



**City of Lake Oswego/City of Tigard Water Supply Partnership
Summary of Oversight Committee Meeting #31
Meeting held
March 4, 2013**

Lake Oswego Technical Committee Member Joel Komarek called the meeting of the Lake Oswego/Tigard Water Partnership Oversight Committee to order at 7:05 p.m. on October 8, 2012, in the window seating area of the West End Building; 4101 Kruse Way, Lake Oswego.

Present:

City of Lake Oswego Oversight Committee: Mayor Kent Studebaker, Councilor Karen Bowerman
Staff: Joel Komarek, Jane Heisler, Dave Prock, Vanessa Deets, Kari Duncan
Other: Councilor Jeff Gudman, Councilor Skip O' Neill; Tom Coffee, City Manager; David Donaldson, Assistant City Manager; Guy Graham, Public Works Director and Ursula Euler, Finance Director

City of Tigard Oversight Committee: Councilor Gretchen Buehner, Councilor Jason Snider
Staff: Dennis Koellermeier, Public Works Director; Rob Murchison,
Other: Mayor John Cook, Marty Wine, City Manager

Brown and Caldwell John Holland, Program Manager

CFM Norm Eder

Moss Adams Julie Desimone

Guests Gerald Good, Lamont King, Norm King, Peter Sweet, Karl and Linda Edwards.

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1. CALL TO ORDER/ROLL CALL
 2. NEW COMMITTEE MEMBER INTRODUCTIONS

Committee members introduced themselves along with their reason for joining the Committee. **Mayor Studebaker** stated he joined the Committee because this is one of the biggest projects currently in Lake Oswego and is worthy of attention. **Councilor Bowerman** stated she is on the Committee because the Mayor instructed her to join and she has an interest. **Councilor Snider** stated he is a long time resident of Tigard and the community has an enormous interest in the project. **Councilor Buehner** stated she has been involved with the project since before there was a Partnership. She has been involved in water issues for almost 20 years, was elected to the Tigard Water District Board in 1995 and has been on Tigard's City Council for 7 years.

3. PUBLIC COMMENT

Gerald Good, resident at 312 9th St. Lake Oswego, stated he is a graduate of Harvard Business School; he worked at McKenzie Company and is familiar with large capital projects. He stated this water project is large and complex and such a project should have appropriate viewpoints built in but he is not aware of any for this project. Therefore he urges a pause of the project to undertake a thorough review of it. A project review is not an audit of finances; it is a critical look at the project's original assumptions and any changes that may impact the project. The project review should also look at design to date, potential cost reduction opportunities and any risks in the design that project overseers should be aware of. He has attached a list of potential issues and risks that might be reviewed. Based on the review results, the project owners would determine whether any changes were needed. The review is intended to provide the project owners with a flow of independently assembled information for assessment. The project owners would be assured they are approving the project with independent counsel. The review would also give citizens of both cities a much needed update of the project. An effective review requires the project staff not be involved in any way in the RFP for the review, the selection of a firm to conduct the review and previewing the reviewer's reports to the Oversight Committee (OVC) and both city Councils. Only in this way can the review be truly independent and unbiased. He is sure there are qualified citizens of both cities that will assist in preparing an RFP for such a review and evaluating responses that the City Manager's may receive. He certainly stands ready to assist in any way that could help. Additionally, he recommended that the OVC establish metrics for managing the project going forward. Such metrics provide an easy method for updating communications with the OVC and the public and should be presented at each meeting. He submitted an example of some key metrics.

4. PROGRAM REVIEW

Mr. Komarek presented a PowerPoint presentation which offered a perspective from the Technical Committee's (TC) standpoint of the project since its inception. The presentation provided a summary review of the 2007 Carollo study, the 2008 Agreement launching the Partnership, the business case evaluation (BCE) for water treatment technologies, project definition phase, the Supply Facilities Capital Improvement plan (SFCIP) and the Value Engineering (VE) study.

