

# CITY OF SALEM

## Written Testimony

### City Council

555 Liberty St SE  
Salem, OR 97301

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**Monday, August 12, 2019**

**6:00 PM**

**Council Chambers**

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**4.a.**     [19-378](#)     CONTINUED PUBLIC HEARING FOR COUNCIL DELIBERATIONS ONLY.

City Council review of the Planning Administrator's decision approving a Tentative Subdivision Review with a Class 1 Adjustment application for Permit Case No. SUB-ADJ19-02 for property located in the 500 to 600 Block of Salem Heights Avenue S.

Ward(s): Ward 7

Councilor(s): Cook

Neighborhood(s): SWAN

Result Area(s): Welcoming and Livable Community

**Recommendation:**     Staff recommends that the City Council AFFIRM the June 6, 2019 Planning Administrator's Decision.

**Attachments:**     [Open Record Comments \(July 29, 2019\)](#)

[Rebuttal Comments received by 8-5-19](#)

[Final Written Arguments received 8-12-19](#)

*Add - Final Written Argument from Applicant.*

**4.b.**     [19-374](#)     Public hearing on Ordinance Bills 11-19 and 12-19 regarding a payroll tax and operating fee to fund City services.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Natural Environment Stewardship; Safe Community; Safe, Reliable and Efficient Infrastructure; Strong and Diverse Economy; Welcoming and Livable Community.

**Recommendation:**     Pass Ordinance Bill 11-19 and Ordinance Bill 12-19 implementing a payroll tax and a city operating fee respectively.

**Attachments:** [Ordinance Bill No. 11-19](#)[Exhibit A to Ordinance Bill No. 11-19](#)[Ordinance Bill No. 12-19](#)[Exhibit A to Ordinance Bill No. 12-19](#)[City of Salem Revenue Options Focus Group Report](#)[Public Comments received by 5:00 p.m. on 8-7-2019](#)[Additional Public Comment received by 5:00 p.m. on 8-7-2019](#)[Public Comments received by 3:30 p.m. 8-12-19](#)*Add- Written Testimony.***5.a.** [19-370](#)

REVISION - THIS ITEM REORDERED TO AGENDA ITEM 5.a.

Request for reconsideration of the Council decision to deny formation of the Aspen Grove Reimbursement District and re-open hearing.

Ward(s): 8

Councilor(s): Lewis

Neighborhood(s): West Salem Neighborhood Association

Result Area(s): Safe, Reliable and Efficient Infrastructure.

**Recommendation:**

Re-open the public hearing on the formation of the Aspen Grove Reimbursement District and reconsider the decision to deny the district.

**Attachments:** [19-336 Staff Report - Aspen Grove.pdf](#)[Attachment 1 - Resolution - Aspen Grove.pdf](#)[Attachment 2 - Exhibit 1 - Aspen Grove.pdf](#)[Attachment 3 - Exhibit 2 - Aspen Grove.pdf](#)[Attachment 4 - Exhibit 3 Aspen Grove.pdf](#)[Attachment 5 - Aspen Grover Sewer Reimbursement.pdf](#)[Attachment 6 - Cost Allocation Map - Aspen Grove.pdf](#)[Public comments received by 3:30 p.m. 8-12-19](#)*Add- Written Testimony.*

Page  
Break

## Amy Johnson

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**From:** Jennifer S. Marshall <jmarshall@sglaw.com>  
**Sent:** Monday, August 12, 2019 9:49 AM  
**To:** CityRecorder  
**Cc:** Mark D. Shipman; Alan M. Sorem; Hannah F. Stevenson; Rhiya M. Grimmitt; Olivia Glantz  
**Subject:** Wren Heights SUB-ADJ 19-02  
**Attachments:** Final Legal Argument, 4812-2513-0911, 4.pdf

Good morning:

Attached please find Applicant's Final Argument for incorporation into the record in the Wren Heights Subdivision application.

Please confirm receipt of this document.

Thank you,

**Jenny Marshall**

Legal Assistant - Real Estate & Land Use Practice Group



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301

tel: 503.399.1070 | fax: 503.371.2927

[Email](#) | [Web](#)

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# MEMO

**To:** Olivia Glantz

**From:** Alan Sorem

**Date:** August 12, 2019

**Re:** Final Legal Argument

Wren Heights Subdivision: City of Salem Case No. SUB-ADJ 19-02, 18-125034-LD & 18-125035



As you are aware, this firm represents the Thomas Kay Co., an Oregon corporation ("**Applicant**"), with respect to the above-referenced consolidated limited land use applications (the "**Applications**") concerning property located in the 500 to 600 blocks of Salem Heights Avenue (Marion County Assessor Map and Tax Lot Numbers: 083W04AA10400, 10600, 10601, 10700, and 10800) (the "**Subject Property**"). On June 6, 2019, the Planning Administrator's designee (the "**Administrator**") for the City of Salem (the "**City**") issued a Notice of Decision (the "**Decision**") approving the Applications. Two appeals were filed, one by Nathan Rietmann and one by Ron Eachus. The City Council called up the Applications, and a hearing took place on July 22, 2019. Certain individuals testifying in opposition to the Applications (herein "**Opponents**") requested the record be kept open following the hearing. This memorandum is Applicant's final argument. Applicant's original application materials together with the Decision, supplemental staff report, and Applicant's memorandum dated July 22, 2019 all adequately address the issues of the appeal. Therefore, the City Council must affirm the Decision.

