

# **Clean Water Services**

## **Clean Water Advisory Commission**

### **Meeting Minutes**

November 14, 2012

#### **Attendance**

The meeting was attended by Commission Chair Tony Weller and Commission members Molly Brown, Alan DeHarpport, Lori Hennings, John Kuiper, Victoria Lowe, Mike McKillip, Deanna Mueller-Crispin, Judy Olsen, Stephanie Shanley, Sandy Webb, and Clean Water Services District General Manager Bill Gaffi.

Commission members David Waffle and Jerry Ward were absent.

Attending from Clean Water Services were Bob Baumgartner (Regulatory Affairs Division Manager), Clayton Brown (Source Control Manager), Vince Chavez (Source Control Investigator), Jeanna Hall (Public Involvement Coordinator), Mark Jockers (Government and Public Affairs Manager), Raj Kapur (Water Resource Analyst), Carrie Pak (Engineering Division Manager), and Sheri Wantland (Public Involvement Coordinator).

#### **1. Call to Order**

The meeting was called to order by Chairman Tony Weller at 6:31 PM in the conference room at the Clean Water Services Administration Building.

#### **2. Approval of September 19, 2012 Minutes**

Ms. Lowe moved to approve the minutes of the September 19, 2012 meeting as distributed. Ms. Brown seconded. Motion passed.

#### **3. Design and Construction Standards Update**

Ms. Pak reported that the Design and Construction Standards (D&Cs) Update process, authorized by the Clean Water Services Board of Directors in September, has begun with several general stakeholder meetings this fall and will continue with discussion of key technical topics with some of the same stakeholders over the winter. Stakeholder groups include city and county representatives, homebuilders/developers, park/trail developers, Tualatin River Watershed Council, Tualatin Riverkeepers, and this Commission. The fall discussions have focused individual interest groups on a variety of topics, while the winter talks will involve a variety of stakeholder representatives coming together to address a specific topic. A first draft is expected in the spring of 2013, with public review during summer 2013, followed by Commission review in fall 2013 in preparation for the final draft to be presented for adoption by the Board in winter 2014. Ms. Pak added that the process may actually take a bit longer if necessary.

Ms. Pak reviewed the key reasons for the D&Cs Update, as has been explained in detail during previous Commission meetings:

1. Evaluate/clarify water quality requirements for redevelopment, linear and partition projects in response to changing development patterns.
2. Make vegetated corridor enhancement and mitigation strategies consistent with changes to State and Federal wetland mitigation policy.
3. Incorporate specific erosion control Best Management Practices (BMPs) for stream/wetland restoration projects.
4. Avoid conflicts with State plumbing code.
5. Fix typos and spelling errors and make minor clarifications in existing standards.

Ms. Pak added that since the Commission last heard about the D&Cs Update, the long-delayed Clean Water Services NPDES (National Pollutant Elimination Discharge System) permit renewal has been scheduled for July, 2013, and will have a significant impact on the update. For instance, the permit will require development of a Hydromodification Plan to address the amount of runoff from development and the impact of that flow on streams and geomorphology, as well as a plan for retrofitting already-developed areas, both of which will be completed after permit issuance. Specific applicable requirements for development projects resulting from these two plans will be incorporated into the D&C at a later date. The renewed permit also lowers the “treatment threshold” (the area of impervious area below which water quality measures are not required) to 1,000 square feet, increases the focus on LIDA (Low Impact Development Approaches), and changes the requirements for construction site waste management (previously addressed under DEQ’s 1200-C program) and for determining “design storms” (expected rain events which are used as the basis for designing water quality treatment facilities and processes).

Summarizing stakeholder comments so far, Ms. Pak said the change in treatment threshold is a concern for several groups. Another common issue is hydromodification, especially as it pertains to retrofits in areas that would not otherwise trigger development regulations. The development community would like to see expanded use of proprietary filter vaults for water quality treatment of runoff to all development projects. Trail and park developers would like more allowances for trails in vegetated corridors and are concerned about runoff treatment requirements that would apply to trails.

