



Land Legacy Committee (LLC) Meeting Agenda
East Multnomah Soil & Water Conservation District

(December 8, 2023)

Wednesday, December 13 2023, 4:30 – 6:30 PM

To be held at TaborSpace Annex Room ([5441 SE Belmont St, Portland, OR 97215](https://www.taborspace.com/5441-SE-Belmont-St-Portland-OR-97215))

Or join virtually: <https://meet.goto.com/EastMultSWCD/landlegacycommitteemeeting>

Access Code: 993-088-381 United States (Toll Free): 1 877 309 2073 United States: +1 (646) 749-3129

AGENDA

Item #	Time	Agenda Item	Purpose	Presenter	Packet
1	4:30 10 mins	<ul style="list-style-type: none"> • Welcome and Call to Order • Review/Revise agenda • Previous Action Items • Approval of September 25, 2023 meeting minutes 	Information/ Decision	Guebert	a) 9/25/2023 LLC Meeting Minutes
2	4:40 5 mins	Time Reserved for Public Comment	Information	Public	N/A
3	4:45 10 mins	Farm Succession	Information	Shipkey	N/A
<p><u>Overview:</u> Shipkey will provide a brief recap of the October 26, 2023 Farm Succession Planning event and discuss an additional farm succession initiative in the planning stages.</p>					
4	4:55 90 mins	Executive Session under ORS 192.660(2)(e)	Discussion/ Decision	Shipkey / ECONorthwest / LLC	Executive session materials to be sent separately.
<p><u>Overview:</u> Shipkey will review options for the disposition of District property and present several new land protection opportunities. ECONorthwest will present on their work developing an alternative easement valuation methodology.</p>					
5	6:25 5 mins	<ul style="list-style-type: none"> • Announcements and Reminders • Action Items • Adjourn 	Information	Guebert	N/A



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EMSWCD Board Members, Officers and Meeting Dates:

EMSWCD Board			LLC	Year	FY23-24 Schedule	Board	LLC
Members	Positions	Officers					
Joe Rossi	Zone 1 Director		X	2023	July	5	31
Laura Masterson	Zone 2 Director	Secretary	X		August	16	
Mike Guebert	Zone 3 Director	Vice-Chair	Chair		September	6	25
Jim Carlson	At-Large 1 Director	Treasurer	X		October	2	
Jasmine Zimmer-Stucky	At-Large 2 Director	Chair	X		November	6	27
					December	4	13
				2024	January	3	22
					February	5	
					March	4	25
					April	1	
					May	6	29
					June	3	

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East Multnomah Soil and Water Conservation District Land Legacy Committee Meeting **FINAL Minutes**

Monday, September 25, 2023

4:07pm - Call to Order

Guebert called to order the regular meeting of the EMSWCD Land Legacy Committee at 4:07pm on Monday, September 25, 2023, at EMSWCD's Office.

Introductions, Review/revise agenda, Review previous action items.

Guebert conducted introductions for the record. The following persons were present:

Land Legacy Committee: Mike Guebert (Zone 3 Director, LLC Chair), Jasmine Zimmer-Stucky (At-Large Director 2) (arrived at 4:08pm) (virtual), Laura Masterson (Zone 2 Director), Jim Carlson (At-Large Director 1), Joe Rossi (Zone 1 Director)

Staff: Nancy Hamilton (Executive Director), Dan Mitten (Chief of Finance & Operations), Julie DiLeone (Rural Lands Program Manager), Matt Shipkey (Land Legacy Program Manager), Asianna Fernandez (Executive Assistant)

Guests: N/A

Changes to Agenda:

- Add time at end of meeting for Rescheduling the November LLC Meeting.

Previous Action items:

- Fernandez to add PWB Treatment Plant discussion to the August Board Meeting Agenda. -Done
- Fernandez to add an LLP Executive Session to the August Board Meeting agenda. -Done

4:08pm - Approval of July 31, 2023, Meeting Minutes

MOTION: Carlson moved to approve the July 31, 2023, LLC Meeting minutes. Rossi 2nd. Motion passed unanimously (5-0).

