

MINUTES

Eugene City Council
McNutt Room—Eugene City Hall
777 Pearl Street—Eugene, Oregon

November 10, 2010
Noon

COUNCILORS PRESENT: Mike Clark, Betty Taylor, Andrea Ortiz, Chris Pryor, Alan Zelenka, George Brown.

COUNCILORS ABSENT: Jennifer Solomon.

Her Honor Mayor Kitty Piercy called the November 10, 2010, work session of the Eugene City Council to order.

A. WORK SESSION: Eugene Water & Electric Board

City Manager Ruiz introduced the item, reporting that the City Council was scheduled to hold a public hearing on the sale of water to Veneta, followed by a work session and action to occur in January 2011.

Eugene Intergovernmental Relations Director Brenda Wilson reminded the council of the contract entered into by the Eugene Water & Electric Board (EWEB) and the City of Veneta in April 2010 regarding the provision of surplus water to Veneta. Subsequently, the council held a joint meeting with the EWEB commissioners on June 7 to discuss the contract. A public information forum was held on June 8 and a public hearing was held on June 14. Seven people testified at the public hearing and three people provided written testimony. Staff returned to the council for further direction on June 28, at which time the council postponed a decision on the sale of water to Veneta pending the outcome of the validation process. That process was now complete, and representatives of EWEB and the City of Veneta were present to discuss next steps.

EWEB's Director of Employee, Customer, and Community Services Debra Smith emphasized how important it was to the community that EWEB secure at least a portion of the third McKenzie River water right. She cited economic development opportunities, an adequate water supply, and protection against an uncertain climate future as key reasons for securing the right.

Ms. Smith suggested a regional water strategy was critical to managing the risk of EWEB's having a single source of drinking water. She believed that there was an opportunity for EWEB to partner with neighboring utilities and municipalities to mitigate that risk in a cost-effective manner. Ms. Smith noted that councilors had been provided with information about the cost of a secondary source versus the cost of a regional strategy. She acknowledged the large expense involved in either scenario. Ms. Smith said the engineering needed to implement a shared strategy was relatively simple, but the relationship building necessary to realize such a vision was complex. While the Veneta contract might seem somewhat out of order, the work that EWEB, Eugene, and Veneta were doing collaboratively was an important element in demonstrating community interest in pursuing the option.

Veneta City Administrator Ric Ingham said the water contract between EWEB and the City of Veneta was time-sensitive because of its tie to a State Rural Development grant and loan package with a 2015 expiration date. Preliminary engineering indicated the project could take up to four years to build, although he hoped it could be done sooner so Veneta could take advantage of lower costs. Mr. Ingham emphasized the positive economic impact that pipeline construction would have on Lane County.

Mr. Ingham said Veneta was a young community that was still developing much of its major infrastructure. The city had incorporated because of water quality issues. Veneta did not have access to good aquifers or to surface water sources as most communities did. However, Veneta was mandated by Goal 14 to have a 20-year supply of drinking water as well as the supporting infrastructure to meet the needs of its projected population. Mr. Ingham said that water would not drive Veneta's growth rate one way or another.

Mr. Ingham noted the many studies that had occurred to identify a water source for Veneta, and said the studies pointed to the pipeline project as the preferred alternative.

Veneta Community Services Director Brian Issa, Project Lead, distributed and reviewed copies of a PowerPoint presentation entitled *A Comparison of Water Source Development Scenarios for the City of Veneta*. The presentation summarized Veneta's water situation and included information on demand projections, existing supply, options for long-range alternatives, the costs of supply development scenarios, and rate comparisons and projected systems development charge (SDC) increases.

Mayor Piercy solicited council comments and questions.

Responding to a question from Mr. Clark, Mr. Ingham indicated that Veneta had employed Rural Development financing in 1998 to expand its wastewater plant, and all improvements to the water system made in the last 20 years were funded by urban renewal. Mr. Ingham did not anticipate the City's bond rating would be impacted by the water situation.

Ms. Ortiz asked what amount of water Veneta needed. Mr. Issa said the project had been sized to accommodate 3 to 5 million gallons daily. Ms. Ortiz suggested Veneta's SDCs would be so high people would be discouraged from building. Mr. Ingham emphasized Veneta's efforts to foster the creation of local jobs for Veneta residents and said his concern was how the SDCs would impact the community's business development goals.

Mr. Poling believed that Veneta had thoroughly documented its water need and questioned what other options Veneta had given the restrictions placed on other potential sources by the Oregon Department of Water Resources. He hoped at minimum to move the item on to the public hearing phase for the sake of regional collaboration and partnership.

