



**City of Lake Oswego/City of Tigard Water Supply Partnership
Summary of Oversight Committee Meeting #14
Meeting held April 4, 2011**

Lake Oswego Technical Committee Member Joel Komarek called the meeting of the Lake Oswego/Tigard Water Partnership Oversight Committee to order at 5:32 p.m. on April 4, 2011, in the Oswego Conference Room at the West End Building, 4101 Kruse Way, Lake Oswego.

Present:

City of Lake Oswego **Oversight Committee:** Councilor Mary Olson
Staff: Joel Komarek, Jane Heisler, Dave Prock, Guy Graham and Laura Barrie

City of Tigard **Oversight Committee:** Mayor Craig Dirksen and Councilor Gretchen Buehner
Staff: Dennis Koellermeier and Rob Murchison

Guests Interested Citizens, Kennedy Jenks

1. CALL TO ORDER/ROLL CALL

Councilor Tierney was excused.

2. APPROVAL OF MINUTES FROM MEETING #13

Mr. Komarek asked for a motion to approve the minutes from the last meeting held on March 7, 2011. Councilor Buehner motioned to approve, Councilor Olson seconded the motion. A voice vote was taken; Lake Oswego Councilor Olson and Tigard Mayor Dirksen and Councilor Buehner voted 'aye' (3-0). Minutes from the March 7, 2011, meeting were approved.

3. PUBLIC COMMENT

Mr. Komarek gave the guests in the audience a chance to make a public comment. No comments were offered.

4. BUDGET REVIEW

Mr. Komarek mentioned that at the last meeting the Technical Committee passed out the draft proposed budget for the partnership. Mr. Komarek mentioned that he had heard from Councilor Tierney who had no comments. Councilor Olson asked if there is anything that is a significant change over what was expected? Mr. Prock answered that the biggest difference is that the design consultants are being brought on board; hence the fairly significant increase for next year versus this year. Councilor Buehner moved that the Oversight Committee recommend the budget as proposed to perspective budget committees. Councilor Olson seconded. All three Oversight Committee members were in favor; none opposed.

5. WTP DESIGN FIRM UPDATE

Mr. Prock stated that the agenda packet contains a two-page memo detailing the process that project staff is using to select design consultants. The water treatment plant expansion is the first package of work that will be going before the Lake Oswego Council for approval later this month. The process is a three-step, qualifications-based competitive process starting out with a Request for Qualifications (RFQs). Responding firms were short listed to three. Short listed firms received a Request for Proposal (RFP). The City received proposals from Black & Veatch, Carollo and MWH. The objective of the process is to select the firm possessing the best combination of qualifications and fee for services. A source selection committee (SSC) comprised of three Lake Oswego staff and two from the City of Tigard evaluated, rated and ranked proposals. Those ratings are shown in Attachment A. The scores represent the total of the five members of the SSC. MWH ended ranked highest followed by Black & Veatch and Carollo. The SSC interviewed all three firms. After the interviews, MWH maintained its number 1 rank. The final step is to clarify and confirm scope and fees prior to executing a contract.

Mr. Prock mentioned Attachment B, the Proposer Level of Effort Table, which shows the total hours in the various design areas and the commensurate costs. He noted MWH ended up at about \$6.4 million, Black & Veatch at about \$6.6 million and Carollo at about \$4.8 million. In reviewing proposal costs, the SSC believed Carollo's hours were unrealistic considering the complexity of the work that needs to be completed.

Councilor Olson asked about the variation in hours on Attachment B, noting that between MWH and Black & Veatch for preliminary design and construction services; total hours are close but within each item there is much variation. Mr. Prock stated it is normal to see that when looking at proposals from various firms.

Councilor Olson asked if each firm's experience in a similar type of project was one of the things rated. Mr. Prock said yes. Councilor Buehner mentioned MWH was involved in the Wilsonville project from the pilot study into design and building, and she found them very easy to work with during Tigard's evaluation of the Willamette River. Mr. Komarek mentioned that each firm included a member of the expert panel that helped select the water treatment process so they were all on equivalent footing in that respect.

