



MEMO

Sept. 3, 2024

To: City Council

From: Mark Ottenad, Public/Government Affairs Director

cc: Bryan Cosgrove, City Manager; Amanda Guile-Hinman, City Attorney; City Managers

RE: **Staff Recommendations for 2024 LOC Legislative Priorities Ballot for 2025-26 Session**

The following staff recommendations for City Council consideration regarding the 2024 LOC Legislative Priorities Ballot for the 2025-26 session of the 83rd Oregon Legislative Assembly was developed during a multi-departmental, inter-disciplinary review that included:

- 2024 LOC Member Voter Guide (for 2025-26 Oregon Legislative Sessions)
- *City of Wilsonville/SMART 2023-24 State Legislative Agenda*, January 2023
- *City of Wilsonville/SMART 2024 State Legislative Priorities*, Sept. 2023
- City Council discussions over the past year, and
- City staff review of current and pending legislative issues.

Many of the suggested LOC legislative priorities are worthy of consideration; however, some priorities, such as marijuana tax revenues, do not apply to the City, as cannabis sales have not been approved for our municipality. Some of the LOC priorities appear to be subsets of a similar priority; *e.g.*, Employment Lands Readiness and Availability Full Funding and Alignment for Housing Production could be lumped under Infrastructure Funding.

Summary of Five Priority Recommendations for 2024 LOC Legislative Priorities Ballot for the 2025-26 session: *(Not listed in priority order; listed in LOC ballot order)*

Priority #1 Community and Economic Development Recommendation:
Infrastructure Funding

Priority #2 Community and Economic Development Recommendation:
Shelter and Homeless Response

Priority #3 General Government Committee Recommendation:
Restoration of Recreational Immunity

Priority #4 Transportation Committee Recommendation:
2025 Transportation Package

Priority #5 Water and Wastewater Committee Recommendation:
Operator-in-Training Apprenticeships

Priorities Note: Additionally, as is explained below, staff propose in the Ballot Write-In Option to note that “Employment Lands Readiness and Availability and Full Funding and Alignment for Housing Production are considered as a component of Infrastructure Funding priority”; and to note that “Funding and Expanding Public and Inter-Community Transit should be included in the 2025 Transportation Package priority.”

Discussion of Recommendations

Following is a more detailed review of each recommended 2024 LOC Legislative Priorities Ballot for 2025-26 Session.

Priority #1 Community and Economic Development Recommendation: **Infrastructure Funding**

Discussion: The City Council is well aware of the challenges of funding costly public infrastructure that serves primarily private-sector development of both residential housing and commercial employment. Constantly, the primary challenge that City encounters for development of residential or industrial lands is how to fund the needed infrastructure to support development. With urban renewal (aka tax increment financing) as the only major source of infrastructure funding, cities have very limited options for how to finance infrastructure, as the private-sector has shown reticence to sink money in the ground with an uncertain or delayed pay-back period.

Staff propose in the Ballot Write-In Option to note that Employment Lands Readiness and Availability and Full Funding and Alignment for Housing Production are considered as a component of Infrastructure Funding. Both Creating a State Residential Housing Infrastructure Fund and Reauthorize and Fund the Business Oregon Regionally Significant Industrial Sites (RSIS) Program were top priorities of the City Council adopted City of Wilsonville/SMART 2024 State Legislative Session Priorities.

LOC indicates that it will advocate for a comprehensive infrastructure package to support increased investments in water, sewer, stormwater and roads. This includes: funding for system upgrades to meet increasingly complex regulatory compliance requirements; capacity to serve needed housing and economic development; deferred maintenance costs; seismic and wildfire resiliency improvements; and clarity and funding to address moratoriums. The LOC will also champion both direct and programmatic infrastructure investments to support a range of needed housing development types and affordability.

Priority #2 Community and Economic Development Recommendation: **Shelter and Homeless Response**

Discussion: City staff has raised concerns about allowable enforcement of time, place, and manner restrictions on camping on public lands. The current “objectively reasonable” standard, despite its verbiage, is entirely subjective and unworkable, and likely will be the source of extensive litigation without revision. Why? Because, under Oregon law, “reasonableness” is

“determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.” ORS 195.530(5). “Objectively” means that it should not be based on one person’s perception; it should not be influenced by personal feelings or opinions.

Take the City of Portland’s current case as an example – there are many elements that were challenged by individuals experiencing homelessness and Multnomah County Circuit Court issued a preliminary injunction without identifying which parts were “objectively reasonable” or not. One of the challenged elements was only allowing camping between 8 pm and 8 am. Is that reasonable? An individual could challenge the law, arguing that they work nights or that packing up every 12 hours is a significant burden, and because it impacts a person experiencing homelessness, now that law is not only unenforceable, the city has to pay attorney’s fees.

In light of the United States Supreme Court’s June 2024 ruling in *City of Grants Pass v. Johnson*, Oregon is now the only state in the country that still must comply with the essential holding of the Ninth Circuit’s now overturned decisions in *Martin v. Boise* and *Grants Pass v. Johnson* due to current state legislation. At a minimum, examining the current laws to ensure they provide local governments with all tools available to address homelessness is appropriate.

How the City Council established the reasonableness of the City’s public camping regulations is an appropriate method and model to explore in future legislation. Council adopted findings for each camping regulation that explained why that regulation was needed. A recommended modification to the statute, at a minimum, would be to have a rebuttable presumption that regulations are reasonable if the local government has adopted findings as to the reasonableness of the regulations. That would place a higher burden on the plaintiff to show that the regulations are unreasonable.