Information about the D&Cs Update process, including notes from the stakeholder meetings, will be posted on a special page of the Clean Water Services website under the “Permits & Development” tab, [www.cleanwaterservices.org/dncupdate](http://www.cleanwaterservices.org/dncupdate).

Ms. Webb asked why the online information states that the first D&C updates would address the North Bethany sub-area. Ms. Pak explained that area is unique and requires some revisions that are specific to it. The concept plan for that sub-area focused on avoiding natural resource areas for roads and other development work and as a result crossed many existing property lines. In North Bethany, land for parks and regional facilities must be secured before starting a land use application process. In order to “secure” these spaces, the land must be sold or deeded to an appropriate public entity. However, because the targeted area is not always included in a single taxlot, the existing lot must be partitioned before it can be “conveyed” to either THPRD or CWS. Typically, partitioning action

would trigger requirements for vegetated corridors, infrastructures, and other enhancements which would be redundant or inappropriate in this case. For these reasons, the North Bethany sub-area only is granted a special partitioning exception.

Mr. McKillip asked about responsibility for mitigation and enhancements on the partitioned properties. Ms. Pak said the North Bethany development agreement is set up so the property that ultimately develops will take on those required improvements.

Mr. McKillip asked about the D&Cs revisions that stem from the NPDES permit renewal. Ms. Pak said she believes the retrofit strategy together with the Hydromodification Plan, if developed correctly, will improve the health of the watershed.

Ms. Hennings asked if design storm calculations would consider heavier storms due to climate change. Ms. Pak said staff grapples with the idea of more intense but less frequent storms every time modeling is done. She said safety margins can be built into models for developing D&Cs and noted that climate change also affects what plants are specified or recommended for mitigation and restoration projects. She suggested it may be helpful to consult others in areas which already have the climate conditions that are expected here.

#### **4. FOG Control Program Update**

Mr. Baumgartner outlined how Clean Water Services staff has begun framing a three-phase FOG Program using results from a survey exercise at the last Commission meeting combined with those from a similar activity by the FACT (Fog Abatement and Compliance Team) group (*see attachments*). The survey included 35 potential program elements or actions. Participants indicated for each item whether it should definitely be done now, possibly included later, studied further and then evaluated, or not included in the FOG Program. Eleven items received high “now” responses and are proposed as the core of the FOG Program. Five items with high “study further” responses will be researched as program development options. Another twelve items with high “maybe later” responses will be evaluated and revisited as the FOG Program evolves and matures. Seven items with high “no” responses, or which addressed issues already met by the proposed core items, were eliminated from the list. The core elements would be implemented as Phase I (2012-2014) and should mostly be completed within two years. Meanwhile, the program development options would be assessed and incorporated as appropriate in Phase II (2013-2015), with some of the other possible options being added as opportunities or needs arise in Phase III (2014-2017).

Mr. Baumgartner said a major piece of the core program, updating state plumbing codes to address FOG more effectively at the FSE (food service establishment) source, is already underway. As reported at the last Commission meeting, Clean Water Services has been working with state building code officials, who have been cooperative about including appropriate requirements as they update the plumbing section in response to Federal regulatory changes. Since then, the plumbing code revisions have been put out for public review and Clean Water Services has worked with other members of Oregon ACWA (Association of Clean Water Agencies) to develop comments for the November 27 public hearing. The revised code would require all drains in FSE food preparation areas to be connected to a GRD (grease removal device), an important foundation piece for FOG Programs around the state.

There were several comments and questions related to the building code revisions:

1. Requiring all drains to be connected to a GRD doesn't guarantee the GRD will be effective. (Weller)
  - a. That is a risk, but the new rules will force a look at the GRDs being used and will cause FSE operators to think about the associated costs, maintenance, performance, etc. The biggest issue will be getting information about GRD sizing and efficacy to FSEs early enough to include the most appropriate GRDs in the design. (Baumgartner)
2. If all drains must be connected to a GRD, it wouldn't be hard to figure out the expected volume that would be passing through a GRD and size it accordingly. (Lowe)
  - a. True, but it wouldn't prevent an FSE operator from installing a small GRD for each drain, for instance, which would work but would require several cleanouts every day to work *properly*. Getting information to FSEs well in advance would help prevent such maintenance nightmares. (Baumgartner)
3. While the plumbing code is based on flow volume, actual use of the GRD will depend on FOG production which will vary from one FSE to another. The people who design FSEs are the ones who should get information about their clients' expected FOG production and advise them about adequate GRDs. It doesn't seem practical for building codes staff to understand FOG production and enforce GRD design. (Weller)
  - a. Clean Water Services and other municipalities will ultimately have to acknowledge this; it is probably one reason that building codes officials were reluctant to address FOG issues in the past. (Baumgartner)
4. Data can be made available to estimate FOG production fairly well based on type of restaurant, number of meals, number of seatings, etc. As discussed at the last meeting, an FSE's daily FOG production can range from a pound or less to more than 700 pounds. Being able to estimate where an FSE would fall within that range would help designers set up appropriate GRDs or other FOG control measures. (Baumgartner)
5. Are GRDs changed out when a FSE changes hands/brands but retains the same footprint, or does the new operation just continue using what was there? (Gaffi)
  - a. It varies and staff is working to clarify that with the building codes people. (Baumgartner)
6. Clean Water Services and other municipalities will have to decide how to work with building codes staff when relying on a building official's determination of whether there is enough of a change to require that a building must be brought up to the new code, including FOG/GRD rules. We also will have to decide, as part of our retrofit strategy, when to encourage or tell an FSE operator or building owner they have to bring things up to the new code, and whether they want to take on any of that responsibility. If we take it on, some people will get mad at us, but they will also get a FOG system that will work. As Mr. Weller pointed out, the people doing the design are the ones who need the information and agencies are struggling with how

to reach out to them effectively. (Baumgartner)

7. Is the intent, either through the building code revisions or perhaps as part of the retrofit strategy, to have one GRD serving a strip mall where there might be a variety of restaurants coming and going over time, instead of having several GRDs? (McKillip)
  - a. Right now that is up to the owner(s), but staff is trying to reach out to large property owners to encourage them to install a single large GRD facility so they have to worry less about what new type of restaurant or menu is coming in. Staff is also working with building codes to develop criteria for them to know when it is appropriate to allow a single large GRD instead of several small ones in an area with multiple FSEs. That information would also become part of the outreach to owners. (Baumgartner)

Mr. Baumgartner offered details about several other components of the proposed core program:

1. ACWA is working to make coordination of plan review and permitting consistent around the state.
2. Standardizing GRD cleaning frequency may cause some controversy as FSE operators are not used to having such a requirement and many have ignored GRDs and/or GRD maintenance as a way to keep expenses down or simply because they've had no apparent problems.
3. The retrofit strategy will require a lot of energy and thought to deal effectively with situations such as those mentioned by Mr. Gaffi. Further collaboration with building codes staff will be needed to clarify roles and develop local rules. The retrofit strategy will have to consider which problems are worst and which should be addressed first. There will also be issues of cost and equitability, and decisions to make about incentives.

Mr. Baumgartner also announced that Clean Water Services has budgeted for constructing a FOG receiving station at the Durham Facility next spring. He said that some decisions still need to be made, such as whether it should be open to all or restricted to Washington County users, and what tipping fees should be charged to help recover some of the costs, but the receiving station is a big step forward and will be a key core program component. .

There were a few comments about other survey items that were not part of the proposed core program:

1. Would "setting performance metrics" (a program development item) have to be as specific as identifying a FOG threshold for FSEs or could tracking sewer back-ups be used as a performance indicator? (Hennings)
  - a. Backups do usually indicate built-up FOG, but may be hard to track accurately because they are not always reported for fear of triggering a health code violation. Frequency of cleanout visits could perhaps be tracked. (Baumgartner)
2. Will there be performance metrics set for Clean Water Services? (Weller)
  - a. Yes, some examples might be length of lines cleaned, line cleaning frequency, and number of FOG-caused SSOs (sanitary sewer overflows). (Baumgartner)
3. Clean Water Services could enlist Roto-Rooter™ and similar types of businesses to help

identify problem areas based on their service calls. (Lowe)

4. How is FOG related to stormwater (“address stormwater impacts” is an item to be evaluated for later inclusion)? (McKillip)
  - a. Some FSE activities, such as when kitchen floor rinse water is squeegeed out the back door or a GRD is cleaned out and the residue is dragged across the lot to an uncovered dumpster, result in stormwater runoff carrying FOG into streams. (Baumgartner)

Mr. Baumgartner said an additional idea that has repeatedly come up, particularly in discussions with FSE representatives, is a “green certification” program. Ms. Hennings asked if that would be a certificate for simply complying with the existing rules, or a certificate of recognition for going beyond requirements or coming up with innovative solutions. Mr. Baumgartner said that would need to be decided. Exploring such a certification program is proposed as part of Phase II.

