

Clean Water Services Advisory Commission

Meeting Minutes

April 18, 2012

Attendance

The meeting was attended by Commission Vice Chair John Kuiper and Commission members Lori Hennings, Victoria Lowe, Deanna Mueller-Crispin, Judy Olsen, David Waffle, Jerry Ward, Sandy Webb, and Bill Young, and Clean Water Services District General Manager Bill Gaffi.

Commission Chair Tony Weller and Commission members Molly Brown, Alan DeHarpport, Mike McKillip, and Stephanie Shanley were absent.

Also attending from Clean Water Services were Deputy General Manager Diane Taniguchi-Dennis, Regulatory Affairs Division Manager Bob Baumgartner, Communications Supervisor Karen DeBaker, Government and Public Affairs Manager Mark Jockers, General Counsel Jerry Linder, Regulatory Affairs Department Director Peter Ruffier, and Public Involvement Coordinator Sheri Wantland.

1. Call to Order

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

2. Review/Approval of Meeting Minutes from March 21, 2012

Ms. Lowe moved to approve the minutes of the March meeting. Mr. Ward seconded the motion. Motion passed.

3. Bylaws Update

Mr. Linder distributed copies of the Resolution and Order (*attached*) approved as the updated bylaws by the Board of Directors. He said the adopted R & O reflects the ideas and comments from the March Commission meeting. He added that the difference between eligibility for appointment to the Commission and eligibility to serve on the Budget Subcommittee was clarified in the new bylaws. Only those Commission members who do not actually live in Washington County or within the Clean Water Services District service area would be ineligible for the Budget Subcommittee.

Under the new bylaws, Commission terms will be changed from three years to four. Mr. Jockers acknowledged staff member Michelle Mann for helping figure out how to transition the current terms and appointment dates into the new schedule. Mr. DeHarpport, Ms. Shanley, Mr. Ward, and Mr. Young will be asked to serve about 14 months longer than their original commitment. Term lengths for other Commission members will remain about the same or be extended by as much as seven months. Mr. Jockers will discuss term length with each Commission member soon.

Mr. Linder suggested Commission members keep a copy of the new bylaws handy for reference.

4. Storm and Surface Water Management Survey Results

Mr. Jockers said that the District contracted with CFM Strategic Communications two years ago to do online panel research. Nearly 4,000 online interviews covering three different topics have been completed since then. These surveys are in addition to the customer satisfaction survey the District has conducted in alternate years since 1988. Mr. Jockers pointed out that online interviews can involve four times as many people at lower cost than the past method of telephone interviews, and survey responses can be cross-tabbed to tease out more specific demographic or response data. For instance, people who have lived in the area a long time have different opinions than newer residents. Results can also be broken out for Beaverton, Hillsboro, and Tigard.

The most recent online survey ran between March 15 and March 30. About 22,000 email invitations were sent, with Commission members included in the distribution list. The survey had a response rate of 7-8%, which is considered an adequate sample, and respondent demographics were consistent with the county census so it is also an accurate sample. The survey focused on stormwater and surface water issues, including awareness and perceptions, public values, priorities, and rates, but also asked questions related to the 2002 Healthy Streams Plan survey to identify any trends. Mr. Jockers shared some of the survey highlights (*presentation attached*):

- 1 Water quality ratings have improved steadily over the last 18 years
- 2 The biggest threats to water quality are seen as commercial activities, development, and lawn and garden chemicals
- 3 The overall level of threat has declined since the 2002 survey
- 4 Protecting water quality is by far the most important priority for storm and surface water management
- 5 Responding to illegal dumping into the drainage system is the highest priority for funding
- 6 Three out of every four residents say it is important to install stormwater treatment facilities in areas without such facilities...although there is no consensus on how best to accomplish this
- 7 One in five residents would like additional leaf disposal options and most would be willing to pay for that service

Mr. Jockers noted that respondents age 65 or older gave the highest water quality ratings, perhaps because they could compare the Tualatin River today with their memories of floating algae mats 25 years ago. Water quality ratings were lowest from Tigard respondents. Ms. Lowe asked if the improvement in water quality ratings was based on perception or on testing. Mr. Jockers said that in this case reality matches perception.

