a profit grab at the expense of the citizens. Time will tell where on that continuum this falls.

The Planning Commission got it right when they denied this variance. I quote a portion from their Final Decision and Order dated 30 May 2023:

end quote

**2. CDC Chapter 75.020.B.1(a) – Minimum variance necessary to make reasonable use of the property**

**The Commission finds the applicant did not meet its burden of proof to show all six lots required shared access from one driveway. The applicant did not provide evidence that either the four lots fronting Midhill Circle could not reasonably take access from that street, which would eliminate the need for a variance, or that the spacing standards along Marylhurst Drive could not be met if multiple access points were utilized.**

The applicant and her team were given a very clear roadmap on how to be successful in their appeal. Did they come back to this Council showing evidence to address the Planning Commission's finding?

No, they came here with the same claims hoping to redirect your attention from the fact that they did not listen to clear and concise feedback. The Planning Commission just asked them to SHOW THEIR WORK.

Please do not make it easy on the developers to change the face of our community under the banner of land use rights. Make them prove to us that they have done their best to comply with existing development code and cannot do.

**A separate request to the City Manager:** Has there been a benchmarking of the variance application requirements of nearby communities such as Oregon City, Wilsonville or Lake Oswego? Perhaps there is some best known method other communities have developed to ensure the initial application meets the requirement of proof needed to disposition requests such as this. Having this criteria required as part of the initial application would certainly have saved all of us a significant amount of time here.

**AND FINALLY: I would also like to make a comment to the applicant:** I sincerely welcomed you to the neighborhood when I met you on your property last year. You are still welcome – sincerely. Whether you end up building six units which enable young families to start building generational wealth in our community or set up a rental unit cluster to help build income for your family, it does not matter. You and the people who live in these buildings – however many there are and however they end up getting to their garages -- will be welcome.

My request for you is that you try a little harder to find solutions to your development challenges which comply with the code that is established in this city before requesting relief. The rest of us must do so when we make changes to our properties. As a fellow citizen of this city, I hope you understand why I am asking and will consider my request as your development of this site continues in the coming years.

Thank you and thank you to the Council.

Sent from my iPhone

**TO: West Linn City Council**  
Major Bialostosky  
Council President Baumgardner  
Councilor Erwin  
Councilor Groner



**FROM: Harper Houf Peterson Righellis, Inc.**  
Hillary Harris, Planner  
Alex Simpson, PE

**DATE: July 17, 2023**

**RE: AP-23-03 - Additional Information for the Public Record**

---

The applicant and property owner appreciate the opportunity to provide additional information to the City Council and public record to address the concerns and questions raised at the City Council hearing on July 10, 2023.

As explained in the application materials and at the July 10<sup>th</sup> City Council hearing, the project site has several factors that make development of the site difficult. These include the natural topography of the site, as well as the lot size dimensions. The property owner and consultant team have spent significant time working with the City of West Linn Planning and Engineering departments and service providers to provide a design that allows for practical development of the site with limited disruption to adjacent property owners. Request of this variance to allow the private driveway to serve 6 as opposed to only 4 lots eliminates the need for multiple variances as each lot is built out. This request constitutes the minimum relief necessary from the development code to develop the pre-existing legal lots of record.

All six lots included with this application will be developed with a permitted residential use allowed by the West Linn Development Code. Rather than requesting several variances to develop each lot individually, the property owner is requesting a single variance to allow for a more logical development pattern that provides for a single driveway cut as opposed to multiple driveways off of Marylhurst Drive.

Providing a shared driveway will allow the property owner to provide off-street parking for each of the lots, which is not required by the City code but a preference of the property owner. They realize that parking is an issue in small suburban communities and believe that this will help address the concerns of the neighbors, while providing a benefit for the future residents. If this variance is not approved, it will be expensive and physically difficult to provide individual driveways suitable for off-street parking in addition to the future dwellings on site.

The City of West Linn Engineering Department and Tualatin Valley Fire and Rescue have reviewed the plans and do not have any concerns with the proposed design or access to the properties.

After hearing the Council's concerns as well as those from members of the public, the engineer and property owner have worked to redesign the private access and provide a turnaround on the project site. This revised design will provide for the addition of a turn around on one of the lots to prevent cars from having to back onto Marylhurst Drive and provide easier access for future residents, emergency

service providers and deliveries. Additionally, adjacent to the turnaround area is an area for garbage cans and a space large enough for the waste provider to pull in, pick up garbage and recycling, and turnaround outside of the public right-of-way.

Another concern raised at the City Council hearing was the width of the shared private driveway. Although it was meeting the minimum standards, the property owner understands a 14 to 20 foot wide driveway could still be difficult to maneuver for future residents. In response, the engineer has redesigned the driveway to be 18 to 20 feet wide, allowing for two cars to pass side-by-side on the shared driveway and prevent any individual from having to back down the driveway to Marylhurst Drive.

Professional and licensed engineers, fire officials, City staff, and the property owner believe this is the best option to exercise the development of the property with minimum disturbance to the current residents. Traffic and density are common arguments against new development, but the property owner would only be allowed to propose a use that is allowed under the current zoning of the property along with having to meet the minimum dimensional standards such as height, setbacks, and lot coverage. There is no evidence within the record from any qualified individual before you that the proposed development would create an unsafe development. There are in fact other commercial and residential properties that have direct access along Marylhurst Drive. Including two existing curb cuts that will be consolidated to one with this application.

Included with this memo is an exhibit showing the newly proposed driveway and turnaround on site.

MARYLHURST DRIVE

MIDHILL CIRCLE

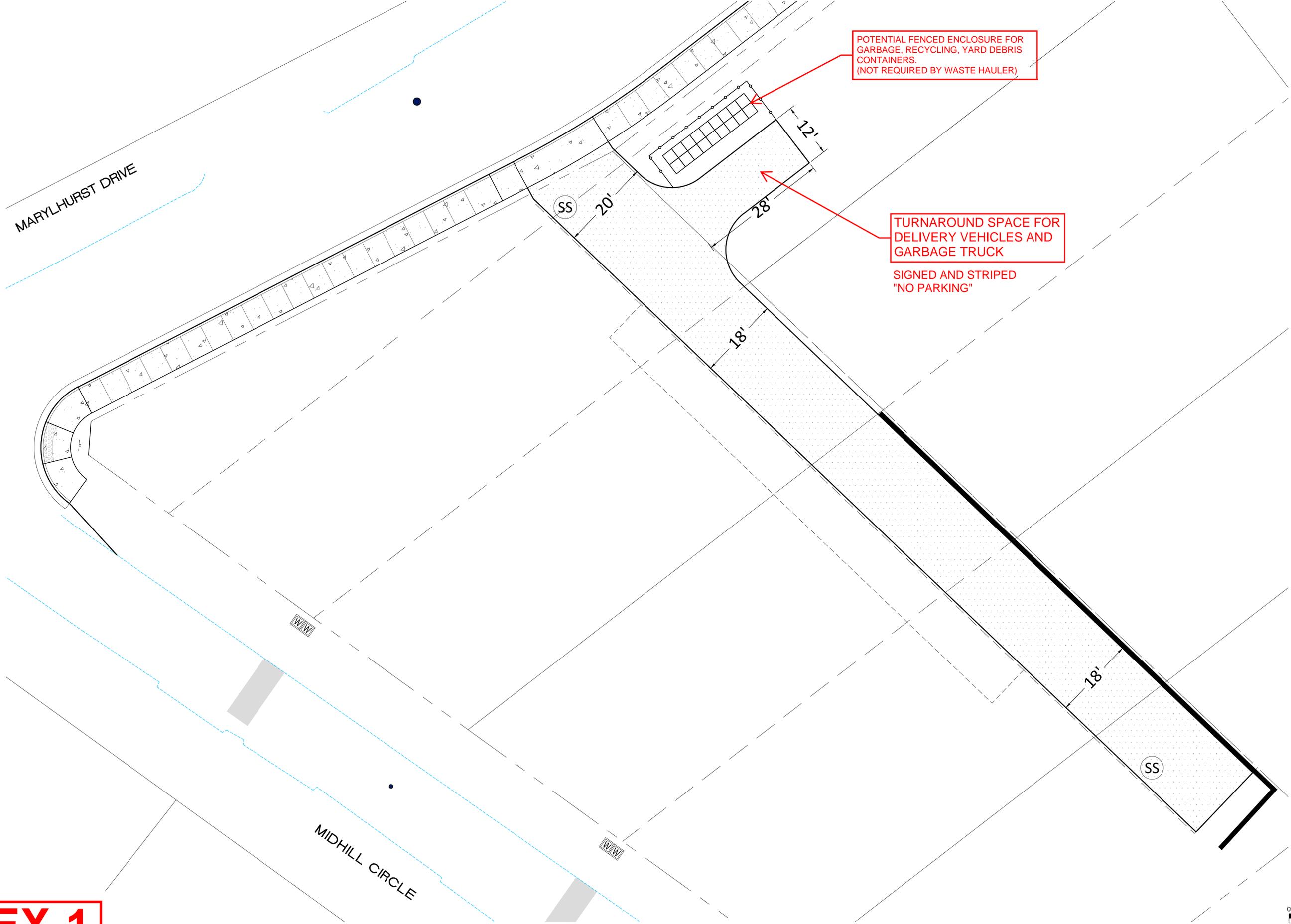
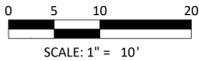
POTENTIAL FENCED ENCLOSURE FOR GARBAGE, RECYCLING, YARD DEBRIS CONTAINERS. (NOT REQUIRED BY WASTE HAULER)