Mr. Weller asked if there was a way to reorganize the FACT/CWAC survey results to more clearly show the “low-hanging fruit”—those items which yield a high benefit for the effort involved and which are highly supported—which would help evaluate which activities to do first. He suggested also looking at other high-reward items and thinking about why they are not highly supported. He said the program should key in on the most effective activities, not just the most popular ones. Mr. Baumgartner said information could be developed on cost to Clean Water Services, cost to FSEs, and effectiveness so an activity can be evaluated on whether it will keep enough FOG out of the system to justify the cost. He also mentioned that this approach would be useful in developing a retrofit strategy as part of the core program.

Ms. Wantland noted that staff had not expected program direction to emerge this early in the process, but the survey exercise helped clarify preferences. Meanwhile, the program was able to move forward more quickly than expected based on developments with the plumbing code and FOG receiving station. Now, ACWA has begun work to coordinate statewide outreach efforts which will further support development of the FOG Program.

Mr. Baumgartner concluded with a few details about the FSE and inspection information that would be collected as part of a data management plan, which is a program development item.

Mr. McKillip asked how Clean Water Services felt about the proposed revisions to the plumbing code. Mr. Baumgartner said having all drains connected to a GRD is a big step. While it is disappointing that GRD sizing based on FOG production is not addressed in the revisions, building codes staff seem willing to work on helping FSEs address that issue voluntarily. Building codes staff are unwilling to be responsible for design or maintenance, and opinions on that vary from one municipality to another. Clean Water Services has clarified its authority for maintenance to avoid future debates in this jurisdiction. Overall, Clean Water Services is satisfied with the proposed revisions.

## **5. NPDES Permit Renewal Update**

Mr. Kapur reviewed some of the information presented at the September Commission meeting by Peter Ruffier, Clean Water Services Regulatory Affairs Department Director, about the NPDES

(National Pollutant Discharge Elimination System) permit renewal. The permit renewal application seeks to respond to anticipated growth, use sustainable treatment technologies, and further watershed enhancement, all of which require TMDL (Total Maximum Daily Load) updates.

Mr. Kapur noted two significant developments related to the permit renewal:

1. The updated Tualatin Basin TMDL (Total Maximum Daily Load) includes bubbled allocations for phosphorus and ammonia to allow for trading (adjusting discharges between plants) to more sustainably meet water quality objectives. The updated TMDL also acknowledges summer discharges from the Hillsboro and Forest Grove wastewater treatment facilities, which allows for year-round discharges and facilitates use of the NTS (natural treatment systems) approach being developed in Forest Grove.
2. The mass load allocation increase requested for the Rock Creek and Durham wastewater treatment facilities was approved by the EQC (Oregon Environmental Quality Commission). This will allow Clean Water Services to respond to the additional waste load from continued population growth.

Mr. Kapur also reviewed some remaining issues with the permit renewal:

1. Design and water quality reports required to support the proposed discharge from NTS at Forest Grove will be submitted in the next couple of weeks.
2. The MS4 (municipal stormwater management) Plan has been updated to reflect elements of recently approved permits for other municipalities similar to Clean Water Services, addressing IDDE, post-construction stormwater controls, hydromodification, and stormwater retrofits. The draft plan will be finalized by mid-December. The MS4 Plan will affect the D&Cs updates discussed earlier this evening by Ms. Pak.
3. Some elements of the permit renewal application, such as the recycled water use plan, are being revised to reflect activities and plans that have evolved since the renewal application was submitted more than four years ago.
4. An integrated plan is being developed for operating under the renewed permit. An integrated plan would allow for prioritizing and sequencing activities for maximum watershed health and implementing them over a period longer than the usual five-year NPDES permit. Integrated planning is a new concept for EPA (US Environmental Protection Agency) so implementation methodology must be developed along with the plan.
5. The temperature TMDL also needs updating to accommodate discharges from the Hillsboro and Forest Grove treatment plants, but the current (2004) standard is in litigation. Because of the delays in renewing its permit, Clean Water Services continues to operate under an older standard and will proceed with that in the permit renewal, leaving temperature updates until the litigation is resolved.