Mr. Jockers said a question about what happens to water that enters neighborhood storm drains shows that about 40% of residents understand that it goes directly to a stream, about the same as in 2010. It is important for the public to understand that this water does not go to a treatment plant. Responses to this type of question can guide public education efforts.

The survey also asked respondents to rank a list of threats to water quality. In general, the perception of all threats has decreased since the 2002 survey. Industrial pollution and runoff from farm chemicals still ranked first and second. In 2002, development ranked third but was fifth this year---a

result of changes in policies and of the slower pace of development. Run-off from roads and parking lots, along with run-off from pet waste, were perceived as increased threats. Mr. Jockers noted that Clean Water Services and others have done public education campaigns about both these topics, so the awareness is likely higher.

An interesting result was that in the list of about a dozen Clean Water Services stormwater and surface water management program activities, nearly 70% of respondents chose “responding to illegal dumping into the drainage system”—something that happens only about 10 times per year—as a funding priority, while 54% chose “cleaning and maintaining the stormwater system”—which the District does every day of the year. The activities marked as a priority by the fewest respondents were leaf disposal and street sweeping, yet those activities are the subject of the most calls to city staff. Mr. Jockers clarified that “illegal dumping” could be a large amount of an industrial solvent or a quart of motor oil.

While 75% of respondents felt it was somewhat important or very important to install stormwater treatment facilities in the areas built since 1991, responses varied about the approach. Mr. Jockers reminded that retrofitting older areas with stormwater facilities is one of the issues in the District’s federal NPDES (National Pollutant Discharge Elimination System) permit renewal, which has been discussed at several past Commission meetings. The responses to this question may be analyzed further to guide educational efforts.

The survey included several questions about leaf disposal because of the high interest in that aspect of the stormwater and surface water management program. About 95% of respondents indicated they had leaves to dispose of, and about 20% of respondents felt they would like to have additional leaf disposal options. A \$5 payment to drop off leaves at a collection site was supported by about 40% of respondents and 27% were unwilling to pay for additional services.

Survey respondents were asked if their property bordered a creek, wetland, etc. Of the 22% who answered yes, Mr. Jockers suspects that many may actually border a stormwater facility. About a third think it is the property owner’s responsibility to maintain the area along streams, about a third think it is the responsibility of a public agency, and about a third are not sure.

The Oregonian is the most important source of information for 44% of respondents. Mr. Jockers said this is highly skewed toward respondents age 45 and older. For respondents 35 or younger, it is far lower. Social media was not included as a specific information source, but nearly 70% of respondents do use social media, compared with 64% in 2010. Use of Twitter or similar sites jumped from 9% to 15%. Mr. Jockers noted that the people responding to this survey did so on a computer so are perhaps more likely to use social media.

5. 2012 Rate Education and Outreach

Ms. DeBaker reviewed the District’s rates education campaign and annual public education campaign, just two of its varied outreach efforts.

The ratepayer education campaign is important because it makes a direct connection with all customers. While the District has a “retail” relationship with about half its customers, who are billed directly (or jointly with Tualatin Valley Water District) and pay their fees to Clean Water Services

(or TVWD/Clean Water Services), its relationship with the others is “wholesale”—their District bill is included in their city utilities payment, and they do not write a check to Clean Water Services. Clean Water Services meets annually with city utility billing staff through the BITC (Billing Information Technical Committee) to identify common questions and issues that might be addressed through a ratepayer education campaign, including periodic rate increases. The current campaign includes four different types of billing inserts as well as a “frequently asked questions” (FAQ) newsletter for city billing staff so they can respond immediately to most questions from citizens. City staff also now have a comparison chart to help explain current District rates, city surcharges, etc. City staff can also refer callers to Clean Water Services. Ms. DeBaker passed out examples of billing inserts, the FAQ newsletter, and the rate comparison chart (*all attached*).

Ms. DeBaker said in the past, billing inserts emphasized “behavior change” messages such as “Cut the Chemicals”, “Do the Doody” and “Can the Wipes.”. However, inserts over the past couple years have had a more “educational” message, explaining rate increases, sharing survey results and describing efforts to respond to public priorities, and documenting how the District is investing wisely to maximize service and minimize costs. The inserts going out now will publicize the budget hearing.