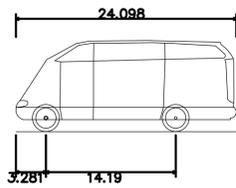
TURNAROUND SPACE FOR DELIVERY VEHICLES AND GARBAGE TRUCK

SIGNED AND STRIPED "NO PARKING"

**EX-1**

**REVISED DRIVE AISLE (20' WIDTH, TO 18' WIDTH WITH TURNAROUND)**





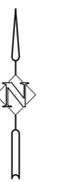
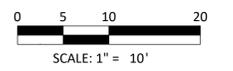
Mercedes Sprinter Panel Van 518CDI Extra Long Super High Roof  
 Overall Length 24.098ft  
 Overall Width 6.539ft  
 Overall Body Height 9.942ft  
 Min Body Ground Clearance 1.312ft  
 Track Width 6.539ft  
 Lock-to-lock time 5.00s  
 Wall to Wall Turning Radius 25.591ft

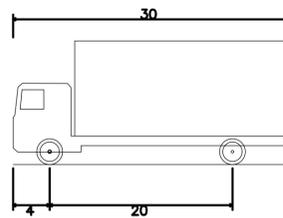
MARYLHURST DRIVE

EDGE OF PROPOSED  
 TURNAROUND STALL. SIGNED  
 AND STRIPED FOR:  
 "NO PARKING"

**EX-2**

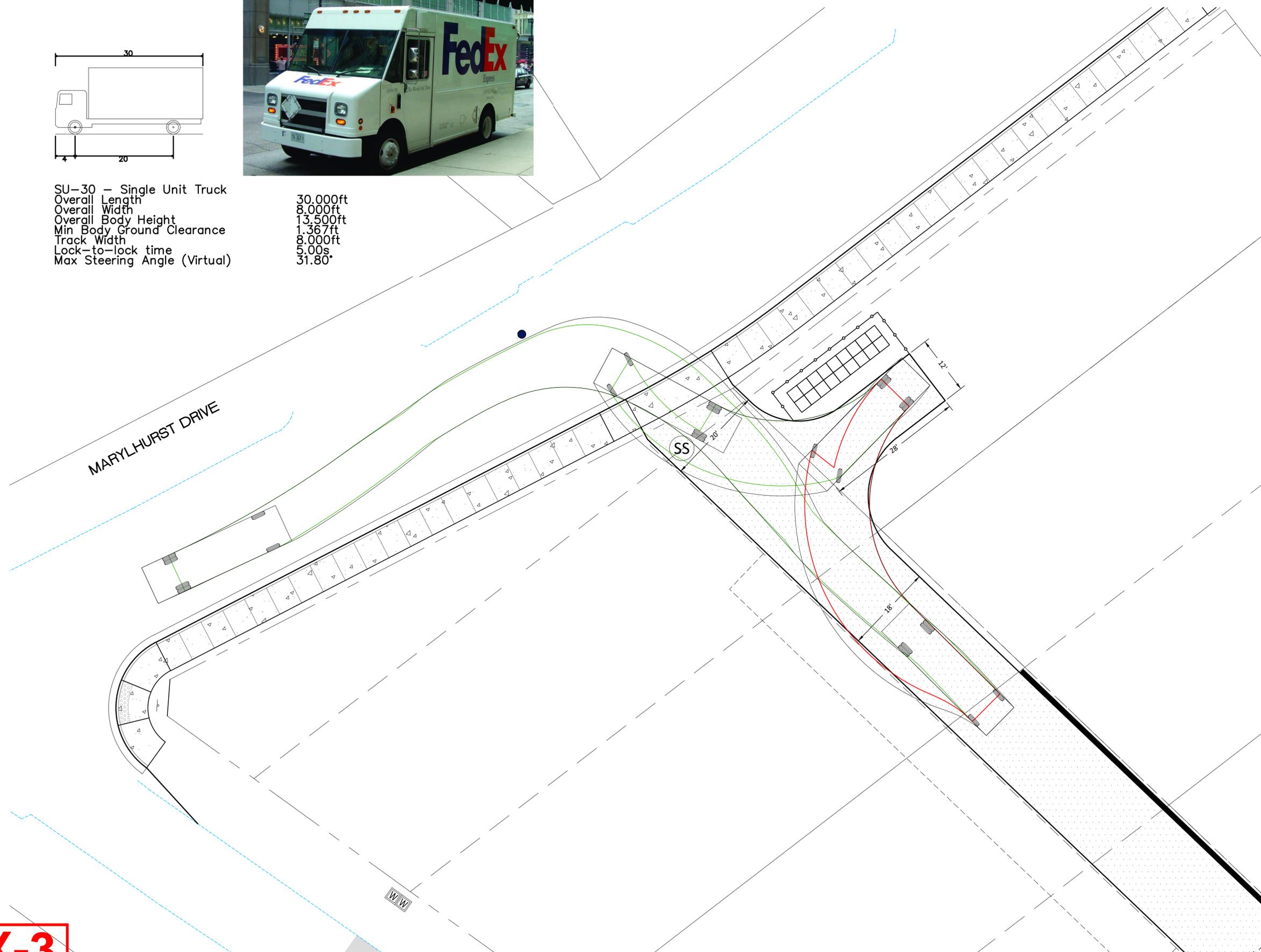
**LARGE DELIVERY VAN (25' LONG)**





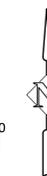
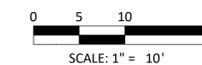
SU-30 — Single Unit Truck  
 Overall Length 30.000ft  
 Overall Width 8.000ft  
 Overall Body Height 13.500ft  
 Min Body Ground Clearance 1.367ft  
 Track Width 8.000ft  
 Lock-to-lock time 5.00s  
 Max Steering Angle (Virtual) 31.80°

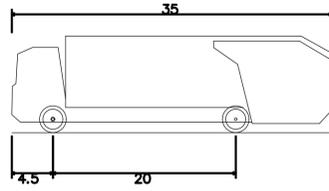
30.000ft  
 8.000ft  
 13.500ft  
 1.367ft  
 8.000ft  
 5.00s  
 31.80°



