



**City of Lake Oswego/City of Tigard Water Supply Partnership
Summary of Oversight Committee Meeting #15
Meeting held July 18, 2011**

Lake Oswego Technical Committee Member Joel Komarek called the meeting of the Lake Oswego/Tigard Water Partnership Oversight Committee to order at 5:30 p.m. on July 18, 2011, in the 2nd Floor Conference Room of the Tigard Public Library; 13500 SW Hall Boulevard, Tigard.

Present:

City of Lake Oswego	Oversight Committee: Councilor Bill Tierney Staff: Joel Komarek, David Prock, Guy Graham, Kari Duncan, Jeff Selby, Laura Barrie Communications – JLA – Eryn Deeming Kehe
City of Tigard	Oversight Committee: Mayor Craig Dirksen, Councilor Gretchen Buehner Staff: Dennis Koellermeier, Rob Murchison, Ted Kyle
Guests	Brad Moore, Kennedy/Jenks Consultants, Lake Oswego Resident

1. CALL TO ORDER/ROLL CALL

Councilor Olson was excused.

2. APPROVAL OF MINUTES FROM MEETING #14

Mr. Komarek asked for approval of minutes from the last meeting held on April 4, 2011. Councilor Buehner motioned to approve, Mayor Dirksen seconded the motion. A voice vote was taken, and the motion passed with Lake Oswego Councilor Tierney and Tigard Mayor Dirksen and Councilor Buehner voting 'aye' (3-0).

3. PUBLIC COMMENT

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

4. CONSTRUCTION RISK AND CLAIMS MANAGEMENT

Mr. Komarek mentioned that the Oversight Committee is well aware of the complexity and the risks inherent in a project of this scope, magnitude, duration and cost. The Technical Committee and program team is preparing a number of risk registers. One is a program-wide risk register then each of the design packages themselves will have their own risk register. These registers are populated with unforeseen circumstances that the project team tries to anticipate and then assign a probability of occurrence and a consequence should that event actually occur.

Mr. Koellermeier then introduced Ted Kyle, City Engineer for the City of Tigard. Mr. Kyle gave a presentation entitled "Construction Risk and Claims Management . . . Dealing with the unexpected." The primary message from this presentation was that in any project of this size, time is of the essence. Delays during construction can result in significant expenditures. The staff hired to run the program needs to be given the authority to make timely decisions and settle issues as they occur.

Councilor Buehner asked Councilor Tierney if the Lake Oswego Council or even a Joint Lake Oswego/Tigard Council would benefit from hearing Mr. Kyle's presentation. Councilor Tierney responded that a lot of what Mr. Kyle suggested was already used by Lake Oswego Councilors during the LOIS project. Councilor Tierney suggested he would like to have the Technical Committee define the issues such as signature authority for the City Manager. Mr. Komarek mentioned that there is potentially going to be ten construction contracts running at any given point and it might be necessary to think about a signature authority that would allow the City Manager to have a limit not only on each contract but in the aggregate as well. These projects are so interdependent; if any one of them gets protracted and delayed it could potentially delay all of them. Mr. Komarek mentioned the strategies used for the interceptor project included increasing the City Manager's contract and contract amendment authority.

Councilor Tierney asked staff to prepare a document that deals with empowering the staff and giving signature authority to both the Operating Manager and the City Manager. He stated the Oversight Committee's role should be better defined including how to relate to claims challenges. Councilor Buehner asked if this should be an agenda item at the next Joint Council meeting. She asked if the next meeting is still planned for this fall. Mr. Komarek stated that was a question he was going to ask the Oversight Committee. Mayor Dirksen stated that it is necessary to have a clear change order adjudication process where the project team can negotiate with the contractor to come to an agreement. He mentioned that it might be a good idea to make that process a part of the contract language. Part of that includes understanding how the Oversight Committee and the Councils as a whole are involved in that process.