Mr. Jockers elaborated that in 2008 there was a change in the way the District and its partner cities billed for sanitary sewer services. A District rate was established, which every city must charge and which is split between the city and the District. In addition, a city may add its own surcharge depending on its needs, so sewer rates may vary greatly from city to city.

Ms. Hennings asked about reaching customers who use online bill paying. Ms. DeBaker said they are sent information by email. She noted fewer inserts are printed every year as this option becomes increasingly popular. Ms. Hennings wondered if those who receive the information as an email attachment are less likely to make the effort to open it.

Ms. DeBaker said there will be a media outreach effort next Wednesday regarding rate increases. There will be news releases, information will be posted on websites and distributed through two Twitter™ accounts, and billing inserts will be sent in May. She said being open and honest is key in communicating rate information—customers want and need access to the budget.

Ms. DeBaker went on to explain that public education campaigns are directed to the entire community, not just ratepayers. Clean Water Services works with a creative services firm to develop the campaign, which usually runs at least three years because repetition of a consistent message helps people remember it and reinforces its validity. The current public awareness campaign, “Join the Cycle,” was developed by Cappelli Miles firm and is in its fourth year. It is a behavior change campaign—with the goal of getting people to recognize that their behavior/actions affect the entire watershed—but also includes information about how Clean Water Services is responding to the need for investing in infrastructure.

The theme of the campaign is “From the rain to the river to the faucet at home, your water moves in one big cycle...Join the cycle...Do your part.” Residents interested in knowing how they can do their part can now go directly to jointhecycle.org instead of first to the Clean Water Services website and then clicking on the resident action tab. The campaign includes newspaper ads, bus and bus

shelter ads, banner ads on websites such as Oregonlive.com, and this year a presence on Facebook. About 2,300 cable TV spots were also purchased. The campaign is geared toward “women at home,” as they pay the bills and make choices about family behaviors. Ms. DeBaker ran clips of two familiar components of the campaign—“Do the Doody” and “Can the Wipes” (both featuring appealing artwork drawn by a nine-year-old). A third component, “Freeze the Grease” is in development. Ms. DeBaker said Clean Water Services also presents print and broadcast ads that focus on infrastructure, innovation, and savings, and partners with Oregon Public Broadcasting to share non-behavior-change messages about building a sustainable future for the Tualatin River watershed.

6. FOG (Fats, Oils & Grease) Program Update

Mr. Baumgartner said discussions about FOG have continued with various regulatory agencies and food service representatives. Some ideas for collaboration, particularly in the building codes area, are beginning to emerge. Clean Water Services staff members are also involved with the Oregon Association of Clean Water Agencies (ACWA) so that there is a consistent understanding and presentation of issues statewide when working with DEQ, building codes staff, and others. Opportunities for collaboration and for addressing some FOG issues on a statewide basis may influence how Clean Water Services approaches its FOG program.

The purpose of tonight’s discussion is to identify values for criteria that will be used to evaluate potential program components. Another way to think about that is to say, “Clean Water Services has a good FOG program because they” Tonight’s discussion will be combined with input from others to begin outlining possible program elements. At the next meeting, Commission members will discuss which of those elements should be included, and that will be the framework for further planning and discussion. Mr. Baumgartner thanked Ms. Wantland for her work with the FACT group and her help in preparing for tonight’s discussion.

Mr. Baumgartner referred to the “FOG Program White Paper #1” handout (*attached*), noting as an example that “flexibility” is one possible value which emerged from earlier discussions with stakeholder groups. Food service establishments (FSEs) want to be able to make their own decisions about what works best for them, but with enough guidance that they can understand what the decision means to them and balance the benefits with their initial costs, construction costs, and maintenance costs. So, one question for tonight is whether flexibility is an important value, and if so, how much flexibility should be built into the FOG program. Comments from the discussion regarding values for evaluation criteria are summarized as *Appendix A*.

Mr. Baumgartner noted that part of the difficulty in establishing responsibility for FOG issues is that there are questions about what is considered a “pretreatment device.” Clean Water Services is clearly responsible for regulating what are usually larger facilities such as Intel or big food processors—the District issues the required permits which prescribe pretreatment conditions. Plumbing codes people inspect the installation to be sure it meets the plumbing code. Their interpretation seems to be that if there is a device to make sure pretreatment is adequate, it’s Clean Water Services’ responsibility and if there is a device to make sure water can continue to pass through, it’s their responsibility. EPA clearly believes that GRDs are pretreatment devices, as seen in all the enforcement orders they have used around the nation to mandate control at the local level. He would welcome an objective determination.

