

# Infrastructure Advisory Committee (IAC) Meeting Summary

December 13, 2010

3:00- 5:45

City of Bend, Municipal Courtroom

**Facilitator:** Sarah Hubbard-Gray **Note taker:** Adele McAfee

## In Attendance:

**Committee Members:** Andy High, Casey Roats, James Gattey, Nancy Loveland, Michael Magee, Ray Auerbach, Frank Turek

**COB Staff:** Courtney Snead, Paul Rheault, Tom Hickmann, Adele McAfee, Patrick Griffiths, Heidi Lansdowne, Mary Winters, Justin Finestone, Mary Beth Alley

**Consultant Staff: (available to answer questions):** Sarah Hubbard-Gray from Hubbard-Gray Consulting, Bob Ellis-HDR, Brian Black, Susan Haupt-HDR, Bob Willis- Brown Caldwell, Adam Sussman – GSI Water Solutions, Rick Glick, Davis Wright Tremaine, David Prull –Clearwater Engineering, David Newton-Newton Consulting, Kevin Crew-Black Rock Consulting, Dave Stangel-MSA

**Other Participants:** Bill Buchanan, Kimberly Priestly -WaterWatch, Terry Angle- Angle Consulting Engineering, Craig Lacy - Native Fish Society, Ryan Houston, Deschutes Watershed Council, Todd Heisler – Deschutes River Conservancy, Rod Bonacher, US Forest, Eric Hansler -Central Oregon Land Watch, Bruce Siller – OSU Cascade Natural Resource COCC, Mike Ogle

## Meeting Summary

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**Agenda item:** Approval of Meeting Summaries **Presenter:** Sarah Hubbard-Gray

### Discussion:

Meeting Summaries for November 4<sup>th</sup> and November 8, 2010 – Motion carried.

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**Agenda Item** Election of Committee Chair and Vice Chair **Presenter** Sarah Hubbard-Gray

### Discussion:

Frank Turek volunteered for committee chair; Casey Roats seconded the motion. Motion carried.

Casey Roats nominated Jim Gattey for vice-committee chair. Nancy Loveland seconded the motion. Motion carried.

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**Agenda item:** Appointment of Infrastructure committee member for selection committee for the CMGC (Construction Management General Contractor) **Presenter:** Sarah Hubbard-Gray

### Discussion:

Jim Gattey nominated Ray Auerbach; Frank Turek seconded the motion. Motioned carried. Committee member Andy High abstained from the vote citing possible conflict of interest.

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Before the discussion began, IAC member Jim Gattey opined that he saw two major issues-- cost considerations and diversity and issues of partner cost consideration. If Bend gives up surface water rights and relies on groundwater, what is the cost difference of the estimates of future costs of electricity? There is the importance of maintaining flexibility. He asked, from a financial aspect, what would warrant Bend giving up the option of relying on both groundwater and surface water.

Tom Hickmann reviewed the objectives for this meeting. He explained this committee will hear concerns from the public regarding the surface water project. The Council has made a decision but has left the door open to hear from the committee any new considerations concerning this project. The committee will go back to council this Wednesday with any new perspectives.

Casey Roats stated the committee is very new and asked the group to afford them an opportunity to take in the details that everyone is so familiar with.

#### **Groundwater only options –**

Bill Buchanan stated that he is representing himself and is not representing a client. He stated to date the City has not performed a valuation on what the in-stream flows are worth and how they are considered in the decision- making process.

He is advocating for other alternatives to be considered and some sort of public process. He said economists recognize there are values in natural resources, but they are difficult to quantify. He said it would be foolish for the City to give up its surface water rights.

The City uses 44 million gallons a day of ground water from permits that they already have. He said the City has a 40% buffer to meet its peak demand day in the summer. Some of those rights are subject to a mitigation obligation. The City could use its surface water rights to obtain mitigation credits and convert to all ground water. There would be no additional cost to the City as there are sufficient ground water rights and well capacity. The wells in the ground are sufficient to handle everything needed in 2010 plus a significant margin. The City would save money in capital costs compared with the upfront cost to the well alternative.

To answer Mr. Gattey's question regarding the economic gain when there is a cost to pump the groundwater and nothing is being paid to get the surface water to use, Mr. Buchannan stated the up-front savings on capital cost of the well alternative could buy the power.

Committee member Nancy Loveland stated she had a question arising from a letter from Water Watch stating all the City's groundwater water rights are permitted and the surface water rights are certified. In response to her question on which were most secure, Rick Glick stated a water right certificate is a gold standard of water rights, and it represents a vested water right comparable to property rights.

It has been suggested the City go to the legislature and have the legislature prioritize all of all the water rights and "get all of this taken care of". Mr. Glick stated that, in his experience, it is highly unlikely that the legislature would get involved.

Kimberly Priestly from Water Watch disagreed with Mr. Glick's comments about the permanent certificate and stated all the City would need to do is develop them. There are limitations to the rights in Tumalo Creek. She stated that the 2.8 is uncertain and there would be an environmental review. Other issues she discussed were that the source is not certain, the diversion pond needs a storage permit and the City would have to go through an environmental review, issues with the hydro, and increased impacts on surface water flow. In response to questions raised by Casey Roats, Ms. Priestly stated that the City's priority dates on the surface water rights would not be transferred to groundwater rights and the City would, in fact, lose the priority dates.

Carl Lacy from the Native Fish Society read from the Bend City Water System Master Plan and stated that, during peak season, the City can be limited in its use to 7.6 million gallons per day in drought years. Staff stated that the City has shut down about a dozen times a year.