Councilor Buehner asked if the proposed fees were in the range project staff was expecting. Mr. Komarek asked Mr. Prock if he knows how these numbers relate to the program management estimates. Mr. Prock mentioned he would have to look that number up. Councilor Olson asked for the estimate to be emailed to the Oversight Committee. Mayor Dirksen asked if the Oversight Committee was acting on anything for this today? The answer was no. Ms. Heisler mentioned this is going to council on the 19th of April. Mr. Prock stated that contract negotiations would be completed next week and then the notice of intent will be awarded. Councilor Buehner asked to be kept in the loop so she can keep Tigard Council informed.

Ms. Heisler stated that Lake Oswego Councilors are attorneys who need to conduct conflict checks of all firms awarded contracts on this project. Councilor Buehner mentioned that she should look at that since she is an attorney as well. Mr. Prock mentioned that Tigard's Council should have received it at last month's Oversight Committee. Councilor Buehner asked to see it again. Ms. Barrie gave her the copy from last month. Councilor Buehner looked at the list and mentioned she did not have any conflicts.

6. MAPLE GROVE PLAT UPDATE

Mr. Komarek mentioned that the Oversight Committee should have received on Saturday (Lake Oswego) or Monday (Tigard) a Maple Grove Plat update. At the last meeting, Councilor Tierney mentioned that there was a motion before the Lake Oswego Council in February declaring the public necessity to remove covenants and restrictions on real property and that a 60-day extension was granted. It was Councilor Tierney's view that the 60 days was not a firm limit and additional time would be provided if that was necessary to continue to engage neighbors. Project staff has been doing its best to engage neighbors since then. Mr. Komarek asked Ms. Heisler and Mr. Koellermeier to let the Oversight Committee know what project staff heard at the last meeting with the neighborhood association on March 29. Mr. Koellermeier stated it would be fair to say we are engaged. If there is anyone in the Maple Grove plat that does not know what is going on it is not from lack of effort. The meeting was rather lively. There is clearly a group of people that would just as soon we picked up our treatment plant and went home, there is a group of people that said we have been pretty good neighbors and there is everything in between. Mr. Koellermeier still believes there is some work to be done. Ms. Heisler mentioned there was a facilitator from the Clackamas County Dispute Resolution Center at the meeting which she thinks helped. Ms. Heisler mentioned some new things that came up. One person mentioned that they are convinced they will not be able to sell their home during construction so there needs to be a fund set up. He suggested \$250,000 to allocate to people who are trying to sell their homes. One neighbor asked how much profit are you making off of Tigard? What is your return on investment? They expressed verbally in the meeting and after the meeting a sincere interest in getting together. As of Friday, project staff has not received any phone calls. Ms. Heisler called Shannon Vroman who appears to be the leader of the group, but Ms. Vroman did not return the call.

Councilor Buehner asked about the neighbors on Kenthorpe. Ms. Heisler stated that the neighborhood as a whole has been very engaged in the Good Neighbor Plan. Project staff is still scheduled to go to the April and May meeting. Ms. Heisler mentioned that signs have been put up in the neighborhood. There were ten signs on Mapleton, one on Kenthorpe and a couple on Highway 43. Councilor Buehner asked how long has the process been going on with this group of neighbors. Ms. Heisler stated that project staff had the first meeting with the neighborhood a little over a year ago. The Maple Grove property owners specifically have been meeting since about August. Mr. Koellermeier noted that people want to get as much lead notice as possible and then there is the frustration that plans are still being refined. Mayor Dirksen stated that there are some people who would prefer to have the early notification and then there are others who would prefer to have the specificity, so even if one is pleased, the other is dissatisfied.

Mr. Komarek stated that Ms. Vroman mentioned that Maple Grove plat owners have retained legal counsel. Mr. Komarek noted this is an important first step to help facilitate dialogue. In its memo, the Technical Committee notes a vote on a declaration opposing the expansion is coming on April 12. Lake Oswego and Tigard will send representatives. As property owners, Lake Oswego staff will be casting a vote in opposition.

Councilor Olson asked how long do we let the mediation go on? Mr. Komarek stated the Lake Oswego Council originally said 60 days, which would make it about April 22. Then after the West Linn City Manager met with a couple of the Maple Grove property owners he e-mailed Lake Oswego's City Manager and requested some additional time. The additional time has been given and the Robinwood Neighborhood Association and the Maple Grove Plat owners were told at the

meeting last week that another 30 days was added; that brings it toward the end of May. Mr. Komarek is not optimistic that the project will get the number of signatures needed in order to resolve this issue. But project staff will keep trying. Councilor Olson asked if the Council was going to be asked to approve the contract to design the plant even without the necessary signatures. Mr. Komarek answered yes.

