



**Lake Oswego Tigard Water Partnership
Summary of Oversight Committee Meeting
August 10, 2017**

Present:

City of Lake Oswego:	Oversight Committee: Mayor Studebaker Staff: Joel Komarek, Katy Kerklaan, Susie Anderson
City of Tigard:	Oversight Committee: Mayor Cook, Councilor Snider Staff: Marty Wine
Consultants:	Mike Prett and Eva Gage, Brown and Caldwell; Dennis Koellermeier, DK Advisory Services
Guests:	Brad Moore, Staheli Trenchless Consultants

1. CALL TO ORDER/ROLL CALL

Mayor Studebaker called the meeting of the Lake Oswego Tigard Water Partnership Oversight Committee to order at 5:32 pm Thursday, August 10, 2017 at the Tigard Public Library Second Floor Conference Room, 13500 SW Hall Blvd, Tigard, OR 97223.

2. APPROVAL OF MINUTES

Mayor Cook moved to approve the minutes of the May 18, 2017 meeting. **Councilor Snider** seconded the motion. The motion passed unanimously.

3. PUBLIC COMMENT

There were no public comments.

4. OLD BUSINESS

4.1 Water rights extension remand

Mr. Komarek reported he sent out a couple of emails to committee members over the past two weeks as new information came to him. He noted the re-hearing had been scheduled for early September and the subject matter would be very focused, concentrating only on the areas missed in the previous hearing. He added the attorneys were handling everything. **Mayor Studebaker** asked if there had been any surprises. **Mr. Komarek** responded there had not and all parties must agree on what areas of testimony would be allowed at the re-hearing.

5. NEW BUSINESS

5.1 Metrics report

Mayor Studebaker asked Mr. Prett how much money was still owed to Slayden Construction. **Mr. Prett** replied the amount outstanding to Slayden was approximately \$500K. Mayor Studebaker then asked if Slayden had completed their work. **Mr. Komarek** said the major facilities were complete and landscaping, the final phase, was going in and punchlist and warranty items were all that was left to do. **Mr. Komarek** directed attention to the MWH pending expense of \$66K and PEI \$72K and stated they were no longer pending and have been realized with change orders. He noted new items, West Linn mitigation payment and storm drain repair. ODOT asserts that during pipeline construction on Hwy 43 near Burgerville a storm line was broken. The storm line wasn't detected during early survey and pothole work. It was determined that the water pipeline was possibly placed on top of the storm line and ODOT is looking to the Partnership to repair it. **Mr. Komarek** then noted the receivable from North Clackamas County Water Commission for pipeline reconnection for \$151,344 and stated the Commission had been invoiced so reimbursement would be coming back to the Partnership. **Councilor Snider** asked for clarification if the \$254M included the \$2.2M contingency. **Mr. Prett** confirmed and added after the contingency is backed out the program cost would be \$252M. **Councilor Snider** asked Mr. Komarek how much was set aside for the Hwy 43 repairs. **Mr. Komarek** responded \$50K.

5.2 Property conveyance process/status

Mr. Komarek reported that all the easements, deeds, etc. had been compiled and organized and Lake Oswego City Attorney David Powell had written the front end to the conveyance package and it was ready to be shared with Tigard legal counsel for review and concurrence. In the process of reviewing, it was discovered Amendment 3 to the IGA which caused an additional 4 Million Gallon per Day (MGD) capacity to be transferred to Tigard, there was money that changed hands and there was additional money transferred from Tigard to Lake Oswego to correct an error found in the early buy-in calculation table. Amendment 3 was to clear up these housekeeping matters and to reflect the fact that in 2008 when the cities entered in to the agreement, it was uncertain whether the Mapleton properties would need to be used for the project. Use of the properties was necessary so they were appraised and the appraised values were then allocated to the parties in relation to their capacity shares. At that time, Tigard's capacity was 18/38ths instead of 14/38ths. The allocations weren't adjusted for the original plant property, Waluga Reservoir 2 and River Intake Pump Station property. Discussions between Mr. Komarek, Scott Lazenby, David Powell, and Dennis Koellermeier identified 2 options. Option 1: If Tigard felt they needed the 18/38ths ownership in those properties then there would need to be an additional payment from Tigard to Lake Oswego, roughly estimated to be \$800k; or Option 2: Tigard would retain 14/38ths ownership of those particular properties and 18/38ths on the rest. **Councilor Snider** clarified that it only applied to the land under the three facilities, not the facilities themselves. **Mayor Cook** stated the payment made for the extra 4 MGD was for the improvements on the land, not including the land. **Mr. Komarek** responded it was for the improvements on the land. **Mr. Koellermeier** stated the issue wouldn't be resolved during the meeting but it was something that came up and staff wanted to share it with the committee. **Mr. Komarek** stated once committee members made a decision, David Powell would prepare the necessary conveyance documents. **Mayor Cook** asked to see how the \$800k amount was determined. **Mr. Komarek** showed a breakdown which explained how they arrived at that number. **Mayor Cook** asked if there were appraisals of the properties. **Mr. Komarek** stated there were appraisals from 2008.

