

**From:** [Michael Steffeck](#)  
**To:** [Council Clerk – Testimony](#)  
**Subject:** Quail Post Road LID  
**Date:** Monday, September 21, 2020 3:23:12 PM

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Greetings,

I am a homeowner in Quail Park. I wish to put forth my written testimony that I am in favor of the LID for water main improvements. I believe it is the best course of action for the long term health of the neighborhood.

I do, however, share a concern with some other members of the community:

According to the various documents I have received, it seems the LID price will be set before the city takes over responsibility for the water system. If that is the case, what happens if something major breaks in that meantime? Will the city step in and make the repairs? Or will the HOA be responsible? If the HOA is responsible, shouldn't the price of the LID be adjusted?

Thank you for your time,

Michael Steffeck  
9921 SW Quail Post Rd.  
Portland, OR 97219



September 27, 2020

Karla Moore-Love  
Council Clerk  
Portland City Council  
1221 SW 4<sup>th</sup> Avenue, Room 130  
Portland, OR 97204

Cardno

6720 S Macadam Ave.  
Suite 150  
Portland, Oregon 97219  
USA

Phone: +1 503 419 2500  
Fax: +1 503 419 2600

**Subject: Resolution No. C-10070 – Quail Post Road Local Improvement District**

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

Thank you for the opportunity to provide public comment on this resolution. When the possibility of the LID project was broadcast beyond just the Association Board Members, to the entirety of the home owners at the July 16<sup>th</sup>, 2020 video conference, I like many others on the call were shocked at the nearly \$45,000 price tag that each of us individually would be on the hook for in 2039 if the LID resolution was adopted. That \$45,000 is more than twice what I needed to come up with for my down payment when I bought my house in 2012. Even more unnerving at the time was the thought of what a “pending lien” on my house for 19 years might do to my property value and equity in my home.

I am a licensed Civil Engineer who has work land development and transportation projects for over 17 years. My initial take was that they Water Bureau’s cost estimate for the project had to be way out step with reality. I set about generating my own cost estimate for the project based on current data from my projects, as well as input from colleagues at other local firms. I found that in terms of current dollars, the Water Bureaus estimate was in line with what it would take for the Home Owner’s Association to undertake the water improvement work privately.

Given this information, and the fact that under the LID the Portland Water Bureau would assume system maintenance responsibility and cost moving forward, I am in support of the LID resolution. It will ensure safe and ongoing water supply to our neighborhood, and prevent any future need for special assessments to the homeowners in the event of any future water system issues.

However, given that Quail Park residents, as an HOA, have been paying City water rates for nearly 50 years, I would appreciate consideration of putting additional CIP dollars into this project, and reduce the burden on the individual home owners. If we had been being served by well water, and were asking to switch to City water, I think that would be a different case, like if we were asking the City for curbs and sidewalks that we weren’t previously paying fees for. I am looking at alternatives for funding my \$45,000 share if that is what it comes down to, but I would appreciate consideration of CIP funding in addition to the 30% credit for the fair market value of our existing system. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Russell Montgomery".

Russell Montgomery, PE  
10005 SW Quail Post Road

Project Manager  
Cardno  
+1 503 419 2515  
[russell.montgomery@cardno.com](mailto:russell.montgomery@cardno.com)

**From:** [Russell Montgomery](#)  
**To:** [Council Clerk – Testimony](#)  
**Subject:** Written Testimony for Agenda No. 785, Resolution C-10070  
**Date:** Sunday, September 27, 2020 8:36:14 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[Resolution C-10070 Testimony-Russell Montgomery.pdf](#)

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Hello,

Please accept and distribute my attached written testimony Agenda No. 785, Resolution C-10070 for the upcoming Council meeting on September 30<sup>th</sup>. Thank you.

-Russell

**Russell Montgomery PE**

PROJECT MANAGER

CARDNO



Office +1 503 419 2500 Direct +1 503 419 2515

Address 6720 S Macadam Ave Suite 150, Portland, Oregon 97219

Email [russell.montgomery@cardno.com](mailto:russell.montgomery@cardno.com) Web [www.cardno.com](http://www.cardno.com)

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## Quail Post Road LID Item No. 7859/30/2020

Council Testimony by

John Gibbon

My name is John Gibbon I lived on Portland's SW Quail Post Road since 1995 and in or close to SW Portland for 45 years.

