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City of Wilsonville / SMART 2024 State Legislative Session Priorities

Acting on behalf of the residents and businesses of the City of Wilsonville and SMART, the City Council adopts this list of 2024 State Legislative Session Priorities, which accompanies the 2023-24 State Legislative Agenda, to promote municipal policy positions on specific issues of concern, as well as to reflect ad-hoc issues of the day for which long-term City policies may or may not address adequately but for which the City Council considers important to address in the “short” 2024 session of the 82nd Oregon Legislative Assembly.

Wilsonville City Council, January 18, 2024

SUMMARY OF PRIORITIES

1. Restore Recreational Immunity for Public Use of Trails
2. Fund WES Commuter Rail Extension Study
3. Create a State Residential Housing Infrastructure Fund; Oppose Efforts to Override Land-Use Laws for UGB Expansion
4. Reauthorize and Fund the Business Oregon Regionally Significant Industrial Sites (RSIS) Program
5. Provide Charbonneau/Wilsonville I-5 Boone Bridge Tolling Waiver/Exemption
6. Extend Sunset on Vertical Housing Development Zone (VHDZ) Incentive
7. Improve Childcare Resources to Benefit Families/Workers and Employers

DETAILED INFORMATION ON PRIORITIES

1. Restore Recreational Immunity for Public Use of Trails

On July 6, 2023, the Oregon Court of Appeals issued an opinion effectively ending recreational immunity for any Oregon jurisdictions’ improved trails. Public and private landowners of improved trails are no longer protected from liability lawsuits; see *Fields v. City of Newport*, 326 Or. App. 764.

While the Cities of Newport and Medford, League of Oregon Cities, Association of Oregon Counties, Special Districts Association of Oregon, and the Oregon Recreation

and Park Association sought review by the Supreme Court, the Court declined to review the Court of Appeals' decision in *Fields* on Oct. 5, 2023.

At the heart of the dispute is whether a trial court can decide at the beginning of a case whether or not a plaintiff's "primary purpose" when entering land was recreational or not recreational. The key, according to the Oregon Court of Appeals, is the plaintiff's subjective intent, not her objective activities at the time.

CIS (Citycounty Insurance Services), which provides comprehensive property and liability insurance for most Oregon cities that includes Wilsonville, has recommended that cities and counties close trails to the public. At this time, the City has declined to close parks and trails to the public.

Unless the Legislature steps in, from now on when a person using the city's path claims that their subjective intent was not primarily to recreate, then recreational immunity does not apply at the beginning of a suit. Instead, the municipality (or private landowner) will have to defend the lawsuit all the way through a jury trial, so the jury can decide what the plaintiff was thinking about their "primary intent."

The Oregon legislature has repeatedly stood behind Oregon's policy of encouraging private and public landowners to open their property to the public for recreational activities like hiking, mountain biking, kayaking, hunting, fishing, rock climbing, and accessing the Coast.

The League of Oregon Cities and the Association of Oregon Counties are ready to bring a bill to the Legislature in 2024 to restore recreational immunity.

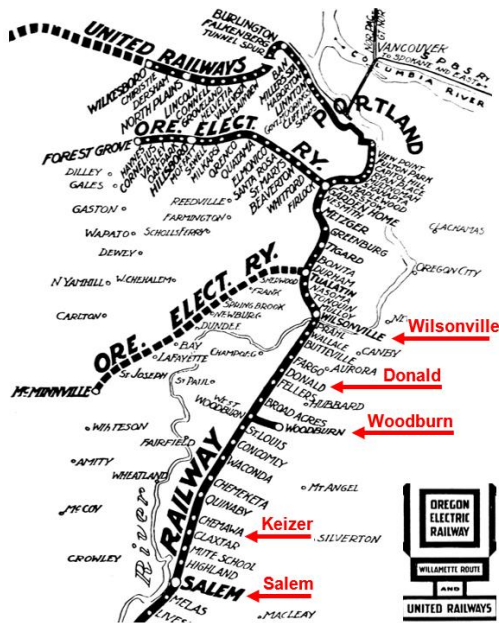
2. Fund WES Commuter Rail Extension Study

During the 2023 regular session, the legislature considered HB 2662-A, which would have established an inter-jurisdictional task force to study connecting the Portland metro-region to Salem/Keizer metro-area with a high-capacity transit option by extending from Wilsonville to Salem the Westside Express Service (WES) Commuter Train. While the bill passed unanimously by the Joint Transportation Committee in May 2023, the legislature was unable to consider advancing the bill along with 400 other bills that stalled during a legislative walk-out boycott.

