

Wilsonville government appeals Aurora Airport decision to Oregon Court of Appeals

By Corey Buchanan, Wilsonville Spokesman

December 23, 2020

The city to appeal the Land Use Board of Appeals' decision to dismiss the case.

A recent Land Use Board of Appeals ruling to dismiss an appeal of an Oregon Aviation Board decision that essentially validated the Aurora Airport Master Plan did not deter Wilsonville City Council from pursuing further legal action.

The City Council voted 4-1 to appeal LUBA's decision to the Oregon Court of Appeals during a meeting Monday, Dec. 21. Wilsonville City Councilor Ben West provided the sole "no" vote. 1000 Friends of Oregon, the city of Aurora and Aurora planner Joseph Schaefer may also appeal the LUBA decisions. The court of appeals is the second-highest judicial body in Oregon behind the Oregon State Supreme Court.

LUBA ruled last week that it did not have jurisdiction over the OAB's vote in 2019 to adopt findings of compatibility and compliance in support of a state agency coordinating program for the airport master plan.

The body determined that the master plan was adopted into the Marion County Comprehensive Plan and requiring a separate determination that the plan is also in compliance with statewide planning goals would "create an uncoordinated regulatory scheme that could apply different standards to identical issues," the LUBA ruling read.

Wilsonville City Councilor Charlotte Lehan said during the meeting that LUBA did not sufficiently address the merits of the case, such as whether the master plan was adopted in accordance with statewide laws, and that therefore it was necessary for the city to appeal the LUBA decision.

"I think it's important for land use going forward that there is a clearer decision which LUBA was not inclined to make," she said.

The Federal Aviation Administration had already told the Oregon Department of Aviation it needed to start a new master planning process before the approval of a runway extension, which the city has repeatedly contested while raising concerns that it would lead to more loud flights over the Charbonneau community and add traffic to local roads, among other issues.

Part of the goal of continuing to contest the issue, Wilsonville Mayor Tim Knapp and Councilor Joann Linville posited, is to ensure that the Wilsonville government has more of a seat at the table during the subsequent master planning process. The city was cut out of an intergovernmental agreement regarding the airport.

"My concern is that even though the FAA is requiring a limited review and update of the Aurora State Airport (plan), if it remains that there is only a requirement that the airport master plan is compatible with Marion County only. I believe that puts Wilsonville in the position of having to once again fight for a seat at the table in order to have a voice in the development of the new master plan, which I think is a critical thing," Linville said. "We are the closest neighbor to that airport. I believe the city of Wilsonville and Clackamas County has the right to be at the table."

Councilor Kristin Akervall supported the appeal to ensure that the land use process was followed appropriately.

West, however, felt that further litigation would prove fruitless and that LUBA was resounding in its dismissal of Wilsonville's appeal. He also felt that the city's legal staff could spend its time in more productive ways.

"I think we got shellacked. We lost on every count. And I am not convinced there is a clear pathway to victory in the appeal process. The (council) majority may be more interested in dragging out time and not necessarily winning," he said. "I think we should do different things with our resources and that our attorney's time is valued and spent elsewhere."