I am member of the Quail Park Association Board of Directors and am a recently retired attorney. As both a citizen volunteer and in the practice of my profession I have appeared before this council and otherwise worked on matters directly involving the Portland Water Bureau for 31 of the past 44 years. This involvement included five years (2010-2015) of service as the Westside Representative on the Public Utility Review Board, that the Public Utility Board replaced in 2015.

In all candor the PURB position is one I sought, with Commissioner's Fritz gracious assistance, because it then fit with my involvement with the Markham Neighborhood Association and SWNI as their Land Use chair. I also sought it particularly because I recognized it fit or soon would fit with my Quail Park residency. As an experienced real estate and community association attorney I then recognized how important it was going to become that the Quail Park HOA have knowledgeable person available to it to co-ordinate the management of its private infrastructure with the City. From my professional experience first with assisting development of and then representing owners in condos and planned communities I was aware that Quail Park's 1970 era privately owned PUD improvements (its water, storm water and transportation systems) were reaching the end of their useful lives.

My professional background also made me aware that while Oregon does provide legal directions to enable these community associations to maintain and repair some "common elements" it is manifestly not these particular systems. Only common elements with useful lives from one to thirty years (basically items related to individual buildings and maybe roads) are covered by Oregon's law requiring financial reserves and maintenance programs. There are no directive mechanisms for the associations management of the longer lived and yet essential infrastructure, like a water systems. According it has always be my judgment was this made it essential that Quail Park be able to **coordinate** with responsible City Bureaus as it faced its oncoming infrastructure challenges.

The timing of my ending my service on PURB was fortuitous because within six months QPA needed me to begin working with the City to resolve a series of **PROBLEMS IMPACTING THE QUAIL PARK WATER SYSTEM**. These included-

Beginning in **late 2015 and continuing into 2016 a leakage problem** that had drove up QPA's collective **water bill up by one third. Assisting with the private of repair what proved to be a system leakage problem** made **PWB aware** that **QPA needed to install a backflow device** protecting the city distribution main in the 2800 block of SW Ridge Drive at its metered connection with the QPA supply line. Addressing these s problems revealed that – 1.) Because of the configuration of the system the association was unable to qualify for the standard user leak adjustment discount (the size of the system prevented finding and repairing the leaks within the time specified in the ordinance); and, 2). It also resulted in the determination that the installation of a typical backflow device appeared to be so legally and technically constrained that it would, at least, require a PWB consent to a backflow location variance.

In 2017 private surveying and engineering efforts intended to establish whether a variance was actually needed produced results that enhanced the concerns regarding the location of QPA sole supply line in relation to a backflow device's installation. This made it apparent that any such installation was only likely going to be possible with direct action in coordination with the PWB as it was apparent optimum installation could only be safely attempted if PWB was prepared to allow emergency supply connection from its adjoining fire hydrants into hydrants within the QPA private system.

In 2018 boring activity related to the sale of a property adjacent to the QPA supply line demonstrated that dependence on single private supply line not shown on Portlandmaps.com could create an unreasonable risk to QPA's 95 system water users.

Also in late 2018 a deterioration in a fire hydrant within the QPA system demonstrate that firms involved in maintenance of private fire suppression systems limit (apparently for liability reasons)their work to industrial and commercial business properties. This prompted an emergency request to PWB for specialized onsite fire hydrant advice and supervision in order to protect the sole supply line and homes adjacent to it when the association's general plumbing contractor was unable to successfully resolve a hydrant leak affecting the area near the line.

In 2019 onsite consultation with senior PWB personnel lead QPA to consult with a licensed engineer preliminarily to the association to, at least, requesting the backflow variance from PWB. The onsite consultation and engineering evaluation raised sufficient questions about the sole source supply line that preliminary work (potholing ) to evaluate the feasibility of PWB takeover of the QPA seemed warranted before any project action was undertaken. The result of that inspection and a careful review of the history of Quail Park's development approvals prompted PWB evaluation of both backflow alternatives for the current sole supply line as well as construction of alternative connections supplying the QPA system from either or both the 2500/9500 block of SW Lancaster Road or the 2800 block of SW Huber Street.

In 2020, pre -Covid , QPA was prepared to conduct negotiations with PWB about mechanisms such as petition supply line improvement to SW Lancaster Place to effectuate a connection with the QPA system together a service connection across SW Huber into Quail Park. When we met for that purpose we were informed that responsible City staff judged the situation with the Quail Park water system to be of such significance that they were going to recommend to City Council that a "Deltawood" style Local Improvement District should be formed for the purpose of taking over the entire system.

