

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: Resolution 5022 Concerning the Sale of Water to the City of Veneta

Meeting Date: January 24, 2011
Department: City Manager's Office
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Brenda Wilson
Contact Telephone Number: 541-682-8441

ISSUE STATEMENT

This item is for the City Council to take action on a resolution in support of the sale of surplus water to Veneta. The resolution is included as Attachment A.

BACKGROUND

Eugene Water & Electric Board (EWEB) entered into a contract with the City of Veneta (Veneta) to sell up to four million gallons of water per day (mgd). EWEB filed a lawsuit asking the court to declare that EWEB has independent authority to enter into that contract without council approval. On October 27, 2010, the circuit court issued its decision finding that EWEB, rather than the City Council, has the authority to sell water to Veneta. The City of Eugene has appealed that decision.

The City of Veneta has asked that the council weigh in on whether the council supports the proposed sale of surplus water to Veneta so that Veneta can have more certainty before moving forward with the project. In order to take full advantage of its federal funding package, as well as the favorable construction market, Veneta would like to commence planning, design and construction of the pipeline as soon as reasonably possible. Although the contract entered into between EWEB and Veneta provides for the purchase of up to four mgd, Veneta has indicated that moving forward with the project would be fiscally responsible as long as it had support for at least three mgd.

After listening to comments and concerns, the proposed resolution contains the following main conditions:

1. The City Council approves EWEB's sale of water to Veneta of up to three mgd;
2. The City Council must approve any connection to the pipeline constructed by Veneta to provide water to property located outside Veneta's urban growth boundary; and
3. In the event EWEB sells water on a wholesale basis to another municipality or water provider, and that sale involves the payment to the City of Eugene of some type of franchise fee, Veneta shall pay a fee to the City of Eugene at the same rate.

If the City Council adopts the proposed resolution, these conditions will be reflected in an Intergovernmental Agreement (IGA) between the City of Veneta and the City of Eugene. The IGA may also provide that the IGA terminates in the event that the final appellate court decision concludes that EWEB, rather than the City Council, has the authority to approve the sale of water to Veneta.

Additionally, on January 18, 2011, the EWEB Board adopted a resolution reflecting their commitment to Regional Water Planning. A copy of that resolution is included as Attachment B.

RELATED CITY POLICIES

None.

COUNCIL OPTIONS

- A. Adopt the resolution.
- B. Decline to adopt the resolution.
- C. Take other action, as directed by the council.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends adoption of the proposed resolution.

SUGGESTED MOTION

Move to adopt Resolution 5022 concerning the sale of water to the City of Veneta.

ATTACHMENTS

- A. Proposed Resolution
- B. EWEB's Resolution on Regional Water Planning
- C. Written Comments Received Between January 12 and January 19, 2011

FOR MORE INFORMATION

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RESOLUTION NO. _____

A RESOLUTION CONCERNING THE SALE OF WATER TO THE CITY OF VENETA.

The City Council of the City of Eugene finds that:

A. The Eugene Water & Electric Board (“EWEB”) and the City of Veneta have entered into a contract which allows Veneta to purchase from EWEB up to 4 million gallons of water per day. The water would be delivered to Veneta through a pipeline that Veneta would construct from Eugene to Veneta (“the pipeline”).

B. Veneta has obtained approval from the federal government for grants and loans to pay for much of the cost of the pipeline. In order to take full advantage of those grants and loans, as well as the favorable construction market, Veneta desires to commence planning, design and construction of the pipeline as soon as reasonably possible.

C. There is uncertainty about whether EWEB possesses the authority to sell water to Veneta without approval of the City Council. That question is in the early stages of an appeal before the Oregon Court of Appeals. A final appellate court decision on that question is likely 12 to 24 months away.

D. Before spending the federal grant and loan funds to construct the pipeline, Veneta would like certainty that it will be able to use the pipeline by purchasing water from EWEB. That certainty can exist only: (a) if a final appellate court decision concludes that EWEB, rather than the City Council, possesses the authority to approve a sale of water outside the city limits; or (b) if the City Council authorizes EWEB to sell the water.

E. Although Veneta desires to be able to purchase up to 4 million gallons a day from EWEB, Veneta has indicated that construction of the pipeline would be fiscally responsible as long as it could purchase at least 3 million gallons a day.

F. In order to provide Veneta with the certainty it needs to be able to begin to spend the federal funds for the pipeline, the City Council is willing to approve EWEB’s sale of water to Veneta of up to 3 million gallons a day, subject to certain conditions.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

Section 1. The City Council approves EWEB's sale of water to Veneta of up to 3 million gallons a day.

Section 2. The City Council's approval of EWEB's sale of water to Veneta in Section 1 is contingent upon the execution of an Intergovernmental Agreement ("IGA") between the City of Veneta and the City of Eugene. The IGA must provide, at a minimum, that: (a) absent Eugene City Council approval, no person, company or other governmental entity may connect to the pipeline constructed by Veneta to provide water to property located outside Veneta's urban growth boundary; and (b) in the event EWEB sells water on a wholesale basis to another municipality or water provider, and that sale involves the payment to the City of Eugene of some type of franchise fee, Veneta shall pay a fee to the City of Eugene at the same rate. The IGA may also provide that the IGA terminates in the event that the final appellate court decision concludes that EWEB, rather than the City Council, has the authority to approve the sale of water to Veneta.