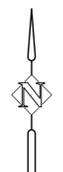
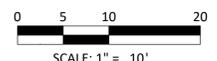
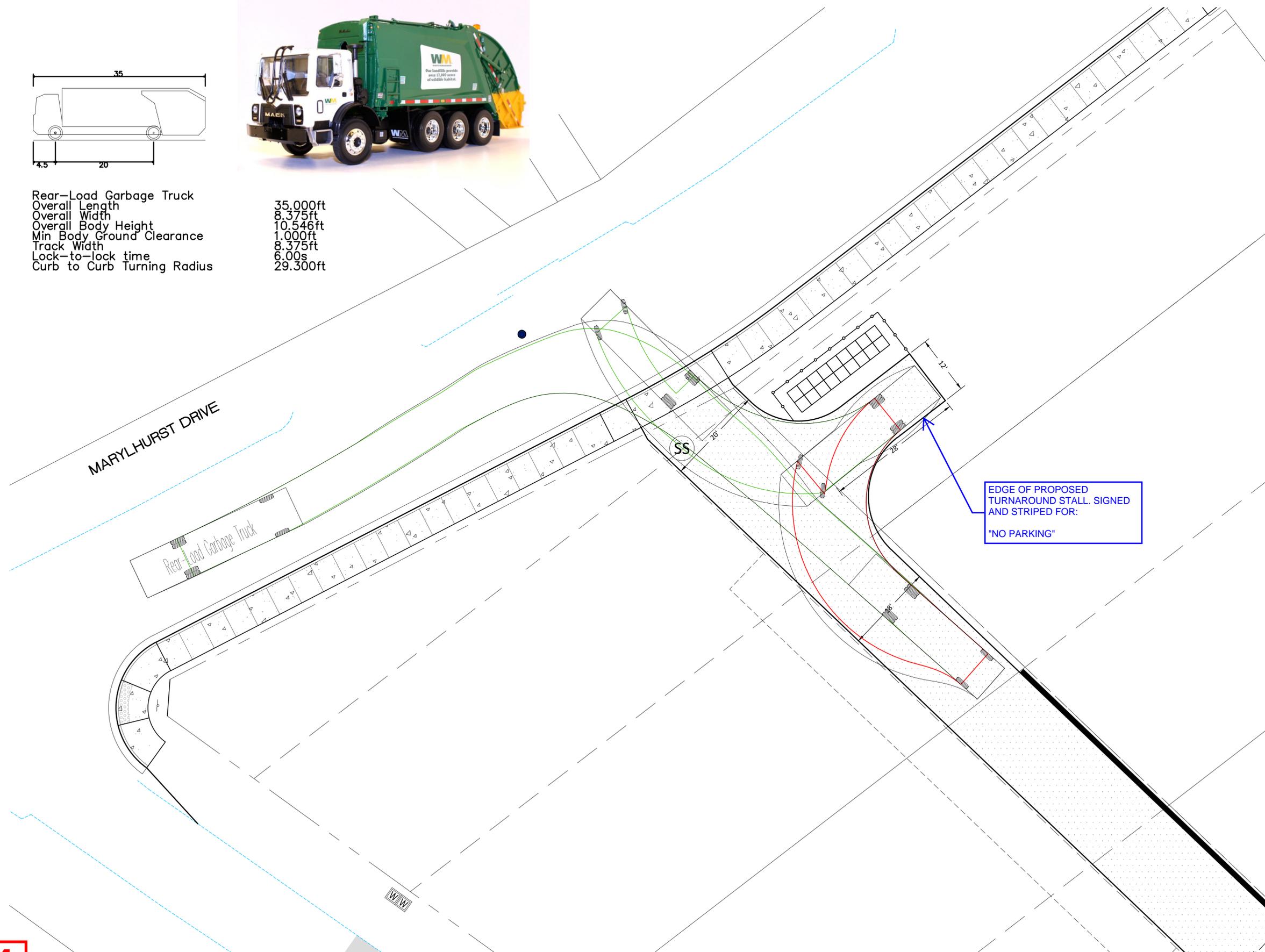
**EX-3**

**BOX TRUCK (30' LONG)**





Rear-Load Garbage Truck  
 Overall Length 35.000ft  
 Overall Width 8.375ft  
 Overall Body Height 10.546ft  
 Min Body Ground Clearance 1.000ft  
 Track Width 8.375ft  
 Lock-to-lock time 6.00s  
 Curb to Curb Turning Radius 29.300ft



**EX-4**

**GARBAGE TRUCK (35' LONG)**

**RESOLUTION NO. 2018-22**

**A RESOLUTION ADOPTING GUIDELINES FOR CIVIL DISCOURSE IN THE COMMUNITY**

**WHEREAS**, the nature of public debate nationally has become increasingly, yet needlessly, rancorous and divisive; and

**WHEREAS**, an atmosphere of incivility and disrespect can have a damaging effect on the proceedings, on the quality of debate, and on the practice of democracy itself;

**WHEREAS**, the citizens of West Linn place high value on respect and civility and see that these characteristics are essential to any healthy community; and

**WHEREAS**, the West Linn City Council sometimes addresses controversial issues about which people often feel passionately, which at times leads to disrespectful or uncivil behavior; and

**WHEREAS**, the West Linn City Council desires for more civil discourse and discussion in the community and at City Hall; and

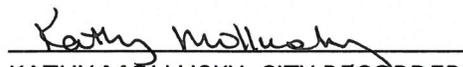
**NOW, THEREFORE, BE IT RESOLVED, THE CITY OF WEST LINN** recognizes the need for guidelines to achieve more civil discourse in the community and at City Hall; and

**BE IT FURTHER RESOLVED**, the West Linn City Council adopts the attached guidelines in order to find positive resolutions to the issues that face our city.

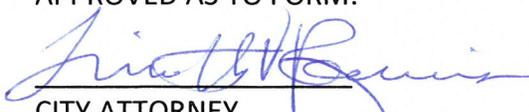
This resolution was PASSED and ADOPTED this 19th day of November, 2018, and takes effect upon passage.

  
\_\_\_\_\_  
RUSSELL B. AXELROD, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

# Working Together For a Better West Linn

## Guidance for Civil Discourse

(West Linn City Council, November 2018)

The West Linn City Council desires to promote civil discourse through action and education to improve public policy decisions and processes. For this goal we prepared this guidance to encourage civility and a spirit of community in our public settings, meetings and correspondence. We recognize the differences among us and that spirited debate is a vital part of our democracy. Participation in civic and public life does not require us to sacrifice our deepest convictions; rather, we best protect our own rights by protecting the rights of others and adhering to high ethical standards. Civil discourse means, at a minimum, mutually respectful, courteous, constructive and orderly communication. With this in mind we propose the following ground rules for public engagement:

- Assume the best in others and remember that everyone wants what they believe is best for the City.
- Be tolerant and acknowledge and accept that you or others may disagree about some things despite your best efforts to find common ground; create a welcoming environment for different opinions and acknowledge common ground or areas of agreement.
- Speak in a way that encourages others to listen openly, and listen in a way that encourages others to speak honestly; use courtesy titles (e.g., Mr., Ms., Sir, Mayor, Councilor) and a civil tone of voice.
- Discuss policies and ideas, not people; talk to each other not at each other, and use “I” statements and avoid words like “always” and “never.”
- Be brief and constructive, not long and destructive.
- Don’t grandstand, exaggerate or mislead to make your point.
- Don't disrespect others by making demeaning or inappropriate comments, facial expressions, or gestures; no eye rolling, sighing, or checking out of the conversation.
- Listen with an open mind and an open heart, trusting that everyone else is speaking just as sincerely as you are; remember that listening is not the same as agreeing.
- Be respectful, take turns, and don’t interrupt others or partake in side conversations; learn to disagree without being disagreeable.
- Treat everyone, including City staff, as professionals.
- Be open to compromise.
- Be respectful in private conversations and when using email and social media; treat all communications as if they might appear on the cover of your local newspaper.

