



**Lake Oswego Tigard Water Partnership
Summary of Oversight Committee Meeting
February 1, 2021**

Present via WebEx:

City of Lake Oswego: **Oversight Committee:** Mayor Buck, Councilor Manz
Staff: Erica Rooney, Bret Bienerth, Susie Anderson

City of Tigard: **Oversight Committee:** Councilor Goodhouse, Councilor Newton
Staff: John Goodrich, Brian Rager, Steve Rymer

Guests: Kari Duncan, Former Water Treatment Plant Manager

1. CALL TO ORDER/ROLL CALL

Chair Manz called the meeting of the Lake Oswego Tigard Water Partnership Oversight Committee to order at 5:31 p.m. The video-conference meeting was held via WebEx.

Staff members introduced themselves and explained their roles with their respective cities and to the Oversight Committee.

2. APPROVAL OF MINUTES OF MEETING HELD OCTOBER 12, 2020

Mayor Buck made a motion to approve the minutes of the October 12, 2020 meeting of the Oversight Committee. **Councilor Goodhouse** seconded the motion. The motion passed unanimously.

3. ELECTION OF CHAIR AND VICE-CHAIR

Councilor Newton nominated Councilor Goodhouse as Chair of the Oversight Committee for 2021. **Mayor Buck** seconded the motion. The motion passed unanimously.

Councilor Newton nominated Councilor Manz as Vice-Chair of the Oversight Committee for 2021. **Mayor Buck** seconded the motion. The motion passed unanimously.

4. PUBLIC COMMENT

None.

5. OLD BUSINESS

5.1 Water Rights Extension Remand

Mr. Goodrich reported that in January legal counsel for the Partnership and South Fork Water Board (SFWB) appeared before a three judge panel of the Appellate Court. WaterWatch was the petitioner against Oregon Water Resources Department's (OWRD) proposed by final order issued for Lake Oswego water rights. WaterWatch's argument was ORWD did not follow fish persistence rules in conditioning the water rights by not considering all the undeveloped rights on the Clackamas River instead of just Lake Oswego water rights. OWRD argued fish persistence was addressed in the first remand to the final order. OWRD with Oregon Department of Fish and Wildlife (ODFW) provided additional information for the record that all requirements of fish persistence were met. Legal counsel representing Clackamas River water users provided arguments to the information presented by WaterWatch. The panel asked only a few questions. **Mr. Goodrich** stated the panel could possibly not issue an opinion and let the final judgement stand, but it was likely a written opinion would be issued and that could take several months. **Ms. Rooney** asked Mr. Goodrich to remind the group how long Lake Oswego and Tigard had been dealing with the water rights extension remand. **Mr. Goodrich** replied it had been going on since 2011 or 2012. **Councilor Manz** asked if there was historical information on the partnership website. **Ms. Rooney** stated there was and noted the website was currently being updated and information regarding those updates would be presented at the next meeting.

5.2 Operations Committee: Activities Report

Mr. Bienerth reviewed the report in the meeting packet. Of note, a filter system was installed at the River Intake which allows the use of river water to keep pumps lubricated. Before the system was installed the intake was reliant on Gladstone city water so an interruption of Gladstone water service would have shut the intake down. The project was conducted solely in house by the maintenance team staff. **Ms. Duncan** added the installation of the system would save the Partnership on a significant monthly water bill from Gladstone, sometimes in excess of \$3000 per month. **Mr. Bienerth** noted river turbidity increased significantly during the first big storm, partly related to the wildfires. A recent purchase of an instrument that measures coagulant better had been helpful in treating water during storm events. **Councilor Manz** asked how turbidity spikes affect wear and tear on equipment. **Mr. Bienerth** replied the biggest upfront cost was the increased use of coagulation chemicals to bind the dirt together to settle it out and hauling the dewatered solids away. Regarding impact on equipment, backwash pumps run more often to clean the filters. **Councilor Manz** recommended anyone who hadn't had the opportunity to tour the plant should do so as she found it very interesting. **Mayor Buck** stated he had thought all pipes in Lake Oswego had been replaced during construction but recently learned there were still a lot of old pipes throughout the city and asked what percentage of pipes were older. **Ms. Rooney** replied the information was in the Water Master Plan and she couldn't quote exactly but speculated approximately 90% of Lake Oswego pipes were at least 40 years old. She said the water treatment plant and the transmission lines associated with it were a fraction of the overall distribution system and that Lake Oswego had 17 pump stations and numerous reservoirs that weren't part of Partnership construction and upgrades. **Mayor Buck** asked what could cause sediment to be stirred up in pipes. **Ms. Rooney** responded there were a few things that could contribute like a home or apartment sitting vacant for a period of time could cause sediment to settle in the pipes. There are a few dead-ends in the water system that don't experience as much water movement. Flushing the lines helps both situations. Main breaks could also allow sediment into the water lines. **Mr. Bienerth** added that during the summer when people run their irrigation there is more water turnover. During the winter months when turnover is less, reservoirs aren't kept as full in an effort to avoid water stagnation.

