

Clean Water Services

Clean Water Advisory Commission

Meeting Minutes

September 11, 2013

Attendance

The meeting was attended by Commission Chair Tony Weller (Builder/Developer) and Commission members Molly Brown (District 2-Malinowski), Lori Hennings (District 1-Schouten), Erin Holmes (Environmental), Mike McKillip (District 3-Rogers), Art Larrance (At-Large-Duyck), Judy Olsen (Agriculture), Stephanie Shanley (Business), and Jerry Ward (Agriculture), and Clean Water Services District General Manager Bill Gaffi.

Mr. Gaffi was unable to stay for the entire meeting. Commission members Alan DeHarpport (Builder/Developer), John Kuiper (Business), David Waffle (Cities), Richard Vial (District 4-Terry), and Sandy Webb (Environmental) did not attend.

The meeting was also attended by Clean Water Services staff members Nora Curtis (Conveyance Systems Department Director), Mark Jockers (Government and Public Affairs Manager), Kathy Leader (Finance Manager), Carrie Pak (Engineering Division Manager), and Mark Poling (Business Operations Department Director).

1. Call to Order

Mr. Weller called the meeting to order at 6:34 PM in the conference room at the Clean Water Services Administration Building.

2. Review/Approval of July 17 Meeting Notes

Ms. Hennings moved to approve the minutes of the meeting held July 17, 2013 and Ms. Olsen seconded the motion. Motion passed.

3. Regional Stormwater Management Charge (RSMC)

Ms. Curtis said the Board of Directors is moving toward adopting a RSMC (Regional Stormwater Management Charge) as Clean Water Services begins to incorporate a regional approach to stormwater management (*presentation attached*). The RSMC charge would apply to development or redevelopment of properties served by publicly-funded regional stormwater management facilities and would be used to reimburse the District or a developer for the costs of constructing such facilities. The Board has asked the Commission to designate a subgroup to participate in stakeholder meetings during the RSMC adoption process over the next few months.

Ms. Curtis explained that stormwater management has conventionally been based on a “one development, one facility” approach with each small facility built with the development it serves. The regional approach calls for fewer, larger facilities, each serving multiple developments which will be built at different times. The RSMC would cover actual costs for stormwater management facility construction, land, and interest. It

would be assessed on each lot as a per-cubic-foot-of-stormwater charge based on land use, percent impervious surface, and lot size. Charges associated with the construction of improvements in the right-of-way would be assessed at the time of the development permit. Because it will be based on actual costs, the RSMC could be adjusted at least once, but no more than twice, annually to account for changes in land prices, interest rates, or other factors. Depending on the development project, the RSMC may or may not be assessed in addition to the SDC (system development charge). Maintenance and other ongoing management costs associated with regional stormwater management facilities will be factored into rates, as is done with single-development facilities.

Ms. Curtis compared existing development on a 97-acre area near Tualatin (slide #5), where 15 stormwater management facilities (red icons) serve 16 developments (blue boundaries), with proposed development (slide #6) in a 97-acre area (yellow boundary) within the North Bethany planning area (red boundary) where there will be only three stormwater management facilities (numbered circles). Rather than being tied to a specific development, each facility will serve all the developments in its sub-basin (blue boundaries). There are 18 sub-basins in the entire North Bethany planning area, with boundaries based on the current topography and drainage patterns. Using a preliminary cost estimate of \$9.19/cubic foot, the initial RSMC in North Bethany would range from \$1,563 to \$2,233 per lot. When the right-of-way RSMC paid by the developer is factored in, a hypothetical “total” cost per lot would be \$2,481-\$3,545, compared to an average per-lot cost of \$5,823 in the previously referenced area Tualatin.

Ms. Curtis said North Bethany is currently the only area where RSAP (Regional Stormwater Approach Projects) are being planned and thus the only area where the RSMC will apply initially. North Bethany projects are not subject to SDCs. However, current planning being done in other developing areas are considering the use of regional stormwater management and the Board has indicated its desire to potentially use the RSMC in areas other than North Bethany.

Ms. Curtis outlined five potential RSMC implementation options (slide #15) to provide flexibility for various development approaches, District financing capability, and project pace.