Mr. Komarek mentioned one of the tools that was used effectively during LOIS was to appoint three Lake Oswego Council members to act as a liaison between staff and the full Council. Periodically when an issue came up that might lead to a dispute or a change order of significance, the project team would convene that small group of Councilors and inform them about the nature of the event, why it occurred and what the project team was doing to mitigate. Then there was a base understanding before it was brought to the full Council in the public setting. Councilor Buehner asked if Mr. Komarek would see that role being taken by the Oversight Committee or as a minority group of the Lake Oswego Councilors. Mr. Komarek mentioned it could be a minority group of the Oversight Committee; however, a part of the issue is that when there is the two and two from either Council, it is a public setting and sometimes these dispute resolution discussions have a legal context that needs to be considered. That is why the three Councilors from Lake Oswego worked, it was not a quorum and the project team could have a conversation with them in a less formal setting to work through those issues. Mayor Dirksen stated the Oversight Committee is not a quorum, but Councilor Tierney stated it is looked at as a public body. Councilor Tierney asked if the Oversight Committee has the opportunity to be in Executive Session? Mr. Komarek stated that question was asked of David Powell our City Attorney and the response was as an advisory committee to the Council this is a public setting but we could have a closed session. Councilor Tierney mentioned that he thinks this would be the appropriate body to function as the

liaison between staff and the Councils. Mr. Kyle mentioned the project team will know when something significant is coming and it would be great to have this small group that can talk it through and then explain in detail to the entire Council so there are no surprises. Mayor Dirksen stated then there is a change but not a surprise. Councilor Buehner mentioned that people would have had time to digest the problem and be prepared. Mr. Kyle mentioned again that the key is to give the project team the power to authorize things even if they don't know the full extent of the costs. The project team will then update the small group with what has been done and the possible risks and consequences.

5. TIGARD/PORTLAND CONTRACT UPDATE

Mr. Koellermeier stated the letter to Portland was delivered on July 1. Tigard has five years to put together an interim system. Mayor Dirksen asked if there has been any response from Portland. Mr. Koellermeier stated they have acknowledged receipt of the letter. Councilor Tierney asked if Tigard would have a need for more water than what the partnership will provide. Mr. Koellermeier stated Tigard needs 20 to 30 MGD. Councilor Tierney asked how many MGD does Tigard purchase from Portland now. Koellermeier stated they get about 6 MGD. Mr. Koellermeier stated that Tigard would keep the Oversight Committee apprised of the situation over time.

6. RWP ALTERNATIVE ANALYSIS

Mr. Komarek showed a graphic that represents all of the different options the project has been looking at for crossing the Willamette River. He pointed out the existing raw water pipeline which runs from the intake on the Clackamas River and works its way across the river. That pipeline was constructed in 1968 using open cut construction. It has been determined that the original Plan A, open cut that followed the existing pipeline, has caused issues with the regulatory agencies. Because of those regulatory issues and the discovery of environmental overlays in the West Linn parks which limit any disturbance to a strip of 25 feet wide by 200 feet long; Plan B, Horizontal Directional Drilling (HDD) under the river, is now the preferred approach. There are two HDD routes being explored. One starts in Meldrum Bar Park and proceeds straight across the river ending on two properties that are just north of Mary S. Young Park's boundary. These two properties are owned by the state of Oregon. The City of West Lynn has a waste water pump station located on a portion of one of them. This Friday, the team will begin the upland geologic reconnaissance work on the Meldrum Bar Park side to try to assess the geologic conditions and if these are favorable, the team will then proceed to do the in-water borings. If after analyzing the information it turns out to be very unfavorable or extremely risky in terms of constructability, then the team will start looking at the second option from Hull St. in Gladstone directly across to Mapleton Dr.

Councilor Buehner asked if the first option crosses a corner of Mary S. Young Park or does that go directly into the two state-owned properties. Mr. Komarek mentioned it crosses under or below the park. Councilor Buehner asked if under would trigger the same environmental issues. Mr. Komarek stated that the team has had some conversations with the City of West Linn about the definition of disturbance; it is understood that there will be some environmental work to try to assess what the disturbance might be, but it appears the pipe will be deep enough so it is not likely to impact tree roots or the hydrogeology of the subsurface soils.

Councilor Tierney asked if the project team has had any conversations with the state as the owners of the property. Mr. Komarek answered that he is trying to speak with their property manager about any issues and the team is also collecting deed information on the two parcels to see if there are any restrictive covenants. Councilor Tierney mentioned that since West Linn has a pump station on the property, it appears that the state allows municipal uses.

Councilor Buehner asked when analysis should be completed. Mr. Komarek stated upland geotechnical work should begin by the end of this week; it will be analyzed by the geotechnical experts and the HDD expert with results available in about a month.