Mr. Young wondered to what extent and where would FOG fit in a priority list of all the various activities that Clean Water Services could or would do, if there were not the drive from EPA. Also, to what extent is the problem generated by the industry and how much is influenced by others (such as health department requirements for washing down floors, sending grease down the drain). He expressed a need for more data—perhaps some testing on a heavily burdened pipe that would measure the effect of various BMPs (best management practices)— before considering measures such as fines.

Following the discussion, Ms. Wantland referred to the “Summary of FOG Survey Responses” handout and said the ideas and comments expressed tonight validated the months of work by the FACT group. She suggested a survey for Commission members, similar to those done by other stakeholders and summarized in the handout, as an opportunity to rank their preferences for the FOG program. Ms. Hennings commented that she would welcome such a survey but felt she would need education about different options and their effectiveness in order to respond confidently.

Mr. Waffle asked if the criteria (in “White Paper #1”) would be weighted; Ms. Wantland said that would be something to consider.

Ms. Wantland asked for other “White Paper” topics that would help Commission members understand FOG issues. Staff is willing to do as many as needed. Ms. Hennings suggested case studies of FOG programs in other areas would be helpful. Mr. Baumgartner noted that more details about the consistencies that emerged from stakeholder discussions might be helpful.

Mr. Baumgartner noted the connection between FOG and sanitary sewer overflows (SSOs), and said EPA’s tolerance for SSOs is zero. However, it is difficult to design anything that would guarantee zero, so Clean Water Services must have a program that is effective in keeping FOG out of the system. Even with only one or two SSOs a year, he and his colleagues will look to the Commission for guidance on what should be the tolerance for that kind of risk and how that ties into fines and other enforcement policies.

Ms. Mueller-Crispin asked what EPA’s “zero tolerance” for SSOs means in practice. Mr. Baumgartner explained that the NPDES permit expressly prohibits SSOs and if they occur they are subject to penalties by DEQ or EPA. These could be civil penalties, enforcement orders mandating specific program elements and approaches, or criminal liability for repeated offenses. Mr. Jockers noted that while there is zero tolerance there is also “enforcement discretion” allowed for such situations as two inches of rain in 24 hours and the system is overloaded and there is an overflow. It doesn’t waive the responsibility but it does allow for circumstances. Mr. Baumgartner added there are also provisions for treatment plant “upsets” in the permit. However, he emphasized that a utility must have an effective program in place to prevent the “reasonably preventable” overflows before it is in a position to be considered for any enforcement discretion.

Mr. Ruffier added that while it has been typical for regulatory agencies to apply discretion and not levy penalties, the fact that a penalty was not applied does not keep third parties from filing a lawsuit.

7. Announcements

Mr. Jockers reminded that the Clean Water Services Budget Committee will meet here on May 4 8:30

AM-1:00 PM. The Budget Committee includes the Board of Directors (Washington County Commissioners) plus five Commission members: Ms. Brown, Mr. DeHarpport, Ms. Hennings, Mr. Kuiper, and Mr. Weller. Committee members will get an information packet a week in advance. Any member who would like to walk through the budget with staff prior to the meeting should contact Mr. Jockers.

8. Adjournment

Mr. Kuiper adjourned the meeting at 8:31 PM.

(Meeting notes prepared by Sue Baumgartner)