Bill Buchanan stated he believes the problem is that the City has not looked at the best ground water alternative. The logical place for the wells is close to the outback facility, and the whole project doesn't have to be build all at once.

Kimberly Priestly raised another option of limiting the City's surface water use to what it has used historically. She stated there is concern in the community about the increase in use the surface water project is proposing. Frank Turek stated in his thirty years of experience, there has been no city in the arid west that has voluntarily given up its potable water supply. In Arizona, to reduce the reliance on groundwater, the City has imported water from the Colorado River at great cost.

Frank stated that communities that rely on groundwater only have restricted their development. The cities with the dual system did better economically.

Nancy Loveland asked about the new enforcement on all injection control devices (UIC) and how many of the drinking water wells are in the two-year time of travel. Tom Hickmann stated that there are approximately 7,000 UIC's in the City's UGB. DEQ and DHS have defined the two year time of travel and, if these do not change, there will be thousands of UIC's under restrictions of treatment or these UIC's would have to build a separate stormwater conveyance system for each and every one. Bill Buchanan pointed out this would not be an issue with the proposed Outback site.

In response to Casey Roats question regarding the feasibility of locating additional wells at the outback site, Bill Buchanan said the City answered that question, stating there is ample space for nine future new wells which is the number needed to offset surface water. In response to the question of future wells for growth, David Prull stated, if the City utilizes these sites now, it will have to look somewhere else, Outback is an ideal site. Another location would have to be similarly studied and evaluated. David opined the cost of land on the urban fringe could be costly as a future purchase.

Ryan Houston of the Deschutes River Council stated that his board has not taken a position but wants to engage fully to promote, and advocate to find, a creative solution. Their interest is in the Tumalo Creek and the health of the Deschutes River. The big picture solution should include preserving the cold water coming into the river. Based on earlier small team meetings, he is not sure if all the windows of opportunities have been fully explored. Casey Roats stated in response, that the City is under the gun to find a solution to meet the regulatory requirements.

Tumalo Irrigation District representative Bill Hopp stated the water in question is Tumalo Irrigation District water (beside Bridge Creek). The District holds the water rights. If the City would leave the water, the District would be looking to enforce its contractual right. The City is paying for water, and, if the City moves away, it would still be paying. The District is aware of the importance of cold water in the stream. He stated that TID are leaders in conserving water and they are operating under a conservation order which would enable TID to use this water right to put water back into the stream. However, if the City's changes how it uses its surface water rights, those rights would likely revert to TID during drought years to meet their customer needs, and not necessarily stay in-stream to improve habitat, water quality and minimum flows. He stated that he would hate to see the relationship with the City go off track if it decided to change the way it has been doing business with the District.

Mr. Hopp stated the new project will restore nine to ten miles of the creek. One of the District's concern is assuring the City does not take additional water beyond what the water rights entitles them to. This project will insure the water is much more easily controlled.

Mr. Angle represents Bill Smith's who could not attend. He opined that the value engineering review proposal should look at all issues.

Tom Hickmann stated that the City is a committed participant working on basin-wide issues.

Ray Auerbach stated there is significant financial investment to continue with the project. Ray asked Kimberly Priestly if the City can put in enough water in the stream to offset any groundwater costs

Adam Sussman of GSI Water Systems commented that 80% of what he does is to assist municipalities to diversify the water supply. He does not know of one who would be contemplating this option. He opined that the alternative option is not a good idea.

Bill Hopp of Tumalo Irrigation District restated that it is Tumalo Irrigation water and their agreement with the DRC which provides that municipalities would not get paid, only individuals get paid. The City would have to receive Tumalo Irrigation District approval to mitigate any water rights.

Adam stated the mitigation program has many complex issues. He has been working on this for many years and the irony is not lost on him that Water Watch is suggesting an entity in the Deschutes Basin pump groundwater as they have been critical of the mitigation program.

In response to Adam's comments, Kimberly Priestly stated Water Watch is on the record for not opposing groundwater pumping if adequately mitigated.

Courtney Snead, Assistant to the City Manager, clarified the committee charge to the Council. The Council is looking for any follow-up as a result of this meeting. Mary Winters, Attorney for the City of Bend, reiterated that the Council would like to hear from the committee if there is anything from the committee's expertise that the Council should consider.

Committee Observations:

- The Tumalo Irrigation Districts view of their water rights.
- Timelines in which these decisions must be made.
- Value engineering needs to be placed immediately to answer some questions and issues
- Every community that has a dual water supply has done far better in development and economic growth.
- There is no certainty, if the City were to give up the surface water rights, that there would be a significant, measurable benefit to the river. There are still issues associated with groundwater.
- Redundancy is the goal. Impact environmentally on the groundwater source – contaminations.
- A more thorough investigation on groundwater options – Value engineering a key piece.
- Concern for rate-payer doesn't care about EPA regulations
- Did not hear a compelling argument for going to an all groundwater option. Future development and infrastructure capacity are a big concern.
- Jeopardizing City water rights to reach a conclusion the community has not been able to reach in 15 years would not be prudent nor should Council put this project off

The committee went over salient points of the discussion and directed staff to write up and email to committee members for their approval. (see attached)

Jim Gattey requested that Casey Roats present the findings to Council as Casey's statement hit all the points. Casey agreed.

Casey asked Kim Priestly from Water Watch to send him bullet points of the things she stated the committee should "be aware of".

Nancy Loveland asked Sonia to forward information regarding rate impacts. Sonia said she is working on a memo for Council and, when that is completed, she will forward to the committee.

Meeting adjourned at 5:45 P.M.