Councilor Tierney asked about the cost difference between HDD and open cut? Mr. Komarek answered the cost delta between open cut and HDD is about \$2 million.

Councilor Tierney asked if there is a material impact on the timing of the project. Mr. Komarek stated there is an impact on schedule. The project team was hoping to have gone forward with either of the original two options and started on the application process with both Gladstone and the City of West Linn. If these other options turn out to be infeasible for any reason, then the team will go back to some of the less desirable options; that will mean collecting more information and analyzing it.

7. MUNICIPAL WATER PERMIT EXTENSIONS UPDATE

Mr. Komarek stated that a motion was filed with the appellate court to consolidate the hearings process. There are four different extensions that have been appealed so the request of the department's lead counsel was to consolidate all four into a single record. The record has to then be certified by the state which should be done within the next couple of weeks. Once the record is certified, then it is in the appellate court's hands to set a schedule for the filing of briefings and oral argument. Mr. Komarek stated he would keep the Oversight Committee informed of further developments.

8. SCHEDULE AND BUDGET UPDATE

Mr. Prock handed out a memo summarizing the two adopted Lake Oswego budgets. He stated that this year is different from last year in that the project has funding from the Systems Development Charges (SDCs). He mentioned a significant increase from last year to this year due to consultant contracts. By September 6, the team will have the last design firm on board which means all four design packages will be underway.

Attached to the memo is a spreadsheet that shows each of the packages, the work order number, the project title, the program budget, the contract amount and the firm that has been selected. This provides a total view of where the project is today. Mr. Prock pointed out for package 3 the contract award amounts are just the amounts that the project team has programmed in. The team is still in the process of selecting that particular consultant; therefore, the program budget amount matches exactly the contract award amount. Councilor Tierney asked why the water treatment plant expansion contract amount is below the budget amount. Mr. Prock stated that sometimes consultants will use a percentage of the total estimated value of the plant work. Sometimes those percentages are fairly accurate; sometimes they are not. Councilor Buehner asked if this could have anything to do with the economy, people are hungry, or is this just the way it is in this

particular kind of business. Mr. Prock stated he thinks the economy has dictated a little more aggressive bidding; consultants are reducing their profit a little bit trying to capture work.

9. COMMUNICATIONS UPDATE/WHY NOW VIDEO

Mr. Komarek turned the meeting over to Eryn Deeming Kehe from JLA. Ms. Kehe mentioned that after the communications update, the Oversight Committee would be the first to see the latest video titled "Upgrading Lake Oswego's Water System – Why Now?" The team has also updated the water treatment video and it can be viewed on the partnership's website, LoTigardWater.org.

Gladstone - Meetings with Mayor Beyers are taking place about the raw water intake and on July 21, 2011, the intent is to submit the land use application to the City of Gladstone. The team is planning to host a BBQ near the intake at Aimes Park toward the end of this summer.

West Linn - Design is underway at the Water Treatment Plant and abutting neighbor visits are starting on Kenthorpe. These visits are one-on-one conversations with owners about their needs. The intent is to hold those one-on-one discussions with a culmination of a design charette in the fall. Staff provided updates at a Robinwood Neighborhood meeting on July 12. There is some tree removal planned for November. These trees were determined by an arborist to be diseased or dangerous. The good neighbor plan is still open for comment until September or October. The great neighbor committee (the group that has been organized to work on the good neighbor plan) has asked the West Linn Council to provide them a planner to assist in understanding the code. Contact has been made to all Neighborhood Associations to see if there is interest in hearing about the Partnership and schedules.

Lake Oswego - Some contact has been made to Lake Oswego Neighborhood Associations. Not many Neighborhood Associations meet in August so most of them will begin happening in the fall. There was a pre-app meeting for the finished water pipeline that occurred last week and several neighbors from Lake Oswego attended. The land use application is intended to be submitted in November or December of this year with the required neighborhood meeting for that land use application occurring this fall. For the Waluga Reservoir, the good neighbor plan effort will start in earnest in September as directed by the neighbors themselves.

Ms. Kehe asked if there were any questions before the video was started.

Councilor Buehner asked if there would be a presentation about the pilot plant at the Oversight Committee? The answer was yes.

