



**City of Lake Oswego/City of Tigard Water Supply Partnership
Summary of Oversight Committee Meeting #52
Meeting held
March 14, 2016**

Present:

City of Lake Oswego: **Oversight Committee:** Mayor Studebaker, Councilor Manz
Staff: Joel Komarek, Scott Lazenby, Kari Duncan, Katy Fulton, Susie Anderson

City of Tigard: **Oversight Committee:** Mayor Cook, Councilor Snider
Staff: Marty Wine, Dennis Koellermeier

Brown and Caldwell: Jon Holland, Mike Prett

Guests: Clark Balfour, Cable Huston

1. CALL TO ORDER/ROLL CALL

Oversight Committee Chair **Mayor Cook** called the meeting of the Lake Oswego/Tigard Water Partnership Oversight Committee to order at 5:33 p.m. on March 14, 2016, at Tigard Public Library, 2nd floor conference room, 13500 SW Hall Blvd., Tigard, Oregon 97223.

2. APPROVAL OF MINUTES

Mayor Cook asked for a motion to approve the minutes from the January 11, 2016 meeting. **Mayor Studebaker** 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 extension remand

Mr. Komarek reviewed from the last meeting he announced that a hearing had been scheduled for the remand. The hearing was then set over as a result of the star witness' availability and Water Watch had requested a time extension to review documents made available to them as a result of a discovery request. **Mr. Komarek** reported that the Judge declined to extend the schedule as much as Water Watch requested and was able to adjust his schedule to accommodate the ODFW witness whose attendance is necessary at the hearing. The new hearing date is May 10 and 11, 2016.

4.2 – Update on Waluga Reservoir #1 roof replacement

Mr. Komarek reported that at the direction of the Oversight Committee a contract had been entered in to with Black & Veatch for design services for the replacement of the Waluga Reservoir 1

roof. Black & Veatch is the same firm that designed the Waluga Reservoir 2. He continued that a kick-off / pre-design meeting had been held and he anticipated that 30% design will be complete in early April and with that, a 30% level cost estimate. He continued those costs will be communicated to the committee at the May meeting. **Mayor Studebaker** asked for clarification as to what 30% design and 30% cost estimate meant. **Mr. Komarek** replied that the roof design isn't overly complex and by 30% there will be enough design development complete that the estimators can calculate the cost estimate at an accuracy tolerance of 10% - 30% accuracy. He added that the project is on an accelerated schedule so 90% design will follow not too long after.

Mr. Komarek noted that he and Katy Fulton had met with the Waluga Neighborhood Association and the Lake Forest Neighborhood Association to communicate the plan for construction, anticipated schedule, and what neighbors might expect during construction. He reported that the information was well received.

5. NEW BUSINESS

5.1 –Governance and operating agreements, legal considerations

Mr. Komarek introduced Clark Balfour. He explained that Mr. Balfour wrote most of the water agreements in the area. He added that Mr. Balfour would be providing information from a legal perspective and discussing the pros and cons of joint operating agreements.

Mr. Balfour provided an outline to the group depicting the differences between a cooperative agreement and establishing a new entity. He referenced the South Fork Water Board agreement and opined that it is a very simple agreement based on a two party concept. He then referenced the current cooperative agreement which was designed to get through construction and then within two or three years after completion of construction, would address the issue of governance.

Mr. Balfour stated there are two options for the cities to consider. One is to continue operating under a cooperative agreement, each city having its own share, with one of the cities acting as managing partner. The other option is to form a separate entity. While the South Fork Water Board agreement is fairly simple, other agreements like the North Clackamas County Water Commission and the Joint Water Commission have multi-party agreements that try to anticipate issues that might arise. Each member of that entity may be at different stages. One city may be anticipating construction in the far future while another may be in the midst of construction. Since the Lake Oswego Tigard Water Partnership has a new system that was built together, that takes away the need to have a complicated operating agreement. He suggested that the South Fork model is a good starting point for the Partnership.

Mr. Balfour then compared operating as an entity vs. a cooperative agreement. Things to consider for an entity are the delegation of power. How much power will the Board have? He continued that a determination would be necessary as to what to do with the assets; will they be transferred to the entity or held by each city and managed by the entity? **Mr. Balfour** also noted that an entity agreement should consider the voting power of the Board to keep a balance in decision making and he emphasized the importance of being able to build consensus. **Councilor Snider** pointed out that the decision making issue is going to exist whether there's a governing entity or a cooperative agreement with a managing partner. **Mr. Balfour** agreed and noted the advantage that an entity board has is being able to make decisions in a more timely fashion than the Oversight Committee that may need to go to their respective Councils for input or a vote on some issues. He continued