5.3 Project completion events

Ms. Kerklaan apologized for the several date changes for the events and thanked everyone for their patience while coordinating schedules to settle on event dates. She stated the pathway ribbon cutting for the neighbors would be held August 31 5:30 – 7:30 pm, utilizing that time which everyone had on their calendars for the project celebration event. She continued the event on August 31 would include brief speeches from Kari Duncan, Mayor Cook and Councilor Manz, ribbon cutting, barbeque food truck, games, and tours of the plant. She noted September schedules are very full so the big project celebration event would be scheduled for October 12, 3:00 - 6:00 pm with formal speeches and tours and the invitee list was at about 200 people. **Mayor Stuebaker** asked where the event would be held. **Ms. Kerklaan** responded it would be within the secure perimeter of the treatment plant and since parking is limited at the plant a shuttle would run between West Linn Lutheran Church and the plant.

Ms. Kerklaan reported she had been working on updates to the project website to transition it from construction focus to more operational. The transition would be complete by the end of October. She stated there would be a wrap up video to include content from both events which and would be available on the website after transition. She continued she had also been working on an operations communications plan with Kari Duncan, Joel Komarek, and John Goodrich. **Mayor Cook** asked if she would be providing him content for his speeches at the events. **Ms. Kerklaan** affirmed and said she would provide him with talking points within the next week.

5.4 Operations Committee: Activities report

Mr. Komarek reported in Kari Duncan and John Goodrich's absence. He referenced a report in the meeting packet and explained the same report would be available at future meetings and would include information on water production, water quality, and staffing and asset management. He continued that interestingly enough with the hot weather and water supplied to West Linn over the 4th of July weekend, production was at just under 23 MGD per day. Demands were less than forecasted indicating people are being more mindful of their water use and the cities' conservation programs and water rates encourage people to be more conservation conscious and less wasteful.

Mr. Komarek stated the FY16/17 budget numbers were being audited and Shawn Cross, Finance Director, thought those numbers would be available early September then the water operations budget would be reviewed along with the actuals for water consumption to revise the unit price rate and reconcile. Each City's daily average usage was lower than the 6.5M MGD forecasted. **Mayor Stuebaker** noted there may not be any fish issues in the future with lower volumes of water being drawn from the river. **Mr. Komarek** affirmed. **Mayor Cook** asked about water levels and the effect of hotter summers and more snow pack because he hadn't heard anything regarding low river levels. **Mr. Komarek** responded the summer of 2015 was the year when river levels were very low but this year there were a number of contributing factors to the higher levels: the Clackamas is not predominantly a snow pack fed river but it does benefit from the melt of the snowpack; heavy rains continued in to May; a substantially cooler, wetter spring which slows the melt of the snowpack. He added there shouldn't be any concern about water levels through the end of the summer season. **Mayor Cook** stated it would be helpful to track these factors over the years in order to forecast river levels and plan accordingly. **Mr. Komarek** replied part of the permit dictates that the Cities coordinate with ODFW every year to look at the seasonal summer forecast for stream flows and demands and develop a plan to make use of the rights for releases from Timothy Lake to augment flows in the late summer. Every year Clackamas River Water Providers have an agreement with PGE which allows the cities to pay a fixed fee to reserve a

certain volume of water in Timothy Lake for use. If the cities opt to use that water, PGE would be contacted and to the extent possible, would release the pre-determined amount of water for the cities. **Mr. Koellermeier** clarified the release would happen only after Labor Day.