4:08pm – Time Reserved for Public Comment: N/A

4:09pm – Farm Succession

Shipkey The District will be co-hosting a farm succession planning workshop on October 26 at the Multnomah Grange, led by Diana Tourney, a farm succession expert. It will be a half-day workshop, and we'll be sharing a video from the Oregon Agricultural Trust on farm succession. Then attendees will hear from Shipkey and a representative from Clackamas SWCD about some of the services we offer farmers. There will also be a free lunch at the end. Attendees do need to pre-register through the QR code or through the EMSWCD website. Shipkey asked LLC members to get the word out about this opportunity through their networks.

Guebert These workshops in the past seemed to have pretty good turn outs.

4:14pm – Land Legacy Program (LLP) Adjustments

Shipkey At the last Board meeting, we talked with the Board about non-practice related adjustments to the LLP. Today we'll look at two farm practice categories: restrictions on certain cropping practices within an easement and required practices found within Agricultural ("Ag") Management Plans.

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Cropping Practices that result in significant soil removal in easements.

Shipkey We would not be encouraging a shift away from practices that result in the loss of soil to the extent that it threatens the ability to continue field cropping but would take a more pragmatic approach that relies less on mandates. To date, it's been more of a "here's what you must do" approach. There are two categories of landowners we work with to consider in terms of a revised approach: those who own land that we want to place an easement on, and landowners interested in purchasing properties EMSWCD owns that we will place an easement on upon sale.

There are a number of options for removing easement restrictions on cropping practices, like ball and burlap (b&b) and sod farming, for landowners we want to work with (properties we don't own):

1. remove restrictions on all nursery properties
2. remove restrictions only on nursery properties that are already engaged in these practices
3. remove restrictions on any properties whose owners are unwilling to abide by them or uncomfortable with them

Even if we dial back our mandates, we will continue to lean into education and incentivizing. This also doesn't mean the restriction couldn't be incorporated at a later date into the easement.

Guebert clarified that by saying, "removing restrictions," this means we would allow b&b operations to continue on farms in the District.

Masterson It seems like an easement is a bucket of restrictions, and as we add more restrictions, we are adding more value to the easement. Therefore, if a farmer who partners with us on an easement continues to run soil-removing operations, their easement would be worth a little less (in terms of an easement payment) than one that has the restriction in it. **Shipkey** confirmed this is correct.

Guebert It would make valuing an easement more difficult?

Rossi When you say it adds value, it sounds backwards because it's taking away value from their land.

Guebert It does, depending on how you define value.

Masterson We are creating a list of restrictions a landowner could check off as they agree to, and the more things they check off, the higher their payment for the land will be.

Hamilton added that when a future landowner puts in an offer to purchase an easement protected property, it will be cheaper for them to purchase, since the land comes with an easement.

Guebert If there's a current b&b farmer who sells an easement to the District without the restriction, if a future owner of the property decides they are OK with the restriction, it can be added to the easement, and they will get paid for doing so.

Shipkey confirmed this is correct. An easement could only get more restrictive, not less restrictive.

The other category is how will we approach easement restrictions on properties we already own:

Shipkey This pertains to properties like Oxbow, Mainstem, Gordon Creek, etc. where we buy farmland and sell it subject to an easement.

1. Continue with what we already do, keeping the restriction in the easement regardless.
2. Be flexible and if a buyer comes along who was uncomfortable with the restriction, we could drop the restriction.
3. Just drop the restriction entirely.

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Guebert would be in favor of keeping the status quo: keeping restrictions in place on properties we own. If there's an instance that we were to buy a b&b operation, we could leave the option open to allow it to continue, but if we were to buy a vegetable or livestock farm, we wouldn't want to promote the idea of removing the restriction.

Masterson We should be restricting soil-removing operations to maximize conservation uplift; therefore, we should generally want to be more restrictive, especially if we own the land, and increase the affordability and conservation benefits wherever possible. But of course, we don't want to be too restrictive that no one in the future can farm on the land.

Zimmer-Stucky For b&b nursery land, she would like to be able to maintain the buy, protect, sell scenario, so she wouldn't want to be too restrictive, because it's quite possible a buyer will be from the nursery industry. This discussion is one we'll likely come back to as we have more easements, and this program grows. Wants to leave this conversation open for the future in case b&b or other sectors of farming look different in the future.

Hamilton If we sell land without any b&b history, do we want to sell it to a b&b farmer?

Zimmer-Stucky That's something we'll have to continue to watch, wants to ensure the District is looking out for the future of farming as well. We want to ensure farmers are engaging in our easement program.