I am familiar with the "Deltawood" LID because my owner oriented community association legal practice together with my experience with condemnation and inverse condemnation law, lead an owner of a unit in the "Snookies Corner" project affected by this mid 2000s LID to seek my counsel on the legal issues created by the City's takeover of that condominium project's water and sewer system. During my years of practice, I spent approximately nine years representing local governments and had substantial experience with condemnation work for those agencies in matters preliminary to trial. Likewise I spent an at least an equal amount of time in private practice handling individuals and businesses condemnation and inverse condemnation claims. This included an appearance in federal court in a local case on remand from the US Supreme Court where it had made significant addition to "taking" jurisprudence. In addition I litigated and settled a case in Multnomah County Circuit Court that involved the addition of a sizable piece of land to Forest Park. Given that background and the dire condition of that condominium's water and sewer system my advice to that Snooky's Corner owner was that although the City's action was effectively a taking there was no way to show that this "damaged" any property included in the LID sufficiently to constitute a "compensable" taking.

**Based on my professional experience I do believe that utilizing the “Deltawood’ LID model to address the Quail Park water system is an absolutely legitimate exercise of the City authority to protect the public interest by “taking” ownership of private property.**

Because of my fairly recent my involvement working as a volunteer advisor to the PWB and this council it is something, even now, I personally feel ethically constrained from directly asking the Council to commit to this LID. In part that is because it is a “big ask” that will personally benefit me and all of my fellow Quail Park water system users and I know that this Council is and will be facing a full plate of “big asks” as we climb out of the current public health and economic crisis.

In equal part it is because I am of the opinion the LID proposal, while being the safest most rational and cost effective approach for both the Quail Park owners and the City, in essence constitutes a taking of private property. This means the value of the Quail Park Association’s functioning water system that will need to be compensated for by some mechanism within the LID that will appropriately shift costs ordinarily internalized within the improvement district back onto the City. This will be a complicated (and perhaps controversial) process that I was not and am not professionally comfortable with advocating the City more or less test out for the benefit of the Homeowners Association in which I live even as I am absolutely convinced it is the best and most equitable way to address the Quail Park water system’s situation.

I hope the council understands this is a course that, given my previous involvement with setting City policy related to the its water and sewer infrastructure bureaus, I am hesitant to espouse as it appears to give rise to a conflict of interest when I urge that such an agency follow a policy that give me, personally, a benefit. Nevertheless I feel something akin to a “rule of necessity “ compels me to raise this issue as it is one of clear of constitutional import for each and every Quail Park owner but individually and perhaps collectively, is not of sufficient financial magnitude to otherwise be effectively asserted.

The record should reflect that the alternatives upon which the financial impact for the establishing Quail Post Road LID is premised are two connections to the City of Portland’s water system, one across Huber Street and the other through the unimproved SW Lancaster Place right of way. These chosen locations are where the association should as a “matter of right” be allowed to make that connection without having to deal with the City’s environmental overlay zone. Using these points as opposed to the alternative pipeline locations subject to environmental regulatory uncertainty permits a reasonable definition of costs involved to be made, thus establishing a basis on which to judge the economic effect of the LIDs taking on the individual owners using the Quail Park water system. The use of the actual discrete assessment (approximately \$45,000 per lot) produced by that analysis as opposed to a useful life of 30% that has been given as basis of the fiscal impact, was essential to the determination by Quail Park’s owners to generally support entering into this LID. Given that there is taking involved in the creation of this LID **the discrete assessment amount is a detail of constitutional import.**

Regardless of the constitutional limitation on the City’s range of financial discretion in this particular LID outlined above, in my opinion, this LID is, for both practical and policy reasons, a totally viable and appropriate endeavor for the City.

Practically this is so because the Quail Park PUD was specifically developed in accordance with conditions of approval the enabled the development of public sewer mains through the property that serve at least 60 properties uphill from and outside Quail Park. Its development also resulted in the enhancement of a drainage way that appears to handle the storm water needs of approximately 100

residences outside the PUD. Quail Park's approval and development also resulted in a "public pedestrian pathway" (and an "as notated pathway" on the current supply line parcel) that directly connects SW Lancaster Rd. and parkland to its east with SW Ridge Drive, currently planned for a green street improvement. Because each of these public improvements are located down slope from Quail Park's main supply line and its distribution main so they could be very negatively impacted by any significant failure in Quail Park's water system. This LID assures that a public effort can be made to protect these community assets.