that even under the entity model, the agreement may require a Council vote from each city on certain types of issues like allowing another partner in or selling an asset. **Mayor Studebaker** asked about having control over who is on the board and voiced his concern about board members being elected to the position. **Mr. Balfour** responded that typically with a model like the South Fork Water Board, each council would appoint representatives to serve on the board, usually council members. He continued that other options may be to appoint city staff or to appoint citizens but the council would have the authority to remove a board member at any time. **Mayor Studebaker** asked if an advisory board would be necessary or required with the current model where a city is the managing partner. **Mr. Balfour** replied that the current Oversight Committee is filling that role and could continue to do so or could expand the committee. **Councilor Snider** noted that the current Oversight Committee does not have the authority to spend money. **Mayor Studebaker** opined that continuing with the current model, the committee would need to have some authority for expenditures and decisions. **Mr. Balfour** responded that the current agreement could be modified to address future operations. **Mayor Studebaker** stated that modifying the agreement would require approval by both councils. **Mr. Balfour** concurred. **Mayor Studebaker** asked if a separate entity would have its own employees. **Mr. Balfour** referenced the South Fork Water Board which has its own employees at the treatment plant but once the water reaches each community, city staff are responsible. In the case of the Joint Water Commission which is Hillsboro, Beaverton, Tualatin Valley Water, and Forest Grove, the City of Hillsboro's Water Department is the managing agency for that entity. The Joint Water Commission owns the treatment plant, some reservoirs, miles of pipeline as an entity but the City of Hillsboro is the managing agency. **Councilor Snider** stated that they have fiduciary obligation to the whole group, not just the City of Hillsboro. **Mr. Balfour** agreed and explained they have a lengthy agreement that outlines their powers and how they check in with the partners. **Councilor Manz** asked if the Joint Water Commission is some sort of hybrid model. **Mr. Balfour** responded that it's somewhere between what the Cities of Lake Oswego and Tigard now have and the South Fork Water Board model. **Mayor Studebaker** asked what the benefits of each model would be. **Mr. Balfour** responded that the advantage of an entity model is that the entity is responsible for the water resource part of managing the river, the intake, raw water pipelines, and the treatment plant. The finished water pipelines are managed by a group that has independence and that management isn't favoring one partner over the other. He continued that he has never seen a situation with a managing agency model where the managing agency has managed to the disadvantage of the other party. Another advantage of the entity model with dedicated employees is that it creates a cost center that the cities can include in their budgets. From an auditing and financial accounting stand point it's easier to incorporate that in to their planning and budgeting. **Councilor Snider** pointed out that South Fork isn't using their own employees for human resources and finance functions. It uses City of Oregon City employees and charges that back. **Mr. Balfour** affirmed and noted that North Clackamas Water Commission employs about six people and the South Fork Water Board has nine employees. Those are the employees doing the "true water work". He added that services such as human resources, payroll, public outreach, and engineering could be contracted out, and the entity would be charged for those services. **Mayor Studebaker** asked if either model is more expensive to operate. **Mr. Lazenby** stated that staff is currently working on developing cost estimates for start-up and operations of each model. **Councilor Manz** asked what negative impacts the entity model might present. **Mr. Balfour** responded the main negative would be if the Councils are comfortable handing over assets that they have worked hard to acquire. **Mr. Lazenby** suggested that the entity could take on the operating costs and the cities could maintain ownership of the assets. **Mr. Balfour** agreed and said the Councils could decide to retain ownership of the assets and place them to the entity in trust. He noted that is currently the case with Lake Oswego's water rights. They are Lake Oswego's water rights but have been pledged in trust to the City of Tigard. The same could be true of assets.

Councilor Snider asked if South Fork Water Board bills customers or if the cities do the billing. **Mr. Balfour** replied that each city bills their customers. **Councilor Snider** clarified, the city buys the water from the entity and resells it. **Mr. Balfour** affirmed and stated a wholesale rate would be set and then the city would build its distribution rates including the capital costs. **Councilor Manz** asked if an entity would be able to go out for bonds for capital improvements. **Mr. Balfour** referenced the South Fork agreement which allows that entity the authority to issue revenue bonds. **Councilor Snider** asked if both cities would be required to put a bond vote to the citizens of each city. **Mr. Balfour** affirmed. **Councilor Snider** asked if both cities would need to pass the issue or if it would be a majority between the two cities. **Mr. Balfour** thought that was an interesting question but he did not have the answer. **Ms. Wine** noted that during their meeting with the South Fork Water Board Manager, when discussing bonds, it was noted that the organization had no bond rating experience when it went out for bonds. The cities have an experience rating that makes them better situated to issue bonds. **Mr. Balfour** added that while the entity has the authority to issue bonds, one of two things could happen. The bonds could be sold but it's like "co-signing on your kid's car loan", the cities would have to guarantee the debt. **Mr. Koellermeier** clarified that the entity would only cover the facilities/assets that have been jointly constructed.