He stated the 2007 Carollo study was a feasibility study, not an in depth engineering analysis, to assess whether or not it made sense for Lake Oswego to consider a partner to fund needed upgrades and upsizing of its aging water supply system. The study confirmed sharing the costs of expensive capital projects with a partner made sense and was the best way to minimize rate impacts regardless of project scope. The study also identified per capita consumption characteristics in the community to ensure it had a reliable supply of water through the time period needed to implement the projects. The study showed that Lake Oswego would need to implement conservation immediately in order to ensure adequate supply prior to project construction.

The study also identified that Lake Oswego's water rights are not sufficient to meet all of Tigard's long term water supply needs. The study indicated a benefit to both communities and the Partnership was launched. The first step was to hire a program manager using a competitive, qualifications-based selection process. Brown and Caldwell was selected from three firms responding to the Request for Statements of Qualifications and subsequently hired to fulfill that

function as an extension of managing agency staff. Brown and Caldwell and a team of structural, electrical, mechanical and geotechnical engineers did a comprehensive assessment of all of the facilities considered for upgrade and/or replacement for the project. Staff also assessed water treatment methods, looked at land use permitting and ultimately identified the type, size and location of the facilities that would be replaced.

He stated that this comprehensive assessment concluded that the 45 year old facilities constructed in the mid to late 1960's required immediate renewal and replacement due to substantial structural, corrosion, seismic, electrical, mechanical issues deficiencies. These findings refuted some of the early conclusions of the Carollo Study that suggested many of these facilities could be reused or repurposed as part of an expanded water supply system.

Mr. Komarek showed a slide which communicated the business case evaluation process that resulted in the decision for the addition of ozone to the conventional treatment system for the plant. A blue ribbon panel of water treatment experts from across the country was assembled along with public health experts out of the state of Utah and a citizen sounding board that was made up of residents from both cities to determine the best treatment process going forward for the two communities. The consensus conclusion was that conventional water treatment combined with ozone provided significant public health benefits. **Councilor Buehner** added the public health experts said ozone would basically be a requirement to meet federal standards at some point therefore it was more affordable to do it upfront rather than retro fit any plant with ozone down the road. **Mr. Komarek** stated there were discussions on treatment options that would address emerging contaminants of concern. Recent studies by American Water Works Association (AWWA) and Water Environment Federation confirmed ozone is a treatment processes that destroys the widest range of these containments.

He stated the 2010 projection definition phase was underway concurrent with the business case evaluation of treatment options. He referenced the Clackamas River intake, raw water pipeline, treatment plant, treated water pipeline, Waluga reservoir and the Bonita pump station as facilities that were looked at as part of this phase. In 2010, after the yearlong project definition effort, staff presented to the Joint Council's a program that had been scoped out extensively and there was an understanding of what the size, type and location would be. The cost of the program at that time was estimated to be \$230 million. Understandably both Councils questioned if this was still a good deal for the two communities and instructed staff to undertake a thorough analysis of the underlying assumptions for the program. Options ranged from phased expansion, deferrals of expansion, go-it-alone and relying on conservation to allow deferrals and phasing. He referenced a slide on the presentation which displayed net present value savings with or without ozone and go-it-alone scenarios. Tigard did a similar study. The result of that effort was that the Partnership remained the least cost option for both cities.

The program team and Technical Committee presented a supply facilities capital improvement plan (SFCIP) that defined the program to the Joint Council's in October 2010. This plan was adopted separately by both Councils and became an exhibit to the Intergovernmental Agreement. About a month later both Councils recommended staff conduct a value engineering study (VE). RSR Solutions from Seattle, WA was selected and they hired their own engineers, scientists, geotechnical engineers, cost estimators and contractors. They spent several weeks poring through the work the program manager had done over the last year and identified close to 200 ideas the program management team might consider as ways to reduce costs and still meet the overall goals and objectives of the Partnership. Every one of those ideas was vetted with RSR Solutions

and 51 of those ideas were accepted and resulted in \$12 million dollars in capital and life cycle cost savings.

Mr. Komarek referenced a graphic which represents a cost estimating cone. It shows where the Partnership was in Project Definition phase, 30% design phase and 60% design phase.