Mr. Poling asked what Veneta would do if it was unable to secure water from EWEB. Mr. Ingham said Veneta would continue to seek an alternative source, which would likely involve efforts to draw water from the Fern Ridge Reservoir. However, there were obstacles created by the need for Congressional approval, water filtration requirements, and the potential impact of drought years on the reservoir's water levels. He emphasized that Veneta had sufficient water to meet average demand for 20 years but would be challenged to provide water for peak demand within the next few years.

Mr. Pryor spoke to the pros and cons of the proposed water contract. Speaking to the question of whether the sale hurt Eugene's water supply, he pointed out that the contract helped to perfect EWEB's water right

and made more water available. If Eugene suddenly needed the water, EWEB could cancel the contract. He suggested the contract would benefit both parties. Mr. Pryor also wanted to move the issue forward to a public hearing. He wanted to work out the remaining questions related to the authority of EWEB and City to sell water. Mr. Pryor had yet to identify a real downside to the sale.

Mr. Zelenka said his concerns had nothing to do with Veneta, although he acknowledged that community's lack of options. He said the Veneta contract did not secure the third McKenzie River water right and only got the community "a little further down the road" toward reaching that goal. He suggested that for Veneta to enter into a contract that could be terminated at any time was unrealistic, untenable, and at the least, bad public policy. If there was to be such a contract, it should be permanent given the investment Veneta was proposing to make.

Mr. Zelenka believed it was important for Eugene to preserve its water rights, although he pointed out the new water right would serve the community well past 2050 and there was no other significant party in line for the right. His concerns were more focused on Eugene's own policies and plans as well as concerns about regional planning consistency with Eugene land use laws and growth management policies. He recalled that he had asked earlier how the contract and EWEB as a regional water provider was consistent with Eugene's Growth Management Policies 1, 2, 5 and 10. Mr. Zelenka wanted to see findings of consistency with those goals. He also suggested the contract created a conflict with State Goal 11, which spoke to the efficient provision of municipal services, and believed that addressing those conflicts would be critical in the appeals process he anticipated.

Mr. Brown believed the proposal had initially been presented as an absolute necessity to allow EWEB to perfect its third water right, which was 118 million gallons daily. Eugene was currently using about three percent of the third water right, or about 3.5 million gallons daily. If Veneta's demand was added, that would total 7.5 million galls daily. Eugene needed to demonstrate that it would use 25 percent of the third right within a reasonable time, and 25 percent was 29.5 million gallons daily. Mr. Brown did not think the contract helped much in perfecting the third right.

Mr. Brown suggested the question before the council was whether EWEB became the regional water supplier for southern Lane County. He pointed out that Coburg, Creswell, Junction City, and Elmira might also need more water. They could only grow if they bought water from EWEB, and he questioned whether that was desirable. He suggested that EWEB might not need the third water right, pointing out that it was adequate to serve one million people.

Mr. Brown recalled that the 1976 charter amendment vote had been all about controlling growth and preventing sprawl, and the voters had agreed with those goals. He asserted that Veneta was a bedroom community for Eugene. He estimated that 90 percent of the working population worked in Eugene and drove to Eugene on Highway 126 and West 11th Avenue and asked "what do we get out of it?"

Noting that the Agenda Item Summary mentioned that the council could consider a resolution of support for the contract, Ms. Taylor suggested the council could consider a resolution of denial as well. City Manager Ruiz concurred.

In response to Ms. Smith's remarks, Ms. Taylor pointed out that the Veneta contract did nothing in regard to providing Eugene with a second water source. She considered that subject irrelevant to the discussion. She wanted to hear about objections to the contract, its impact on long-range planning, and the precedent the contract set for other small communities. She said it was good to help a neighbor but the council also needed to protect Eugene and the environment.

Ms. Taylor asked if Veneta had considered cisterns. Mr. Ingham said Veneta had considered cisterns but they were not found to be feasible. Ms. Taylor remembered when everyone had cisterns to catch rainwater and suggested it was another possible solution.

Ms. Taylor indicated she was willing to move the topic onto a public hearing and would listen carefully to both sides.

Ms. Smith agreed with Ms. Taylor that the issue was not necessarily related to a secondary source. Veneta was a small user. However, other communities were watching the situation, and EWEB General Manager Roger Gray had conversations with neighboring utilities and community partners about participating in the development of a secondary source shared back-up plan. She believed other communities were watching to see if EWEB could find a way to help Veneta move forward with its planning, and suggested that success would be indicative of how willing Eugene would be as a community to engage in a different approach.

Mayor Piercy said she felt strongly about the need to secure water for the future, so perfecting the water rights seemed important to her. She acknowledged that the council had concerns about growth and development but at the same time Veneta was facing an immediate water problem. Mayor Piercy believed that there was a broader issue Eugene needed to consider, that of the water shortages that other small Lane County communities might face, which required a regional discussion that needed to occur soon. Mayor Piercy thought that discussion fit into the Envision Eugene planning effort and other related planning processes.

