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**City of Lake Oswego/City of Tigard Water Supply Partnership  
Summary of Oversight Committee Meeting #27  
Meeting held  
August 13, 2012**

Lake Oswego Technical Committee Member Joel Komarek called the meeting of the Lake Oswego/Tigard Water Partnership Oversight Committee to order at 5:34 p.m. on August 13, 2012, in the Oswego Conference Room of the West End Building; 4101 Kruse Way, Lake Oswego.

**Present:**

**City of Lake Oswego Oversight Committee:** Mayor Jack Hoffman, Councilor Bill Tierney  
**Staff:** Joel Komarek, Dave Prock, Jane Heisler, Vanessa Deets  
**Other:** David Donaldson, Kari Duncan, Guy Graham, Ursula Euler

**Brown and Caldwell** Jon Holland

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

**Guests** Lamont King, Robinwood Neighborhood Association

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1. CALL TO ORDER/ROLL CALL
  2. APPROVAL OF MINUTES FROM MEETING #26

**Mr. Komarek** asked for approval of minutes from the last meeting held on July 9, 2012. **Councilor Buehner** motioned to approve, **Mayor Dirksen** seconded the motion. A voice vote was taken, and the motion passed with Lake Oswego **Mayor Hoffman**, and Tigard **Mayor Dirksen** and **Councilor Buehner** voting 'aye' (3-0).

3. PUBLIC COMMENT

There was no comment.

4. DISCUSSION OF PRIOR ACTION ITEMS

As requested during last month's meeting, **Mr. Komarek** passed out a graphic of the Water Treatment Plant (WTP) showing the proposed structures with building elevations.

5. EMERGENCY WATER SUPPLY AGREEMENT UPDATE

**Mr. Komarek** referenced two copies of the Emergency Water Supply Agreement in the packet handed out. City Manager Working Draft V.3.2, displays the terms and conditions in the

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agreement which have changed in the update shown in red strike out and the insertions are shown in underline blue. The other copy, City Manager Working Draft V.3.3, is a clean version with the changes incorporated and highlighted commentary explaining why certain terms and conditions have changed. The agreement has been reviewed in a study session with the City of West Linn Council. **Mr. Komarek** asked if the Oversight Committee (OVC) had any questions to the proposed changes. Staff would like to receive the OVC's endorsement to recommend the agreement to be presented to their respective Councils. **Mr. Komarek** also asked if the OVC would like the agreement to come to their respective councils in advance of approval by the City of West Linn.

The Intergovernmental Agreement was scheduled to be on West Linn Council agenda this evening, but it was pulled from the agenda this afternoon and has not been rescheduled. **Councilor Buehner** would like to review the Agreement in executive session. **Mayor Dirksen** would need to speak to the City Attorney to get any recommendations. **Mayor Dirksen** asked if West Linn's recommendations are listed on the current working draft. **Mr. Komarek** responded the agreement has been reviewed by West Linn's staff, legal council and discussed with their Council in a study session. As **Mr. Komarek** understands, the terms and changes listed are acceptable to West Linn's staff and legal council. He does not know the results from the study session with West Linn. **Mr. Koellermeier** expects to hear from West Linn in the next couple of days whether they are requesting changes or not. **Councilor Buehner** stated she reviewed the draft and proposed a change to Tigard's City Manager, Marty Wine, which is not listed on the current working draft. She requested the agreement outline that in summer peaks there could be a situation where Lake Oswego could not provide water to West Linn on an emergency basis. She thought it was important that people understood there are limitations to the current agreement.

**Mayor Dirksen** mentioned number 10 on the agreement implies Council Buehner's request if the words 'continue to' was added to line two. The sentence would then read, "Lake Oswego and Tigard can *continue to* provide West Linn and Board with redundant water supply facilities and a reliable source of emergency water supply..." This would indicate that without the expansion there is no promise Lake Oswego and Tigard would be able to continue to provide emergency water at all times.