Appendix A

Comments from Clean Water Advisory Commission

Values for FOG Program Criteria

April 18, 2012

1. In conversations with our staff, there is concern that the more flexibility you build into a program, the more options people have to avoid doing the right thing or doing anything effective. I hate the idea of more regulation, but we are either going to spend more money on higher rates to cover the cost of digging up and cleaning/replacing clogged pipes, or we are going to force behavior change by setting a measurable requirement and a fine for when it is not met. (Lowe)
 - a. That is the conundrum in any enforcement program—balancing flexibility with making sure folks are actually doing what they need to be doing. That’s just one of the things we need to weigh and figure out: which one “trumps” another. (Wantland)
 - b. Seems like we talked last time that currently it is written so there could be fines but we are not really doing that. It seems flexibility needs to be tempered with understanding that there is a real consequence (for not complying). Then you have to levy the fine. (Hennings)
 - c. If you don’t have a fine you don’t have anything to make people care. (Kuiper)
 - d. Recall hearing about a program where in certain cases if a fine is imposed but the “violator” spends money to address the problem, the rest of the fine is waived. Seems like good flexibility where we could impose a fine without being punitive but still force a fix of the problem. (Hennings)
 - e. Fines must be bigger than the cost of fixing the problem, otherwise there is no incentive to fix it until you are actually cited. (Kuiper)
2. All these places (FSEs) have health inspections—how hard would it be for those inspectors to see whether they’ve got all the proper controls in place and are not bypassing them? (Kuiper)
 - a. It takes anywhere from one to four hours to adequately check a facility for correct connections and BMPs (best management practices). Right now the health program does not do this type of inspection but they’ve indicated they would be willing to take a quick look for any obvious failures or flaws. That would be a huge benefit to us—a very good screening exercise. We find that the ones that are really bad are pretty obvious so those initial looks would probably find a large percentage of them, and we could then follow up. (Baumgartner)

3. Looking at some of the proposed (flexible) approaches such as setting a standard and letting each facility decide how they are going to meet it...what are the administrative costs of something like this and how would you put something like that together? If you have lots of different approaches with everybody choosing their own way, that's expensive to track, and where does it end? (Mueller-Crispin; Kuiper)
4. What gives Clean Water Services the right to even address this—is there a statute or law that says it will be the authority over a city or a county or a state agency? (Lowe)
 - a. Clean Water Services clearly has authority to manage discharge of FOG into the public sewer system, and the cities are partners in the compliance area, but there is still lack of clarity in codes and enforcement authority—as has been identified in the FACT (FOG Abatement and Compliance Team) group. The authority exists, but do people know that? (Wantland)
 - b. Is there any authority to bring everyone together in the same direction so we don't all end up pulling different ways? (Lowe)
 - c. Clean Water Services has some clear authorities under its environmental permits, building codes people have some clear authorities, cities have some authorities...and some areas are uncertain. One question is whether we focus only on areas where we have clear authority or try to wrestle with other agencies, such as building codes, over the gray areas. Right now it seems like we are seeing some movement which implies that it would be best to work collaboratively—and that (collaboration) may be one of the value judgments we are looking for tonight. (Baumgartner)
5. You can't do a "one-size-fits-all." You maybe need a grid of some sort that recognizes that there are smaller establishments and larger establishments. You don't want to wipe out the small local deli and be left with only the large franchises that can more easily afford all this stuff. But if they don't maintain whatever system they have, there should be fines. (Olsen)
 - a. Working through this process, we've been reminded of the sump pump disconnection program, which this group also worked on a few years ago. There is a hierarchy of acceptable alternatives, and if the first (preferred) option is not feasible, the landowner can go down the list to the next most feasible one. It seems very likely that what we come up with collectively will be that sort of a grid or hierarchy so we all have a good idea of what optimal performance and compliance would be and yet recognize that not everybody can do that. (Wantland)
 - b. There may not even be a need for a hierarchy for some types of establishments—you could find those "high risk" ones that require the very highest level and they don't get to opt out of it. (Olsen)
6. Does your thought process on the balance between flexibility and certainty change if we are talking about new construction as opposed to existing facilities? (Baumgartner)

