



Memorandum

Date: July 19, 2012

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: Lake Oswego/Tigard Water Project

The City Council asked that I outline the various activities of the City of West Linn with regard to the Lake Oswego/Tigard (LOT) water partnership project. Below is a list of the various activities, including the process/schedule, and the staff or hired consultants. I want to emphasize that this effort to engage the neighborhood, Council, and citizens on a land use issue far exceeds any such effort that this city has undertaken in the recent past.

LEGAL SERVICES

For all of the matters discussed below, the City has contracted with the law firm of Beery, Elsner to provide the City with legal advice. Pam Beery and Chris Crean are the attorneys we have been working with on all of these projects.

- *Process/Schedule:*
 - Ongoing
- *Hired Consultants:*
 - Beery, Elsner (Pam Beery & Chris Crean)

LAND USE PROCESS

Two applications have been submitted:

1. *Expansion of the Lake Oswego Water Treatment Plant on Kenthorpe Way.*
 - This application was heard by the Planning Commission in spring 2012. Lake Oswego requested a suspension of consideration. We anticipate that the hearing on this application will be consolidated with the hearing on the application below and will be continued in October. Chris Kerr and Zach Pelz were the lead planners reviewing this application. With Chris moving to a different position, Zach Pelz now has the lead in consultation with John Sonnen.
2. *Application to locate pipes for raw and treated water in the City's right of way.*
 - This application was received in early July and is currently under review by Zach Pelz for completeness. If deemed complete, it is likely that the initial Planning Commission

hearings will be held in early October. Zach Pelz is the reviewing planner on this application in consultation with John Sonnen.

- *Process/Schedule:*
 - Planning Commission hearings in October (tentative).
- *Staff:*
 - Zach Pelz, Associate Planner
 - John Sonnen, Planning Director
- *Hired Consultants:*
 - DJ Heffernan. At the request of the Robinwood Neighborhood Association, the City hired DJ Heffernan to assist the neighborhood in developing and evaluating mitigation opportunities to be considered as part of the LOT land use application process. To date, the City has expended over \$6,400 for Mr. Heffernan's services and has increased his contract for an additional \$5,000. This would bring the total to over \$11,000.
 - Greg McKenzie. Facilitated discussions between LOT and the Robinwood Neighborhood. When it asked to have its initial application suspended, LOT stated that it wished to re-engage the neighborhood discussions about mitigation. At LOT's request, the City of West Linn hired Greg McKenzie to facilitate these discussions as a neutral party. Mr. McKenzie will be coordinating with Mr. Heffernan during this time as well. Our contract with Mr. McKenzie totals \$10,000. If these discussions prove to be fruitful, the agreed upon plans will be presented to the Planning Commission for its consideration. We also expect LOT to reimburse the City of West Linn for Mr. McKenzie's fees.

INTERGOVERNMENTAL AGREEMENT FOR WATER SYSTEM INTERTIE

Since 1969, Lake Oswego and West Linn have had an agreement to share treated water through an intertie when necessary. The most recent iteration of the IGA was approved in 2003. During the last 14 years, both Lake Oswego and West Linn have used the intertie to provide water to citizens – seven times West Linn has needed this assistance (totaling over 400 million gallons), and seven times for Lake Oswego (totaling over 40 million gallons).

The IGA needs to be updated so that certain projects that have been accomplished can be removed from the IGA language, and so that Tigard can become a party to the IGA. Ken Worcester, Jimmy Whynot, and I have been working on this project. I expect Lance Calvert to assist when he begins his tenure with West Linn on July 23.

- *Process/Schedule:*
 - We are hoping to have the IGA ready for Council consideration on August 13.
- *Staff:*
 - Lance Calvert, City Public Works Director

FRANCHISE OR LICENSE AGREEMENT WITH LAKE OSWEGO

For more than 40 years, Lake Oswego has utilized West Linn rights of way for locating its water pipes. Throughout this time, West Linn has not received any compensation from Lake Oswego for allowing this use. Other utilities such as PGE, Northwest Natural and telecommunications companies all have franchise agreements with the City of West Linn. We believe now is a good time to remedy this situation. On July 16, by consensus the Council directed me to hire Larry Patterson to negotiate an agreement with Lake Oswego. (The Council plans to ratify this direction at an August 6 special meeting.) It is our expectation that this agreement will include compensation to West Linn for the existing use of the right of way and will include a different level of compensation *IF* LOT receives land use approval for placing larger pipes in the right of way.

- *Process/Schedule:*
 - It is our plan to have this prepared for Council consideration by early fall.
- *Hired Consultant:*
 - Larry Patterson

EASEMENT THROUGH MARY S. YOUNG PARK

It is our understanding that Lake Oswego has requested an easement through Mary S. Young Park for its new raw water pipe. The City of West Linn (Ken Worcester) provided Oregon State Parks with a list of possible mitigation projects that could be required of LOT should the State wish to grant the easement. It is our understanding that it is likely the easement will be granted (if land use approval is granted) and the City's suggested mitigation projects will also be accepted.

- *Process/Schedule:*
 - TBD – Oregon State Parks
- *Staff:*
 - Ken Worcester, Parks & Recreation Director

ONGOING NEIGHBORHOOD COMMUNICATIONS

Staff from many departments continues to communicate with the neighborhood to identify and address concerns and questions. We will continue to assist with community concerns, as needed, and respond to requests for assistance in sharing information as appropriate with Lake Oswego. To date, the level of staff involvement on this issue from all departments in the City has been unprecedented, but it will continue to ensure that the best interests of West Linn are protected.

- *Process/Schedule:*
 - Ongoing
- *Staff:*
 - Chris Jordan, City Manager
 - Kirsten Wyatt, Assistant City Manager