Mr. Komarek referenced a handout listing various water and weather facts. **Mayor Cook** asked if the treatment plant ever runs 24 hours a day. He was surprised to hear on a 23M MGD day it shut down at 12:30 am. **Mr. Komarek** said the plant does not run 24 hours a day, it starts up at 5:00 am and shuts down at midnight. **Mayor Cook** asked if it would be necessary to run 24 hours a day if it were producing 38M MGD. **Mr. Komarek** replied if it got to the point of running at 38M MGD the plant would operate 24 x 7 and that may be the case in the future. **Mayor Cook** suggested Kari Duncan could address the questions at the next meeting. **Mr. Koellermeier** stated an operations plan would be forthcoming for the committee's approval and would include details regarding the operation of the plant and may answer many questions. **Councilor Snider** asked what time the plant starts up. **Mr. Komarek** explained the operators arrive at 5:00 am and begin backwashing the first filter to make sure it meets the water quality parameters desired and then put the plant online around 6:00 am.

5.5 Memorandum of Agreement: Repurposing remnant water transmission main for emergency water supply to NCCWC and member entities

Mr. Komarek referenced a memo in the meeting packet that explained there were remnant pieces of pipe leftover after construction which were in good condition and wanted to find a way to avoid the cost of abandoning the pipes. Discussions began during the design phase regarding the benefit of being able to transmit water from the West Linn side of the river to the Gladstone side to the benefit of the North Clackamas County Water Commission (NCCWC) and its member entities. He noted the \$151k figure reflected the cost to transfer the old raw water pipeline to the old finished water pipeline within the plant property and other modifications to get the remnant pipe suitable for future emergency conveyance. A Memorandum of Agreement was entered in to by Lake Oswego, Tigard, and NCCWC and the next step would be to negotiate the terms and conditions of an Intergovernmental Agreement regarding ownership and operation. He noted some recommendations in the packet memo and opined the Partnership should maintain ownership of the pipe and control of its operation and maintenance but set up a process by which those costs could be allocated to the benefiting members. **Councilor Snider** asked what the benefit of owning it would be. **Mr. Komarek** replied no one outside of city staff is allowed to turn valves on the Lake Oswego water system and the same is true in Tigard. If ownership wasn't maintained, in the event of an emergency there could be people from Gladstone, etc. turning valves and making changes to the system which is not desirable. **Mr. Komarek** asked if any committee members would be interested in being part of a team to negotiate the terms of the IGA or were they comfortable with staff negotiating and providing updates as versions evolve. **Mayor Studebaker** said he was comfortable with staff negotiating. **Councilor Snider** asked if a committee member was needed or if **Mr. Komarek** was simply asking if there was an interest. **Mr. Koellermeier** stated a committee member might be necessary if NCCWC involves a Board Member in negotiations but he didn't anticipate that being the case. **Mr. Komarek** said staff would continue through the process and let the committee know if their assistance would be needed. **Mr. Komarek** asked if Lake Oswego and Tigard would like to recover some of the depreciated replacement value in the system. **Mr. Koellermeier** suggested doing something similar to what PGE does and charge an annual standby fee. **Mr. Komarek** added that would be in addition to the maintenance fees charged to them. **Mayor Studebaker** asked what the fee would be. **Mr. Komarek** stated it would be necessary to discuss with rate setting professionals like FCS and look at similar agreements for direction. **Mayor Studebaker** opined he would like to charge the

maximum possible in an effort to recover some of the franchise fees the Partnership pays to Gladstone but not be a prohibitive amount.