Ms. Curtis said that RSAP development planning must also consider the conveyance system to each stormwater management facility. Similar to sanitary sewer system construction, conveyance from a development to its regional stormwater management facility must be built from wherever development occurs, and must be built to adequately accommodate future development as well. The Clean Water Services District’s LSI (Local Sewer Improvement) fee program reimburses developers who choose to build offsite or downstream sanitary sewer conveyance so their development can proceed. Modifications are proposed to the LSI program to allow the same for stormwater conveyance construction. Ms. Curtis noted developers want reassurance that pieces of the regional system can be built when they are needed. She added that there may be eminent domain issues when property between the development and the facility is not owned by the developer.

Ms. Curtis said the District's initial budget for RSAPs is \$2 million included in the FY13/14 SWM (surface water management) capital fund. The amount will be reviewed annually.

Commission members offered several comments in response to Ms. Curtis's presentation:

1. Make sure the fourth of the five RSMC implementation options (slide #15) does not end up reimbursing the developer for more than was spent. (Weller)
2. Having fewer but larger facilities seems better for wildlife as well as for hydrology. (Weller)
 - a. Native amphibians make substantial use of stormwater facilities and greater distances between facilities will disrupt the habitat connectivity needed for them to get from pond environment to forest environment and back during their life cycle. Some specific recommendations to minimize this effect have already been developed and could be incorporated into regional facilities planning now. (Hennings, Holmes)
 - i. As most of the facilities are planned for the lowest point of the sub-basin, they are close or even attached to wetland or stream areas. (Curtis)
 - b. As the regional facilities will address both quality and quantity, will there be pollutants in the water that will affect frogs and other wildlife? (Brown)
 - i. Like single-development facilities, regional facilities will include water quality treatment manholes to help prevent that. (Curtis)
 - c. No standing water in these facilities during the summer will eliminate amphibian breeding habitat. (Hennings)
3. Clarification that RSMC for right-of-way improvements will be charged with development permit fees up front, and the rest of the RSMC charged as construction occurs lot by lot. (McKillip, Curtis)
4. Will the regional facilities allow access for the public to enjoy the nature setting? (Hennings)
 - a. Yes, many of the facilities planned for North Bethany are co-located with park trails. (Curtis)

Ms. Curtis reviewed the schedule for the RSMC adoption process, which will include meetings with stakeholders in September, October, and November, Board work sessions

in October and November, and a public hearing on the final proposal December 3. The Board is particularly interested in having a subgroup of Commission members participate in the stakeholder meetings. These will generally be held every other Thursday, beginning at 3 or 3:30 and running an hour to an hour and a half.

Ms. Brown, Ms. Holmes, Mr. McKillip, Mr. Waffle and Mr. Weller will serve as the subgroup attending stakeholder meetings, though not all of them will need to be at every meeting. Staff will update the entire Commission on the RSMC process at the November meeting.

4. Design & Construction Standards Update Progress Report

Ms. Curtis also provided a brief progress report on the Clean Water Services Design & Construction Standards (D&Cs) update. Several update items depend on the federal NPDES (National Pollutant Discharge Elimination System) permit renewal requirements, which continue to be delayed and are now not expected until the end of this (calendar) year. However, two issues are more time-critical than the permit-related issues. One is erosion control methods for stream restoration projects. Staff has developed guidance for this, which can be used immediately and then incorporated into the eventual D&C update. The other critical issue is the use of payment-to-provide (PTP) for vegetated corridor (VC) mitigation on projects where wetland mitigation is accomplished through a wetland bank rather than being done onsite. While this is not a significant revenue issue for Clean Water Services and it affects only a small number of projects, it can be a significant issue for those projects. As staff will not be able to review proposed D&Cs update language with stakeholder groups until next spring, they will ask the Board of Directors to suspend the requirement for VC mitigation in the interim. Ms. Curtis clarified that wetland banks can still be used for wetland mitigation, and a VC will still be required for any remaining onsite wetland area.

5. System Development Charge Financing Policy Review

Mr. Poling and Ms. Leader reviewed the charge from the Board of Directors that the Commission consider whether the District should offer financing (payment over time) of SDCs (system development charges) for commercial and industrial customer classes (including subclasses if determined appropriate) and if so, under what terms and conditions (*presentation attached*). The Board needs a policy defined by customer class so they are not put in the position of deciding multiple individual requests for financing. As required by state statutes, current District policy extends financing for SDCs to owners of single-family and multi-family residential units. Under the state rules, the District may also choose to offer financing to industrial and/or commercial customers. The state rules do not prescribe specific approaches to financing SDCs—each jurisdiction can set interest rates, terms, or other conditions as deemed appropriate.