Section 3. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the _____ day of _____, 2011.

Deputy City Recorder

RESOLUTION NO. 1105
EUGENE WATER & ELECTRIC BOARD'S
COMMITMENT TO REGIONAL WATER SUPPLY PLANNING
JANUARY 2011

WHEREAS the Eugene Water & Electric Board (EWEB) is, among other things, responsible for the operation of the water utility that provides municipal water service to the City of Eugene, and;

WHEREAS EWEB has entered into intergovernmental agreements for the sale of wholesale water, and;

WHEREAS EWEB owns and operates water supply and distribution systems which supply drinking water to Federal and State standards to its customers, and;

WHEREAS EWEB recognizes that water supply in the Southern Willamette Valley is a critical and limited resource requiring long-term, coordinated planning to ensure a safe, adequate supply of drinking water to serve our customers in the most responsible way, and;

WHEREAS EWEB has taken a leadership role in regional water planning efforts on behalf of our customers resulting in mutual aid and wholesale supply agreements with neighboring cities and utilities to mitigate risk and help secure water rights for our community, and;

WHEREAS EWEB recognizes the importance of close cooperation for planning and coordinating reliable water supply to all customers and agrees that it would be desirable for other water utilities and cities in the region to participate in a collaborative process to develop a regional water supply plan.

THEREFORE BE IT RESOLVED that the Eugene Water & Electric Board will continue conducting regional water planning and pursuing collaborative opportunities with the City of Eugene, other neighboring cities, Lane County, neighboring utilities, other agencies and community groups with the goal of developing a regional water supply plan that would provide for the best use of critical water resources, with due consideration of environmental, social equity and economic issues. In addition, the plan should strive to ensure the region's drinking water supply by securing existing water rights and diversifying the individual communities' drinking water sources to maintain and improve affordability, quality and reliability. EWEB will periodically report the results of these efforts to the Board of Commissioners and other partners that are part of the collaborative planning process.

DATED this January 18, 2011.

THE CITY OF EUGENE, OREGON
Acting by and through the
Eugene Water & Electric Board

President

I, DEBRA J. SMITH, the duly appointed, qualified and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the amended Resolution adopted by the Board at its January 18, 2011 Regular Board Meeting.

Assistant Secretary



January 14, 2011

Mayor and Council,

The Eugene Area of Commerce supports EWEB's proposal to sell wholesale water to the city of Veneta.

Two of the three water rights EWEB holds to provide drinking water to its customers are perfected. The utility must demonstrate to state water authorities that it can put the volume granted under the third water right to beneficial use within a reasonable time frame. Selling surplus water to wholesale customers helps EWEB show it is using that water. By continuing to serve surrounding utilities and districts, EWEB can obtain "partial certification" for the third water right. Such a certification would preserve EWEB's ability to access 25% of the water granted under the unperfected water right in succeeding years. Eugene risks losing access to this water unless partial certification can be achieved. Under the terms of the proposed contract the City of Veneta would be responsible for funding and building the 10-mile interconnection between its system and EWEB's water system. In times of water shortage or drought, City of Eugene customers would have first priority to the water. Per the proposed contract, Veneta will maintain a secondary source of water in case of water shortage.

Regional water agreements are common throughout the state including Portland, Hillsboro, and Medford. EWEB has access to high quality water, has ample treatment capacity, and a robust watershed protection program, allowing it to responsibly deliver surplus drinking water through wholesale contracts to our neighbors for decades. EWEB's current wholesale customers include the River Road, Santa Clara, Willamette Water Co. Utilities. Wholesale deliveries of surplus water represent 7.7 percent of EWEB's total annual water sales.

Wholesale water supply contracts benefit water utilities and districts by allowing them to forego expensive infrastructure investments, and also helps reduce costs for EWEB customers by selling surplus water. Treating and delivering water comes with high fixed overhead costs. Spreading those costs over a wider retail and wholesale base helps lower per capita costs and minimize the magnitude of future rate increases.

In an average year, EWEB delivers about 10 billion gallons of water to wholesale and retail customers, or about 1 percent of the river flow. On a typical august day, the McKenzie River is running a 2,320 CFS at EWEB's Hayden Bridge water intake. EWEB diverts about 3.5% of that water on an average august day.

ATTACHMENT C

After studying other options, Veneta has found no other viable long-term solutions to provide safe drinking water to its residents. Veneta's initial water needs would increase EWEB's intake by 0.02 percent—two hundredths of one percent. The amounts of water represented in the contract will have negligible, if any, impacts to the river while helping our neighbors to the west by providing a secure source of high quality drinking water to Veneta residents, many of whom work in Eugene. In return, Veneta's payments under the proposed contract will subsidize EWEB's operating costs and contribute to EWEB's bridge strategy for achieving partial certification of the third water right.

The McKenzie River and its tributaries support drinking water, fish habitat, recreational, residential, and aesthetic uses. Consistent with EWEB's current policies, wholesale water contracts should not impair the long term viability of these uses.

In summary, the Eugene Chamber supports the proposed EWEB sale of water to Veneta as we believe it is in the best interest of the region and its citizens.

Sincerely,

Laura Potter
Director of Business Advocacy
Eugene Area Chamber of Commerce