5.6 Kenthorpe/Mapleton paving

Mr. Komarek reminded the group that the Partnership entered in to an Agreement with West Linn to pave Kenthorpe Way and Mapleton Drive and install new pipelines and pumps to satisfy land use requirements. In drafting the agreement care was taken to specify the scope of work. After plant construction began West Linn wanted to accelerate paving and it was determined West Linn would take over the paving. An Amendment to the Agreement was signed by all parties which stated West Linn would do the paving and the Partnership would reimburse West Linn. West Linn put the paving project out to bid and received only one bid. The scope of work in the bid was not what was agreed to in the original agreement. **Mr. Komarek** noted that about \$310K of a \$440K credit remained from the plant contractor to pay for an \$852K job/contract. He met with the West Linn City Engineer and Assistant City Engineer and let them know the Partnership would not be paying the full amount because the Partnership was not provided an opportunity to see what they were bidding, there were many improvements in the contract that would not have been done had the work been conducted by the plant contractor according to the originally agreed scope of work, and the bid form was not set up in a way to make it easy to carve out the work the Partnership would have done under the original agreement vs. what West Linn had contracted. **Mr. Komarek** asked how firm the committee wanted to be about the funds available vs. what West Linn might ask the Partnership to pay. **Mayor Studebaker** stated he felt there should be a hard line. **Mayor Cook** clarified the paving work was bid by the plant contractor and there was a set price and scope of work. **Mr. Koellermeier** confirmed. **Mayor Cook** opined that it was not the Partnership's fault that West Linn would be paying more due to the timing of the bid. **Councilor Snider** clarified West Linn asked to take control of the paving work. **Mr. Komarek** affirmed. **Mr. Koellermeier** stated the agreement was based on the credit received from the plant contractor. **Councilor Snider** asked if West Linn agreed to the \$310K. **Mr. Komarek** replied there wasn't a number in the agreement but the scope of work was clearly outlined. **Mayor Studebaker** suggested West Linn re-bid the project. **Mr. Komarek** explained the contract had already been awarded for \$852K and a preconstruction meeting had been held and work would begin soon. **Mr. Koellermeier** voiced his support for sticking with the \$310K figure and stated staff wanted to understand the committee's stance going in to negotiations. **Councilor Snider** asked how Mr. Komarek's meeting with West Linn representatives ended. **Mr. Komarek** responded he presented their bid sheet and called out the items he felt were outside the scope of the agreement which reduced the price by \$277K, not enough to get down to the \$310K. He told them to figure out how to go back to the original scope so the Partnership wouldn't pay for more than that. He added that he researched asphalt prices and they were the same now as they were back in 2015 when the plant contractor bid. **Councilor Snider** asked what the West Linn response was to his directive. **Ms. Kerklaan** added communications from West Linn staff to Council and the public indicated the Partnership would be paying for the majority of the work. **Mr. Komarek** stated he gave them a firm number and asked them to get back to him. **Mayor Studebaker** opined they would likely come back with a larger number than what the Partnership would be willing to pay. He continued they entered this with eyes wide open and it sounds like they decided to do a bigger job than the project called for. **Mayor Cook** added that even without doing a bigger job, there was a set contract and a bid the Partnership could have stuck with, so why pay more? **Mayor Studebaker** asked if there were provisions in the plant contract that would allow the contractor to ask for more money for the work. **Mr. Komarek** replied there could be change orders if there were differing site conditions or some unknown event but it wouldn't be a substantial amount. **Mr. Komarek** continued he had discussed the issue with the City Manager as well as the issue of \$10K the Partnership is obligated to pay West Linn as

a condition of approval for a conditional use permit the local neighborhood association wants to use for Robinwood Station. He continued he had asked the West Linn Planning Director and City Manager several times if a CUP were never filed, which it hadn't been, then how would the condition of approval be satisfied. He received no answer from either. Scott Lazenby's suggestion was to take the \$10K and apply it to the paving project and consider it done. **Councilor Snider** asked Ms. Wine her opinion on the issue. **Ms. Wine** responded the level of detail Mr. Komarek had gone to distinguish the project the partnership was willing to pay for from what was bid didn't leave any room to do much else. **Mr. Komarek** added the agreement stated West Linn was supposed to set up their bid schedule in a way that would allow to clearly carve out work in the original paving contract and that didn't happen. **Ms. Wine** asked if it was clear why that didn't happen. **Mr. Komarek** opined it was a staff issue. **Councilor Snider** stated it sounded like a dispute that could come before the committee in the future. **Mr. Komarek** concurred and said that was why he started the conversation now.

6. Future agenda items

Mayor Studebaker asked if anyone had any future agenda items they would like to add. There were none.

Next meeting date

Mayor Cook explained Councilor Snider had a new meeting on his schedule for the next year occurring on the third Thursday of the month which conflicts with Oversight Committee meetings. He requested the date be changed. **Mayor Studebaker** was amenable to the request. **Mayor Cook** suggested the Admin's could work out an alternate date. **Mr. Komarek** reminded the group that at the previous meeting it was agreed that quarterly meetings would be held going forward and the October meeting would be the first quarterly meeting.

7. Adjourn

Mayor Studebaker adjourned the meeting at 6:34 pm

Respectfully Submitted,



Susie Anderson
Administrative Assistant

Approved by the Oversight Committee:

October 18, 2017