

Clean Water Services

Clean Water Advisory Commission

Meeting Minutes

March 20, 2013

Attendance

The meeting was attended by Commission Chair Tony Weller (Builder/Developer) and Commission members Molly Brown (District 2-Malinowski), Alan DeHarport (Builder/Developer), Erin Holmes (Environmental), John Kuiper (Business), Mike McKillip (District 3-Rogers), Art Larrance (At-Large-Duyck), Judy Olsen (Agriculture), Stephanie Shanley (Business), Richard Vial (District 4-Terry), and David Waffle (Cities), and Clean Water Services District General Manager Bill Gaffi.

Commission members Lori Hennings (District 1-Schouten), Jerry Ward (Agriculture), and Sandy Webb (Environmental) did not attend.

Attendees from Clean Water Services included Bob Baumgartner (Regulatory Affairs Division Manager), Clayton Brown (Source Control Manager), Vince Chavez (Source Control Investigator), Peter Corduan (Source control Investigator), Mark Jockers (Government and Public Affairs Manager), Kathy Leader (Finance Manager), Carrie Pak (Engineering Division Manager), Damon Reische (Development Services Supervisor), and Sheri Wantland (Public Involvement Coordinator).

1. Call to Order

The meeting was called to order at 6:32 PM by Chair Tony Weller. The meeting was held in the conference room at the Clean Water Services Administration Building.

2. Introduction of New CWAC Members

Mr. Jockers introduced three new Commission members: Erin Holmes, Art Larrance, and Richard (Rich) Vial.

Ms. Holmes is the USFWS (United States Fish and Wildlife Service) Tualatin River National Wildlife Manager.

Mr. Larrance owns Raccoon Lodge and Cascade Brewing in the Raleigh Hills area and was a member of the FACT (FOG Abatement and Compliance Team) group working with Clean Water Services to address FOG (Fats, Oils, and Grease) issues.

Mr. Vial is an attorney with a law firm of Vial Fotheringham in Portland. Mr. Vial lives in rural Washington County and also serves on Washington County Planning Commission.

Mr. Jockers also announced the Board's appointment of former Beaverton City Councilor Cathy Stanton to the Commission effective September 1, 2013. Ms. Hennings's term has

been extended until Ms. Stanton assumes the position in September.

3. Review/Approval of January 16 Meeting Notes

Mr. DeHarpport moved to approve the minutes of the January 16, 2013 meeting. Mr. McKillip seconded. Motion passed.

4. Election of Chair and Vice Chair

Mr. DeHarpport moved to nominate and elect Tony Weller as Chair and John Kuiper as Vice Chair. Ms. Olsen seconded. Motion passed with two abstentions.

5. Confirmation of Budget Committee Members

Mr. Jockers reviewed the criteria and duties of the Budget Committee. Members are appointed by the Board for staggered three-year terms. Current members are Ms. Brown, Mr. DeHarpport, Ms. Hennings, Mr. Kuiper, and Mr. Weller. The Committee will meet Friday, May 3 from 9 AM to 1 PM.

Later in the meeting, Mr. Jockers pointed out that the Budget Committee terms of Mr. DeHarpport and Ms. Hennings will expire before the May 3 meeting. Mr. Vial moved to recommend to the Board the re-appointment of Mr. DeHarpport and Ms. Hennings. Mr. Waffle seconded. Motion passed.

6. FOG Control Program Progress Report

Mr. Baumgartner (*presentation attached*) reviewed the rationale for formalizing a program to deal with FOG (fats, oils, and grease), outlined the prioritized steps for its three-phase development and implementation, and described recommended revisions for implementation based on feedback since the last update to the Commission. Mr. Baumgartner noted the work done by the FACT (FOG Abatement and Compliance Team) group convened by Clean Water Services and the progress in changing the state building code for plumbing to address FOG control. Mr. Baumgartner displayed a slide showing the three program development and implementation phases, with colored circles denoting how the steps for each phase have been prioritized.

Several Phase I implementation steps, plus an item from Phase II, are already completed or underway (circled in blue). The next set of program implementation actions will include four Phase I items and two Phase II items (circled in red). This prioritization is based on feedback from FACT and the Commission to implement the FOG Program using a triage approach—focus on a few activities with the biggest impact for the effort required—and to emphasize education and technical assistance rather than enforcement. The Commission will help evaluate progress and effectiveness of these activities before addressing the need for any changes to existing rules and regulatory aspects of the FOG Program. The remaining items (uncircled) will be re-evaluated later, as the program evolves.