## **1. A TIA is not necessary under SRC 803.015 or 205.010(d)(7).**

The record contains substantial evidence supporting the Administrator's conclusion that a TIA is not required under SRC 803.015(b)(1)-(3) or SRC 205.010(d)(7). As explained previously, the evidence establishes that the proposed subdivision will not generate an average daily trip total of more than 200 average daily trips onto the local roads located to the north of the Subject Property nor more than 1,000 average daily trips onto Salem Heights Avenue, a collector street. The traffic analysis and testimony provided by Mr. Mike Ard, a professional engineer and traffic engineer, concludes that there is no documented traffic problem, and even if there was, the development will not contribute to such an alleged problem based on the current accident rates, traffic volumes, or speeds. Opponents offered no evidence of documented traffic problems based on accident rates or traffic volumes, i.e., wait times.

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The speed data was submitted into the record and reviewed by Mr. Ard and found not to be the type of data that would warrant a TIA. He disagreed that the data demonstrated an existing traffic problem notwithstanding some evidence of speeding. Moreover, he concluded that even if such speed data were determined to constitute a problem, the proposed development would not contribute to the problem. The presence of the new intersection is expected to result in a decrease of such speeding – not an increase. Therefore, there is substantial evidence in the record supporting approval of the Decision. Finally, the City’s Public Works Department Traffic Engineer, Tony Martin, has reviewed the proposal and testified through department written comments and oral testimony that no TIA is needed. Therefore, there is no evidence to substantiate an argument that the additional traffic caused by the development will exceed the adopted level of service standards required under the code.

In the alternative, Applicant contends that Opponents’ argument that they have established that there is a documented traffic safety problem violates ORS 197.307(4), as such an interpretation requests the denial of the Applications based on an inherently ambiguous development standard. LUBA has held that a development code requiring an applicant to demonstrate something is “safe” without defining such a standard in an objective manner is prohibited under the needed housing rules. *Rudell v. City of Bandon*, 62 Or LUBA 279, 288-89 (LUBA No. 2010-037, November 29, 2010) (a code standard requiring that the property be “safe to build” is not clear and objective). Similarly, the development standards incorporated herein are those standards contained in the City’s Transportation System Plan (TSP) – not its code. Denial of the Applications based on development standards contained within the TSP and not expressly codified is prohibited. *Oster v. City of Silverton*, LUBA \_\_\_\_ Or LUBA \_\_\_\_ (LUBA No. 2018-103, Opinion May 7, 2019) 7-12.

**2. There is no evidence in the record to support requiring additional sidewalk or road improvements.**

Opponents argue that the finding that SRC 205.010(6) is satisfied is not supported by substantial evidence. Additionally, Opponent’s contention that Applicant’s burden to prove conditions of approval requiring additional street or sidewalk improvements is not constitutional. Opponents are mistaken as to the evidence in the record and they misstate the law. Testimony from Mr. Ard explains that the proposed subdivision will improve the bicycle and pedestrian access in the vicinity by improving Salem Heights Avenue along the frontage of the Subject Property. Moreover, pedestrian and bicycle traffic will be able to make use of the increased connectivity connecting the properties south of Salem Heights Avenue through to Felton Street, Earhart Street and Doughton Street. There is no negative traffic

impact for Applicant to mitigate. This is particularly important as the primary open space and only school within a half-mile is located north of the Subject Property. Applicant's accepted conditions of approval will substantially improve the traffic safety serving this nearby recreational use. The code does not expressly require Applicant to add sidewalks to the approximate quarter-mile to Liberty Street, irrespective of the unreasonable cost or disproportionality as suggested by Opponents.

Applicant renews its argument in the alternative that the City Council is prohibited from reversing the Decision or requiring such a condition of approval as a matter of law. Whether or not the development provides for safe and convenient bicycle and pedestrian access is an inherently ambiguous standard that cannot be the basis for denial or further conditions of approval. ORS 197.307(4). Moreover, even the application of the one-half mile standard is a potentially ambiguous standard capable of multiple reasonable meanings, and therefore, it may not be a basis of denial or additional conditions of approval. If the City were to adopt conditions of approval requested by Opponents, such as being obligated to purchase additional right-of-way or improve all or additional portions of Salem Heights Avenue, such conditions would cause unreasonable cost and delay and would be in violation of ORS 197.307(4)(b) and *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 US 595, 133 S Ct 2586, 186 L Ed 2d 697 (2013).

The estimated construction costs of the Salem Heights Avenue street improvements are in excess of \$170,000.00. This amount is above the costs of the right-of-way acquisition, the costs of construction of the internal streets and sidewalks that will be dedicated to the City upon construction, and in addition to the transportation system development charges (\$2,873.00 per home) assessed to ensure Applicant pays for its proportionate share of costs for reimbursement of the existing transportation system and planned needed facilities. As explained by Mr. Ard, the proposal will not create a negative traffic impact, and it will not cause any road to fail under the City's development standards. The evidence clearly demonstrates any additional conditions of approval would be in excess of what is reasonable and constitutional.