Councilor Buehner added when the 30% design estimate was brought forward the OVC had asked for the worst case scenario and what were the highest possible costs so there would not be any surprises down the road.

Mr. Komarek stated that because the financial conditions in the credit market have improved, the construction market has stayed competitive, bids have been placed, and staff was conservative with interest rate estimates early on, that there has been no need to adjust utility rates upward from where they were estimated back in December 2010.

Councilor Bowerman questioned Mr. Komarek about the presentation slide which displayed planned water rates and the possible sale of 4 mgd to Tigard. She asked about the sale of 4 mgd to Tigard and asked if that amount was from the extra 6 mgd to West Linn. **Mr. Komarek** answered the 4 mgd would be from Lake Oswego's allocation under the current Intergovernmental Agreement. The allocation today is Lake Oswego would have 24 mgd and Tigard would have 14 mgd. The presentation graphic of planned water rates and the possible sale of 4 mgd to Tigard displays the costs of the possible reallocation. He stated the 4 mgd for West Linn's emergency water supply is within the overall 38 mgd of the partnership.

Mayor Studebaker asked if the 4 mgd could be water for sale or would Tigard be entitled to the additional 4 mgd. **Mr. Komarek** stated it would be a reallocation of the assets and the water.

Mayor Studebaker asked if Tigard takes 14 mgd and their capital costs are 53% of the project, do they also pay for water as they take it? **Mr. Komarek** answered Tigard would be paying for the operation and maintenance costs to deliver that water based of the actual amount of water they take. Lake Oswego will pay for the operation and maintenance for their share of the water as well. If Tigard takes 18 mgd they will pay for capital costs and operation and maintenance fees for the additional mgd. **Councilor Bowerman** asked if Tigard does take 18 mgd would Tigard have to back pay. **Mr. Komarek** answered capital dollars have not been spent yet and any possible retro back pay would need to be discussed among councils. **Councilor Snider** stated Tigard is willing to have the discussion about reallocation of Tigard's water usage.

Mayor Studebaker asked if Tigard did not increase their water usage by 4 mgd, would the Partnership be able to sell the water to an outside source and would that be more financially beneficial. **Mr. Komarek** answered it would be possible to sell water to an outside source but he cannot predict if it would be more financially beneficial as he is not aware of an outside market looking for a supply. **Mr. Koellermeier** stated the sale of water to an outside source is still a concept. The west side is developing some new water sources and it is a matter of timing. His instincts are there may be the ability to sell water to the west of Tigard for a limited duration because they will have their own water supply at some point.

Mr. Komarek reviewed next steps on the presentation which included considering West Linn land use approval and forwarding the recommendation to joint councils, forwarding recommendations to award construction/ equipment contracts and discussing the frame work for possible capacity

re-allocation for Tigard. **Councilor Buehner** stated in a land use hearing when conditions of approval are presented, the applicant either takes the conditions or walks away. There is no need for either Council to approve the conditions. It will only come up when doing budgeting for next year and when the Intergovernmental Agreement is signed. **Mr. Komarek** stated the budget process starts with the delivery to the OVC at the next meeting in April. Per the Intergovernmental Agreement, the Technical Committee is required to present a draft budget for review and consideration. The OVC then forwards the recommendations to their respective Councils before June.

5. DISCUSSION OF A SCOPE OF WORK RELATING TO A REVIEW OF THE LOTWP PROGRAM

Mr. Komarek introduced Julie Desimone who is a partner with Moss Adams. Moss Adams is a very well respected financial firm with expertise in municipal utility rate setting. He stated staff was directed by Lake Oswego Council to investigate the feasibility of a review of the program and the rate structure put in place to support that program. He has made calls to his colleagues in the water industry about who they use for this type of work and the name he heard more than once was Moss Adams and Julie Desimone. Julie will be talking with the OVC about her expertise and about what a typical rate study might look like, why do utilities do rate studies, what type of information do they need from their clients to do that work and what are some of the questions that get answered from a rate study.