Mr. Balfour opined the best reason for using Chapter 190 is that it would provide flexibility. A cooperative agreement would give the cities the authority to control who oversees the entity whether it continues as a cooperative agreement or a separate entity with a board appointed by the cities elected officials. A chapter 190 can be tailored to the cities specific needs. **Mr. Balfour** listed the three options: Form a Chapter 190 and either create a separate entity with its own employees, procedures, and cost center; continue with a cooperative agreement; or follow the Joint Water Commission model. **Mayor Stuebaker** clarified that Mr. Balfour supports either a Joint Water Commission or South Fork Water Board model, a separate entity. **Mr. Balfour** agreed and added that the current model would work, as well. It's currently focused on construction and could be amended to address operations. **Mr. Balfour** stated that the South Fork Water Board model is a good one. The Mayors and Councilors thanked Mr. Balfour for the information and said they found it to be very helpful and informative.

Mr. Komarek re-visited the topic of issuing revenue bonds and suggested in an effort to protect the two cities the approval of both Councils would be required. **Mr. Balfour** concurred and said if they create a separate entity they should give themselves the power to issue revenue bonds. **Mayor Cook** acknowledged that when preparing an agreement it would be important to consider what it might look like many years from now and that there will be different committee / board members. **Councilor Snider** asked when they would see a financial comparison of the models. **Ms. Wine** replied that would be available at the next meeting. She continued that costs are about the same for both models for central functions (personnel, legal, financial) and startup costs. Most of the differences between the models are not financial, but optical or the view of control for the parties. **Councilor Snider** suggested it would be helpful to hold a work session. **Mayor Stuebaker** stated he would like to see a list of what the issues are so they can be discussed with each Council. **Councilor Snider** added that after those discussions with Council the Oversight Committee should hold a work session and start moving forward based on feedback from each Council. **Councilor Manz** agreed with Mayor Stuebaker and thought a matrix breaking down the issues and the costs associated with each would be very helpful. **Mayor Cook** pointed out that it's been reported that there isn't much difference in cost between the two models. **Ms. Wine** reviewed that two models are being considered: a managing partner model which is the current model with Lake Oswego acting as the managing partner and those costs are known; the other is the South Fork Water Board model with which a staffing model would be developed and would likely be very similar to the current staffing

model. **Ms. Wine** said a breakdown of that could be available at the next Oversight Committee meeting. **Councilor Snider** added that the committee should first review the details of each model, take it to their respective Councils, and then hold an informal work session. **Mr. Koellermeier** noted that staff had been discussing creating an outline of the two agreements to depict the difference between the two and that there would be four or five issues that would stand out as the items that the two cities would need to develop policy for. **Mr. Komarek** pointed out that the outline Mr. Balfour presented compares the differences and addresses everything the committee needs to consider at a policy level. **Mr. Koellermeier** added that cost shouldn't drive the decision but rather the governing part of the operational budget. **Mr. Komarek** agreed the staffing model would look like it looks today and opined operationally, there would not be a difference in staffing between the entity model and managing partner model. **Mayor Cook** recapped that staff would bring a comparison outline to the next meeting. Oversight Committee members would then bring that outline to their respective Councils for discussion and then an informal Oversight Committee work session would be held to start developing an agreement.

5.2 – FY 16/17 budget

Mr. Komarek referenced the partnership budget handout in the meeting packet. The trend in all expense categories is going down due to the project winding down. He noted decreases in materials and services, personnel, and capital costs. He also noted that the water operations budget is showing increases in chemical expenses and energy.

Mayor Studebaker mentioned that he has received inquiries from a citizen regarding water audits. He continued that his assumption is that with all the new infrastructure, any water quality issues would be from pipes on private property, not the city's delivery system. **Ms. Duncan** replied that every three years Oregon Health Authority conducts a water system survey which includes a thorough walk through of the treatment plant, distribution system, all reservoirs and a review of water quality data. **Mayor Studebaker** asked if they actually test the water. **Ms. Duncan** explained that her staff is constantly testing the water and reports that to the state and referred that citizen to that information. **Councilor Manz** asked if the City has a program that offers citizens water testing kits. **Ms. Duncan** replied that if someone has a concern about the odor, taste, appearance, or general water quality, plant staff will do an assessment over the phone. If the assessment warrants a visit, a staff member goes to their home and conduct tests. **Councilor Manz** then asked if the City has an inventory of all the ancillary pipes throughout the city and their age. **Mr. Komarek** replied that there is an inventory with pipe age and material, which is part of the City's asset management system.