It is the City's burden to prove compliance with ORS 197.307(4). ORS 197.831 ("In a proceeding before the Land Use Board of Appeals or an appellate court that involves an ordinance required to contain clear and objective approval standards, conditions and procedures for needed housing, the local government imposing the provisions of the ordinance shall demonstrate that the approval standards, conditions and procedures are capable of being imposed only in a clear and objective manner.") It is the City's burden to prove compliance with the prohibitions on unconstitutional conditions of approval. *JC*

*Reeves Corp. v. Clackamas County*, 131 Or App 615, 618, 887 P.2d 360 (1994) (*Dolan* held “the “burden” of showing compliance with the applicable Fifth Amendment standard “properly rests” on the governmental body that has “made an adjudicative decision” to place conditions on the approval of a permit for the development of particular property. 512 U.S. at ---- n. 8, 114 S.Ct. at 2316 n. 8, 129 L.Ed.2d at 320 n. 8”). The comment from Opponents that Applicant has somehow failed to demonstrate such additional conditions of approval or denial would not be unreasonable or unconstitutional is factually inaccurate and misstates the law.

**3. A UGA Permit is not needed by the code and is prohibited by state law.**

Opponents’ reiterate their argument that City staff and Applicant have failed to explain why a UGA permit is not necessary.

Applicant’s development does not precede the construction of Salem Heights Avenue as evidenced by the fact it was originally developed as a county road. Opponents’ attempt to equate the fact that Salem Heights Avenue is currently developed below standards provided in the TSP to a circumstance in which Salem Heights Avenue does not *exist*. The construction of Salem Heights Avenue has long preceded the proposed development. The fact that the most recent TSP states that additional improvements should be planned for Salem Heights Avenue is inapposite to SRC 200.010(c). Opponents’ interpretation that any traffic facility within 260 feet of a development site that is currently developed below TSP standard requires a UGA permit is inconsistent with the text, purpose and policy of SRC Chapter 200 and SRC 200.010(c). Opponents may disagree with this explanation and interpretation of the code, but their argument that there is no basis to support such an interpretation is in error.

Applicant renews its argument that in the alternative that the City Council is prohibited from reversing the Decision as a matter of law. If the City were to adopt conditions of approval requested by Opponents, such as being obligated to purchase additional right-of-way or improve all or additional portions of Salem Heights Avenue, such conditions would cause unreasonable cost and delay in violation of ORS 197.307(4) and would be unconstitutional conditions in violation of *Koontz*. Opponents’ convoluted argument demonstrates that the language of SRC 205.010(d)(10) and Chapter 200 are ambiguous. Such standards and procedures that either require approval or denial of the proposal are ambiguous and cannot be a basis of denial under ORS 197.307(4). Moreover, the requirement for a subdivision application to conform with an uncodified TSP unlawfully expands the scope of review of a limited land use decision. ORS 197.195.



**4. Applicant has adequately raised the issue of nonconformance with ORS 197.195 and ORS 197.307(4).**

Opponents' comments suggest that Applicant has not adequately raised the issue that if the City Council were to reverse the Decision or require additional street improvements as conditions of approval, the City Council would violate ORS 197.195 and ORS 197.307(4). Opponents' comments are without merit. Applicant has explained in great detail how these laws generally apply to this case and cited numerous standards and criterion in contention explaining how Opponents' requested interpretation would result in a violation of law.

**5. Real estate law claims should not be a basis for reversal of the Decision.**

Opponents have raised two comments that the proposed development will cause a violation of a third party's legal rights. First, Mr. Rex Anderson testified that the Subject Property was bound by a sale agreement to himself and his wife. He states he will file a claim against the property owner and Applicant. Second, Mr. Bruce Kilby testified that the proposed development will encroach on a driveway located immediately west of proposed Lot 7. Neither allegation is factually accurate and neither allegation is supported by any documentation or other evidence in the record.

The Administrator deemed the Applications complete, including the requisite evidence of authority from the property owner. Applicant's tentative plat identifies that an easement and private roadway serving Mr. Kilby's property will be unaffected by the proposal as the existing improvement is not located on the Subject Property. Applicant's proposal depicts a minor modification to a driveway that splits off of the access easement serving Mr. Kilby's property, but there will be no modification of the roadway serving the Kilby property. Lot 7 will not take access from Mr. Kilby's property or the related easement. There is no evidence to substantiate Mr. Kilby's comments. Moreover, neither Mr. Kilby nor Mr. Anderson have submitted any comments explaining why such claims, even if substantiated, would require reversal of the Decision. Allegations that a proposal may create a private claim for relief or violate a private agreement do not authorize justify denial of a land use decision. *Brydon v. City of Portland*, 2 Or LUBA 353, (1981) ("Restrictive covenants between private parties do not make up the law of the city and may not be used to deny the request") *citing* Anderson, *American Law of Zoning*, at 19.24; *see also Long v. Marion County*, 26 Or LUBA 132 (1993).

**6. Conclusion**

Applicant requests the City Council to affirm the Decision. Opponents disagree with the Administrator's interpretation of the code and weighing of the evidence, but the Decision is consistent

with the plain text of the code and all the findings of fact are supported by substantial evidence. The Applications are for limited land use decisions and needed housing. The City Council must affirm the Decision without modification.