Ms. **Duncan** said it was natural and normal for water pipes to build up scale over time. A change in velocity like a main break, running a hydrant for fire suppression or a large construction truck traveling over a pipe can loosen that scale in to the pipe.

6. NEW BUSINESS

6.1 Report on Recruitment for Water Treatment Plant Manager

Ms. Rooney reported the first round interviews for the Water Treatment Plant Manager would be conducted later that week. She was pleasantly surprised with the number of candidates that applied and was confident there would be a positive outcome. She invited committee members to call her if they had specific questions or concerns about the recruitment for the position. She stated she would like to have the position filled by the end of February.

6.2 2021-23 Budget Proposal

Ms. Rooney stated Lake Oswego was in the two year budgeting process and provided a forecast of anticipated expenditures and revenue. She stated the report she was presenting was a preview of what would be submitted to the Budget Committee in late March or early April. She reviewed the revenues and speculated there wouldn't be much change but noted drought and cooler summers could affect revenue. She reviewed the expenses and pointed out capital expenditures in the current fiscal year related to the installation of the 5th pump at the River Intake. She did not anticipate any capital projects in the upcoming budget cycle which accounted for the overall decrease compared to the current fiscal year. She pointed out an increase in electricity costs due to a 6% increase implemented by PGE and said electricity is the largest line item for the River Intake and Water Treatment Plant. **Mayor Buck** asked for clarification on the revenue line items. **Ms. Rooney** explained Tigard pays Lake Oswego for water consumption and for their portion of the operation of the Water Treatment Plant, River Intake, and Waluga Reservoir 2 annually, in arrears. The other revenue line item(s) were Lake Oswego utility billing income and is a larger amount because it covers the entire Lake Oswego distribution system, as well as the WTP, RIPS, and WR2. **Ms. Duncan** added Lake Oswego and Tigard share the costs associated with the water supply system. Both cities have their own distribution systems that they pay for and operate separately. **Ms. Rooney** stated when the Budget Committee receives the entire budget the other portions of the water fund, engineering, maintenance/distribution would be included. The forecast in front of them was only the expenses shared by Lake Oswego and Tigard. She speculated there likely wouldn't be much change but the proposed budget would be presented at the next meeting.

6.3 LO-Tigard Partnership IGA and Operational Summary

Ms. Rooney thanked Ms. Duncan for returning to present an overview of the management structure of the current agreement as it stands today. **Ms. Duncan** explained she had completed a thorough review of the existing IGA in preparation for the workshop that had been postponed due to COVID-19 and the inability to meet in person. She evaluated how the partnership had operated over the period between 2016 and 2020, summarized the roles and responsibilities of each entity, (City Councils, Oversight Committee, Managing Agency, and Operations Committee) and provided examples of how the requirements of the agreement were carried out currently to help identify areas that have a potential for change. She explained the Operations Committee was comprised of 2 - 4 staff from each City and noted the agreement states there would be only one vote for each city from the Operations Committee. If a meeting of the Operations Committee had four staff from one city and the other had only 2 staff, there would still be a fair vote because each City would have just one vote.

Ms. Duncan reviewed the topics from the IGA for consideration:

Budget Timeline - Section 3.4: Both City Councils review and approve the final budget by June 30th. The Oversight Committee reviews the draft budget by April 30th. The Managing Agency prepares drafts and final budget for review and provides quarterly budget reports to staff at both agencies. She suggested perhaps the Oversight Committee would like to receive the quarterly reports, as well. The Operations Committee reviews the draft budget by March 1st of each year.