# City of West Linn

## COUNCIL RULES

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Adopted ~~June 24, 2019~~ May 2022

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## Section A: Authority, Council Vacancies, and Terminology

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

2) **Council Vacancies.** Pursuant to Chapter VII, Section 30 of the Charter, tThe office of a member of the Council becomes vacant:

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

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

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

## Section B: Meeting Time, Location, and Frequency

- 1) **Public Meetings Law.** A public meeting is any meeting conducted by a state, regional or local governing body to decide or consider any matter. Thus, any meeting conducted by this Council in which a matter is decided or considered must comply with Oregon's Public Meetings Law ([ORS 192.610 – 192.690](#)).
- 2) **Regular Meeting.** In accordance with the [Chapter IV, Section 13](#) of the Charter, the Council shall hold a regular meeting to conduct Council business at least once each month in the City. This meeting will usually be on the second Monday of the month, beginning at 6:~~30~~<sup>00</sup> p.m., unless otherwise designated. If necessary, a second regular meeting may be scheduled, usually on the fourth Monday of the month. Such meetings will be preceded by a pre-meeting session at 5:00 p.m. unless changed by consent of the Council. These pre-meetings are intended to be procedural and administrative, not deliberative.
- 3) **Work Sessions.** Work sessions are permitted to present information to the Council ahead of regular or special meetings. Work sessions are subject to Oregon's Public Meetings Law, ORS 192.610 to 192.690, and the Council shall not take any formal or final action on any matter during the work session. Work sessions are typically scheduled on the first and third Monday of the month, [with the first work session beginning at 1:00 p.m. and the second work session beginning at 6:00 p.m.](#) If circumstances require an additional work session, it shall be called by the Mayor, City Manager, or two or more Councilors and scheduled when a quorum of the Council is available and when staff and a public venue for the session are available. Public comment will be taken at the beginning of each Work Session or at another time if allowed by the Mayor.
- 4) **Executive Sessions.** An executive session (meeting closed to the public) may be held in accordance with the appropriate statutory limits of ORS 192.660(2). All proposed executive sessions shall be attended by the City Attorney or designated legal advisor. All Councilors shall be consulted for availability before an executive session is scheduled. Staff shall properly arrange and notice the executive session on the City's online meetings/agenda page within 24 hours after being scheduled. All executive sessions shall be audio recorded as provided for in ORS 192.650(2) unless the Council determines that written minutes should be taken. Material discussed during an Executive Session shall be governed by ORS 192.610 and 192.660. Representatives of the news media shall be allowed to attend executive sessions, other than those sessions during which the Council conducts deliberations with persons designated to carry on labor negotiations, or where the matter involves litigation and the news media is a party to the litigation. No executive session may be held for the purpose of taking any final action or making any final decision.

- 5) **Special Meetings.** Special meetings are to be utilized only when absolutely necessary, and public comment shall be taken at all special meetings. The Mayor, or in the Mayor's absence the President of the Council, may, or at the request of two or more Councilors, call a special meeting for the Council in accordance with state law. Special meetings will typically be scheduled in a similar manner as a regular meeting, including a pre-meeting.
- a. Written notice of a special meeting shall be given to the Council, media and public, with as much advance (up to 10 days) notice as possible, and no less than 24 hours in advance of the meeting. The notice shall be served on each Councilor personally or electronically, or if the Councilor is not found, left at their place of residence. All notice requirements of ORS 192.640 shall be satisfied before any special meeting can be conducted.
- 6) **Emergency Meetings.** Emergency meetings are special meetings called on less than 24 hours' notice. Such meetings may be called by consent of all available Councilors upon such notice as is appropriate to the circumstances. Council shall identify why the meeting was called on an emergency basis immediately upon calling the meeting to order. This shall also be specifically identified in the minutes of the meeting. The City shall attempt to contact the media and other interested persons to inform them of the meeting. Councilors are responsible to inform staff of how they can be reached when out of town.
- a. Special meetings of the Council may also be held at any time by common consent of all Councilors subject to notice requirements being met. Councilors shall keep the City Manager informed of their current telephone numbers.
- 7) **Televising of Council Meetings.** Acknowledging that the citizenry of West Linn is generally a sophisticated and interested viewing audience, regular business meetings of the Council will be covered gavel-to-gavel live on the City's government access cable channel. Video recordings will be kept permanently.
- a. To enhance viewer interest and understanding of the subject matter, televised meetings of the Council shall, whenever practical, employ the highest technical quality and techniques, such as multiple camera angles and informational captioning. The producer/camera operator should set the scene for the viewer of each agenda item with a planned series of shots in accordance with the City's camera operator's guide.
  - b. It is intended that Council meetings be televised in an unbiased, even-handed manner, using camera shots that are appropriate for individual Councilors, witnesses and audience members and are relevant to the discussion.
  - c. Video and audio shall be deleted only for the purpose of conforming with applicable laws governing public broadcasts. Editing for the above purpose and for the insertion of informational titles and graphics will be allowed. Portions of videotaped Council

meetings may be used in other news and informational broadcasts provided they are not portrayed out of context.

- d. Regular business meetings of the Council shall be televised live and simultaneously videotaped for subsequent replay on the government access channel. Meetings shall be televised and taped in accordance with policies and procedures approved by the City Manager, including the camera operator's guide.

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

## Section C: Meetings and Protocols

- 1) **Parliamentary Procedure.** The Council shall use the latest version of Robert's Rules of Order (<http://www.rulesonline.com/rror-12.htm> as of 5-22-19) as a guideline for parliamentary procedure unless these rules provide a different guideline or Council changes them pursuant to Section A 1), above.
- 2) **Presiding Officer.** The Mayor shall be the Presiding Officer and conduct all meetings, preserve order, enforce the rules of the Council, and determine the order and length of discussion on any matter before the Council, subject to these rules. The Council President shall preside in the absence of the Mayor. The Presiding Officer shall not be deprived of any of the rights and privileges of a Councilor. In case of the absence of the Mayor and the Council President, the City Manager shall call the meeting to order and the Council shall elect a President pro tempore for the meeting by majority vote.
- 3) **Agenda.** The City Manager shall coordinate with the Presiding Officer on the preparation of an agenda of the business to be presented at every Council meeting. This agenda should be consistent with the City's business needs, Council's priorities, and prior scheduling discussions. ~~City staff will strive to publish Council Work Session agendas and packets will be published the Thursday 6 days prior to the Work Session Meeting. Items needing urgent Council attention may be added to the agenda after publishing for increased public transparency which shall vote to approve the agenda at the beginning of each Council meeting. The agenda packet containing all agenda bills will be available for the Council and public ten calendar days before a regular Council meeting. No items will be added to or removed from the agenda after the agenda packet is published without the approval of the Council, which shall vote to approve the agenda at the beginning of each Council meeting.~~
  - a. When two or more Councilors present an item to be put on a future agenda, the Mayor and City Manager shall schedule it as soon as possible, but within four weeks unless the Council majority agrees on a later date.
  - b. A Councilor may place or remove an item on a current Council agenda by motion at the beginning of each Council meeting, additions and deletions to the agenda must be approved by a majority of the Council. No action shall be taken on items that are not on the agenda without first modifying the agenda by motion. Councilors will endeavor to have subjects they wish considered submitted in time to be placed on the agenda and shall attempt to notify the City Manager in advance of proposing changes to the agenda.
  - c. A Councilor who desires major policy or ordinance research should first raise the issue at a work session or meeting under Council Business. The Council should consider items in light of City priorities and workload and agree to proceed with an

issue or ordinance before staff time is spent preparing a report. The Councilor may present information or a position paper or ask for a department report or committee recommendation. Councilors who agree that staff time can be spent on a particular item are not bound to support the issue when it comes before the Council for a vote.

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

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

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

- a. Call to Order and Pledge of Allegiance to the Flag
- b. Approval of Agenda
- c. Public Comments (~~five~~three minutes per speaker)
- d. Announcements, Proclamations, and Recognitions
- e. Scheduled Presentations to the Council
- f. Consent Agenda
- g. Business Meeting
  - i. Items removed from the Consent Agenda
  - ii. Public Hearings
  - iii. Ordinances and Resolutions
  - iv. Other Business
- h. Mayor and Council Reports
  - i. City Manager Report
  - j. City Attorney Report
- k. Adjourn

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

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

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

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

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

- 8) **Consent Agenda**. In order to make more efficient use of meeting time, the City Manager shall place all items of a routine nature on which no debate is expected on a consent agenda. Any item placed on the consent agenda shall be approved by a single motion “to adopt the

consent agenda” which shall not be debatable. Any Councilor can request to move an item from the Consent Agenda to the regular Agenda for further discussion.

