

To: Salem City Council

From: E.M. Easterly 

Re West Bank Basin Stormwater SDC small conveyance funds land purchase appeal
Document #2

Date June 12, 2020

City Attorney Dan Atchison in a May 6th memo to the Salem Budget Committee stated the following:

“As set forth in ORS 223.307, in order to use SDC revenue for a capital improvement, the improvement (or project) must be included in the applicable “plan,” and included in the list of eligible projects required under ORS 223.309 (known as the “309 list”). In this case, the projects that utilized FY19 and FY20 Stormwater SDC revenues were all included within the 5 percent allowance for small projects in the City’s stormwater master plan and in the City’s Stormwater Methodology and 309 list.”

I fully concur with Mr. Atchison; a stormwater SDC project must be included in the applicable plan. Mr. Atchison goes on to explain: “the projects ... were all included within the 5 percent allowance for small projects ...” That apparently was staff intent.

Unfortunately, neither Mr. Atchison or other staff members carefully read the “plan” (2000 Salem Stormwater Master Plan) description of what type of projects are permitted to utilize the 5 percent allowance. The precise wording applicable to the 5 percent allowance states: “Small conveyance improvement allowance”.

The purchase of land does not qualify as a “small conveyance improvement.” Nor did the purchase conform to ORS 223.307(4)¹ for three reasons. (1) No Stormwater SDC funded project was budgeted for FY 2019-2020. (2) The capital expenditure of Stormwater SDC funds were not referenced in the Salem Stormwater Master Plan nor specifically included in the FY 2019-2020 budget as a small conveyance project. (3) No mid-year modification of the FY 2019-2020 budget was adopted by the Salem City Council to include the purchase 298 Taybin Rd NW property as an eligible Stormwater SDC funded project as required by ORS 223.307(4).

As I described in my original appeal document (See: May 20th Memo SWMP 5% language) the purchase of 298 Taybin Rd NW staff report failed to describe any small conveyance improvement when explaining the land purchase. Absent such reasoning I, again, request that the Salem Stormwater SDC revenues expended to purchase 298 Taybin Rd NW be returned to the Stormwater SDC fund in accordance with SRC 41.180(c).

¹ “Any capital improvement being funded wholly or in part with system development charge revenues must be included in the plan and list adopted by a local government pursuant to ORS 223.309.”