Mr. Clark said when one's neighbor's house was on fire one did not deny him the use of one's garden hose. He believed that Veneta was in real need. Mr. Clark said there were other parties watching the discussion, including the bond raters. He was proud of Eugene's good bond rating and said the council counted on its bond rating to save money. He pointed out that bond rating agencies consider things like water supply, which impacted the cost of borrowing. He wanted EWEB to perfect more water rights so that Eugene could maintain its infrastructure at an optimum level and maintain its bond rating.

Mr. Zelenka disagreed with Mr. Clark's analogy, saying that Veneta's house was not "on fire" given it had enough water to meet existing demand. He discussed the requirements of Statewide Goal 2, which addressed coordinated regional planning. He said that currently, there was no regional water planning and there was no master plan speaking to EWEB's role as a regional water provider or Eugene's role in that. The focus of the discussion had been on perfecting the third water right in the absence of a plan. The Veneta contract moved EWEB toward achieving 25 percent of the third right, which was important to reserving the next 25 percent, but it would require several contracts the size of Veneta's to do so. He said a master plan could lay out next steps.

Mr. Zelenka said he had asked EWEB General Manager Roger Gray if EWEB had a master plan or was planning to do such a plan, and Mr. Gray had indicated to him that there was no such plan in progress or intention to do one. He asked Ms. Smith to address that issue and whether EWEB was committed to such a plan. Ms. Smith clarified that EWEB had a water master plan focused on Eugene and the infrastructure needs to support growth in Eugene. She acknowledged that EWEB lacked a regional master plan.

EWEB Water Resource and System Planner Brad Taylor thought it made sense to do a comprehensive regional master plan. He suggested that resolving the authority issue was critical to moving forward with that process. Mr. Taylor believed that a regional dialogue started with an awareness of what was

happening, which required one-on-one dialogues with the individual cities. EWEB had begun those dialogues as a result of the Region 2050 process. All the Lane County communities had been at the table, and it was clear from the Region 2050 Steering Committee's discussions there was a need for a regional water plan. Mr. Taylor noted that all the small cities had identified EWEB as a potential water source within their master plans, which was the foundation of the collaborative planning effort.

Mr. Zelenka acknowledged the fact of the local master plan and said his remarks were directed at the lack of a regional water plan. He believed that EWEB needed to lead such an effort and produce a plan. He believed it was important to put contracts such as Veneta's in the appropriate context. Ms. Smith said EWEB was committed to such a master plan but she was unsure of the timing. She pointed out that EWEB was currently responding to new leadership, and she was unsure how that affected EWEB's priorities. She said that Mr. Taylor was focused on developing relationships with the smaller communities as a critical first step.

Mr. Brown suggested that communities such as Creswell would approach EWEB because they wanted to double their population but could not do so without more water. He was unsure of his position on the contract but was concerned about "physically creating a subdivision" ten miles outside the Eugene urban growth boundary. He suggested that Veneta could not realize its population projections without water from EWEB. He believed Eugene first needed to decide if it wanted EWEB to be a regional provider. Mr. Brown thought that the water contract would encourage what he termed "exurban growth" and again asked what Eugene got in return. He anticipated even more people driving to Eugene as a result of the contract. Mr. Brown expressed concern that the council had adopted growth management goals and then proposed to do something in direct contradiction of its goals.

Mayor Piercy suggested that sometimes the council had good goals that conflicted with each other. Veneta was seeking to build a community where people could live, work, and play at home. She suggested that community's goals were similar to Eugene's. She recognized that the two communities had shared travel areas, which came at a cost.

Mr. Ingham emphasized Veneta's interest in rebuilding its business base, which had declined with the decline of the timber industry. He suggested the danger that Veneta could be viewed as a community in decline, and businesses and industries would avoid locating there, leading Veneta to shut down the schools that were at the heart of the community, leaving no community at all. He suggested that could mean Veneta eventually unincorporated, and Veneta's leaders were trying to avoid that.

Mr. Pryor did not believe it was possible to discuss the contract without discussing the context involved. He was glad the issue of Eugene's role in the region was on the table so questions related to that could be discussed. What would partnership look like and how far would it extend? If Eugene was the manager, what did that look like? Mr. Pryor acknowledged that Eugene was a regional factor but he was unsure to what degree it should be a controller. He said that Eugene needed to be a good steward of its resources, but he tended to believe that "we are all in this together" and if Eugene could make water available to Veneta without harm to its own citizens, it should. He questioned whether it was Eugene's job to manage Veneta's growth.