**9) Ordinance Reading and Adoption.** All ordinances and resolutions shall be prepared under the supervision of the City Manager and reviewed and approved as to form by the City Attorney. Ordinances and resolutions may be introduced by a Councilor, the City Manager, the City Attorney, or any department head. Unless the motion for adoption provides otherwise, resolutions shall be adopted by reference to the title only and effective upon adoption.

Per Charter Chapter VII, Section 33.

(a) Except as paragraphs (b) and (c) of this section provide to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly in open Council meeting on two different days.

(b) Except as paragraph (c) of this section provides to the contrary, an ordinance may be enacted at a single meeting of the Council by unanimous vote of the Council members present, upon being read first in full and then by title.

(c) Any of the readings may be by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection at the City offices not later than one week before the first reading of the ordinance, and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall and two other public places in the City or by advertisement in a newspaper of general circulation in the City. An ordinance enacted after first being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(d) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings.

(e) Upon the enactment of an ordinance the custodian of records shall sign it with the date of its passage and the endorser’s name and title of office and thereafter the Mayor, or President of the Council acting pursuant to Section 18 of the City Charter, shall sign it with the date of its passage and the endorser’s name and title of office. Failure of the Mayor or the President of the Council to sign it shall not invalidate it.

(f) Ordinances shall be effective on the thirtieth (30<sup>th</sup>) day following the date of adoption, unless the ordinance provides that it will become effective at a later time. An emergency ordinance, which shall include a statement of explanation regarding the basis for the declaration of emergency, shall become effective upon adoption.

- ~~a. Unless the motion for adoption provides otherwise, resolutions shall be adopted by reference to the title only and effective upon adoption.~~
- ~~b. The Council may adopt an ordinance in any of the following circumstances:~~
- ~~i. Before being considered for adoption, the ordinance has been read fully and distinctly in opening Council meetings on two different days.~~
  - ~~ii. At a single meeting by unanimous vote of the whole Council, after being read twice by title only, as long as no Council member requests the ordinance to be read in full. In the event such request is made, the ordinance may be adopted at a single meeting by unanimous vote of the Council upon being read first in full and then by title.~~
  - ~~iii. Any of the readings may be by title only if no Councilor present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Councilor and three copies are provided for public inspection at the City offices not later than one week before the first reading of the ordinance, and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall and two other public places in the City or by advertisement in a newspaper of general circulation in the City. An ordinance enacted after first being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.~~
- ~~Upon the enactment of an ordinance the custodian of records shall sign it with the date of its passage and the endorser's name and title of office and thereafter the Mayor, or President of the Council acting pursuant to Section 18 of the City Charter, shall sign it with the date of its passage and the endorser's name and title of office. Failure of the Mayor or the President of the Council to sign it shall not invalidate it.~~
- ~~c. a. Ordinances shall be effective on the thirtieth (30<sup>th</sup>) day following the date of adoption, unless the ordinance provides that it will become effective at a later time. An emergency ordinance, which shall include a statement of explanation regarding the basis for the declaration of emergency, shall become effective upon adoption.~~
- ~~d. Ordinances and resolutions shall be adopted by roll-call vote.~~

**9)10) Exhibits.** Exhibits presented before the Council in connection with its deliberations on a legislative, quasi-judicial or other substantive matter shall be accepted by the Council and made part of the record. The exhibit shall be marked for identification and referenced in the minutes. The exhibit or a copy thereof shall be provided to the meeting recorder.

~~10~~11) **Motions.** When a motion is made, it shall be clearly and concisely stated by its maker. Councilors are encouraged to exercise their ability to make motions and to do so prior to debate in order to focus discussion on an issue and speed the Council's proceedings. The Presiding Officer will state the name of the Councilor who made the motion and the name of the Councilor who made the second. When the Council concurs or agrees to an item that does not require a formal motion, the Presiding Officer will summarize the agreement at the conclusion of discussion. The following rules shall apply to motions during proceedings of the Council:

- a. A motion may be withdrawn by the maker at any time without the consent of the Council.
- b. If a motion does not receive a second, it dies. Certain motions can proceed without a second, including nominations, withdrawal of motion and agenda order.
- c. A motion that receives a tie vote fails.
- d. A motion to table is not debatable unless made during a land-use hearing and precludes all amendments or debate of the issue under consideration. If the motion prevails, the matter may be taken from the table only by adding it to the agenda of the next regular Council meeting at which time discussion will continue. If an item is tabled, it cannot be reconsidered at the same meeting.
- e. A motion to postpone to a certain time is debatable and amendable, and it may be reconsidered at the same meeting. The question being postponed shall be considered at a later time, at the same meeting, or at a specified time in the future.
- e-f. A motion to postpone indefinitely is debatable and is not amendable and may be reconsidered at the same meeting only if it received an affirmative vote. The object of this motion is not to postpone, but to reject the question without risking a direct vote when the maker of this motion is in doubt as to the outcome of the question.
- f-g. A motion to call for the question shall close the debate on the main motion and is not debatable. This motion must receive a second and fails without a majority vote. Debate is reopened if the motion fails.
- g-h. A motion to amend can be made to a motion that is on the floor and has been seconded. An amendment is made by inserting or adding, striking out, striking out and inserting, or substituting.
- h-i. Motions that cannot be amended include motion to adjourn, agenda order, lay on the table, reconsideration, and take from the table.
- i-j. A motion to amend an amendment is in order.
- j-k. Amendments are voted on first, then the main motion as amended.
- k-l. Council will discuss a motion only after the motion has been moved and seconded.
- l-m. The motion maker, Presiding Officer, or meeting recorder should repeat the motion prior to voting.

~~m.n.~~\_\_\_\_\_ A motion to continue or close a public hearing is debatable.

~~n.o.~~\_\_\_\_\_ A point of order, after being addressed by the Presiding Officer, may be appealed to the body.

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

**11)12) Speaking by a Councilor.** Any Councilor desiring to be heard shall be recognized by the Mayor and shall confine their remarks to the subject under consideration or to be considered. Councilors will be direct and candid. Councilors will speak one at a time, allowing one another to finish. All Councilors and the Mayor shall have an equal amount of time to speak specifically and succinctly on a subject.

**12)13) Voting.** Every Councilor, when a question is taken, shall vote. Secret ballots are prohibited. Absent compelling circumstance, Councilors should not abstain from voting. ~~If a Councilor is planning to abstain, the Councilor must declare the intent to abstain prior to the vote~~When abstaining, the council member should state their reason for abstaining.

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

**13)14) Reconsideration of Actions Taken.** A Councilor who voted with the majority may move for a reconsideration of an action at the same or the next regular meeting. The second of a motion may be a member of the minority. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Council.

**14)15) Minutes.** Written minutes of Council regular meetings will be taken by staff. Additionally, Council shall provide an audio, video, or digital recording of its meetings, which are the official records of the City.

Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law. The written minutes or recording must give a true reflection of the matters

discussed at the meeting and the views of the participants. Minutes shall include the following information:

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

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

**15)16) Meeting Staffing.** The City Manager shall attend all meetings of the Council unless excused therefrom by the Council or the Mayor. The City Manager should advise Council if unable to attend a meeting. The City Manager may make recommendations to the Council and shall have the right to take part in all Council discussions but shall have no vote. The City Manager shall designate a staff or contract person as a meeting recorder who will attend all Council meetings and keep the official journal (minutes) and perform such other duties as may be needed for the orderly conduct of meetings. Department directors or other staff will attend Council meetings upon request of the City Manager.

**16)17) Questioning of Staff by Council.** Councilors desiring to question the staff during a Council meeting shall address the questions to the City Manager, who shall be entitled to either answer the inquiry or designate a staff member to do so.