Councilor Buehner stated she is very disappointed that this has not been resolved; a year should have been more than enough time and she is going to talk to her Council about approaching Lake Oswego about a hard end date because this cannot just go on forever. Tigard has a time line; she knows Lake Oswego does not have that time line but she is very concerned that the project stays on target. Councilor Olson stated they are our next door neighbors and she would like to do what can be done to resolve it, but she understands Tigard's time issues.

Councilor Buehner mentioned that Tigard has dealt with West Linn in the past and they have been very uncooperative, she is not hopeful that they will be cooperative now. Mayor Dirksen asked if she was referring to city government. Councilor Buehner answered both city and neighborhoods. Councilor Olson stated the City of West Linn has been very helpful on this issue and they are not really the cause of any of the holdup.

Councilor Buehner mentioned that she has strong beliefs that despite the best efforts it is not going to get much better. She thinks the project staff needs to come up with an official cut date. Ms. Heisler mentioned that at the meeting there was a request for a design charette, this was something staff had planned on doing anyway when there was a designer on board. Ms. Heisler answered Councilor Olson's question, how long will this mediation go on . . . technically it has not started yet, because it has been difficult to find a mediator who will work with the Maple Grove Plat owners because there is no clear definition for who the mediator will be representing. Councilor Buehner stated they need to get someone who can convince them to work as a unified group. Mayor Dirksen stated there has got to be some incentive. If there are individuals who really are not interested in a resolution, their tactic would just be to delay. The alternative has to be more painful than coming to the table and talking and negotiating in good faith. Ms. Heisler mentioned the longer it drags on there will be more signs in yards and articles in papers and potentially less cooperation. Mr. Koellermeier stated that once the project team has a designer, the schedule for treatment plant design can be refined and a "drop dead" date can be put on the calendar that says past this date the project costs more. Mr. Komarek mentioned the critical path items are becoming the land use approvals. There has to be some level of design completed before submitting the application for land use approval. Project staff was told that when the application for the pipeline or the water treatment plant is submitted, we should expect it to be rejected the first time. Mr. Komarek mentioned that a staff planner will review and determine whether the application is complete or not, the planner was proud of quoting that 99% of all applications get rejected the first time around. If the application is rejected, the project team has 30 days to figure out why, and then the staff planner gets another 30 days to review it again. After that it could get appealed from the Planning Commission or the Council or even to LUBA.

Mayor Dirksen does not see any reason to extend mediation further because of the perception that things could still deteriorate. Ms. Heisler mentioned there is a verbal willingness to talk but no action. Mayor Dirksen stated you need to have commitment from the group as a whole that a specific person represents them. Mr. Komarek stated that the project team has 15 property owners who have signed a waiver, there are 20 to 25 that have outright refused to sign under any circumstances, then there is this core group who is very interested in trying to delay and not really

engage in a productive, meaningful dialogue even though they say something to the contrary. Councilor Buehner stated it is not a pleasant situation to have a mediator put in because it is a no-win situation.

7. GLADSTONE CODE TEXT AMENDMENT

Ms. Heisler stated that the Gladstone Council adopted the text amendment as project staff had originally proposed it and she thinks next Tuesday they are adopting the findings. Councilor Buehner mentioned as she was flying back from Washington D.C. she was sitting next to the President of the Planning Commission from Gladstone. He mentioned what a professional presentation the City staff and the consultants had made. If all applications were like that, it would make the Planning Commissions job much easier.

8. OUTREACH PLAN FOR FINISHED WATER PIPELINE/COMMUNICATIONS UPDATE

Ms. Heisler brought a draft of the finished water pipeline outreach for Lake Oswego. The communications team decided on a different strategy for each community because each has their own land use process and regulations. The goal is to maintain transparency and provide accurate information. The team will be starting conversations with people in regards to easements for HDD in the next week or so.