Mr. Pryor referred to the City's Growth Management Policies, which were posted on the meeting room wall, and asked why he should "buy into them" as they were adopted in 1998 and he had no part in their development. He believed that the council should discuss the policies. He believed some contradicted each other, and wanted an opportunity to weigh in on them before the council used them to govern "real world" issues.

Mr. Pryor agreed with Mr. Zelenka there was a need for a regional water master plan.

Mr. Poling agreed with Mr. Pryor about Eugene's role as a controller. He also agreed about the City's Growth Management Policies, suggesting that the council should not follow the policies until they were updated. Mr. Poling did not think Eugene should try to dictate to other cities how they grew or expanded. Those communities needed to have their own policies and plans.

Mr. Poling agreed with the mayor that the City had some goals that contradicted each other, and that should be taken into consideration when discussing such issues. He said that the council should talk about what was best for everyone involved, not just Eugene. He emphasized the limitation that Veneta's water situation placed on it in regard to encouraging business development that could move Veneta beyond the role of a bedroom community.

Mr. Poling appreciated Mr. Zelenka and Mr. Brown's honesty in labeling the contract as a growth issue. He agreed that the contract was not about water, but about growth management not just in Eugene but in all of Lane County.

Mr. Zelenka said the issue was not about Veneta or about control. He maintained the issue was about adherence to Eugene's adopted policies and Oregon's land use laws. He said that if the council was not going to adhere to its adopted policies, it should change them or take them off the wall. Mr. Zelenka recalled that he had requested information from staff regarding which of the policies had been codified but had not received that information.

Mr. Zelenka reiterated that his focus was on Eugene, not on controlling Veneta. Mr. Zelenka averred he was not a "no-growther," but rather in favor of "smart" or planned growth. He believed the City's policies and Oregon's land use laws were in place for a reason. If Eugene was not going to adhere to them, they should try to change them or identify an exception to them.

Mr. Zelenka asked City staff for a consistency analysis of the Growth Management Policies and a regional water approach, citing interest in particular in policies 1, 2, 5, and 10, as well as a consistency analysis of a regional water approach with Statewide Goals 2, 11, and 14.

Mr. Zelenka asked if EWEB had a plan to perfect the first 25 percent of the next water right, and if it was going to produce a regional master water plan. Ms. Smith indicated she would provide answers to the council in writing after consultation with other EWEB staff. She said the answer to Mr. Zelenka's first question was related to the answer to his second question. If EWEB had a back-up supply commitment from other larger neighboring utilities, that commitment counted toward its ability to reserve the next 25 percent and subsequent 25 percent allocations.

Mr. Taylor recalled that there was a regional master water plan done by the Lane Council of Governments in 1978. That was supplanted by the Eugene-Springfield Metropolitan General Area Plan, and the broader master plan vision was shelved. He did not recommend that EWEB produce a master plan on its own, and advocated for an iterative process that allowed the communities to align their plans into a larger regional strategy or view. EWEB could lead such an effort, but he hoped for a much more collaborative approach. Mr. Zelenka agreed that a regional plan needed to involve the regional players.

Mayor Piercy said the Growth Management Policies were City policy until a council majority changed them. Speaking to Mr. Zelenka's comments about seeking information about whether the Growth

Management Policies were codified, Mayor Piercy suggested the examination he desired should be the outcome of a council decision because of the scope of the task.

Mr. Clark pointed out to those concerned about growth that it was important to perfect future water rights to maintain Eugene's stake in any conversation about regional growth. He agreed with Mr. Taylor's remarks about the need for a collaborative approach to regional planning. He wanted Eugene to do a better job in collaborating with its regional partners. Mr. Clark regretted the demise of the Region 2050 planning effort but suggested its failure could be attributed to a lack of focus on best outcomes for the entire region.

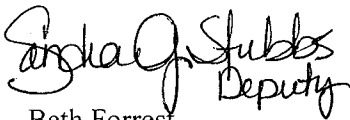
Mr. Clark suggested that to the degree that Veneta could increase its employment base, it would reduce the number of people driving to Eugene and decrease Eugene's street maintenance obligations. He called for less of a focus on how Eugene could restrict the actions of its neighbors and more of a focus on collaboration toward a better mutual end.

Mayor Piercy wanted to honor both that the City desired to work with its regional partners as well as the fact it had its own policies and goals it was trying to achieve.

City Manager Ruiz indicated staff would schedule a public hearing on the item.

Mayor Piercy adjourned the meeting at 1:28 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Beth Forrest", with the word "Deputy" written below it in a smaller, cursive script.

Beth Forrest
City Recorder

(Recorded by Kimberly Young)