Ms. Desimone stated she is the national practice leader for Moss Adams' energy and utilities group. She has spent 100% of her time in half of the last thirteen years in the utility business. She met Mr. Komarek last week on the phone and he asked her to come to the OVC meeting to explain what a rate study is. She stated today is the first time she has heard of the project. It is very important to distinguish between what a rate study is versus what has been called a complete review of the program. A rate study identifies all the costs associated with the capital and ongoing operations of a utility into functional units and then allocates those costs among the various utility customers based on their proportionate use of the utility system.. When a rate study is begun, Moss Adams' will start with a policy discussion with the Council or Board of Directors for direction, what type of reserve implications there are, what type of capital construction is expected, how much of that if going to be dealt with the current rate structure versus through capital bonding. Our goal is to make sure they have policies that are set and their questions are answered. Then the future and current needs are determined for the organization. Then consumption and base charges are looked at by looking at the number of customers, the growth rate and consumption charges. A rate study then breaks all that down into individual rate classes (single family residential, multi-family, commercial, etc.). A rate study aligns rates and policies to the actual events. In a case like this, the rate study would entail taking a look at the contracts, future projections, bonding and the cash flow sufficient to meet the needs. The typical costs of these types of studies range from \$25,000 - \$90,000. She reminded the OVC she is here today to provide information and is not selling anything. She is not able to tell the OVC whether the total project cost is appropriate. That could be determined by an external engineering firm.

Mr. Komarek stated the first cost of service analysis was done by FCS Group for about \$55,000. There have been updates to the original analysis in the \$30,000 - \$35,000 range. The initial cost of service analysis included a rate study but also created a rate design which shows which customer class is using water at what time and how does that impact the operating and capital expense of utility. Typically if there is a class of customers using the system more frequently or at a time when it is more expensive to the system, then more of those costs are allocated to that customer class.

Councilor Snider asked Ms. Desimone if a rate study is really answering the question of equitable distribution of the costs and charges. **Ms. Desimone** stated he was correct. It's looking at all revenues and expenses of the utility and allocating those costs in the form of rates at the individual customer level.

Ms. Desimone stated a rate study can take from 4 weeks to 3 months to complete. In conclusion, a rate study is done is to ensure the rates are set equitably among classes, to have a high level review of the costs that are going into each of the classes. Moss Adams would use the utility's consumption, future consumption, system constraints, reserve requirements, and historical and future cash flow data.

6. REVIEW AND DISCUSSION OF MANAGEMENT STRUCTURE, DUTIES AND AUTHORITY

Mr. Komarek referenced management Article 3 from the Intergovernmental Agreement in the OVC packet. The Technical Committee members include Joel Komarek, Kari Duncan, Rob Murchison and Dennis Koellermier. Their responsibilities include in, good faith, to execute contracts, deliver the program by 2016, handle the planning, project management, maintenance of all records and manage budgets to be delivered to the council at appropriate times. The Oversight Committee (OVC) reviews the individual projects as they come forward and make recommendations to the Council's regarding budgets, contracting matters and making sure staff stays on track.

7. DISCUSSION OF WEST LINN'S LAND USE CONDITIONS OF APPROVAL

Mr. Komarek referenced the list of conditions included in the OVC packet. **Councilor Buehner** stated she was pleased the \$5 million dollar fee was a onetime lump sum rather than an annual fee. **Councilor Bowerman** asked what the total cost for the conditions were. **Mr. Komarek** stated the cost was around \$5.2 million which includes the \$5 million fee, the additional pump, the program's share of the piping, the contribution to the Robinwood Station conditional use and the business promotion plan. **Councilor Buehner** reminded her of the offset of the \$1.5 million insurance fee that is no longer applicable. **Mr. Holland** confirmed the total cost of the project is still \$252 million as of today. **Mr. Koellermeier** asked if the \$252 million assumes the River Intake Pump Station (RIPS) bid as it was received. **Mr. Holland** answered yes.

