



**City of Lake Oswego/City of Tigard Water Supply Partnership  
Summary of Oversight Committee Meeting #50  
Meeting held  
November 9, 2015**

**Present:**

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| <b>City of Lake Oswego:</b> | <b>Oversight Committee:</b> Mayor Studebaker, Councilor Manz<br><b>Staff:</b> Joel Komarek, Scott Lazenby, Kari Duncan, Katy Fulton, Susie Shinn |
| <b>City of Tigard:</b>      | <b>Oversight Committee:</b> Mayor Cook, Councilor Snider<br><b>Staff:</b> Marty Wine, Dennis Koellermeier  |
| <b>Brown and Caldwell:</b>  | Mike Prett   |
| <b>Guests:</b>              | Gretchen Buehner   |

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**1. CALL TO ORDER/ROLL CALL**

Oversight Committee Chair **Mayor Studebaker** called the meeting of the Lake Oswego/Tigard Water Partnership Oversight Committee to order at 5:35 p.m. on November 9, 2015, at the Tigard Permit Center, conference room #4, 13125 SW Hall Blvd, Tigard, Oregon 97223.

**2. APPROVAL OF MINUTES**

**Mayor Studebaker** asked for a motion to approve the minutes from the September 14, 2015 meeting. **Councilor Snider** motioned to approve, **Councilor Manz** seconded the motion. The motion passed unanimously.

**3. PUBLIC COMMENT**

There were no comments.

**4. OLD BUSINESS**

4.1 – Update on water rights extensions remand.

**Mr. Komarek** reported that he and Mr. Koellermeier attended a meeting with staff from Water Resources Department (WRD), the Department of Fish and Wildlife (ODFW), and the Department of Justice (DOJ). The purpose was to get an update on their work to respond to the appellate court remand. They learned that ODFW had just recently submitted their work to WRD and DOJ for review. **Councilor Snider** clarified that this action was to originally be complete in May and then in August. **Mr. Komarek** confirmed. What the work included was just a narrative re-describing the findings and conclusions that would support the advice given to WRD regarding persistence of fish. **Mayor Studebaker** asked if they got into more depth in

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the narrative. **Mr. Komarek** replied that he didn't know because he hasn't seen the report. Legal counsel demanded and DOJ staff agreed to provide their work to legal counsel that same day. However, despite repeated requests, the narrative had not been received at the time of this meeting. **Mayor Studebaker** suggested contacting legislators for support. **Councilor Snider** agreed and also suggested filing a protest action of some sort. **Mr. Komarek** noted that both Mayors have been in contact with representatives from the Governor's office who committed to intervene on the partnerships behalf.

**Mayor Cook** suggested that Mr. Lazenby and Ms. Wine discuss their interaction with the agencies at the League of Oregon Cities conference. **Mr. Lazenby** reported that he had a conversation with the Director of WRD and his message was that the agency wanted to make it right and that the partnership shouldn't panic. **Mr. Lazenby** opined that contacting legislators would be a good idea, not to have them pressure the agencies, but to have them primed for a plan B. His impression was that the partnership wouldn't be kept from taking water while the remand is pending but the agency didn't have the same sense of urgency to get it resolved. **Mayor Cook** said he understood that the report had been sent back to WRD a couple times to rework it and the Directors opinion was that it's better to take some time to get it right rather than having it remanded again. **Mayor Cook** continued that a plan B not be to have Legislators put pressure on the agencies but rather take legislative action to change the current rules and clarify the definitions. **Councilor Manz** asked if a lobbyist had been retained to assist with the matter. **Mr. Koellermeier** stated that Tigard retains the services of a lobbyist but they haven't been working on this issue. **Mayor Cook** noted that it would be highly unlikely that the legislature would take any action during the current session. **Mr. Komarek** stated that after the meeting with the agencies, staff and legal counsel discussed options and the consensus was to pursue a meeting with the Governor to request that she intervene on the partnerships behalf with the agency heads and have her commit to directing them make the remand a top priority. **Councilor Snider** opined that the department heads should also be invited to attend the meeting with the Governor. **Mayor Studebaker** asked what the process would be to set up a meeting with the Governor. **Mr. Koellermeier** asked if the committee would like Tigard and its legislative connections to start the process of getting in contact with the right people to set up an appointment with the Governor. The committee members accepted.