**17)18) News Media.** The Council recognizes the important role of the news media in informing the public about the decisions, activities, and priorities of government. Workspace shall be reserved for members of the press at Council meetings so that they may observe and hear proceedings clearly. See also Executive Sessions. The terms “news media” “press” and “representative of the press” for the purpose of these rules are interchangeable and mean someone who:

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

~~18)~~**19) General Public Comment.** The Council shall maintain a forum allowing citizens to testify regarding City-related issues, policies, Council decisions, or any other matter. General public comment is established to allow members of the public to speak for ~~five~~ three minutes at the beginning of each Council meeting and work session on any community matter ~~other than specific items on the agenda.~~ If a large number of public commentors are present, they may be asked to voluntarily reduce their public comment time to respect the overall meeting efficiency (e.g., by stating agreement with prior commentors or designating a spokesperson to represent the group if on a shared topic). Councilors are expected to be respectful of a member of the public during public comment. Councilors should not engage in discussions while receiving public comments as this part of the agenda is not meant for debate; however, Councilors may comment at the conclusion of the public comment period to correct the record as to any inconsistent or inaccurate information stated. Councilors may ask clarifying questions with the Presiding Officer's permission and may discuss concerns and direct questions raised by the public to the City Manager with the understanding that answers from staff may not be immediately available.

~~19) Specific Agenda Item Comments.~~ ~~Comments on specific agenda items will be taken during the time Council discusses them. The Mayor may adjust comment time according to the length of the agenda, but not the number of speakers without Council consent.~~

**20) Verbal Comments and Testimony.**

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

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

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

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

**21) Written Comments, Documents, and Testimony Forms.**

- a. Any speaker who wishes to make an electronic presentation, must deliver the presentation to City staff at least two business days prior to the meeting or work session in order to be posted on the agenda. No speaker(s) shall be allowed to make an electronic presentation without it being posted two (2) business days prior to our meeting for computer security purposes; however hard copies may be provided at the meeting for each Councilor, City Recorder, City Manager, City Attorney and one (1) for the public.
- b. Written comments and documents must be submitted to the City Recorder by 4:00 PM, two business days before the meeting in order to ~~have the comments posted on a particular agenda item prior to the meeting (City Hall is closed every other Friday)~~ give Councilors enough time to read the comments. Council will still receive written comments after this deadline but may not have time to read it before the meeting. ~~All written material submitted after the deadline or during a meeting, will be added to the record. (this is stated below in c.)~~
- c. Any person bringing written comments or materials to the meeting shall give them to the City Recorder who will hand them to the Council and place them in the record.
- d. ~~Comments submitted shall be read into the record upon request of the commentator or any member of Council subject to Section D 2), above.~~
- e. The testimony forms for land use hearings will have a place for citizens to mark if they are for, against, or neutral on the topic.

**22) Neighborhood Association/Citizen-Community Advisory Group Comments.** ~~A~~ One designated representative of a Neighborhood Association or a ~~Citizen-Community~~ Advisory Group shall be granted up to ~~10-5~~ minutes to speak on items voted on or discussed by the neighborhood association, unless the time allotted for that agenda item was previously adjusted. A member of the public who has testified in their individual capacity is not disqualified from speaking in their representative capacity, as long as the person identifies the capacity at the beginning of their comments. ~~A~~ Neighborhood Association or Community Advisory Group can request to be on the Council Agenda.

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

## Section D: Quasi-Judicial Land Use Matters

- 1) **Bias and Disqualification.** Prior to the commencement of a quasi-judicial hearing, each Councilor must disclose their previous pre-judgment, personal interest or participation in any manner or action on the matter to be heard and shall state whether they can participate in the hearing with an open mind. If the Councilor is unable to hear the matter impartially, the Councilor has a duty to step down from the hearing and participate as a citizen, if so desired.
  - a. Any person may challenge the qualifications or impartiality of any Councilor about to participate in the discussion and decision. The challenger must state facts relied upon from which the party has concluded that the Councilor will not likely participate and/or make a decision in an impartial manner. Such challenges shall be made prior to the commencement of the public hearing. The Presiding Officer shall then give the challenged Councilor an opportunity to respond. Any such challenge to a Councilor shall require a vote of the Council to accept or deny the challenge. The Councilor being challenged shall not vote unless required by the law of necessity to do so. Such challenges shall be recorded into the record of the hearing. If the Council majority determines that the Councilor is biased, it may disqualify the Councilor by majority vote from participating in a decision. In which case, the Councilor may participate in the proceedings as a private citizen if the Councilor is a party with standing.
  
- 2) **Conflict of Interest.** Councilors shall adhere to State laws concerning conflicts of interest. Conflicts of interest arise in situations where a Councilor has an actual or potential financial interest in the matter before the Council. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the Councilor, a relative or a business with which the Councilor is associated. [ORS 244.020](#). A Councilor must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue unless allowed by state law. [ORS 244.120](#).
  
- 3) **Ex Parte Communications.** When Council receives any ex parte communication, Council should inform the citizen that the Council is interested in their perspective; however, because the Council is hearing the associated land use application, Council are advised to refrain from reading and responding to information outside of the public hearing process. Council should inform the citizen that the information received is being forwarded to staff for inclusion in the public record. Council shall then forward all ex parte correspondence received by staff as soon as possible for inclusion in the land use file and the record.

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

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

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

## Section E: Council Expectations

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

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

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

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

- a. At all times attempting to work together with staff in a spirit of mutual confidence and support and uphold the City Charter and Municipal Code by respecting the administrative functions of the City Manager and City Departments.
- b. Limiting all inquiries and requests for information from staff or department heads to those questions that may be answered readily or with only the most minimal of research. Questions of a more complex nature shall be addressed to the City Manager or City Attorney. Such questions should, whenever possible, be put in writing. Questions requiring significant staff time or resources (one hour or more) shall require the approval of the majority of the Council. All pertinent information given by the City Manager or City Attorney to one Councilor should be distributed to all the Councilors.
- c. Limiting individual contacts with City officers and employees so as not to influence staff decisions or recommendations, to interfere with their work performance, to undermine the authority of supervisors or to prevent the full Council from having benefit of any information received.
- d. Respecting the roles and responsibilities of staff as hired professionals when and if expressing criticism in a public meeting or email communications. Instead, engage in civil, respectful, and constructive conversations that uphold the integrity of the City.

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

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

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

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

The effectiveness of City lobbying in Salem or in Washington, D.C. depends on the clarity of the City’s voice. When Councilors represent the City in a “lobbying” situation, it is appropriate that the Councilors avoid expressions of personal dissent from an adopted Council policy.

**6) Censure and Discipline.**

- a. The Council has the right to make and enforce these rules and to ensure compliance with those rules generally applicable to public bodies. The Council, acting as a whole, may reprimand or discipline to the extent provided by law, any member(s) of the Council, or any member(s) of a board, commission or committee directly associated with the Council for a violation of these rules, city policies, city ordinances, the Charter, or state laws applicable to governing bodies.
- b. To exercise such right, the alleged offender(s) must first be notified of a finding that reasonable ground exists that a substantial violation has occurred prior to referral

for investigation of the Council. Council may hold an executive session to consider the complaints or charges unless the person requests an open hearing according to [ORS 192.660\(2\)\(b\)](#).

- c. The accused member(s) shall have the right to present a defense to the allegations, including the right to have legal representation at such meeting.
- d. Upon finding that a substantial violation has occurred, the Council may, upon unanimous vote of the balance of the Council not accused, proceed with censure or other appropriate sanctions.