Carlson B&b is something we need to be open to, as they're getting more conscious about putting organic matter back in the soil. On his own family's farm, he's not taking crops off the land for three years in between each harvest, whereas in the sod industry, they tend to take crops off the land two to three times a year which results in significant soil loss.

Masterson We don't want to pay for an easement where the soil quality and quantity is being diminished.

Carlson On one of his properties that hasn't been b&b before, he's thought about it as what if we don't get a crop farmer to buy it, but a nursery farmer will want to, so either way it can ensure it stays as farmland. There are certain kinds of soil you can run a b&b operation on and certain kinds of soil that you can't.

Rossi Would hate to have us go down the road of becoming an enforcement agency, trying to defend our easements. Farming is going to change. The taxpayers are the ones paying for the easements; therefore, we're decreasing the value of property that we invest the taxpayer money in. We each talk about value in different ways. Traditional agriculture doesn't like easements because they don't want people looking around on their property, they just want to be able to use what they own.

Masterson We're not enforcing a statute or a law, we're enforcing a contract, so it doesn't make us a regulatory agency. We have contracts in so many other parts of the organization.

Hamilton This is not against farmers, it is enforcing a contract that a farmer agrees to enter into with the District. Anyone who buys the farm agrees to the contract as well. The difference is what we could actually do if someone doesn't comply. We can't fine someone or do the things regulatory government agencies can do if they don't comply.

Rossi Nellie McAdams said it's about \$6,000 per easement, annually, to cover future possible litigation as well as staff time to be on the ground monitoring it.

Guebert Based on the feedback from the survey, the valuation of our easements now is not enough for farmers to want to work with us, and if we took away more restrictions, we would have to value it even less, resulting in less projects getting done.

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Masterson There are some farmers who are interested in buying the land with the easement on them and are happy to get paid for such, and that's our market.

Rossi Our farmers see us as competitors in the market. There's a limited supply of land, and many farmers are already having to consolidate land to stay in Multnomah County, or else they're having to move, and we're diminishing the land bank.

Guebert What about these people who don't have the financial resources to participate in the current real estate market? Can the district provide value/access for them? Allowing b&b operations on land that's already had it, could be more attractive to those b&b farmers and then still allow flexibility to other farmers who already see the market as out of their price range.

Carlson clarified that there are different kinds of nursery operations, not all of them do b&b. Even some of the b&b operators do bare root operations as well.

Shipkey That does go back to the option around loosening restrictions for farmers who are already doing those operations or loosening restrictions for all sites.

Guebert Can we do a tour at a bare root or b&b operation? Especially one who is making the effort to add organic matter back to the soil?

Rossi agrees to doing a tour. Appreciates having a conversation pertaining to all the different types of farming.

Guebert Confirmed that at a minimum, the Board wants to allow b&b operations to continue on current b&b sites, whether we are purchasing an easement or a property.

Motion: Masterson moved to recommend to the Board, for soil removing operations to continue on a purchased easement if those operations are present prior to the easement, and to allow them on a buy, protect, sell property with a history of those operations (where the owner/potential owner has indicated that said allowance is important for them to retain). Carlson 2nd. Motion passed unanimously (5-0).

Agricultural Management Plans (AMPs) and Practices

Shipkey We are currently requiring agricultural management plans for easement projects; these plans contain mandated practice requirements. In general, these mandated practice requirements are tied to agricultural water quality rules.

We could reimagine our AMPs by:

- Change the title of them to something else. Open to ideas
- Looking at them as educational collaborations where we would not mandate practices be carried out, but instead term those as recommendations.
 - We could mandate practices if we are going to pay for them.

Guebert agrees to changing the name and likes the idea of having a dialogue but would suggest working with the landowner to come up with recommendations together instead of the District just giving them recommendations outright.

Masterson Does NRCS require AMPs? Heard those were recently dropped.

DiLeone They require conservation plans (which is likely what we'd change the title of our AMPs to). Some areas across the nation have decided to drop them, but not Oregon.

Shipkey Conservation plans are not uncommon for many organizations, but the inclusion of mandates is very, very limited.

Action Item: DiLeone/Shipkey to look into NRCS's requirements for conservation plans.

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Shipkey For the District's ag management plans, that are tied to an easement, if a farmer doesn't follow the plan, they'd be in violation of the easement.