The LID will also assure that the City Policy that duplicates the Quail Park PUD condition of approval, that the project of its should have two connections to the city's water system, is finally, nearly fifty years after it was established, put into effect. That in combination with other improvements will substantially lessen, if not eliminate the likelihood that very tenuous temporary connections through suspect fire hydrants would have to be used to maintain water services in water system emergency. It will also insure that more complete fire flow protection is available in a project that is in one of the SW Portland's obvious urban/natural fire interface areas.

I also believe that the LID would, by improving the infrastructure in an already fully developed PUD, have a significant potential to enhance the possibility that Quail Park could materially contribute to and at the same time benefit from land use and transportation policies being implemented by the City. These include the West Portland Town center, the Southwest Corridor Project, SWIM and RIP. There is even a possibility that development facilitated by the last policy initiative will ultimately reduce the City's costs relate to this project.

Thank you for your attention to this matter.

John Gibbon

## Quail Park Water System LID

The Quail Park Association has a fully functioning water system which, with reasonable PWB cooperation, as is, could meet the City's current regulatory requirements for a backflow device at cost of approximately \$12,000 with minimal service disruption. This could be accomplished by the City allowing the QPA to place backflow equipment in the City owned meter box in the ROW in the 2800 block of SW Ridge Drive. The meter is the **sole source of supply** for a QPA owned water system through a 6 inch supply line that is located in a 10 foot strip of Quail Park owned land between 2818 and 2826 SW Ridge Drive.

The supply line crosses an environmentally overlay (c) zoned intermittent stream in that strip and then runs uphill across QPA common property to a connect with QPAs distribution main between 9815 and 9821 Quail Post Road. Quail Post Road, is a private road maintained by association, providing access to all but one of the dwelling structures within the PUD. This road, that was platted during the 1970s, connects the 2500 block of SW Lancaster Road with the 2900 block of SW Huber Street. The QPA water system supplies 93 dwellings accessed from Quail Post Road and two single family homes one within the plat and one adjacent to it along the 25<sup>th</sup> Ave. /Place ROW.

The process that lead to this



**From:** [jtqorygun@aol.com](mailto:jtqorygun@aol.com)  
**To:** [Council Clerk – Testimony](#)  
**Cc:** [Commissioner Fritz](#); [Carrillo, Yesenia](#); [msurma@gmail.com](mailto:msurma@gmail.com); [davidc0420@comcast.net](mailto:davidc0420@comcast.net); [donaldsonl@comcast.net](mailto:donaldsonl@comcast.net); [mcbeard1989@comcast.net](mailto:mcbeard1989@comcast.net); [navarrorachel@outlook.com](mailto:navarrorachel@outlook.com); [rumontgom@yahoo.com](mailto:rumontgom@yahoo.com); [rflara@gmail.com](mailto:rflara@gmail.com); [Aebi, Andrew](#); [Evonuk, Dave](#)  
**Subject:** Quail Post Rd. LID testimony  
**Date:** Monday, September 28, 2020 1:43:11 PM  
**Attachments:** [Quail Post Road LID Council Testimony.pdf](#)  
[Quail Park Water System LID.docx](#)

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Attached is written testimony for item No. 785 on the Wed. 9/30 agenda.

**From:** [Tom Perrotti](#)  
**To:** [Council Clerk – Testimony](#)  
**Cc:** [Aebi, Andrew](#); [Evonuk, Dave](#)  
**Subject:** Quail Park LID  
**Date:** Tuesday, September 29, 2020 3:55:25 PM

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Hello,

My name is Tom Perrotti, I live in Quail Park and want to briefly address the issue of the potential City action tomorrow on our LID water project. There has been much discussion on the lack of communication between the QPA Board and the 94 residences that are involved in the LID. Quite a few of the residences have heard very little if anything about this project and many are opposed.

I realize the City is working in good faith and has already spent many billable hours and this is appreciated.

However, as a current residence there has been no general vote on how our community feels. We have only had a couple of short zoom meetings and many of the older people in the park may not have access.

I'm bringing this up because it will be more time on the City's part if you move to go forward with the LID and then the community opposes it at the next meeting. This may be in fact how the process goes, I really don't know.

What I do know is that at present our Board of Directors does not have an adequate count of the people for or against the LID. I have recommended in person safe-distance group meetings as well as block meetings and none of that has been acted upon.

At the City meeting tomorrow I hope some of these concerns are addressed. If you need more information please contact me via this email or at 619-306-7740. Thank you!

Sincerely,

Tom Perrotti

"Learn as if to live forever,  
Live as if to die tomorrow."

wz