Mr. Weller asked about measuring outcomes of FOG Program efforts. Mr. Baumgartner said one simple metric is the frequency of cleaning that is required for sewer lines identified as high-FOG.

Mr. Baumgartner said the triage approach identified several activities for focused effort in the next phase of the FOG Program:

1. Provide voluntary plan review for new construction.
2. Conduct inspections and follow-up with High and Very High FOG FSEs that are on sewer lines that require frequent FOG-related cleaning, FSEs on lines that feed into the newest pump station (Lower Tualatin), and FSEs or others associated with SSOs or illicit discharges.
3. Update agreements with cities to ensure common goals and consistent message, and to reflect the different plan needed by each city based on distribution of high-priority FSEs.
4. Expand educational outreach to multi-family housing units and to households on high-FOG sewer lines in residential areas.

Mr. Baumgartner said that offering plan reviews helps get appropriate grease removal devices (GRDs) installed correctly right from the start, which pays off in fewer inspection follow-ups and is more efficient and cost-effective than trying to improve maintenance and management practices for poorly-designed systems. Now that the building code updates are in place, FSEs have welcomed the assistance.

He said that of the 1,700 FSEs within the Clean Water Services District boundary, 126 (about 15%) were identified as the highest priority. Focusing inspections and follow-up education on these FSEs will address the largest and most serious FOG-related problems first, an efficient and effective use of limited resources for the greatest impact. Less significant sources of FOG will be addressed later. Mr. Baumgartner added that FOG production depends on the type of food produced, number of meals served, whether the facility is dine-in or to-go, and management practices. For example, a convenience store or coffee shop is generally a Low FOG producer, while a commercial food processor would be Very High because of the large volume—even if the products were relatively low FOG.

In addition to the focused efforts described above, Clean Water Services has begun to gather a variety of FOG-related information from cooperating FSEs to help guide future education and technical assistance efforts. There has also been initial outreach to FSEs regarding how best to develop a plan for retrofitting existing establishments for improved FOG control. Some of the information gathered will also be background for discussions of the role that enforcement actions should play. For now, Clean Water Services will continue its practice of using enforcement as necessary if compliance is not achieved using other approaches.

Mr. Baumgartner said once the outlined efforts are functioning and there is some information to report, he will return to the Commission to discuss steps that should follow. He asked Commission members to accept the FOG Program Progress Report included in the pre-meeting materials and to recommend it be forwarded to the Board of Directors, unless there were points not captured or other guidance or redirection the

Commission wished to offer.

Mr. McKillip asked if a fee is charged for plan reviews and technical assistance. Mr. Baumgartner said there is currently no charge, but the idea of program-supporting fees may be discussed after more information is gathered and reviewed. He added that fees can be charged to FSEs for re-inspections necessary due to noncompliance.

Mr. Weller commented that the prioritized program implementation as outlined tonight seems like a sane approach to the FOG problem and accepted the report for forwarding to the Board of Directors.

7. Design and Construction Standards Update

Ms. Pak noted that development activity has increased recently compared to the last two years, with six different subdivision applications submitted for plan review just last month. While the Design and Construction Standards (D&Cs) update is driven by upcoming changes in regulatory requirements, the hope is that it will also streamline the development approval process, especially as the number of projects increases.

Mr. Reische explained that the D&Cs includes requirements for storm and sanitary sewer system construction, treatment of stormwater runoff from impervious areas, construction site erosion control s, and vegetated corridors (the protective areas—also known as buffers—around water quality sensitive areas). There have been several revisions since 2000; the last major revision was in 2007 and was about twice as “big” as this one. Mr. Reische reviewed (*presentation attached*) the schedule and key topics for this update. The update will reflect changes in the Clean Water Services NPDES (National Pollutant Discharge Elimination System) permit including the incorporation of a 1,000 square foot development/redevelopment impervious area treatment threshold. The update will also include modification to stormwater treatment requirements to accommodate changing development patterns, incorporation of alternate mitigation strategies for vegetated corridor encroachments , incorporation of specific erosion control practices for stream and wetland restoration projects, address possible conflicts with state plumbing code, and clarifying language in existing standards.