Management - Section 3.1: The Managing Agency manages the operation, repair, and replacement of facilities, approves contracts per the agency's contracting requirements, and responds to emergencies. The Operations Committee reviews and makes recommendations regarding operations, repair, and replacement of facilities to the Oversight Committee and reviews contracting methods. She noted contracts would be part of the budget. If there were a contract outside of the budget that would cause a substantial expense in excess of the budget, the contract would go before both City Councils for approval. In the case of an emergency where there may be an expense outside the current budget the managing agency would have the authority to act without Council approval.

Cost Share - Sections 3.1 and 7.1: Both partners pay their share of costs according to ownership and water use. She noted it's important to acknowledge the partnership is not a wholesale situation. The managing agency isn't selling water to the other partner but rather both cities take a share in the cost of water supply according to a formula based on the percentage of ownership each city has in the facilities and how much water each city uses. Budgeted fixed costs like personnel and maintenance that don't change much from year to year are split between partners according to the share of the total supply system. Varying costs such as electricity and chemicals or anything that may increase or decrease based on how much water is produced are shared by the two partners in a ratio of how much water each used for the year. The managing agency is responsible for paying invoices, accounting, budgeting, operation and maintenance, planning, project management, maintaining records, and insurance.

Meetings: Joint Council meetings are not defined in the IGA. While under construction there were a few meetings of both full Councils to discuss areas of the project. Going forward the Oversight Committee and Operations Committee may determine there would be a specific topic that would necessitate both Councils meet together. The Oversight Committee is required to meet no less than quarterly. It is not defined in the IGA but the Managing Agency has organized, staffed, and provided public notice for Oversight Committee meetings. The Operations Committee meets at intervals deemed appropriate. In practice they have been meeting monthly.

Oversight Committee - Section 3.3: The responsibility of the Oversight Committee is to make recommendations to the Managing Agency or City Councils as appropriate.

Asset Management - Section 3.5: Asset management is an important part of the Partnership. The cities spent \$250M on a state of the art water system and infrastructure. In the IGA both City Councils approve repair and replacement and Capital Improvement Programs (CIP) and funds. **Ms. Duncan** reminded the group that a couple years ago the Oversight Committee was presented with options to plan for funding future repair and replacement of assets. Oversight Committee members took those options back to their respective Councils for consideration and a decision on which method to employ. The Managing Agency implements the CIP and repair and replacement of assets and the Operations Committee proposes policies to the Oversight Committee.

Council Decisions: There are a number of items outlined in the IGA that require decisions from both Councils. Some are more specific to pre-construction and during construction but are still important. Issues that require a decision from both Councils are: sale, transfer, lease, exchange, or disposition of property; entry to mortgage, pledge, encumbrance or refinance of property or facility; approval of non-emergency expenditures not previously approved in the budget; approval of initial expansion and long term expansion; approval of a new party to the agreement; approval of modification, alteration, or dissolution of the Agreement.

Audit, Record Keeping: The Managing Agency is required to perform annual audits and maintain records. This is conducted by Lake Oswego's finance department. All entities have access to audits and records.

Obligation of Good Faith and Fair Dealing - Section 2.3: All parties have an obligation of good faith and fair dealing.

Ownership - Section 5.1: Ownership is by "Tenancy in Common".

Capacity (Amendment 5): This article was not in the main body of the IGA because during the course of the project ownership percentages were changed for each partner. 38 million gallons per day (MGD) is the total water rights that Lake Oswego holds on the Clackamas River, and is also the build out capacity of all the facilities. 20/38 is Lake Oswego's share and 18/38 is Tigard's share. This includes ownership in the facilities and the production capacity. Lake Oswego maintains the water rights but the facilities are owned by both partners.

Bonita Road Pump Station - Section 9.5: States "...if this Pump Station is used for the benefit of Lake Oswego as the Parties agree, Lake Oswego shall pay Tigard's costs to supply water, including Tigard's costs to purchase water from other entities, as if it were a short-term lease. Tigard will invoice Lake Oswego on a monthly basis in such circumstances."

Operations Manual (Article XII: 12.1): Designates that an Operations Manual shall be developed for the supply facilities, updated as required, and adopted by both Parties. It states an Operations Committee (12.2) shall consist of at least one designee of each of the parties, and that each party will have one vote in making recommendations to the Oversight Committee. The Operations Manual was completed in 2018 and was titled Operations Plan because there is an Operations Manual treatment plant staff use that addresses day to day operations. The Operations Plan is a higher reaching document that talks more about how to operate the facilities for the two partners.