**Mayor Hoffman** mentioned it would be helpful for **Mr. Komarek** to point out what concerns the City of West Linn may have. **Mr. Komarek** answered a concern of West Linn council is that they are struggling to separate water supply issues from the land use matter. Despite the advice of their legal counsel that the water supply agreement can be separated from the land use matter, West Linn Council is still uncomfortable with it.

**Mr. Komarek** stated the WHEREAS sets the context of the agreement. Under the NOW THEREFORE, staff has taken out some language related to the prior update, tried to minimize changes at the request of West Linn staff and add Tigard as a party to the agreement. One of the most substantive changes is an insertion in paragraph 8, Quantity of Water to be Supplied. The insertion reads "Provided that Lake Oswego's supply facilities are expanded to a treatment capacity of 38 million gallons per day, Lake Oswego and Tigard can provide West Linn and Board with redundant water supply facilities and a reliable source of emergency water supply sufficient to meet West Linn's average day demand of 4 mgd through at least 2041". Another substantive change is in new paragraph 13, Agreement Not to Resell Water Without Consent. This is inserted for Tigard's benefit because they supply water to Durham and King City: "Except for existing wholesale customers or existing mutual aid agreements..." **Mr. Komarek** added the cost of water

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remains the same relative to the prior agreement. The cost is the wholesale cost which South Fork sells water to West Linn. If the South Fork's current rate changed, then so would the rate on the agreement. **Mr. Koellermier** confirmed Tigard's staff has reviewed the agreement.

**Councilor Tierney** asked why the costs are the same as what West Linn pays South Fork. **Mr. Komarek** said to avoid controversy and because the supply is for emergencies and so often the volume of water is relatively small therefore it does not make much of a difference. **Councilor Tierney** stated if negotiations are open, he would like to see this topic negotiated as the cost of our water is more expensive since it will be ozone treated water. He understands we are trying to get an agreement but if there are continued negotiations he would like to see this brought up. **Mayor Dirksen** mentioned the language used in the agreement could be 'limited to the real cost of providing the water' or 'at the same rate we sell to our wholesale customers'.

**Mr. Komarek** stated staff can make the changes mentioned by the OVC and will let Chris Jordan from West Linn know. **Mayor Dirksen** stated with the changes made to the agreement it would be acceptable to present to Tigard council. **Mayor Hoffman** would like both Lake Oswego and Tigard Councils to review at the same time.

**Mr. Komarek** reminded the group one of the primary reasons the agreement is being updated is because Lake Oswego has a partner (Tigard) who has ownership share of the facilities used to supply water to West Linn in an emergency basis. Also, staff made a commitment to the West Linn Planning Commission (WLPC) that this was one of the things staff would do before returning to the WLPC.

**Councilor Tierney** mentioned if the Partnership does not have this agreement done with West Linn City Council before the next WLPC meeting, this could be problematic. This is a straightforward agreement and if the West Linn City Council has not signed it then there is a problem. **Mayor Dirksen** shares the concern and would like to have the agreement in place before the partnership goes through the land use process. He would like to make sure that West Linn Council is on board before Tigard and Lake Oswego sign it. A way to address that would be for Tigard and Lake Oswego to approve the agreement in principle, conditional on final acceptance from West Linn Council. He thinks it would be awkward for the two cities to sign it before West Linn. Approving the agreement in principle means Tigard and Lake Oswego are ready to sign when West Linn is.

**Mr. Donaldson** read an email sent from West Linn "After much thought they [West Linn Council] would prefer to consider the IGA after the LOT project concludes the land use process." **Mr. Komarek** believes this is indicative of the concern they have about the land use process and this process. This agreement is a policy about emergency water supply and it's not a land use matter and they have not been able to separate those two issues. **Councilor Buehner** stated if we do not get the land use application approved then this IGA will not happen. West Linn will have to find another source of emergency water. **Mayor Dirksen** thinks staff needs to respond back to West Linn Council stating this is problematic as the partnership made a commitment to the WLPC to handle this before the next hearing. **Mr. Komarek** stated staff made a commitment to start the effort to update the agreement and they have done that. Staff has agreed on the terms and potentially with their respective councils. **Mr. Komarek** believes staff can tell the WLPC we met our commitment regardless of whether or not West Linn Council has approved the updated agreement.