As outlined in Mr. Reische’s presentation, the first phase of the update was a series of stakeholder outreach meetings held last fall, and reviewed with the Commission in January. The second phase included several technical discussion meetings on key topics, with all stakeholders invited to discuss each topic. Results of those meetings will be summarized for the Commission tonight. The third phase will involve consolidating all comments and drafting updated language. A group of city and county representatives will act as an in-house advisory group during the drafting, and there will be a stakeholder meeting to review the draft before it is released for public comment. The Commission, as the community-representative sounding board charged with assisting in the public involvement process, could host a forum for additional comments on complex or controversial topics if needed.

Mr. Reische summarized the four recent technical discussion meetings:

- 1) Water Quality Treatment Requirements for Redevelopment. Various alternatives to the existing redevelopment treatment requirement listed in Table 4-1 (in the current D&Cs) were discussed. The goal of the redevelopment requirement is to get treatment of at least some of the existing untreated impervious area on a site. The current standards require a “disproportionally” larger existing area being treated for a relatively small redevelopment project, potentially resulting in stormwater treatment improvements that may exceed the cost of the original project. One example is the Cornelius Fred Meyer site, where the 5,000 sq. ft. redevelopment project was big enough to trigger stormwater treatment improvements be applied to half of the 15-acre site. The goal is to have the water quality treatment requirement be reasonably proportional to the redevelopment project while continuing to get treatment for additional untreated impervious areas on a site. If the requirement is significantly disproportional and small redevelopment projects trigger treatment of entire site, it can result in the project being dropped because of the extra expense, so there is no improved treatment at all. Consensus was the simpler, the better; redevelopment area should be driving factor, not site size ; some interest in basing it on cost or facility size.
- 2) Water Quality Treatment Requirements and Vegetated Corridor Requirements for Trails. Water quality (WQ) treatment is complicated for trails, as they are linear (and their length means they quickly reach the square footage that triggers treatment requirements—especially with the upcoming 1,000 sq. ft. treatment threshold) and have no conveyance system for getting runoff to treatment. Trails are also often placed in vegetated corridors (VCs), limiting the space and techniques available for treatment of runoff. The technical meeting resulted in collaborative discussion and many ideas for potential approaches/designs for treating runoff from trails. Some support for boardwalks instead of asphalt or concrete trails. Strong opinion, from some, that placing a trail in a vegetated corridor (VC) should be avoided. Current standards require enhancement of all VC area on a site, regardless of actual project size. This is often an issue for parks projects, since the frequently have large VC areas, though can also come up with other types of projects. Support for the idea of a “proportional enhancement” rule limited to small projects on sites with a very large VC area. There was a lot of discussion and many questions about how it might work in practice. Didn’t seem to be seen by most as “relaxing” rules to the detriment of the environment. Would add requirement to also enhance any very small VC area left over after meeting initial requirement. Consensus that concept is appropriate for small projects on sites with large VC areas, to avoid disproportionate requirements for those projects but also to ensure that even small areas are not overlooked (similar to concept in #1 for WQ treatment requirements for redevelopment).
- 3) Construction Site Management Requirements. Important topic but seemed to be non-controversial. Discussion on appropriate Best Management Practices (BMPs) for non-storm water pollution control. Could result in BMPs being

added to existing standards, to better address existing NPDES permit conditions. Agreement that best approach is to come up with workable BMPs. Suggestion for inspectors to carry spill kits.

- 4) Vegetated Corridor Mitigation Strategies. Focus on how to deal with VC mitigation when wetland impacts are being mitigated through a mitigation bank, a fairly recent issue as mitigation banks for projects within the Clean Water Services District boundary have been available only for the past couple of years. With DSL (Department of State Lands) emphasis on use of mitigation banks, there is also more use of the PTP (payment to provide) option for VC mitigation. Questions and some strong opinions about the relationships between VCs and isolated wetlands, the use of wetland mitigation banks or VC banks, best locations for such banks, and using a function-based approach to decide where best to mitigate for disturbed VCs.