Mr. Poling explained that the issue of financing for commercial or industrial customers came up in the process of a recent agreement between the City of Hillsboro, Clean Water Services, and Holland Partner Group Management to provide SDC financing for the residential portion (1,200+ units) of a large multi-use project in the Orenco Station area. Because it is a multi-family residential project and the developer intends to remain the

owner, it fits into the current financing policy. However, it increases the District's outstanding installment payment balance for financed SDCs from about \$35,000 to about \$4 million. As Mr. Weller observed, the state rules were enacted to encourage homeowners to connect to sanitary sewer systems from septic tanks, but they now apply awkwardly to situations such as this project, which were not envisioned years ago.

Mr. Poling reviewed some of the SDC revenue information presented at the last meeting and reminded Commission members of the information in the pre-meeting memo from Ray Bartlett of Economic and Financial Analysis (*attached*). The memo outlined issues that should be examined in future "white papers" on each customer class, including the program scale (i.e., consider per-project limit, limit on total amount financed, and how limits would apply—first come, first served or?), security and risk (i.e., appropriate length of term, appropriate interest rate, effect on current and future bonds issued by the District, effect on District's bond rating), and economic importance to all stakeholders (i.e., customers small and large as well as business/public and residential, the District, and cities and other partners).

Mr. Poling said several white papers, sharing examples of how jurisdictions similar to Clean Water Services approach SDC financing, will be prepared for Commission members to review in the next couple of months as they begin working on a draft recommendation for release in early January. Public input opportunities will overlap with draft development and extend through mid-February. The final draft recommendation should be completed and presented to the Board in March.

Commission members shared some initial observations and reactions:

1. It seems generous to only require the (Hillsboro) developer to pay the commercial portion of the SDC (or 5%, whichever is greater) up front. That is not very much equity. (Ward)
2. A financing program is not actually an outlay of funds to subsidize development; it is forgoing immediate collection of funds that will come in eventually. (Weller)
3. This (Hillsboro) project is multi-family residential, but on a commercial scale. Seems like it should be a different class--\$4 million is real money and a real risk. (Ward)
4. It does not seem right for Clean Water Services to get into the position of financing a business rather than helping a homeowner. (McKillip)
5. Should we consider whether a project is for low-income housing? (Unknown)
6. Is the benefit to the District for offering financing great enough to warrant doing it? There is benefit to the recipient of the financing and the community benefits from jobs; the City of Hillsboro has some incentive because the project will increase its tax base. Clean Water Services gets more rate-paying customers, but

with associated costs of serving them. (Weller)

7. Would be interesting to see a model of how this financing works--does financing make the difference between doing the project or not? If SDC financing wasn't available through Clean Water Services, the developer would just include that cost in the overall project financing...unless they are operating on such a fine line that financing the SDCs makes or breaks the project. (McKillip)
8. Keep in mind the precedent that may be set by financing SDCs for commercial/industrial customers—will North Bethany developers ask to finance their RSMCs? (McKillip)
9. It seems clear we can't do anything that would potentially affect the District's bond rating. (Hennings)
10. Hard to see how to keep such a program going without capping it—otherwise you have to borrow money to make up for what you haven't collected. (Weller)
11. Whatever we do should not prevent even one homeowner from converting a septic system to sanitary sewer—the original intent of the state law. We don't want to end up with all the allocated funds used for business(es) and nothing left for homeowners. (McKillip)

Mr. Poling concluded by reviewing a list of stakeholder groups, which he feels are all represented by Commission members. He and Ms. Leader will return next meeting.

5. Announcements

Mr. Jockers noted the annual Washington County Political Race coming up Wednesday, September 18. This light-hearted canoe race on the Tualatin River features local city and county officials, including members of the Washington County Board of Commissioners, who also serve as the Clean Water Services District Board of Directors. In keeping with the spirit of the event, members of the Board will be equipped with giant squirt guns.

Mr. Jockers also reminded that despite the recent change to meeting on the second Wednesday of the month, the next Commission meeting will be October 16 (the third Wednesday) because key staff will be attending a conference earlier in the month.

6. Adjournment

Mr. Weller declared the meeting adjourned at 8:43 PM.

(Meeting notes prepared by Sue Baumgartner)