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**Mayor Dirksen** mentioned by waiting to review the IGA after the land use process, West Linn is putting themselves in bad spot and West Linn would be better off having this agreement in place before that action takes place. **Mr. Koellermier** likes the idea of making the revisions and then presenting the agreement for approval in principle by both Tigard and Lake Oswego Councils.

**Mr. Komarek** stated action items for staff are to revise version 3.3 to incorporate requests from the OVC, get the agreement in front of the West Linn City Manger so he is aware of revisions and Lake Oswego and Tigard will review this in early September and hopefully approve in principle.

#### 6. MAPLEGROVE CC&R'S

**Mr. Komarek** stated staff is attempting to get responses to offers of compromise to the litigants. Staff is making the same offer to the no- litigants who had already signed the waiver of the additional compensation. About a dozen people have contacted staff. The people who are represented by the Minnesota legal firm have not yet responded to the offers which were due August 2nd. Staff will be discussing this with Lake Oswego Council this week.

#### 7. COOPERATIVE AGREEMENTS

**Mr. Komarek** stated staff has been working with West Linn staff, Gladstone staff and Oregon State Parks Department (OPRD) on a series of cooperate agreements regarding mitigation for potential impacts and coordination of public improvements. Staff has made commitments to West Linn and Gladstone to make improvements to their public infrastructure as a result of the project. The Oregon Parks and Recreation agreement has gone forward to OPRD and they have tentatively approved it and it will part of a package presented to their commission later this month. This is related to a grant of an easement for the raw water pipeline (RWP) thru Mary S. Young Park (MSYP). In that agreement the partnership has made a commitment to provide West Linn 90 thousand dollars so their volunteer organizations can make improvements and enhancements through the park. These improvements have been identified and endorsed by West Linn Parks department. **Mr. Komarek** met with West Linn staff and state parks staff several months ago to discuss the terms of this cooperative agreement and this has been reviewed by Lake Oswego legal and it has been tentatively approved by OPRD and West Linn staff. This does not need to go to Councils as this is within the budget of the program and within the contracting authority of the City Manager.

**Mr. Komarek** mentioned West Linn and Gladstone's substantial public improvements exceed what would normally be required for land use mitigation. MSY Park improvements will cost \$90,000, street restoration over \$200,000 and the cost of asbestos water line replacement is \$300,000. The Partnership is paying for 1/3 of the water line upgrade costs.. Staff is designing new pipelines for both Mapleton Drive, Old River Road, and Kenthorpe Way and will construct those pipelines. Costs for design and construction for West Linn's share of the improvements will be reimbursed by West Linn pursuant to a cooperative agreement. There is the potential for cost sharing on a sidewalk segment gap. Staff is required to build half street improvements on the Kenthorpe frontage, Mapleton frontage and the Kenthorpe dead end. In Gladstone, staff is looking to design and build some water line improvements which will be fully reimbursed. We have committed to some street improvements which will not be reimbursed.

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8. MUNICIPAL WATER RIGHTS

**Mr. Komarek** stated reply briefs were submitted to the appellate court on August 6. Water Watch has 20 days to develop and submit their reply. He expects Water Watch will request extensions.

9. CONTRACTOR OPEN HOUSE

**Mr. Prock** stated staff held a contractor open house on August 9 with approximately 50 attendees. Staff delivered a presentation and design stations were set up for interactions. Good comments were made from design team members and contractors. Contractors were from Washington down to California.

10. PROGRAM UPDATE BY MAJOR TASK

**Mr. Prock** mentioned ozone documents for the procurement selection were posted on the Willamette Blueprint website today and are available for vendors to view and download. Staff expects to receive proposals around September 13. Staff is moving forward with screw press documents and they will be posted in the next 10 days. Staff is putting together the prequalification documents for the River Intake Pump Station (RIPS). Based upon earlier designs decisions made, staff is looking to pre-purchase a certain amount of ductile iron pipe to have on site available for the contractor to install on Douglas Way area near Lake Grove Elementary. Staff has some concern if they do not pre-purchase the pipe, the contractor will not have time to get it and get the work done in the first summer season. Staff has a commitment to Lake Grove Elementary that they will not block off access during school time.