Curtailment - Section 12.3: The IGA states curtailment shall be conducted according to the Water Management and Conservation Plan which states "if emergency or water shortage requires restriction in deliverable supply...the reduction in available water shall be shared equally among the Parties." Lake Oswego and Tigard jointly developed the current Water Management and Conservation Plan in 2018 and it contains a description of water curtailment and what may happen in that event. **Ms. Duncan** noted curtailment was only briefly discussed in the IGA and acknowledged curtailment had been an important topic of discussion at past meetings.

Ms. Duncan opened the floor for questions. **Mayor Buck** asked if contracts for the supply facilities had the same approval criteria as other city contracts. **Ms. Duncan** affirmed. **Ms. Rooney** stated the threshold for Council approval was \$250k and above. **Ms. Duncan** added the Operations Committee would develop the information regarding bid award to present to the Oversight Committee but the Lake Oswego City Council would formally approve the contract. **Mayor Buck** asked what the path to resolve any disagreement between the partners would be. **Ms. Duncan** said the IGA included dispute resolution information and was a typical process that would first involve efforts to resolve through discussion, then moving on through arbitration. **Mr. Goodhouse** provided background that Tigard had requested a facilitated meeting between the two cities to develop a governing board, something different than the current Oversight Committee. Due to COVID-19, the workshop had yet to be scheduled as the group preferred to meet in person. Tigard staff had begun to draft an agreement to share at the workshop. **Mayor Buck** asked if they were proposing a separately elected water board. **Councilor Goodhouse** replied that was not the case but rather a governing body that votes and decides on matters. **Mayor Buck** asked where they were at in the process. **Councilor Manz** replied the plan was to have a workshop to focus specifically on this topic but they hadn't been able to hold it due to COVID-19. The purpose of the workshop would be for Tigard to put the issues they want to address on the table and then work through those issues together. She noted nothing had been decided at this point. **Councilor Newton** stated she felt the presentation Kari gave was helpful and suggested the goal was to transition the Oversight Committee in to a board that had some defined responsibilities. She opined that as the Oversight Committee morphs in to some type of governing board, some of the current Council responsibilities might fall off on to that Board but it was still up for discussion. She added that while the new agreement might not go in to as much detail as the original IGA, the issues like curtailment and the operations plan should be acknowledged in the new agreement. **Councilor Manz** stated the Oversight Committee was initiated to provide oversight during design and construction and this was a way to determine if the committee's roles should be adjusted to focus more on the ongoing operation of the supply facilities. **Councilor Goodhouse** thanked Ms. Duncan for taking the time to prepare the presentation and for coming back to attend the meeting. **Councilor Manz** voiced her appreciation for Ms. Duncan's work with Lake Oswego over the past 15 years and said her level of management and detail throughout the project was exceptional. On behalf of the Lake Oswego Council she thanked her for all she had done and wished her all the best in her new position.

6.4 Discuss Logistics and Venue for Future OVC Workshop

Ms. Rooney explained the workshop had been postponed several times since last April and wanted to get the groups input regarding scheduling in the future. **Councilor Goodhouse** suggested using a large room and limiting attendees. **Councilor Manz** asked if the workshop would be open to the public. **Ms. Rooney** said it would. **Councilor Manz** suggested asking the City Managers to coordinate meeting set up. **Councilor Goodhouse** voiced his support for meeting in person and said he felt it would help facilitate discussion and suggested they meet later in February. **Councilor Newton** asked if the Lake Oswego committee members and staff would like to have the Tigard proposal in advance of the workshop and suggested a late March or April date might be more realistic. **Councilor Manz** thought a later date would be more realistic, as well, and opined since the City Managers were leading COVID-19 operations and restrictions, they would be the logical choice to help coordinate the workshop.

7. FUTURE AGENDA ITEMS

7.1 OVC Workshop Operating Agreement Revision

7.2 Risk and Resiliency Assessment and Emergency Response Plan Presentation

Ms. Rooney stated she hoped to have this item and item 7.3 RIPS Pump #5 Project Update, on the agenda for the next regular meeting scheduled for April 12th. The hope would be for the consultant working on the plans for both Lake Oswego and Tigard to present to the Committee.

7.3 RIPS Pump #5 Project Update

8. ADJOURN

There being no further business **Vice-Chair Manz** adjourned the meeting at 7:02 pm.

Respectfully Submitted,

Susie Anderson
Administrative Assistant

Approved by the Oversight Committee:

April 5, 2021