August 12, 2019

Mayor Chuck Bennett and City Council  
c/o Lisa Anderson Olgilvie, Planning Administrator  
City Hall, Room 305  
555 Liberty St. NE  
Salem, Oregon 97301  
*via email lmanderson@cityofsalem.net*

**RE: WREN HEIGHTS SUBDIVISION, SUB-ADJ19-02  
APPLICATION SUMMARY**

Dear Mayor Bennett and Councilors:

This summary of the Wren Heights subdivision proposal is provided for the record on behalf of the Applicant, during Applicant's final rebuttal period.

The subject property is designated Single Family Residential on the Salem Area Comprehensive Plan (SACP) map, and it is correspondingly zoned RS. Single-family homes are permitted outright in the RS zone. Subdivisions are permitted according to the development standards and criteria of the Code, and subject to Administrative Review. The Planning Administrator found that the proposal meets the applicable development standards and satisfies the criteria.

The subdivision proposes 34 lots, of which 33 are residential lots and one is for storm drainage detention and treatment. The lots in the proposed subdivision range from approximately 5,495 sq. ft. to 18,845 sq. ft., and the 33 residential lots average 7,343 sq. ft. The minimum lot size for single-family homes in the RS zone is 4,000 sq. ft.

The property has remained vacant to date by choice of the property owner. It is not designated as public land, open space, or as any type of wildlife or vegetation preserve or habitat.

The proposal represents infill of vacant urban property. It is situated between developed neighborhoods on all sides. Public services exist at the property boundaries, and only need to be extended into the property to serve the development. No major service extensions are required.

The property is close to the city center, close to schools, and close to commercial services including food stores, restaurants, and personal and financial services, among others. These nearby services can reasonably be reached without the use of a motor vehicle. The development of public streets within the property will improve the connection between the neighborhoods to the north and south for all modes of transportation.

The ready availability of public services, and its location, cause the property to be a preferred location for new residential use within the city, and serve to maintain and promote compact urban development.

The surrounding neighborhoods mainly developed long before the density standards and improvement requirements of the City's currently adopted development policies and Code. While the surrounding neighborhoods exhibit their own particular character and charm, under existing State and local land use directives, policies, and requirements, it is not appropriate or possible for the proposed development to replicate the development pattern of these existing, older neighborhoods. The requirements to provide additional housing in urban areas is further emphasized by recently adopted State legislation, HB 2001, which enables various forms of increased density housing in single-family zones. Significantly, that legislation allows a local government to allow such housing without consideration for whether transportation facilities will be significantly affected.

For these reasons, along with the others that have been provided in support of this application, we request that the Planning Administrator's Decision be affirmed.

Thank you.

Sincerely,  
[signed]

Jeffrey R. Tross  
*Tross Consulting, Inc.*

## Amy Johnson

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**From:** Finance  
**Sent:** Monday, August 12, 2019 3:14 PM  
**To:** Amy Johnson  
**Subject:** FW: Payroll and utility tax

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**From:** Jenny Ammon [mailto:jlawler3@hotmail.com]  
**Sent:** Monday, August 12, 2019 2:30 PM  
**To:** Finance <Finance@cityofsalem.net>  
**Subject:** Payroll and utility tax

I plan on attending the city council meeting tonight in opposition of the two proposed taxes. I recently had the Salem Keizer school district increase my property taxes. I have utility charges, gas taxes, and pay all of them.

These fees are punishing hard working middle class for doing the right thing. We pay taxes, we pass bonds for improved safety and schools and now we are going to pay more out of our shrinking payroll to fund city functions. When we teach our children about budgeting we discuss items we can live without first...not who do we ask for money to maintain this lifestyle. 1.4 million dollars PLUS is going toward homeless people who don't pay into the system. Our services are being abused by folks who aren't putting into the system.

I hope we can work together to find a better solution that further taxing our hardworking Salem residents.

Thank you,

Jenny Ammon

563.580.5272

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## Amy Johnson

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**From:** noreply@cityofsalem.net on behalf of nwbaxter11249@gmail.com  
**Sent:** Monday, August 12, 2019 9:07 AM  
**To:** citycouncil  
**Subject:** Contact City Council  
**Attachments:** ATT00001.bin

|            |   |
|------------|---|
| Your Name  | Norm Baxter   |
| Your Email | nwbaxter11249@gmail.com   |
| Your Phone | 5036023551  |
| Street     | 980 Lefor Dr. NW  |
| City       | Salem   |
| State      | OR  |
| Zip        | 97304   |
| Message    | <p>City Councilors: I am writing to express concerns about the proposed employee payroll tax. After reviewing the effect of this tax using a calculator provided by the city, I am disappointed to find that this is essentially a flat tax designed to lessen the impact on the wealthy while increasing the burden of those who can least afford additional taxes. Although this is a tiered tax, it is in reality a flat tax that favors the wealthy. Someone making \$200,000 annually would pay the same percentage as someone trying to support a family of four on Oregon's estimated median income of \$74,000. While those making below \$15. an hour are provided for, as well as those who make less than minimum wage, this assessment adds to the tax burden of families receiving median income or below, but making too much to qualify for a reduction in their taxes. Additional tiers need to be added so that the wealthy, who benefit most from their residence in Salem, pay more taxes. This tax is potentially a good way to meet the needs for city services. The council should not let it become yet another instance of government action worsening income inequality by policies favoring the already well off.</p> |

This email was generated by the dynamic web forms contact us form on 8/12/2019.