Ms. Heisler stated project staff went to the pre-app meeting in West Linn for the finished water pipeline and the raw water pipeline. The communications team is trying to figure out who uses Mary S. Young Park and how to reach out to them. There are also several neighborhoods along Highway 43 that will be impacted by the construction. The first round of communication will be via the phone.

Councilor Buehner asked about the tie in for West Linn's system. Mr. Komarek mentioned we have an existing connection with West Linn for emergency purposes. The partnership provides an opportunity for West Linn to upsize that interconnection. Project staff may propose to expand the plant to its maximum capacity and seek West Linn's participation to further provide a more robust emergency connection. Those are topics that have been broached with West Linn. West Linn's Water Master Plan identified that interconnection as one means by which they could address a number of deficiencies in their system and their Council directed staff to pursue those opportunities. Project staff will continue to talk with them about this. Councilor Buehner asked to be kept in the loop.

Councilor Olson asked about the Lake Oswego code change process in May and the major utilities code change process in July - August. Ms. Heisler mentioned that there is a piece of the HDD line that would go under the water front residential zone, or the cabanas, and apparently that cabana zone specifically excludes trunk lines. Trunk lines would normally refer to waste water, but in conversations with legal staff and the planning department it has been suggested that the project team may want to have a text amendment to refine the description. Councilor Olson asked if they were two different code changes. Mr. Komarek mentioned that they are the same, the project may not be able to wait for the planning department to include this as part of their normal housekeeping updates, hence the date earlier in May.

Ms. Heisler mentioned the other handout is some ideas of new videos with TVCTV. She asked if the Oversight Committee had any thoughts about videos they would like to see about the project.

Councilor Buehner thought she had mentioned that it would be a good idea to have something about the process used in the expert panel and how the decisions were made about the Water Treatment Plant. Ms. Heisler mentioned that there is footage of that process and maybe some of that can be incorporated in a new video. Councilor Buehner mentioned that some people will have concerns about why one option was chosen over another. Councilor Olson thinks it would be good to have something about why project staff chose the HDD option versus the open cut work on State Street. Mayor Dirksen would like a video showing why the Clackamas river water source is good and why certain design processes that were chosen are the preferred choice.

Ms. Heisler asked Mr. Komarek about his Water Emergency Table Top exercise, which will be held on May 17. Mr. Komarek mentioned it is an exercise to simulate how water providers would respond to a disaster affecting the Clackamas River. It is a geo database containing all regional water systems and the ability to put them together in a virtual world. This is a tool that can be used by the agencies to come up with response protocols for emergency events. The exercise will revolve around a disaster in the Clackamas water. Councilor Buehner asked if anyone from Tigard would be participating. Mr. Koellermeier mentioned yes. Mr. Komarek stated that Tigard has to be there. If Lake Oswego is helping another community, Tigard may be called upon to help Lake Oswego. Councilor Buehner asked since Tigard has such great reservoir storage, could they potentially serve not only Lake Oswego but provide water to West Linn in an emergency. Mr. Koellermeier stated yes if the pump stations stay operational. Tigard is blessed with a lot of storage capacity; this is one of the things that will be in the model. If Lake Oswego either has to come off the Clackamas River for whatever reason or allocate their production to some other partner how could Tigard provide backup?

Mr. Koellermeier mentioned that Ms. Heisler was being a little modest; he wanted to let the Oversight Committee know that the partnership has been asked to make two presentations at the Pacific NW Regional Conference in Boise about how two cities can get together and form a water partnership.

Ms. Heisler mentioned May 1-7, 2011, is Drinking Water Week. Lake Oswego Council will have a proclamation on May 3. She sent the document to Dennis in case Tigard wanted to do anything. Mr. Koellermeier mentioned that the goal is to try to bring the two cities' conservation programs together so that it is a consistent message.

9. FUTURE AGENDA ITEMS/NEXT MEETING DATE

Councilor Buehner asked if the new WTP consultant could give a briefing. Mayor Dirksen mentioned he felt the Oversight Committee would need an update on what decisions have been made.

The next meeting is tentatively scheduled for June 6. It will be in Tigard beginning at 5:30 p.m. in the 2nd Floor Conference Room at the Tigard Public Library.

10. ADJOURN

Meeting adjourned at 6:30 p.m.

Attachments: None

Approved: _____ July 18, 2011