Additionally, double-digit increases in electricity and natural gas rates over the past two years have led to utilities reporting that they have cut service to a record number of Oregon customers who are behind on paying monthly utility bills. The legislature should examine ways to help subsidize utility bills for qualified households.

LOC indicates that it will support a comprehensive homeless response package to fund the needs of homeless shelter and homeless response efforts statewide. Funding should include baseline operational support to continue and strengthen coordinated regional homeless response and include a range of shelter types and services, including alternative shelter models, safe parking programs, rapid rehousing, outreach, case management, staffing and administrative support, and other related services. The LOC will also support capital funding for additional shelter infrastructure and site preparation. Oregon’s homeless response system must recognize the critical role of cities in homeless response and meaningfully include cities in regional funding and decision-making, in partnership with counties, community action agencies, continuums of care, housing authorities, and other service provider partners.

Priority #3 General Government Committee Recommendation:
Restoration of Recreational Immunity

Discussion: The City Council made this issue of restoring recreational immunity for public use of trails the number one priority in last year’s City of Wilsonville/SMART 2024 State Legislative Session Priorities. While the legislature provided a temporary fix only for public lands for recreational immunity during the short session in 2024, it expires in January 2026. The legislature will need to amend current statutes with a more permanent solution, including for private landowners.

LOC indicates that it will work with others to introduce legislation to protect cities and other landowners who open their property for recreational purposes from tort liability claims.

Priority #4 Transportation Committee Recommendation:
2025 Transportation Package

Discussion: The City Council has long made Transportation Funding for both roads and public transit a top legislative priority at the federal and state levels. The Joint Committee on Transportation has been conducting a statewide “roadshow” this summer to hear from Oregon community about their transportation funding challenges.

The legislative leadership has been indicating for over a year that 2025 would be the target timeframe to pass another transportation funding bill, the last one being HB 2017 in 2017, which increased gas tax and vehicle registration fees for road funding, and created a new employee-paid tax program to support transit called STIF, or Statewide Transportation Improvement Fund. HB 2017 also initiated the Portland “Mega” highway projects, including Highway 217 improvements, I-5/I-84 Rose Quarter project and I-205/Abernathy Bridge project, as well as the ill-fated attempt for tolling of portions of I-5 and I-205. (The I-5 Boone Bridge project was added by HB 3065 in 2021.)

Staff propose in the Ballot Write-In Option to note that Funding and Expanding Public and Inter-Community Transit should be included in the 2025 Transportation Package item, as inter-city transit is an issue that needs additional funding in order to make transit work on a regional basis.

LOC indicates that it supports a robust, long-term, multimodal transportation package focused on: stabilizing funding for operations and maintenance for local governments and ODOT; continued investment in transit and bike/ped programs, safety, congestion management, and completion of projects from HB 2017. As part of a 2025 package, the funding level must maintain the current State Highway Fund (SHF) distribution formula and increase investments in local programs such as Great Streets, Safe Routes to Schools, and the Small City Allotment Program. In addition, the package should find a long-term solution for the weight-mile tax that stabilizes the program with fees that match heavier vehicles’ impact on the transportation system. The funding sources for this package should be diverse and innovative. Additionally, the package should maintain existing choices and reduce barriers for local governments to use available funding tools for transportation investments.

Priority #5 Water and Wastewater Committee Recommendation:
Operator-in-Training Apprenticeships

Discussion: The Public Works Department has encountered challenges in recruiting, training, and retaining certified water- and waste-water operations employees. In addition, projected statewide retirements of qualified staff over the next decade will exacerbate the problem.

In 2023, the Legislature approved one-time funding for the development of a training facility for certified operators and technical assistance staff in partnership with the Oregon Association of Water Utilities. Sustained funding for regional training facilities and direct funding for utilities hosting training programs is needed to train the next generation of water and wastewater operators.

LOC indicates that it will advocate for funding for apprenticeship training programs and the expansion of bilingual training opportunities to promote workforce development of qualified wastewater and drinking water operators due to the significant lack of qualified operators.

Background on City’s Legislative Priorities

In January 2024 City Council adopted an updated set of Legislative Priorities that are more responsive to “off the moment” ad-hoc policy opportunities that may be outside of prior subject matter of prior City master plans and strategies. Staff are also bringing to City Council on Sept. 16 a proposed set of 2025 Legislative Session Priorities for consideration.

In January 2023, the City Council adopted an updated Wilsonville state legislative agenda for the 2023-24 session of the Oregon legislature. The City’s legislative agenda provides staff and consultants with general policy guidance that may be used to evaluate individual pieces of legislation that address specific issues of concern. Staff are scheduled to present to the City Council in January 2025 a recommended City Legislative Agenda for the 2025-26 legislative session.

In a similar manner, the LOC board adopts a legislative agenda that focuses resources on the key issues of concern to member cities. For the past three months, seven LOC policy committees have been working to identify and propose specific actions as part of the League’s effort to develop a pro-active legislative agenda for the 2025-26 session. Each city is being asked to review the recommendations of the policy committees and provide input to the LOC Board of Directors by Sept. 27 as the board prepares to adopt the League’s 2025-26 legislative agenda.

The City has found that working closely with LOC staff on various legislative issues can produce successful results for the City or reduce potentially negative impacts of new laws. The City’s legislative-affairs consultant, Greg Leo of The Leo Co., has established a mutually-beneficial, effective working relationship with LOC’s intergovernmental relations associates, along with other public- and private-sector public-affairs consultants.