## Amy Johnson

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**From:** Susann Kaltwasser <susann@kaltwasser.com>  
**Sent:** Monday, August 12, 2019 3:30 AM  
**To:** citycouncil; CityRecorder  
**Subject:** Ordinance Bills 11-19 and 12-19 regarding a payroll tax and operating fee to fund City services.

Members of the Salem City Council and Mayor Bennett,

Regarding the Ordinance Bills 11-19 and 12-19 regarding a payroll tax and operating fee to fund City services.

Even though I am retired and live on a fixed income, I don't object to either of the proposed fees, but I do think that there needs to be a relief program for low-income people, especially the operating fee for city services. The relief should be in addition to the elderly and disabled relief program for water and sewer.

There should be some relief for all individuals and families whose income is at the poverty level, as well as, for the elderly and disabled. The City can't keep putting fees on the bill for essential services like water, without consideration of people's ability to pay more.

The Utility Rate Relief Program is good, but it does not go far enough. It helps with utilities, but now you are adding this higher general fee to it without adding to the relief provided. \$10 a month for both fees (utilities and this service fee) is not enough to provide adequate relief. Water and sewer are essential for all people whether young or old. I don't think you want to add this fee and then see more households lose their water services. I also think you would be remiss if you did not track the impact of the shut off numbers prior to and after implementing such a fee. You need to know if it is adversely impacting Salem residents. The assumption that this is a small amount for a big benefit, may not be correct especially if it hits some people harder than others. Beware of unintended consequences, please!

Current language regarding the Utility Relief Program says:

Salem offers a utility rate relief program in the form of a monthly discount on single-family residential utility bills for qualified elderly or disabled customers meeting program requirements. Households are limited to receiving only one Utility Rate Relief discount. Customers must reapply for the program each year to continue receiving the monthly discount. The proposed ordinance provides a discount equal to the residential rate for qualified residential customers who are approved for the program.

So, this needs to be amended to include the Operating Fee as well.

Also, the lack of sufficient property taxes to fund the general services of cities is a state-wide problem due to Measures 5 and 50. I would like to see Salem join with other cities and agencies to look at repealing these laws, so that we can get back local control of our general funds and let citizens go back to voting on how we want to be taxed on.

Thank you for your consideration of my concerns.

Susann Kaltwasser  
Ward 8

## **Amy Johnson**

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**From:** Finance  
**Sent:** Friday, August 09, 2019 12:10 PM  
**To:** Amy Johnson  
**Subject:** FW: Written Comment - Ordinance #'s 11-19 & 12-19  
  
**Categories:** Follow-up

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**From:** DOUGLAS LUTH [mailto:towken@comcast.net]  
**Sent:** Friday, August 9, 2019 11:42 AM  
**To:** Finance <Finance@cityofsalem.net>  
**Subject:** Written Comment - Ordinance #'s 11-19 & 12-19

Please file my written statement below with others regarding the above matter.

Thank you!

### **WRITTEN COMMENT**

Ordinance Bill #'s 11-19 & 12-19

August 9, 2019

### **NO MORE TAXES, FEES OR ADD-ONS TO UTILITY BILLS ETC.**

I do not support the imposition of any more fees, taxes etc. without a vote by the residents of the City of Salem.

If additional funds are needed for the general fund; how about reviewing city expenditures?

Suggested areas of savings could be:



- Discontinuing future property tax exemptions given to businesses and others.
- Has a review of tax exempt property owned by all of the various governmental agencies and tax exempt entities in the city ever been made? It's effect upon our property tax rate?
- Get City government out of the social service business!

The City should confine itself to providing fire, police, water/sewer, roads.

Again, No more taxes fees etc. without a public vote by City Residents!!!

Douglas J Luth

4760 20<sup>th</sup> Ave S.

Ward #7

cc

## Amy Johnson

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**From:** Lora Meisner <lmgb@earthlink.net>  
**Sent:** Sunday, August 11, 2019 2:23 PM  
**To:** Chuck Bennett; citycouncil  
**Subject:** re: Funding options for city

**Categories:** Follow-up

Dear Mayor and Council,

We believe that it is important to fund city services so everyone benefits. We also think that everyone should pay their fair share to keep our services growing. We think having what amounts to a commuter tax—people working here and using our services but not living here to pay taxes for them—is a good thing. We're not against an operating fee either. Our major objection is the same as our objection regarding federal taxes—the middle class and people of lesser means end up with the brunt of the burden while the wealthy and corporations pay little or nothing. Amazon just built a huge facility here in Salem and received all sorts of tax incentives, variances with regard to the development of their facility and federally Amazon pays no taxes.

Why is it that rich developers—most of whom don't even live in Salem—get huge tax breaks and variances for their developments which end up costing the city revenue with regard to providing services and now WE have to make up for years of fiscal giveaways by the city? REALLY?

We realize that past mistakes can't be corrected.....but the city can prevent future giveaways and variances by having better city policies or changes in city codes—Is that going to happen to off-set future fiscal problems in the city?

How about raising city's fines with regard to development and stop all the giveaways via city variances? If a developer removes more trees than they should why not fine them \$10,000 per tree—now that would be an incentive to do the right thing? How about making all developers responsible for contributing to the communities they are developing in—not while we pay for their infrastructure and they go and live in mansions in California?