In discussion following 1) above, Mr. Gaffi mentioned the increasing regulatory pressure to provide water quality treatment of stormwater in existing built-up areas (retrofitting). Ms. Pak said that is part of what is driving the move to refine the treatment requirements for redevelopment projects. Another factor is the interest in retrofitting from environmental groups, who would like to see treatment for impervious areas that otherwise would not trigger any requirements (such as those little projects that end up not getting done). She added that the current standards do not “credit” or encourage redevelopment projects which convert impervious area to pervious area, which reduces runoff. Mr. Reische hopes to include some type of incentive for this in the updated D&Cs.

A lengthy discussion followed the summary of 4) above. There were numerous questions and clarifications about what was required in the past and what is required now, as well as acknowledgment of confusion when terms such as vegetated corridor and buffer are used interchangeably or that the terms enhancement and mitigation have one meaning in some agencies and a different meaning in other agencies. There is also the complexity of wetlands being regulated by DSL and VCs being regulated by Clean Water Services. Mr. Vial, Mr. DeHarpport, and Mr. Weller noted the dissatisfaction from developers at the meeting regarding the requirement to mitigate for VCs associated with isolated wetland impacts being mitigated at a wetland bank. There is also some discomfort with the idea of banks and mitigation occurring outside the Clean Water Services District boundary. Mr. DeHarpport said it appears Clean Water Services is the only jurisdiction in Oregon that requires mitigation for the VC. Mr. Weller pointed out that the development community doesn't disagree with the requirement that onsite wetlands must have a VC or that VC deficiencies on the site must be addressed. He added that one reason for the requirement is that VCs are part of the strategy for complying with the Clean Water Services NPDES permit.

Mr. Gaffi suggested looking for flexibility in the permit language that might allow for some leeway in VC mitigation situations. He pointed out that when a wetland is mitigated through a wetland bank, there is a VC around that bank which may reduce the

need to mitigate for the VC associated with the mitigated wetland on the project site.

Ms. Pak agreed, and noted this issue may return to the Commission for further discussion. She is available to answer any questions from Commission members and suggested it may be useful to provide some history and definitions at a Commission meeting

Mr. Larrance observed that these situations are mostly going to be infill projects that have not been developed yet for good reason. Mr. DeHarpport agreed, adding that relaxing the current standards to allow an isolated wetland fill without mitigating for the VC would make that infill development more attractive, which would help minimize the UGB (Urban Growth Boundary) expansion. He also pointed out that as there really are not very many isolated wetlands around, the overall effect on the Tualatin Basin would be minimal. Mr. DeHarpport added that by contrast, allowing expanded use of proprietary treatment systems could have a big basin-wide impact.

Mr. DeHarpport went on to explain that a proprietary treatment system is an underground stormwater vault that can function as well as an above-ground vault as long as it is maintained, but maintenance concerns have been a stumbling block to their expanded use. He feels it is a double standard to allow them only in high-density areas when their function and maintenance should be identical in single-family subdivisions. Ms. Pak acknowledged the debate about the filter cleaning/replacement cycle. She said Clean Water Services is testing the cleaning/replacement frequency of some prototype “filter vaults” and will likely bring the results to the Commission.

Ms. Pak said several additional topics came up during the technical meetings: requirements for planting density; forming a committee to look at planting density; need to change design storm specifications and measurement increments to meet new NPDES permit standards for treating 80% of annual rainfall amount; and further discussion of the treatment threshold.

Mr. Reische expects a large amount of feedback on some portions of the update, but the final draft of the update should be presented to the Commission for recommendation to the Board in late 2013 or early 2014.

Mr. Reische concluded with a reminder to check the Clean Water Services website for information about the D&Cs update, including notes from stakeholder and technical meetings, and to call him or Ms. Pak with any questions.

Mr. Waffle commented that city representatives like the consultative approach used during the update process and are eager to continue helping draft solutions. They also like the idea of the pre-release meeting to review the draft changes.

Mr. Weller noted that the two technical meetings he attended, one of mostly like-minded participants and the other not, had both gone well. He commended Ms. Pak and Mr. Reische for adapting the update process to accommodate stakeholder concerns, including

the idea of holding another meeting prior to releasing the draft update.

8. Announcements

The next meeting will be April 17, 2013.

9. Adjournment

The meeting was declared adjourned by Mr. Weller at 8:33 PM.

(Meeting notes prepared by Sue Baumgartner)