- a. Yes, the previously built ones should have some more flexibility because the standards were not in place when they opened. (Hennings)
 - b. But they should not be grandfathered. (Kuiper)
 - c. Flexibility does not mean exemptions. (Hennings)
7. Similar to the water and sewer systems in residential areas, where lines on one side of the meter are the responsibility of the city and lines into the house are the responsibility of the homeowner, or main lines and manholes are the utility's responsibility and the pipes under the house are homeowner's, there are some legal distinctions in "ownership" of FOG facilities in FSEs. I think where you are trying to get to with the plumbing code people and the building code people is saying we (Clean Water Services) have to care about the outcome—what comes into the sanitary sewer—what can you do on your side of the house to help us? As in so many of our other systems, it seems the responsibilities go from the discharge point back upstream. (Waffle)
- a. Part of the problem is that building code designs, standards, and requirements have a different goal than our goal. It is a challenge to match up the objectives for GRDs (grease removal devices) and what they should do. (Wantland)
 - b. You have to figure out a way to make sure FOG issues are part of the (FSE planning/approval) process the entire time. (Webb)
8. We are all reacting to the problem...are we communicating and encouraging the development of systems from the manufacturing side? Part of what I've heard in my community is that there isn't a good system or the system they have won't work for them. We can put a lot of effort toward figuring out who is responsible for what, and we have all these stages at which we could address this problem, but putting money or research toward a technological solution could head off a whole pyramid of costs. (Lowe)
- a. You can see this idea reflected in at least two of the lists in "White Paper #1," ("improved GRD design and approval process;" "support research and development of more effective GRDs"). All the things on these lists are great ideas that we could support, but we will be asking you to help decide how much effort and resources Clean Water Services and the partner cities should put into each one, and which ones should the District do and what role should partners take. (Wantland)
 - b. Clean Water Services has been trying to support such research ad hoc. The question is whether that is a value we should invest in—should we take on trying to get better designs as a service that we provide? (Baumgartner)
 - c. You've already crossed into that with the Ostara partnership—maybe the GRD technology investment is a similar partnership opportunity. We could at least have that conversation about whether we go that direction. (Lowe)

- d. There are jurisdictions across the country dealing with FOG—it would seem to make the most sense to advance technology as a collaborative process and promote involvement among national groups such as WERF (Water Environment Research Foundation), which might also try to get EPA grant money to do what Victoria is talking about. (Gaffi)
 - e. We all agree that the water commodity and use of it is the overall issue. We recognize chemical waste as pollution and now we have another issue-FOG-which is a different kind of management issue begging for a solution from a different large group (the food service industry). It seems like we could get research money somewhere or make that collaborative effort under the auspices of what we’re doing for the sustainability of the overall water resource. (Lowe)
9. The important thing is the outcome. The solutions will vary depending on the size of the pipe, the size of the business—are the really big ones already doing a pretty good job—and a cost-benefit analysis that includes weighing the economic impact to businesses alongside the benefit in terms of actual FOG control. Seems like you could pretty clearly lay down the issue if you had enough knowledge—what is the state of the art, what is getting used, what could be used, how much would it cost and what benefit would we get out of using this piece or this other piece, etc. (Hennings)
- a. Research into how we define something that would work better or be more cost-effective would be very valuable. One manufacturer said they last reviewed their design in about 1946. (Baumgartner)
 - b. The FSEs have expressed a desire for educational materials telling what would be effective and how to select a design and for someone to make sure they get that early in their (design/approval) process. Is that educational role something that we take on as part of our process? (Baumgartner)
 - c. It (educational materials) seems to tie into some of the discussions about enforcement. Some have said that they prefer we use fines and penalties after we’ve given everyone a chance to understand what they need to do and to make some decisions on their own. (Baumgartner)
10. Not sure I agree with technology driving this—there are thousands of FSEs and so varied in size that you can’t expect one company to develop its own solution. You need a supply of “off the shelf” devices that the numerous smaller entities can access. (Young)
- a. There is off-the-shelf stuff available and if properly used it can be pretty effective. The bigger concern comes from existing facilities which are worried about trying to retrofit with limited space. Large 1000-gallon interceptors would work, but they don’t fit. (Baumgartner)
11. A cost-benefit analysis might show it’s most effective to just clean the pipes more often in some situations (such as retrofits with space constraints). (Hennings)

12. Another outcome could be a FOG collection program (similar to Metro's household hazardous waste collections), maybe using the FOG for biofuel. Even if you can't figure out a way to reuse it, just having it immobilized somewhere is better than having it go down the drain. FSEs could just drop off a standardized grease bucket once a week as part of the regular routine, in the same way that they go to the bank. Maybe that is part of the flexibility idea, especially for smaller establishments. (Hennings)
13. Or it could be an incentive type of program. Can we make it easier or more effective for them to deliver it, such as a grease receiving station at our facilities? (Baumgartner)
14. Are some types of FOG worse for the system than others? There is talk of a soda tax to fight obesity; how about a "French fry tax" to reduce grease in sewer system? (Waffle)
15. Add to the list of values that we need to help people understand and communicate the role of FOG in conveyance and treatment systems. (Waffle)