Councilor Buehner mentioned when the 30% review was available there was not sufficient design information at the time. With the 60% design, she asked if that allowed modified estimates for the Water Treatment Plant (WTP) or will that continue to change until 90%. **Mr. Holland** stated the footprint has been optimized from that point and have recognized the cost savings that go with it.

Mr. Komarek asked if the OVC feels comfortable making a recommendation to their Councils so they can agree or accept the conditions of approval. This would include a budget brought forward in April that would include the costs of the conditions. **Councilor Snider** stated both partners have an obligation to move forward with the project and this is a cost of that.

8. PROGRAM ENVIRONMENTAL PERMITS / LAND USE UPDATE

Water rights and environmental permits

Mr. Prock referenced the memorandum in the OVC packet related to program permits and updates. He stated there is an update on the municipal water rights permit extensions for the briefing schedule. A motion for expedited review was filed 2/27/13 and we are waiting for a response. **Councilor Bowerman** stated she understood the court's decision timeframe is December 2013; she then asked if they do expedite it when would the decision be. **Mr. Komarek** stated staff would not know until a response is made. **Councilor Buehner** stated the Court of Appeals operates under its own rules. The expedited review is to schedule the oral argument sooner than later because once that is done the courts have to make a decision within so many months. The decision is made in the discretion of the court.

Mr. Prock stated that staff has filed the joint permit with the United States Army of Core Engineers (USACE) and Oregon Department of State Lands (DSL). The DSL permit was issued 8/22/12. Staff as an upcoming meeting with the National Marine Fisheries Service (NMFS) and USACE on 3/6/13 to discuss issues brought up by Water Watch. Once that is complete, staff anticipates the USACE permit will be issued in May 2013. This permit is necessary to do the in water work associated with the river intake pump station (RIPS). **Councilor Bowerman** asked if this May date is assuming National Marine Fisheries Service (NOAA) Fisheries isn't involved. **Mr. Prock** stated NOAA has been involved all along in looking at the biology. **Councilor Bowerman** asked if USACE is definitely going forward with this permit or is it up in the air. **Mr. Prock** answered according to the project's permit specialists the anticipation is it will be in May based upon their understanding of what is going on.

Project Land Use Permits

Mr. Prock referenced the memo in the packet for land use permits, most of which have been approved. He stated the window for someone to file an appeal to Land Use Board of Appeals (LUBA) ends on March 12. **Councilor Bowerman** asked if it was correct that three have been filed. Both **Mr. Prock** and **Mr. Komarek** said they had not heard of any filed at this time.

9. FUTURE AGENDA ITEMS

Mr. Komarek stated per the Intergovernmental Agreement the budget will be brought forward in April for consideration. The agenda will be focused on that item.

Councilor Buehner asked if preview of the 60% design review would be shown at the March Joint Council meeting. **Mr. Holland** stated the \$252 million is the 60% review number. **Councilor Buehner** stated she would like the summary of changes sent to her. **Mayor Studebaker** asked Mr. Holland if he anticipated the \$252 million to remain the same at 100% design. **Mr. Holland** answered there is still a plus and minus range and at this point the estimate of \$252 million could go up or down by 5% to 10%.

Mr. Koellermeier stated he would like Ted Kyle who is a construction contract manager specialist to give a briefing to the OVC about how to manage costs during the construction phase. He gave this presentation to the first OVC and it was well received.

Mr. Koellermeier also noted that two Intergovernmental Agreements for the updated Emergency Water Supply and the Right of Way Occupancy would be presented to the OVC before Council.

Councilor Buehner stated she would like to go back to the original OVC meeting schedule to alternate meeting locations between Lake Oswego and Tigard. OVC members agreed. **Mr. Komarek** also stated the meeting time generally begins at 5:30 p.m.

10. NEXT MEETING DATE

April 8, 2013 5:30 p.m. at the Tigard Public Library.

11. ADJOURN

Mr. Komarek adjourned the meeting at 8:26 p.m.

Respectfully Submitted,

Vanessa Deets /s/
Vanessa Deets, Administrative Support

Attachments: None

Approved by the Oversight Committee:

On 4/8/13