HB 2662-A was supported by the cities of Aurora, Donald, Hubbard, Keizer, Salem, Wilsonville and Woodburn; Salem Mass Transit ("Cherriots"), SMART (South Metro Area Regional Transit) and Yamhill County Transit; and P & W Railroad. WES sponsor, TriMet, was neutral on the bill.



Popular Ice Age Tonquin Trail in Graham Oaks Nature Park: Villebois neighborhood entry sign, Wilsonville.



Working with these jurisdictions, Sen. Woods (D-Wilsonville), Rep. Mannix (R-Keizer) and Rep. Neron (D-Wilsonville) have prepared a legislative concept to be introduced as a bill in the 2024 session. This bipartisan and bicameral bill would create a multi-jurisdictional task force composed of local governments, metropolitan planning organizations, transit agencies and railroad interests to study extending the current rush-hour-only WES commuter train from the current southern terminus in Wilsonville for 31 miles to Salem, with stops in Donald, Woodburn and Keizer. The bill allocates \$500,000 to ODOT for conducting the study and working with the Mid-Willamette Valley Council of Governments. The proposed legislation calls for the

Willamette Valley Commuter Rail Task Force to report back to the legislature in September 2024 with study findings and recommendations.

A significant transportation-funding package is anticipated to be advanced in the 2025 legislative session. Prospective State “match” funding for advancing the WES Commuter Rail extension would allow ODOT to leverage substantial federal transportation infrastructure funding.

3. Create a State Residential Housing Infrastructure Fund; Oppose Efforts to Override Land-Use Laws for UGB Expansion

The Governor’s Office has set a target goal for the state to produce 36,000 homes annually over the next decade, with at least half of the new homes affordable to people making 80% or less of the median income. Local governments, however, generally do not build housing, and rather provide the infrastructure that supports new residential development.

Unfortunately the Governor’s Housing Production Advisory Council has no representatives of cities that provide the planning and infrastructure that support the development of new homes. The Governor’s Office has relied on real-estate interests advocating for simplistic solutions that upend local standards and just add new undeveloped land to cities’ Urban Growth Boundaries that does



Wilsonville’s Villebois “urban village” development: Extensive infrastructure—including water, sewer, storm-water, roads, sidewalks, parks and other amenities—were funded with a combination of urban renewal (tax increment financing) and system development charges.

nothing to actually advance new residential development — especially affordable housing options that provide homebuilders with substantially less profit than market-rate housing. Efforts to override state land-use laws for UGB expansion should be opposed as ineffective for advancing affordable housing options.

The Governor’s Office appears be recognizing that the greatest impediment to advancing more housing is the overall high cost of infrastructure to support new housing development. The private-sector has consistently shied away from sinking capital into the ground for housing infrastructure due to the speculative nature of the investment and high costs with a long pay-back period.

Thus, new State resources that can include outright grants as well as low-interest loans to cities to advance planning and infrastructure for development of new residential housing is needed. Additional ideas to consider include to expand and incentivize housing production on underused parking lots and commercial lands and buildings; subsidize housing for those making 60 percent and under area median income; and focus efforts on building housing for people with moderate and lower incomes.

4. Reauthorize and Fund the Business Oregon Regionally Significant Industrial Sites (RSIS) Program

The City of Wilsonville—together with the League of Oregon Cities, Port of Portland, Metro, Oregon Economic Development Association and local governments across the state—supported the original 2013 bills (HB 2284/HB 2285 and SB 253/SB 246) that authorized the Industrial Site Readiness Program. Several technical issues were identified subsequently by Business Oregon preventing implementation of the program, and SB 333 legislation of 2017 remedied those defects.