Our city needs to have adequate services for its citizens.....however, as present city councilors you now have an opportunity (unlike past city councils) to make sure that moving forward that the city turns over a new leaf and make those who profit the most start paying their fair share.

-----  
Lora Meisner & Glenn Baly  
1347 Spyglass Court SE  
Salem, OR 97306  
503-588-6924

**Amy Johnson**

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**From:** Dirk Moeller <dirk@bcanswer.com>  
**Sent:** Monday, August 12, 2019 12:54 PM  
**To:** citycouncil  
**Subject:** Let Salemites Vote on Operating Fee and Payroll Tax

**Salem City Council:**

Implementing two revenue proposals without letting constituents vote on them demonstrates another poor decision by the city council. The NEW operating fee and the NEW payroll tax are NOT small fees. Salem residents demonstrated their generosity when we voted "Yes" to fund School construction, library remodeling and construction of a new police station. Our property taxes rose by 16.3% in 2017. However, every citizen should feel uneasy when new far-reaching taxes are enacted without a chance to vote. The Salem City Council should re-read that famous quote from 19<sup>th</sup> century British politician Lord Acton... ***"Absolute power corrupts absolutely"***. Why are you afraid to let the citizens of Salem vote?

FYI – Business Connections has been located in downtown Salem since 1949. We also provide profit sharing and health insurance to our 32 employees

Sincerely,

Dirk Moeller  
Business Connections - ***Never Underestimate the Power of the Personal Touch***  
International Award Winner for Outstanding Service for 22 consecutive years (1998 – 2019)  
660 High Street N.E.  
Salem, Oregon 97301  
503-363-0056  
[dirk@bcanswer.com](mailto:dirk@bcanswer.com)  
[www.bcanswer.com](http://www.bcanswer.com)

## Amy Johnson

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**From:** noreply@cityofsalem.net on behalf of dirk@bcanswer.com  
**Sent:** Monday, August 12, 2019 12:42 PM  
**To:** citycouncil  
**Subject:** Contact City Council  
**Attachments:** ATT00001.bin

|            |   |
|------------|---|
| Your Name  | Dirk Moeller  |
| Your Email | dirk@bcanswer.com   |
| Your Phone | 5033630056  |
| Street     | 660 High ST NE  |
| City       | Salem   |
| State      | OR  |
| Zip        | 97301   |
| Message    | Implementing two revenue proposals without letting constituents vote on them demonstrates another poor decision by the city council. The NEW operating fee and the NEW payroll tax are NOT small fees. Salem residents demonstrated their generosity when we voted "Yes" to fund School construction, library remodeling and construction of a new police station. Our property taxes rose by 16.3% in 2017. However, every citizen should feel uneasy when new far-reaching taxes are enacted without a chance to vote. The Salem City Council should re-read that famous quote from 19th century British politician Lord Acton... "Absolute power corrupts absolutely". Why are you afraid to let the citizens of Salem vote? |

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## Amy Johnson

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**From:** Jim Scheppke <jscheppke@comcast.net>  
**Sent:** Sunday, August 11, 2019 7:28 PM  
**To:** citycouncil  
**Cc:** CityRecorder  
**Subject:** Testimony on Agenda Item 4.b. at the 8/11/19 Council Meeting

Dear City Council:

As a 33 year resident of Salem I strongly support the staff recommendation to begin enactment of a payroll tax and operating fee to fund City services. There can be no doubt that the City is in need of new sources of revenue to fund essential City services. The two revenue sources being considered were developed by a broad-based Revenue Task Force that worked diligently to find the best options to meet our needs.

I am particularly pleased with the payroll tax recommendation, which will for the first time have thousands of "free riders," who work in Salem but do not live here, begin to support the services they have utilized, but not supported in the past. When I was the head of a state agency here, my staff included residents of Eugene, Corvallis, Portland, Tigard, and even Forest Grove! It is high time that everyone who works in Salem does their part to support our City services.

I am not in favor of referring these revenue proposals to voters. This would involve expensive and divisive campaigns that we need to avoid by having the Council exercise appropriate leadership. Having led a \$20,000 campaign to pass the library bond measure in 2017, I know firsthand what it takes to win an election in Salem. In addition to being costly, it takes lots of work and lots of volunteers. If you put this on the ballot who will step up to do this? If you don't know then please exercise your responsibilities as elected leaders and pass these revenue proposals that are so obviously needed to avert catastrophic cuts to City services.

We are counting on you to lead!

Sincerely,

Jim Scheppke  
1840 E Nob Hill SE  
Salem, OR 97302  
jscheppke@comcast.net  
503-269-1559

## Amy Johnson

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**From:** Finance  
**Sent:** Monday, August 12, 2019 3:15 PM  
**To:** Amy Johnson  
**Subject:** FW: Comments re: Revenue Raising Options Public Hearing  
**Attachments:** RevenueOptions\_LettertoSalemCC\_081219.pdf

**From:** Willamette Valley GAD [mailto:willamettevalleygad@gmail.com]  
**Sent:** Monday, August 12, 2019 10:57 AM  
**To:** Finance <Finance@cityofsalem.net>  
**Cc:** Craig Evans <craig@crowrealestategroup.com>; Jean Wheat-Palm <jean@midvalleyassn.realtor>; Kelly Martin <kelly@oregonmartingroup.com>; Patrick Sieng <patrick@rogwv.com>  
**Subject:** Comments re: Revenue Raising Options Public Hearing

Hello - Attached please find a letter submitted on behalf of the Mid Valley Association regarding tonight's public hearing re: wage tax and operations fee. Could you confirm that the letter was received and copies will be provided to the Mayor and City Council?