Councilor Tierney asked about the Robinwood Neighborhood and where things stand in terms of the use of the Mapleton properties? Mr. Komarek answered those properties are being appraised; there should be a final appraisal to share with Council within the next two weeks. Mayor Dirksen asked for clarification about what the appraisal is for? Mr. Komarek answered that the appraisal is to try to establish the value of the impact to the overall neighborhood of the expansion plans for those properties. The information is part of the whole process to establish the value of that impact and then make offers to the abutting property owners. Mayor Dirksen stated he was unsure how appraising the value of those properties relates. Mr. Komarek stated it is more the value of lifting the restriction that is on those properties. Mayor Dirksen asked if it is the impact on the condemnation of the deed restrictions. Mr. Komarek stated it is the consequence of lifting the

deed restriction and then constructing something that is non-residential in scale and style on those properties; what is the impact to abutting properties in the plat. Mr. Koellermeier stated that an actual property appraisal will need to be performed because in order for Tigard to keep initial entry costs low they did not initially invest in those Mapleton properties. Once the decision is made to use those the properties, Tigard will have to buy their share.

The video titled "Why Now" was played. Councilor Tierney stated the message of emphasizing meeting the peak demand is open to a lot of criticism from people who oppose this project. Councilor Tierney believes the other issues are more important and deserve greater emphasis. He mentioned that quality wasn't addressed.

Mayor Dirksen stated one of the questions he hears regularly is why can't we just leave it alone and one of the answers is clearly because the plant is too old and is falling apart. Ms. Duncan stated the picture in the video of the pump being taken out was less than 4 weeks old. Councilor Buehner asked what one missing pump reduces total water production to and Ms. Duncan answered it reduces Lake Oswego to 12 MGD. Mayor Dirksen asked if there's redundancy; doesn't the plant usually just have three pumps running? Ms. Duncan answered that the river intake and the finished water pump stations don't have redundant capacity so to meet the 16 MGD all four pumps have to be running all the time.

Ms. Kehe thanked the Oversight Committee for their comments.

10. FUTURE AGENDA ITEMS/NEXT MEETING DATE

The next Oversight Committee meeting will be Monday, August 8, 2011, from 6:00 p.m. to 7:00 p.m. at the West End Building in Lake Oswego.

Mr. Komarek mentioned what the project staff has been talking about as subjects for future agendas.

1. 6 MGD to West Linn. West Linn, like a lot of communities, has some major deficiencies in its water supply system and some serious vulnerabilities. Mr. Koellermeier and Mr. Komarek have approached them with a proposal for an option that would be to lease or buy into some capacity in the expanded plant.
2. Sizing raw and finished water pipelines to potentially deliver up to 20 MGD to Tigard or anyone else on the west side of I-5. As Lake Oswego looks at its future demands and how conservation and growth affects those demands it might be conceivable that the next increment of supply beyond the 32 MGD could be used by Tigard or perhaps others. If the pipeline capacity is not there, then that opportunity is not available.
3. Revisit contracting authority and claims and risk management.
4. The Technical Committee thought that it would be important to have a recurring agenda item entitled upcoming critical decisions as a prompt.
5. Lake Oswego's Council will be hearing about a request from the Natural Resources Advisory Board with respect to an area that was used by the City for the LOIS project. It was unimproved public property used as a staging area and the program team has talked to this group about the importance of possibly using that same area for the water partnership project. This means rather than restore the site now, which was a

requirement of our interceptor sewer contract, we have deferred that restoration knowing that we wanted to use it for the partnership project. A request has come from this advisory board to our Council about whether or not the partnership should participate to some degree in the planning and the restoration activities for that site once the partnership project is over.

6. Councilor Buehner mentioned the pilot plant.

Mr. Komarek mentioned the Lake Oswego Council is not meeting in August. Regardless, it was decided the Oversight Committee would meet monthly beginning in August. Oversight meetings will be held on the second Monday of each month. It was decided to begin the meetings at 6:00 and end at 7:00. Each meeting will now be held at the West End Building in Lake Oswego.

Mr. Komarek asked if there was interest in having a Joint Councils meeting in September. The Technical Committee will decide what might be included on an agenda and revisit this topic next month.

11. ADJOURN

Mr. Komarek adjourned the meeting at 7:00 p.m.

Attachments: None

Approved: August 8, 2011