Summary Listing of RSIS Designated Sites and Project Detail

Applicant	Site Name	Acres	Projected Cost	Estimated Jobs
Port of Portland	TRIP Phase 2	184.0	\$16,623,175	3,500
Port of Morrow	East Beach Ind. Park	982.0	\$7,979,490	800
City of Hillsboro	Hillsboro Tech Park	822.0	\$34,516,759	9,000
City of Madras	Madras Airport	1,146.0	\$27,747,500	1,000
City of Pendleton	Pendleton UAS Range Phases 3,4,5	302.0	\$18,231,400	300
Klamath County	WESGO	70.8	\$2,020,000	150
City of Waldport	Waldport Ind. Park	100.00	\$15,331,151	1,342
City of Scappoose	Scappoose Ind. Park	553.8	\$28,365,986	3,765
City of Redmond	South Redmond Track LLI	789.0	\$42,009,454	6,512
Klamath County	Zbindn	86.0	\$3,787,500	150
City of Millersburg	Millersburg Ind. Area	403.0	\$68,748,927	2,100
City of Wilsonville	Wilsonville Ind. Area	809.13	\$299,240,000	5,609

Contact for Program Questions: Contact Industrial Lands Specialist Jason Harris (503) 505-4968 or jason.harris@biz.oregon.gov.

The RSIS program offers various financing mechanisms to advance industrial sites to a “shovel-ready” status. Due-diligence grants are available for eligible projects that have a public sponsor in order to create better understanding of constraints on regionally significant industrial sites.

Additionally, the program offers direct site preparation

assistance by authorizing forgivable loans, low- or no-interest loans and/or a tax-sharing arrangement to local governments and property owners with a public sector partner. The program allows State loans to local governments to be forgiven up to 50% of the site preparation cost, based on performance. A tax-sharing arrangement where 50% of the

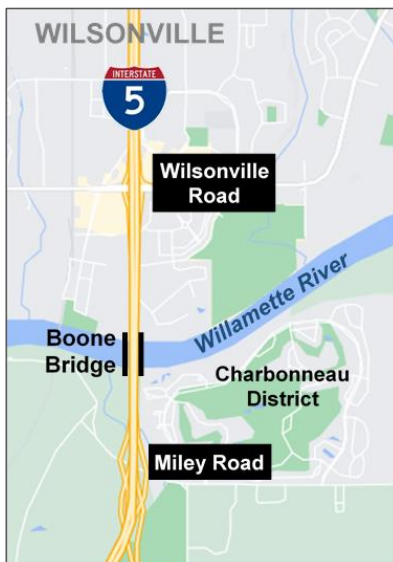
annual corporate and personal income tax revenues from the site reimburse the public investment up to the total site preparation cost.

While authorized, the program has never been funded and sunset in 2023. Over 11 local governments across the state have been accepted into the program—including the City of Wilsonville—but no funding decisions made. The City has identified the cost of infrastructure development as an impediment to advancing “shovel-ready” industrial sites that host family-wage jobs and has actively sought funding sources.

Currently LOC, OEDA, Oregon Business and Industry, Metro and others have discussed working together to reauthorize the RSIS program and provide a \$40 million appropriation. Business Oregon and the Employment Department have identified a couple of technical issues for resolution. A similar effort was made during the 2023 legislative session to reauthorize and fund the RSIS program, but like many bills, did not advance during a prolonged legislative boycott/walk-out.

5. Provide Charbonneau/Wilsonville I-5 Boone Bridge Tolling Waiver/Exemption

The City of Wilsonville will experience significant adverse effects if the current proposals to toll I-5 are enacted due to historical Oregon Department of Transportation (ODOT) policies that allowed for the use of the interstate freeway to provide local community access—a circumstance that Wilsonville and our south Charbonneau District neighborhood find ourselves in today.



That is, ODOT policy in the 1960s and '70s either allowed or did not address the issue of a city’s use of an interstate highway to serve as local access for urban development. In our case, the Charbonneau District of Wilsonville has since its inception in 1971 been continuously dependent upon use of the I-5 Boone Bridge for local access to the remainder of Wilsonville for shopping, medical appointments, entertainment and more.

While policies developed 50+ years ago may not be beneficial to the efficient operation of today’s interstate highways, the resulting mobility infrastructure needs of dependent populations should be accommodated when newer policies are considered. That is, the older senior residents of the Charbonneau District live in a residential community with no other route to access the remainder of Wilsonville other than over the I-5 Boone Bridge/Willamette River who visit or serve Charbonneau are also in the same situation.