DiLeone gave insight into what staff does if a farmer is in violation of their AMP and easement. Staff address them in the same way as they would a farmer who is in violation of state regulations, we would work with them to mitigate the issue, and those landowners could still apply for CLIP to help fund the necessary repairs. Most of the issues in these plans involve preventing run-off from the farm.

Guebert If someone's in violation of their easement because a pollutant is leaving their farm, but they choose not to work with us, how do the AMPs and State quality rules work in conjunction?

DiLeone The District does not take regulatory action and we don't report anything to ODA. If there's an issue staff see during a site visit that would be punishable under ODA's rule, we would work with the farmer over time to fix the issue before they are penalized. It would have to be a huge issue for us to go to litigation to defend an easement, and it's not something we would pursue without having exhausted all other avenues.

Hamilton explained how ODA would deal with a landowner whose farm is in violation: They'd suggest they work with us to get back into compliance to avoid a violation. Once a farmer is in violation with ODA entirely, they are no longer eligible for a CLIP grant. Once ODA has issued a violation, we are no longer able to assist, as they are regulatory.

Rossi clarified that his previous concerns pertained to landowners who violate our easement, not those with an ODA violation.

Hamilton If a farmer violates their AMP, that's different than violating an easement sometimes, and could involve the ODA.

Shipkey reiterated that the options do not involve removing the AMPs entirely, but instead possibly removing the requirements for them.

Masterson If there's long term things we want to require of farmers, we need to add those in the easements. Doesn't want to focus the AMPs on water quality items because those should be standard for a farmer already. Thinks we should be able to help any landowner with items on their AMP through grants and give priority to those with easements. They should also get personalized analysis of their farm and their opportunities to improve. The kinds of AMPs that we're writing now feel complicated because there are too many aspects overlapping between the plan, easements, and grants, but are not used together. Conservation plans should be an offer for those who want them.

Guebert suggested staff work on a recommendation using aspects from this conversation.

Shipkey agreed to develop a recommendation reflective of the conversation today. Reminded the Board that this work cannot be pushed out longer than December because of the multiple projects under development.

Action Item: DiLeone to resend the Agricultural Management Plan template to the Board.

Shipkey asked for specific feedback on what the approach on an AMP should for Gordon Creek as that project is scheduled to close in October.

DiLeone There are no current violations of the ag-water quality requirements on that property, so the AMP will mostly revolve around allowing the District to manage the stream area and not much more.

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Guebert Anything in the AMP should be voluntary, and created in partnership with the owner and can be changed over time as the farming changes. Anything we see as something we want to continue going forward needs to go into the easement.

Shipkey Farming changes overtime, and easements can't easily be changed, so those types of changeable things need to go into a plan, but natural spaces won't change too much overtime so that can easily go into the easement. The key question is whether we are going to require farmers to do certain practices?

Zimmer-Stucky It's not unreasonable to ensure farmers are staying in compliance with state law. Anything above that should be treated as a partnership with the farmer.

Masterson Either farmers should be getting paid to do practices in the easement or paid to do them through a grant. It feels like they'll be in a grey area if it's in the AMP alone.

Guebert is hesitant about putting certain practices in an easement, especially if they're hard to change. As farms change hands, their farming is going to be different, and need different guidelines.

Carlson Plans can change overtime too, and they're going to be different from farm to farm.

5:16pm – Executive Session under ORS 192.660(2)(e)

Entered Executive Session at 5:16pm

Ended Executive Session at 6:09pm

6:09pm - Closing items: announcements, reminders, and action items.

Guebert The November LLC Meeting is now rescheduled to December 13th, from 4-6pm, in person, location TBD.

Action Item: Fernandez to reschedule the November LLC Meeting to December.

Guebert will be attending a Legislative Field Day with about 15 legislators tomorrow as his role on the Advisory Committee.

Action Items:

- **DiLeone/Shipkey** to look into NRCS's requirements for conservation plans.
- **Shipkey** to bring recommendations on soil-removing practices to the October Board meeting.
- **LLC** to further discuss tour recommendations to tour ball & burlap operations.
- **DiLeone** to resend the Agricultural Management Plan template to the Board.
- **Shipkey** to continue the discussion on Dancing Roots disposition at the December LLC Meeting.
- **Fernandez** to reschedule the November LLC Meeting to December.

6:01pm - Adjournment

Guebert adjourned the meeting at 6:01pm.