Thank you and regards,  
Holly

--

**Holly Sears**  
**Government Affairs Director**  
**Mid Valley Association of REALTORS**  
**HDS Consulting, LLC**  
**(503) 931-0876**  
[willamettevalleygad@gmail.com](mailto:willamettevalleygad@gmail.com)



**MID-VALLEY ASSOCIATION OF REALTORS®**

**August 12, 2019**

**TO: Salem City Council**

**FR: Kelly Martin, President  
Mid-Valley Association of REALTORS®**

**Patrick Sieng, Chair  
Government Affairs Committee**

**Holly Sears, Government Affairs Director  
[willamettevalleygad@gmail.com](mailto:willamettevalleygad@gmail.com)**

**RE: Proposed Revenue Options to Fund City Services**

On behalf of the more than 1100 members of the Mid-Valley Association of REALTORS® (MVAR), thank you for the opportunity to comment on the proposed revenue options for the City of Salem. We appreciate the time and effort of City Staff and members of the Sustainable Services Revenue Task Force on coming up with the proposed options.

MVAR wholeheartedly supports the unanimous recommendation of the Task Force that any new tax or fee should be referred to the voters. Housing affordability in Salem is a real issue. If both revenue options pass, a Salem resident who owns a single-family home and makes \$50,000 per year would pay close to an additional \$300 annually. The impact of these fees are significant and Salem residents should have a voice in letting the Council know if they can bear this additional cost.

Thank you for your consideration of our comments and for your service to the City of Salem.

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## Amy Johnson

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**From:** Paul Tigan <paultigan@gmail.com>  
**Sent:** Monday, August 12, 2019 12:53 PM  
**To:** citycouncil; CityRecorder; SALEM Manager  
**Cc:** Cara Kaser  
**Subject:** Public Comment on Sustainable Revenue Hearing

Councilors and Mr. Mayor -

As the Ward 1 representative on the City of Salem's Citizen Budget Committee, I want to voice my support for the payroll tax and operating fee up for public hearing this evening. For the last two budget cycles - and certainly years before - we have discussed the general fund's structural imbalance. The cost of providing essential city services continues to rise, but the city's ability to raise revenue to pay for these services through traditional property taxes is very limited. Our committee voted to recommend a budget this year that spent a significant amount of the city's "savings account", but such a habit is just as unwise for our city as it would be for a family.

And though a family may have the ability to trim expenses here and there to balance their budget, our city's responsibilities and expectations on the city from our residents continue to grow. The council and city staff have done lots of work over the last few years to identify the priorities of the city residents and develop a budget process that aligns our fiscal decisions with those priorities.

This may sound like a regurgitation of what we as budget committee members already know. But I think it is important to put it in the record as a resident who volunteered to examine the city's finances - most of our residents do not have the luxury of studying the city's finances the way our committee has.

There is a saying that the right time to plant a tree was twenty years ago. That adage may apply here as well. The city's general fund is likely to fall outside of council policy if establishing these revenue sources takes longer than another budget cycle or two. The council and city has done the work of justifying these measures and should vote on them on their merits rather than referring them to voters. Like has occurred in other municipalities, the city budget's structural imbalance will persist even if the voters reject a measure for additional revenue.

My one technical question, unanswered in my review of the materials, is why the \*wage\* tax is not an \*income\* tax. The council has tried to make the structure less regressive, but this proposal would omit rental income, capital gains, annuities, etc. in favor of a levy on only wages earned from an employer.

Thanks for your consideration,  
Paul Tigan  
Ward 1



## Amy Johnson

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**From:** Bob Sanders <Bob@htipllc.com>  
**Sent:** Monday, August 12, 2019 2:38 PM  
**To:** CityRecorder; Glenn Davis; Peter Fernandez; Don Whitehurst  
**Cc:** Hans Thygeson; Bob Sanders; John Lewis  
**Subject:** Addition written public comments for the August 12, 2019 Salem City Council meeting Item 5.a. 19-370  
**Attachments:** Riverbend Heights Apartments, LLC dba Aspen Grove Apartments.PNG

August 12, 2019

Salem City Council

Re: Additional written public comment for

August 12, 2019 Salem City Council Meeting

Agenda item 5.a. 19-370

Dear City Councilors,

I was greatly disappointed that neither I nor my staff were given adequate prior notice of the July 22, 2019 public hearing regarding the Aspen Grove Sewer Reimbursement District (Item 4.b. 19-336). At the time the notice was sent to my home address I was away on business, but had cellular service, email and was in regular contact with my staff who were delegated to work with City staff on the reimbursement district. I am frequently away from home on business and do not use my home address for any business. Upon my return, I receive the hearing notice in my home mail box on July 23, 2019, a day after the hearing.