## 5. NEW BUSINESS

### 5.1 – Metrics Report

**Mr. Prett** brought attention to the cumulative expenditures graph. He noted that about \$210 million has been spent of the \$250 million budget. **Mr. Prett** then pointed out the schedule graph and noted that in about two months the only projects that will still be under construction will be the water treatment plant, schedule 3A pipeline in West Linn and schedule 4 pipeline in Lake Oswego. The River Intake Pump Station, Waluga Reservoir 2, Bonita Pump Station, and pipeline schedules 1, 2, 3B, 5 and 6 will all be complete. **Mayor Studebaker** asked when Mapleton is scheduled to be paved. **Mr. Komarek** explained that the City of Lake Oswego and the City of West Linn entered into a cooperative agreement for public improvements which

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included Lake Oswego conducting all paving on Mapleton, Kenthorpe, and Old River Road once treatment plant construction was complete and heavy trucks wouldn't be traveling on those roads. The paving work was part of the water treatment plant contractor's contract. Recently, the City of West Linn expressed an interest in having the paving done sooner than that so the paving work has been shifted from Slayden to the City of West Linn to be done once the pipeline work is complete on Mapleton. Paving from the bottom of Mapleton to the WTP is expected to occur within the next couple of weeks once testing of the raw water pipeline is complete. The remainder of the paving on Mapleton is expected to occur late January.

**Mr. Prett** continued and pointed out that construction contingency is at \$3.2 million and sponsor contingency is just below \$1 million. The contingency continues to hold at about 10% of the remaining construction cost.

**Mayor Cook** recalled that silencers had to be installed at the finished water pump station and noted a West Linn Councilor told him that the noise requirements have changed. **Mayor Cook** questioned what the noise requirements are. **Mr. Komarek** stated WL had their own noise ordinance but recently decided to follow the DEQ noise limits. **Councilor Snider** asked which is more restrictive. **Mr. Komarek** responded that the city's was more restrictive but it was very subjective and complaint driven.

**Mr. Prett** reviewed the risk register and noted that it's frequently updated. The main risks remaining are meeting deadlines and the acquisition of a final easement. He noted that not much has changed but the list of risks to manage is smaller.

**Councilor Snider** referenced the Water Treatment Plant construction report and asked if work is still on schedule. **Mr. Komarek** affirmed. **Councilor Manz** asked if there is a means in place to assure that the contractor continues on schedule. **Mr. Komarek** replied that weekly progress meetings are held during which the contractor provides a three week look ahead schedule and the contractor must provide an overall schedule each month before their progress payment is accepted. **Councilor Manz** asked if there are inspectors working to ensure the contractor stays on track. **Mr. Komarek** stated there are partnership inspectors on site every day. He continued that one of the issues involves the ozone equipment supplier, Mitsubishi, which is struggling with a sub-contractor. A meeting was recently held with the Mitsubishi representative and he understands the project timeline and isn't worried about delivering. **Mr. Komarek** noted ozone installation can occur toward the end of construction so there is time for this issue to be resolved. **Councilor Snider** requested that pressure continue to be applied to the vendor. **Mr. Komarek** explained that it is in the contractor's best interest to continue apply pressure because they are responsible for adhering to the schedule and want to avoid claims or liquidated damages.

## 5.2 – Future governance and operating agreement options

**Ms. Wine** explained that the current agreement between Lake Oswego and Tigard states that when construction is complete, the partners will consider whether there should be modifications to the agreement. She continued that staff have been meeting to develop possible options for the Oversight Committee to consider. The first option is much like the

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current situation with Lake Oswego being the managing partner, operating costs for each city allocated by formula, and approval by both cities on budget and non-budgeted expenditures.

**Mr. Lazenby** suggested the committee begin thinking about what is most important to them and outline criteria for the operation of the system. He opined the current agreement is quite good, addressing many considerations. The second option would be to form a separate entity similar to the South Fork Water Board which has the mayor and two councilors from West Linn and Oregon City that oversee the organization, with a general manager that reports to the board.

**Councilor Snider** asked how the South Fork Water Board handles ancillary functions like finance and human resources. **Mr. Lazenby** responded that Oregon City staff provide those functions but the cities could also bid on those services. That would be the most efficient way. He continued that this model is a very clear partnership with equal interests by both cities.

**Councilor Manz** asked if it would be less expensive to fund staff in the board model vs. how the partnership is currently set up. **Mr. Lazenby** replied that it wouldn't necessarily be less expensive and it may even inflate some costs. He cautioned looking at the water board model as a way to cut expenses but as more of a governance issue.

**Councilor Snider** opined that from the Tigard citizen perspective a governing board would provide a clearer appearance of independence and structured governance. He stated that the functions of HR and finance should be outsourced to the city of Lake Oswego. **Ms. Wine** noted that this discussion is a starting point and an opportunity for the Committee to direct staff on what to explore further and what criteria are most important in a future agreement. **Councilor Snider** voiced his support for exploring the water board option further. **Mayor Cook** confirmed that options C and D could be ruled out and options A and B will be considered further. The group concurred. **Councilor Manz** suggested a combination of the two options may be worth considering. **Mayor Studebaker** stated that he would be reluctant to support a model that will increase costs to rate payers.