11. PROGRAM PERMITS STATUS UPDATE

Per the request from the last meeting **Mr. Prock** added a permit update to the packet handed out. In Gladstone, the second application for RIPS was administratively approved and the 21 day appeal period has ended. Staff is waiting to hear back from the Clackamas County planner for his final paperwork. The raw water pipeline (RWP) application in Gladstone had been approved by the Planning Commission and the appeal period has ended. Staff is also waiting on the Clackamas County planner to get back to staff. For the WLPC the tentative date is October 3. For the Bonita Pump Station (BPS) staff is looking at an application submittal date for planning related permits on about September 10. Staff cannot create an application until the City of Tigard has assumed control of the property. If the date slips it is not a huge impact later to construction. Tigard Council is set to review the property acquisition on September 28.

12. COMMUNICATION UPDATES

**Councilor Tierney** stated he met with 3 families in the Waluga reservoir neighborhood. Nothing out of the ordinary was mentioned but there was appreciation to be heard. He walked the neighborhood to talk with neighbors. One new neighbor in the area felt his constitutional rights were being violated. Another neighbor was not concerned as the reservoir is not that close to their residence. He left his city card with a note on those who were not home and he did not receive any calls. **Ms. Heisler** added during the Waluga required neighborhood meeting the landscape architect created sight line drawings from those streets showing neighbors that the proposed reservoir would not be seen. Staff is going to offer backyard visits to these neighbors

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again to see if they would like any help in terms of landscape design advice on their own property. The tank has moved about 6 feet to the east due to land use requirements and this information will be posted on the website. **Mr. Prock** added the design team is looking at colored concrete to match the surrounding terrain.

**Ms. Heisler** stated Jeff Selby has done public outreach in Meldrum Bar Park, Gladstone Chautauqua Festival and will be in the Garden area of Meldrum Bar Park this upcoming weekend. Mr. Koellermeier, Mr. Komarek and Ms. Heisler attended the Clackamas River Water Commission's Board meeting last week. As for Beat the Peak, Tigard has stayed under 12 million gallons per day (mgd) per day and Lake Oswego went slightly above 12 mgd one day last week. August 11 staff held an open house at the Water Treatment Plant (WTP). About 25 people attended out of the 1300 invited. **Councilor Buehner** stated she had some interesting conversations with neighbors about a ½ mile from the WTP, some of them did not know the WTP was in the area until the open house. **Ms. Heisler** stated staff will be informing residents of the reverse 911 system with Clackamas County, per neighborhood request. A flyer was available at the open house and a mailing will be sent out to the surrounding area.

**Ms. Heisler** stated that the partnership is sponsoring the Clackamas River Clean Up event on September 9. Staff is working on a communication to businesses about the importance of water which should be sent out next week. **Councilor Buehner** asked if businesses in the area have asked any questions or had any comments about the project. **Ms. Heisler** answered not many. Staff in January went door to door along HWY 43, gave them packet of information and figured out what business are there. A few businesses attended the required pipeline meeting but few concerns or questions have come in. A gas station and a few restaurants in the area are open past 8pm when the construction would start so staff will make sure they have adequate signage and will reach out personally to them to discuss their access needs.

#### 13. FUTURE AGENDA ITEMS

- Status of Emergency Intertie Agreement
- Status of Parks Commissions Hearings
- Maplegrove CC&R'S
- Next Joint Council meeting date possibly November 13<sup>th</sup>

#### 14. NEXT MEETING DATE

The next Oversight Committee meeting will be Monday, September 10, 2012, from 5:30 p.m. to 6:30 p.m. in the Oswego Conference Room at the West End Building in Lake Oswego.

#### 15. ADJOURN

**Mr. Komarek** adjourned the meeting at 6:41 p.m.

Attachments: None

Approved: Approved September 10, 2012