Glen Davis indicated to my staff the day after the public hearing that he obtained my home address from my Riverbend Heights, LLC registry with the Secretary of State for the Aspen Grove Apartments. The registry clearly states the principle place of business is my corporate office at 14020 SE Johnson Rd., Suite 102, Milwaukie, OR 97267, not my home address. Not only did I not receive notice of the public hearing at my principle place of business, I did not receive a notice at the Aspen Grove Apartments address. Bob Sanders in my office has been working diligently with Lyle Misbach and Glen Davis in the Public Works office for well over a year trying to get the reimbursement district set up. Bob didn't even receive a courtesy email notice or phone call prior to the public hearing.

I have been developing multi-family projects in the City of Salem for almost 15 years. The Land Use Planning, Public Works Department, and Building Department staff all have my personal Cell Phone, Email address and contact information. Glen Davis also has contact information for Bob Sanders, along with our corporate office mailing address in the signature on every email Bob has sent to Glen. The City of Salem departments have had a long history of mailing to our business address. We have had a number of large projects in construction and land use over the last year in the City of Salem without a problem having City staff reaching us by cell phone or email or receiving any City correspondence by US Postal Service at our business address until this time.

After the millions of dollars I have paid in SDC fees to the City of Salem, for City of Salem infrastructure, to Polk and Marion counties, and to the City of Salem in property taxes on some of the finer housing projects, I would greatly appreciate an opportunity to state our case to the City Council, and, for the record, to straighten out a number of misstatements and falsehoods made by neighbors and City staff at the July 22, 2019 public hearing which influenced the Councilors to deny the reimbursement district. I have had a long history of working in the City of Salem and have several multi-million dollar projects slated for development in the next couple years. I would greatly appreciate the opportunity to reopen the public hearing, so I can clear up the misrepresentations, address the Councilor's concerns over the reimbursement district, and clear my name. As I have stated above, I did not receive adequate notification of the July 22, 2019 public hearing and would like to have the public hearing reopened.

Thanks for granting this request.

Sincerely,

Hans Thygeson

Property Owner

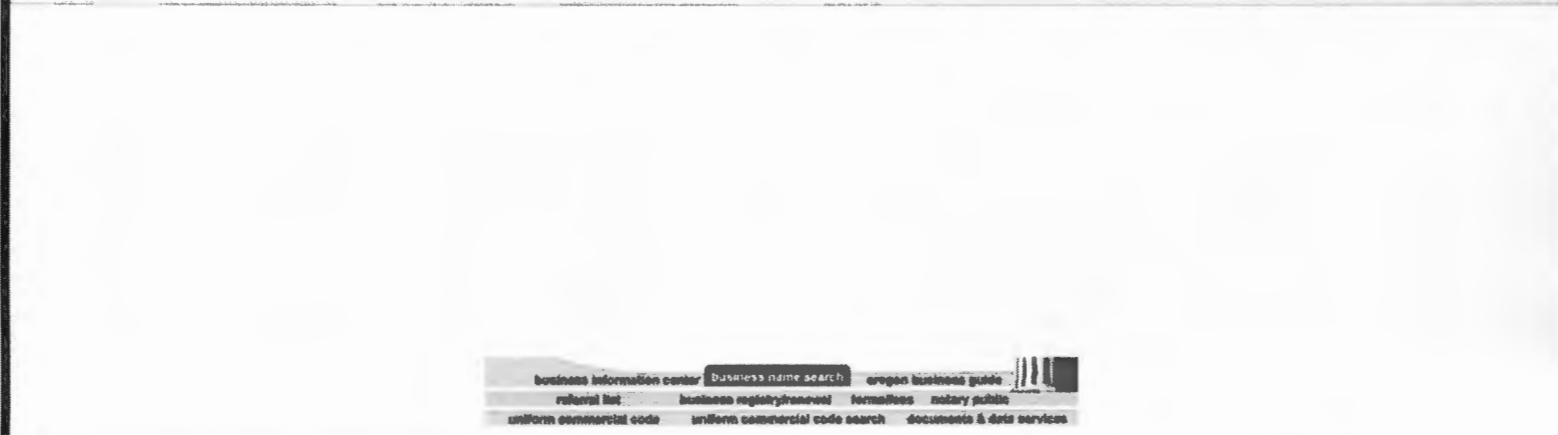
Riverbend Heights Apartments, LLC

Dbas Aspen Grove Apartments

14020 SE Johnson Rd., Suite 102

Milwaukie, OR 97267

503-908-0546



Business Name Search

| Business Entity Data |                                   |              |               |                   |              | 08-12-2019 12:00 |
|----------------------|-----------------------------------|--------------|---------------|-------------------|--------------|------------------|
| Registry Nbr         | Entity Name                       | Foreign Name | Registry Date | Next Renewal Date | Renewal Due? |                  |
| 858713-91            | RIVERBEND HEIGHTS APARTMENTS, LLC |              | 05-24-2012    | 05-24-2020        |              |                  |
|                      |                                   |              |               |                   |              |                  |

| Associated Names |                          |                             |       |         |                          |
|------------------|--------------------------|-----------------------------|-------|---------|--------------------------|
| Type             | PPB                      | PRINCIPAL PLACE OF BUSINESS |       |         |                          |
| Addr 1           | 14020 SE JOHNSON RD #102 |                             |       |         |                          |
| Addr 2           |                          |                             |       |         |                          |
| CSZ              | MILWAUKIE                | OR                          | 97267 | Country | UNITED STATES OF AMERICA |