5.3 – Metrics Report

Mr. Prett reported that the project is still tracking on budget and there had not been much change since the previous month's metrics report. He continued that about \$224M had been spent to date, leaving about \$30M to spend. There is \$3.3M in sponsor and construction contingency.

Mr. Prett then referred to section 4.3 of the report, schedule, and noted that there are a couple of outstanding items to address before Bonita Pump Station project can be closed out. The only other two projects still under construction are schedule 4 pipeline and the water treatment plant.

Mr. Prett then directed attention to the risk register and noted that the list had been pared down significantly since early on in the project.

5.4 – Post Initial Expansion Task List and Water Cost of Service Analysis

Mr. Komarek referred to a table in the meeting packet which outlined upcoming tasks as the program moves from construction phase to the implementation/operation phase. He pointed out one of the tasks was to develop an operations and maintenance expense rate for water delivered to Tigard. To fulfill that obligation of the IGA, the City entered in to an agreement with FCS Group to assist with that task. Data was provided to FCS regarding all assets, and estimates of demand on Tigard, and the water operations budget. They will develop a model that can be used and updated as new facilities come online. He anticipated a report on FCS's preliminary results would be available at the next Oversight Committee meeting in May. **Mayor Studebaker** asked if there had been a change to the percentage increases implemented in the past. **Mr. Komarek** responded that the percentages were part of a long term series of rate increases based on construction expenditures. He continued that he didn't anticipate any change to that unless there was something driving that change. For example, the WR1 roof replacement is currently not included in the rates. Based on input from the city's finance department, if the roof replacement were a city of Lake Oswego only project, then rates may need to be increased a couple of percentage points.

5.5 – Communications Update

Ms. Fulton reported on the following:

- Jordan Imlah resigned in January to accept a position with the City of Milwaukie.
- She and Joel presented to the Waluga and Lake Forest neighborhoods regarding the roof replacement on Waluga Reservoir 1.
- An update on Waluga Reservoir 1 roof replacement was sent to approximately 200 adjacent neighbors via US mail and an e-mail update was sent, as well.
- The website was updated with information about the Waluga Reservoir 1 project.
- The website will be refreshed as the project moves from construction to completed facilities, barring the WTP and WR1. Infographics regarding completed facilities will be posted to the website. Old posts and documents will be archived.
- An article regarding the project was in the League of Oregon Cities *Local Focus*.
- A feature story was published in *Construction Global and Business Review* which is a national publication. The article focused on Tigard's point of view and moving from Portland water to the new partnership system.
- Several public health and emergency preparedness messages and water infrastructure messages have been sent to the community.
- She is working with Kari Duncan and Water Treatment Plant staff on developing the *2015 Water Quality Report*.
- A successful signing of the pipe with the contractor on Mapleton Drive was held. There was a good turnout and it was a proud moment.
- Since construction on Mapleton Drive is complete, only one West Linn neighborhood meeting will be held each month.
- She has been working with Tigard staff on messaging to the public regarding their new water source.
- A tour of the Water Treatment Plant was held with the public and several new neighbors of the plant. Attendees had some good questions and positive feedback. There are eight people signed up for the next tour.

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- She has been planning and coordinating a joint Council tour of the facilities to be held later in the Spring.
 - Applications for AWWA Excellence in Communications awards were submitted: one for the Man from Kosh-huk-shix artwork video and the other for the comprehensive Highway 43 business outreach strategy which incorporated all of the promotional tools and outreach during pipeline construction on Highway 43.
 - National Drinking Water Week is the first week of May. This year the focus will be on water providers and water operations staff. A video will be prepared that shows how hard Water Treatment Plant staff and maintenance staff work to provide clean drinking water to the two communities. She has been collaborating with Tigard and they plan to launch the video the first week of May.

6. Future agenda items

6.1 – Water rights extension remand

6.2 – Governance and operating agreement

6.3 – Waluga Reservoir 1 roof replacement update

6.4 – Water Cost of Service update

6.5 – Future Joint Council meeting

There was discussion about holding a joint Council session. It was determined that could be scheduled for September.

- 7.** The next Oversight Committee Meeting will be held May 9, 2016 at the Yakima Products, 4101 Kruse Way, Lake Oswego OR 97035 at 4:30 p.m.

8. ADJOURN

Mayor Cook adjourned the meeting at 6:57 p.m.

Respectfully Submitted,
Susie Anderson, Administrative Assistant

Approved by the Oversight Committee:

On May 9, 2016