**Mr. Komarek** suggested inviting attorney Clark Balfour to a future meeting. Mr. Balfour helped develop the current agreement between Lake Oswego and Tigard and other operating agreements for other Boards and Cities throughout the northwest. He could talk about the process for setting up an ORS 190 agreement and the pros and cons of doing so. **Councilor Snider** challenged staff to figure out how to make an ORS 190 agreement work without costing any more than the current model. The group agreed to invite Clark Balfour to the next meeting.

### 5.3 – Communications update

**Ms. Fulton** reported the following activities:

- She and Kari Duncan gave a presentation to the AWWA Oregon subsection about the operational and communications aspects of the program.
- She and Joel Komarek gave a presentation to the Old Town Neighborhood Association just before pipeline construction began on Durham Street.
- Dennis Koellermeier and Jordan Imlah will be presenting to the Tigard Rotary Club later in the week.

- An advertisement was placed in the Pamplin Media Fact Book with information about water for the future.
- Videos have been launched for the dedication event and the artwork highlighting the mitigation efforts with the Grand Ronde Tribe and Cultural Resources Department for work in Old Town Lake Oswego. The videos are also being played on TVCTV. **Councilor Manz** asked how many hits the video is getting on the website. **Ms. Fulton** was unsure but said she would get that number to Councilor Manz.
- The communication team is in the early stages of developing some info-graphics and presentation materials showcasing each facility across the program.
- Two successful ribbon cutting events have been held at the Waluga Reservoir 2 and the River Intake Pump Station.
- There has been positive coverage in the Lake Oswego Review regarding the two ribbon cutting events, as well as a great article about resiliency and sustainability aspects of the project.
- Recent communication efforts have been focused on Lake Oswego for schedule 4 pipeline and West Linn for Mapleton pipeline. There were minimal complaints regarding night construction in Oswego Village and the 48 hour railroad crossing on State Street.
- Ms. Fulton has been spending one or two days a week in West Linn working on neighbor-contractor relations, resolving issues face to face and notifying residents before construction moves in front of their house.
- Two West Linn neighborhood construction update meetings are being held each month. The same citizens attend the meetings. **Mayor Studebaker** asked if it's the same complaints. **Ms. Fulton** replied that it's generally the same complaints and there are some heated discussions. **Councilor Snider** asked if there is anything new coming from those discussions. **Ms. Fulton** answered that it's a lot of re-hashing the same issues. **Councilor Snider** asked if Councilor Tan or Councilor Perry continue to attend the meetings. **Ms. Fulton** stated that Councilor Tan has attended two meetings and Councilor Perry has attended all of them. **Ms. Fulton** also noted that representatives from West Linn Police Department and Tualatin Valley Fire and Rescue have attended a meeting to help alleviate concerns about emergency access during construction.
- There will be a milestone update in the Tigard *Know H2O* publication.
- The communications team continues to provide project updates for *Hello LO*.

## 6. Future agenda items

### 6.1 – FY 16/17 budget preparation

**Mr. Komarek** noted that the budget process will be different than in years past in that there will be operational costs instead of entirely construction costs. He stated that budget

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preparation will likely be on the January and March agendas. **Councilor Snider** suggested this might be part of the ORS 190 agreement discussion. **Mr. Lazenby** agreed. **Councilor Manz** asked if a draft budget would be available before the actual budget process. **Mr. Komarek** replied that in the past two budget cycles the budget has gone before each city's budget committee and approved before it gets to the Oversight Committee. **Councilor Manz** asked if the draft budget could be made available to the Oversight Committee before it goes to the Budget Committee. **Mr. Komarek** said that could be done. **Mr. Koellermeier** noted that the intent of the original IGA was to have the Oversight Committee recommend the proposed budget to each city's respective Budget Committees.

6.2 – Allocation of O&M expense

6.3 – Governance

**Councilor Snider** suggested that governance should be on all future agendas. He then asked when the City Managers think the Oversight Committee should make a decision on governance. **Mr. Lazenby** said there is no deadline. The Committee can address the topic until they come to a decision.

7. The next Oversight Committee Meeting will be held January 11, 2016 at the Yakima Building, 4101 Kruse Way, Lake Oswego OR 97035

## 8. ADJOURN

**Mayor Studebaker** adjourned the meeting at 6:40 p.m.

Respectfully Submitted,  
Susie Anderson, Administrative Assistant

Approved by the Oversight Committee:

On January 11, 2016