Mr. Kapur said all Clean Water Services materials will be submitted to DEQ by December and a

series of meetings to discuss specific issues with DEQ is already set up for December. Clean Water Services will work with DEQ to develop a draft permit for public comment by April 2013, and expects a final permit by summer 2013. He noted that while a public meeting is held to accept comments, most are submitted in writing throughout the comment period. He expects comments related to stormwater, discharge from the Forest Grove facility, use of NTS, water quality trading activities, the mass load increase, and mixing zone/water quality issues.

Mr. Kapur and Mr. Jockers asked for thoughts from the Commission about other stakeholders who should be involved and on what issues Clean Water Services should expect to make further outreach in preparation for the permit renewal public review process:

1. Riverkeepers will probably be most interested and want to see the most progress, particularly on stormwater. (Gaffi)
2. There will likely be pushback on the mass load increase, even though it is justified by population growth. For stormwater, you can point to D&Cs being updated and that treatment will be larger and more effective. (DeHarpport)
3. Because it is in the news, climate change will be a concern. People will want to know whether it is being considered. (Webb)
4. Oregon Department of Fish and Wildlife should be involved, particularly on fish issues. (Hennings)
5. Mixing zone and water quality issues also relate to fish. (Lowe)
6. Are there any “downstreamers” we need to be thinking of? (Hennings)
  - a. Maybe Lake Oswego Corporation? (Jockers)
7. Would outreach to the agricultural community be relevant to this process? (Hennings)
  - a. More relevant on TMDL, and for water quality trading framework (Jockers)
8. Individual industrial stormwater permit-holders, as their permit renewals will likely be caught up in this process. (Weller)
9. Recent litigation in the Chesapeake Bay area reflecting concerns over water quality trading and program transparency, particularly concerns about trading credits being sold multiple times, may have some implications here although our programs are somewhat different and have demonstrated effectiveness. (Gaffi)
10. A personal concern as regulatory philosophy changes from a point source focus to a system-wide approach is that there may be no “teeth” left to bring along those point sources that have not been doing their share and wastewater—or drinking water—ratepayers may be concerned that they are shouldering a higher financial burden because of those who are not participating in compliance efforts. (Lowe)

11. There is quite a bit of angst that trading is just an opportunity to keep spewing whatever your pollutant may be. (Lowe) Some people do think of it as a shell game. (McKillip)
12. Environmental organizations would not likely take issue with natural treatment systems permitting but would be interested in knowing how well it works and its impact on wildlife. (Meuller-Crispin)
13. Be proactive in approaching groups you worked with since the last permit process— industrial, pretreatment, etc.—to explain what you are doing with the permit renewal so no one is caught off guard. Show them the benefits and accomplishments since the 2004 permit. (McKillip)
14. Since this is a renewal of something that Clean Water Services was in the forefront on, the best way of bringing this through is to show how it has worked since 2004 and how we are going to tweak it to keep it working. (Brown)
15. Our preferred stormwater management techniques do not match up with our zoning and land use rules. For example, it is difficult to find space for some types of LIDA facilities in high-density areas, especially where you have to account for low/no infiltration soils such as we have in Washington County. We need to make it clear that different areas require different approaches. (Weller)

## **6. Announcements**

Mr. Jockers said the Clean Water Services Board of Directors expects to appoint new Commission members for the District 4 position and the Environmental position by the end of the month, and an appointment for the District 1 position will be made later.

## **7. Adjournment**

The meeting was declared adjourned by Mr. Weller at 8:22 PM.

*(Meeting notes prepared by Sue Baumgartner)*