## Section F: General Policies and Procedures

- 1) **Attendance.** Councilors shall inform the City Manager and all fellow Councilors if they are unable to attend a Council meeting either in person or virtually. Scheduled meetings will be held if there is a quorum unless the Council agrees to reschedule. Additionally, the Mayor will inform the Council President and the City Manager regarding any absence by the Mayor.
- 2) **City Communications.** As a general policy, the City communication tools (including, but not limited to newsletter, website, mailers, postcards, bulletin boards, email newsletters and videos) should be used solely for City government related content. Events not sponsored entirely or partially by the City should not be allowed space in City communications. Requests for placement of articles in City communications shall be approved by the City Manager or designee. All Meeting agenda and tentative agendas shall be dated as to when changes have been made so the Council, City Staff, and Public can easily recognize what is the most up to date information.
- 3) **Conferences, Seminars and Regional Meetings.** Councilors are urged to educate themselves about local and regional government issues and to participate in appropriate conferences, seminars, and regional meetings.
  - a. Council will set an annual allotment for expenses for government related activities at the beginning of each year for Council members, including expenses for serving on a board or a committee not covered by the organization. Councilors must obtain Council approval for expenses if it may exceed the Councilor's annual allotment.
  - b. Councilors shall share information about the conference or share information of interest from these events within a month of attending if possible.
  - c. City Manager will similarly share important information learned at conferences and regional meetings.
- 4) **Council Reports.** Councilors will report on the regional meetings they attend on behalf of the city.
- 5) **Compensation, Expenses and Reimbursement.** Councilors receive salaries per Chapter III, Section 11 of the Charter for their service to elected office, which is adjusted annually according to CPI-W per City Ordinance 1690. Federal tax regulations consider elected officials to be "public employees" for tax and payment purposes, which is explained at: <https://www.irs.gov/government-entities/federal-state-local-governments/tax->

[withholding-for-government-workers](#). In contrast, an elected official is not an employee for purposes of Fair Labor Standards Act (wage & hour laws), ORPLRA (labor relations), Title VII of the Civil Rights Act (employment discrimination based on protected class), Age Discrimination in Employment Act, the Affordable Care Act (healthcare reform), or the Unemployment Insurance Act.

With the exception of quarterly salaries, Councilors will follow the same rules and procedures for reimbursement as those which apply to City employees, set forth in the policy manual. Councilor expenditures for other than routine reimbursable expenses (e.g. conference registration, travel, etc.) will require advance Council approval according to the purchasing rules which apply City wide. Councilors may utilize a city-issued credit card, if desired, for City-related expenses pursuant to adopted budget guidelines.

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

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

- 1) **Legal Inquiries.** Councilors may make legal inquiries to the City Attorney. The City Attorney will determine if the inquiry requires more than approximately fifteen minutes of legal research. If it does, that inquiry will not be answered until the Council approves it. Before requesting research or other action by the City Attorney, the Council is encouraged to consider consulting with the City Manager to ascertain whether the request or action can be accomplished more cost-effectively by alternate means, unless the inquiry is related to the performance of the City Manager or a unique and sensitive personal matter to City business. The City Attorney shall, in either case, provide any written response to the full Council and City Manager, except as noted above.
  
- 2) **Litigation.** The Council will meet in Executive Session with the City Manager and City Attorney within 30 days of the City's receipt of:
  - a. A statutory notice of claim, or
  - b. A judicial or administrative filing which initiates action against the City.
  
- 3) **Public Records Law.** A public record is any writing with information about the conduct of public business that is prepared, owned, used, or retained by a public body. This Council and any board, department, or commission thereof are considered a public body and thus must comply with Oregon's Public Records Law ([ORS 192.410-192.505](#)).
  
- 4) **Custodian of Public Record.**

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

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

### 1) **Annual Report of Boards, Commissions, Committees, and Neighborhood Associations.**

Each board, commission, committee, and neighborhood association will annually report to the Council on its activities for the previous year, including their recommendations. The report will be prepared in a format prescribed by the Council.

### 2) **Filling Vacancies on Boards, Commissions and Committees.** When a vacancy occurs on any standing commission, board or committee, a public announcement of the vacancy will be made with sufficient time and information provided regarding the duties of the positions and the process of filing an application. The Council will interview applicants for the Planning Commission, Budget Committee, and Historic Review Board and may also include interviews for other Boards and Committees. The Mayor, with the approval of the Council, shall fill all vacancies of City committees, boards, and commissions.

### 3) **Liaison to Boards, Commissions and Committees.** [See also Municipal Code 2.020.](#) To facilitate the exchange of information between the Council and its advisory bodies and standing committees, the Mayor will at least annually make liaison appointments with Council approval to City boards, commissions, and committees. Councilors shall respect the separation between policy making and advisory boards, commissions, and committees by:

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

### 4) **Minutes of ~~Citizen-Community~~ Advisory Group Meetings.** Written minutes of ~~citizen community~~ advisory group meetings [are the official permanent record of CAGs and](#) will be taken by the staff liaison and if not available, the Chair or their designated substitute. However, ~~citizen-community~~ advisory groups shall also provide an audio recording of their meetings [which will be retained for 1 year after approval of the written minutes per OAR 166-200-0235\(5\)\(c\).](#)

### 4)5) \_\_\_\_\_ Minutes shall include the following information:

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

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

**5)6) Minutes of Neighborhood Associations Meetings.** Neighborhood Associations are required to take minutes when they have been asked to advise the Council or they act on their own accord in an advisory capacity to the City per West Linn [Code 2.100\(4\)\(c\)\(2\)](https://westlinnoregon.gov/sites/default/files/fileattachments/city_council/page/5641/chapter-2.pdf). [https://westlinnoregon.gov/sites/default/files/fileattachments/city\\_council/page/5641/chapter-2.pdf](https://westlinnoregon.gov/sites/default/files/fileattachments/city_council/page/5641/chapter-2.pdf)). Council prefers that Neighborhood Associations provide a record of attendance, quorum, and recommendation.

## Section I: Other Provisions

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

## Mollusky, Kathy

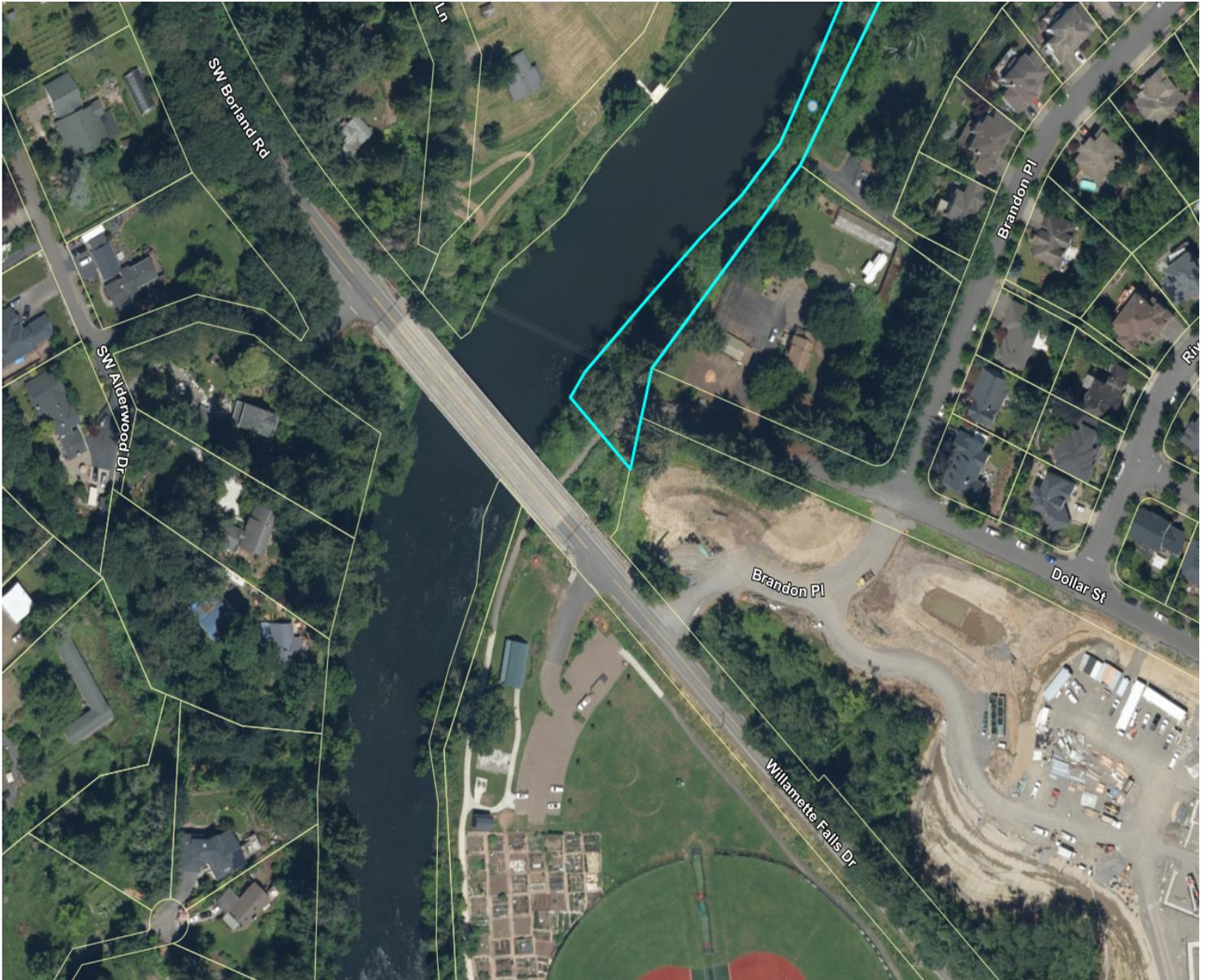
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**From:** John J. McCabe <[REDACTED]>  
**Sent:** Monday, July 17, 2023 12:40 PM  
**To:** City Council; Bialostosky, Rory; Baumgardner, Mary  
**Subject:** Community Comments  
**Attachments:** Clackamas County.pdf; Clackamas County2.pdf