ODOT's current tolling policies do *not* address the situation of a community's dependence upon the interstate highway to provide local access when there is no alternate route, as in the case of the Charbonneau District of Wilsonville.

The legislature should provide for a waiver or an exemption from tolling when crossing the I-5 Boone Bridge for Wilsonville residents and businesses would allow ODOT to deal equitably with the residential population dependent historically upon the interstate for local access to essential goods and services, including medical appointments, and other amenities. Such action provides for ODOT's accommodation of those instances where prior ODOT policy or lack thereof helped to create the condition of highway dependency for local access without penalizing those residents and the businesses that serve those residents.

6. Extend Sunset on Vertical Housing Development Zone (VHDZ) Incentive

The Vertical Housing Development Zone (VHDZ) incentive program is currently scheduled to sunset on Jan. 1, 2026. The program allows cities and counties to provide a 10-year tax abatement on a portion (up to 80%) of improvement value on qualifying mixed-use development.

Individual projects within a duly established VHDZ must be approved and under construction no later than Jan. 1, 2026. Projects that are not under construction by that



Wilsonville Town Center VHDZ – First Mixed-Use Commercial/Residential Project: New five-story, 114-unit multi-family residential complex with 4,200 square feet of retail space located on the ground floor, along with a few residences. The upper floors consist entirely of residential units and amenities, including a roof deck. Of the building's 114 residential units, 70 are one-bedroom/one-bathroom apartments, 37 are studio apartments and seven are two-bedroom/two-bathroom apartments.

date will be ineligible for the incentive, even if they otherwise comply with all applicable statutes, and even if the city's VHDZ is still in place or hasn't expired.

The Wilsonville City Council has approved two VHDZ programs for Villebois Village Center and for the Town Center area, both areas where developers have indicated that building a mixed-use development is financially unfeasible without the VHDZ program. Both the Town Center

and Villebois Village Center areas targeted for mixed-use development are long-term projects that will take years to advance.

Since the VHDZ program has no negative financial impacts to State revenue collection, the legislature should have no problem with extending the program, which financially impacts only the sponsoring jurisdiction. Furthermore, mixed-use developments tend to produce more affordable housing, which is a State goal.

7. Improve Childcare Resources to Benefit Families/Workers and Employers

Based on information from Wilsonville employers, the City’s Economic Development Division has identified the lack of childcare options as an obstacle to workforce recruitment and retention. The City’s Economic Development Manager participates in an multi-organizational taskforce known as Clackamas County Childcare For All (CC4A) Coalition, sponsored by the Clackamas Workforce Partnership, the local workforce development board implementing the federal Workforce Innovation and Opportunity Act.

Since 1999, the total number of child care slots in Oregon has dropped by about 6,600. Oregon State University estimates that, for families of infants and toddlers, 35 of 36 counties qualify as child care deserts where there can be as many as 10 children competing for the same child care spot. Extra ordinary Pandemic-era federal support for childcare is scheduled to stop in February 2024.



On July 1, 2023, Oregon inaugurated the new Department of Early Learning (DELIC), bringing together the Early Learning Division (ELD) and the Employment Related Day Care (ERDC) program to unify, strengthen and expand Oregon’s early learning and care system. Along with the creation of DELIC, Oregon is expanding access to affordable child care for eligible families through the Employment Related Day Care (ERDC) program. Starting in July, families are able to receive cash assistance from Temporary Assistance for Needy Families (TANF) and get help paying for child care from ERDC at the same time.

CC4A has proposed a set of legislative concepts for consideration in developing a potential bill. CC4A’s “Building a Strong Child Care Sector: Proposed Legislative Concept” endorses a multi-phased approach:

- Phase 1: Stabilize and Increase Child Care Workforce: Align Child Care Educator Salaries with K-12 Educators
- Phase 2: Make Child Care More Available: Provide Funding for New Child Care Providers
- Phase 3: Make Child Care More Affordable: Cap Family Child Care Contributions

The City’s Public and Government Affairs Division does not see sufficient support in the upcoming 2024 short session to advance substantive legislation that requires General Fund support or new business or personal taxes to support childcare improvement proposals. Rather, the City should consider supporting a bill that creates a legislative interim multi-organizational workgroup to develop potential new programs to improve childcare resources for consideration during the 2025 regular long session.