**CAUTION:** This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

For tonight's Community Comment Section. This is for the no tax lot piece of property that was prior to the replacement of the Fields Bridge owned by Portland General Electric. Purchased by PGE due to flooding on the Tualatin River due to breaches of dams.

John McCabe  
[REDACTED]



**Objectid:** 159495

**Primary Address:** No Situs

**Jurisdiction:** West Linn (<https://westlinnoregon.gov>)

**Map Number:** 21E34CA

**Taxlot Number:** 21E34CA04000

**Parcel Number:** 00402120

**Document Number:**

**Census Tract:** 020700

**Landclass:** 400

## Assessment

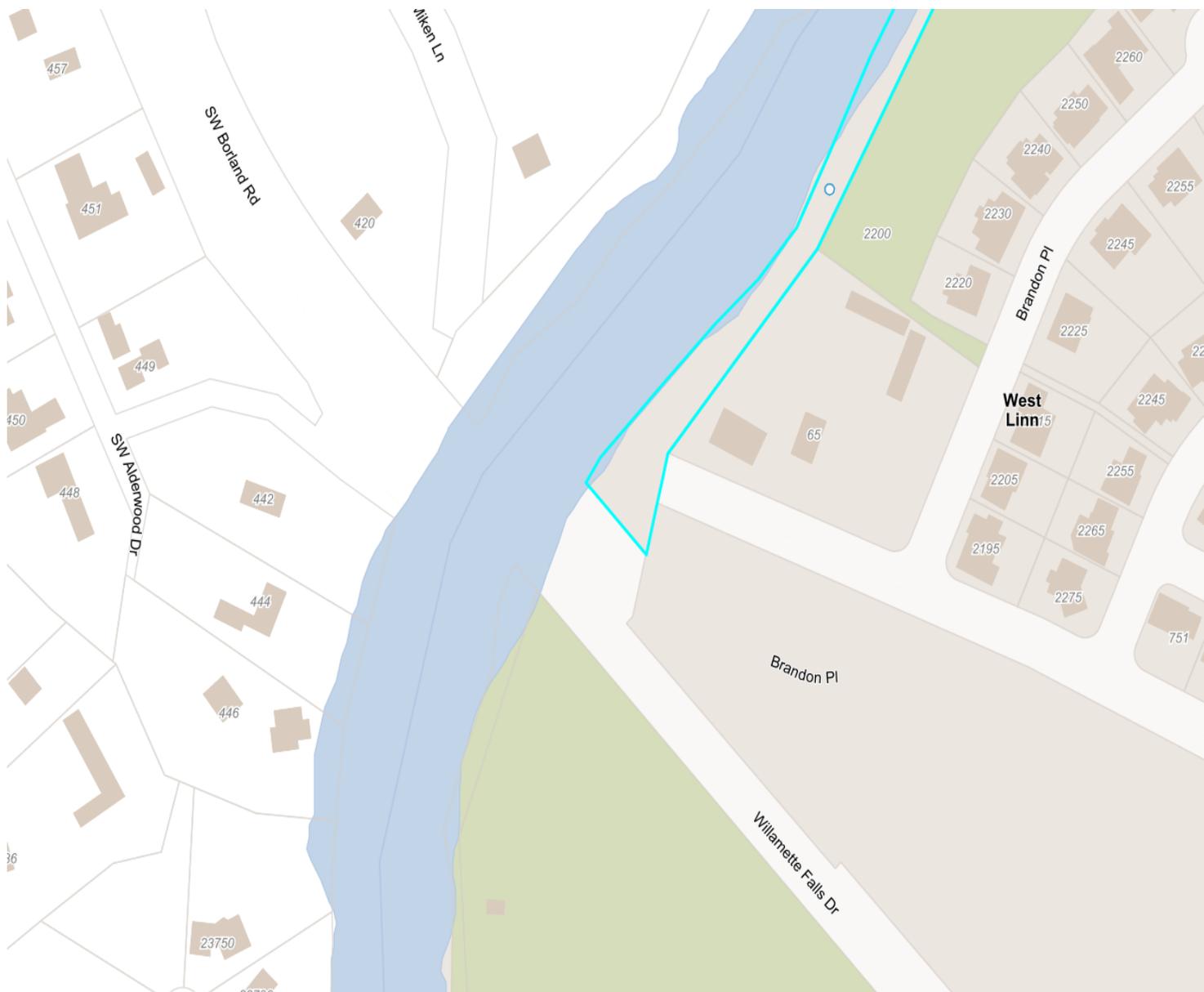
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**Estimated Acres:** 2.28

**Current Year Assessed Value:** \$44,901.00

**Market Building Value:** \$0.00

**Market Land Value:** \$102,192.00



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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): C-maps & use

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: John McCabe

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

Address (Optional): 435 S.W. Miken Lane

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.**

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



**ANY INFORMATION PROVIDED MAY BE CONSIDERED PUBLIC RECORD AND SUBJECT TO DISCLOSURE**

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (*required*):

---

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) and topic(s) (*required*):

---

I wish to speak during the **PUBLIC HEARING** (limited to five minutes):

Continuation of Appeal AP-23-03 of the Planning Commission Denial of VAR 23-01

I do not wish to speak however; I would like to have standing on this land use item.

Issue:

---

Failure to raise an issue during the City's hearing on this matter precludes an appeal to the Land Use Board of Appeals based on that issue. Any party with standing may appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board.

In Support

Neither for nor against

In Opposition

**P l e a s e   p r i n t :**

Name: ELIZABETH APEN

Address: 2615 MARYHURST DR

City: WEST LINN State OR Zip 97068

Email (optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

**To have standing in a land use matter, your full address must be filled in.**

**ANY INFORMATION PROVIDED MAY BE CONSIDERED PUBLIC RECORD AND SUBJECT TO DISCLOSURE**

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (*required*):

---

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) and topic(s) (*required*):

---

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In Support

Neither for nor against

In Opposition

**P l e a s e   p r i n t :**

Name: TOM TOMASZEK

Address: 2671 MARYLHURST DR

City: WEST LINN State OR Zip 97068

Email (optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

**To have standing in a land use matter, your full address must be filled in.**

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In Support

Neither for nor against

In Opposition

Please print:

Name: TIM MANES

Address: 2615 MARYLHURST DR

City: WL State OR Zip 97068

Email (optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

To have standing in a land use matter, your full address must be filled in.