

DATE: October 1, 2024
TO: Clean Water Services Advisory Commission Members and Interested Parties
FROM: Elizabeth Edwards, Chief of Staff
SUBJECT: **INFORMATION FOR OCTOBER 9, 2024, CWAC MEETING**

A Clean Water Services Advisory Commission (CWAC) meeting is scheduled for **Wednesday, October 9, 2024**. The meeting will be in a hybrid format at the CWS main office in Hillsboro and on Zoom. The meeting will begin at 6:30 p.m.

Meeting location:

- **In person at the CWS Administrative Building Complex**, 2550 SW Hillsboro Highway, Hillsboro, Oregon, 97123.
- **Online via Zoom.** CWS is shifting to a new platform to host CWAC meetings. Zoom offers the option to connect to video, slides, and audio via a device with internet access, or an audio-only connection through any telephone line.
 - Interested parties should register for this meeting by October 8 by following the instructions on the [website](#).
 - Please plan to establish your connection to the meeting 10-15 minutes before the 6:30 p.m. start time to allow the meeting to begin promptly.

Dinner will be served at 5:30 p.m. for CWAC members attending in person. CWAC members should notify Katie Ragsdale (ragsdalek@cleanwaterservices.org; 503.681.5116) by Thursday, October 3, **if you are unable to attend or if you plan to attend via Zoom** so food is not ordered for you.

The CWAC meeting packet will be emailed to CWAC members and posted to the [CWAC section](#) of the Clean Water Services' website.

Enclosures in this packet include:

- October 9, 2024, agenda and other materials

Clean Water Services Advisory Commission

October 9, 2024

AGENDA

6:30 p.m. Welcome and Introductions

6:40 p.m. Oregon Public Meetings Law, Oregon Ethics Law, and Public Records Law

The Clean Water Services Advisory Commission is a public entity subject to public meetings laws and other state requirements. Staff will provide a training that includes background on CWS and CWAC, and statutes governing responsibilities related to serving on an advisory commission to a government including public meetings, ethics law, and public records.

- Elizabeth Edwards, Chief of Staff
- Caroline Lobdell, General Counsel & Chief Compliance Officer

Requested Action: Informational

7:30 p.m. Our Operating Intergovernmental Agreements: Collaboration for the Future

Clean Water Services has been working on new operating intergovernmental agreements with the cities in its service district, Washington County, and other partner cities and jurisdictions. The IGA with the City of Hillsboro is complete; IGAs with Beaverton and Cornelius are nearly done. Staff will highlight the importance of these IGAs and outline the anticipated schedule for adoption.

- Joe Gall, Chief Utility Relations Officer
- Bob Baumgartner, Regulatory Affairs Director

Requested Action: Informational

8:00 p.m. Invitation for Public Comment

8:10 p.m. Announcements

8:15 p.m. Adjourn

Next meeting: November 13, 2024

Oregon Public Meetings Law, Oregon Ethics Law, and Public Records Law

Clean Water Services Advisory Commission

Elizabeth Edwards, Chief of Staff

Caroline Lobdell, General Counsel & Chief Compliance Officer

October 9, 2024

CleanWater  Services

Today's Discussion

CleanWater  Services

1. CWS form of government and CWAC history
2. Oregon public meetings law
3. Oregon ethics law
4. Oregon public records



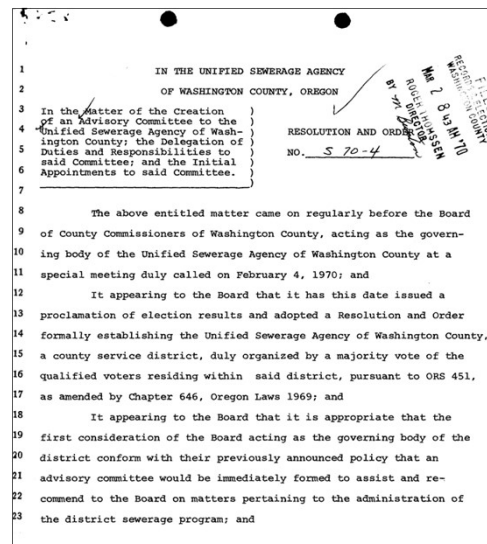
CWS Form of Government

- Clean Water Services is a regional county service district formed under ORS Chapter 451
- Washington County Commissioners sit as the CWS Board of Directors
- Charged with providing wastewater, stormwater, and surface water management services
- Originally established as the Unified Sewerage Agency (USA) of Washington County on February 4, 1970
- USA renamed to Clean Water Services in 2001 with a broader set of responsibilities
- Nation's first watershed-based National Pollutant Discharge Elimination System permit issued in 2004



CWAC History

- An advisory commission has been in existence since CWS' inception (as Unified Sewerage Agency) in 1970
- Charge of the organization has evolved
- Size varied from as small as five members to current size of 15 members
- The current configuration of CWAC was established by Resolution & Order 91-82
- Members are appointed by the Board of Directors
- CWAC is governed by the bylaws in Resolution & Order 12-1



Public Meetings Law

“The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of [the public meetings law] that decisions of governing bodies be arrived at openly.”

ORS 192.620



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Who Is Required to Hold Public Meetings?

- Governing body of any:
 - State agency
 - Regional government
 - County
 - City
 - Special district
 - Municipal corporation
- Any agency of these entities including:
 - Boards
 - Commissions
 - Subcommittees
 - Advisory groups



AND...

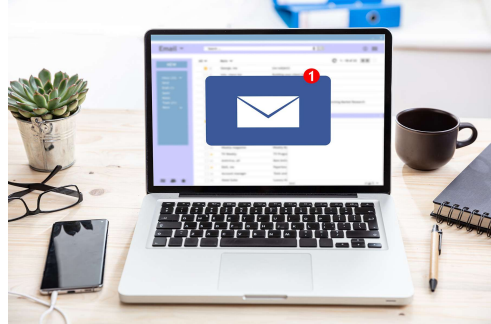
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House Bill 2805 (2023)

Added the following to ORS 192.610:

(1) “Convening” means:

- (a) Gathering in a physical location;
- (b) Using electronic, video, or telephonic technology to be able to communicate contemporaneously among participants;
- (c) Using serial electronic written communication among participants; or
- (d) Using an intermediary to communicate among participants.



Notice – What Is Required?

“...[R]easonably calculated to give actual notice to interested persons...”

- Contents of notice
 - Date and time
 - Place
 - Contact for help
 - Agenda (subjects may be added)
- Method of notice
 - Not prescribed by public meetings law. Must meet the “reasonably calculated to inform” standard
- At least 24 hours unless there is an emergency.



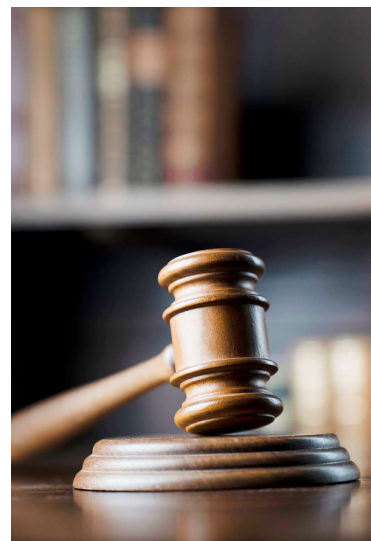
Conduct of Meetings

- The public is entitled to attend public meetings.
- The public meetings law does not require the public be allowed to participate.
- The presiding officer has inherent authority to keep order and impose any reasonable restrictions necessary for the efficient, orderly conduct of a meeting.
- Rules may include: Length of testimony, order of testimony, and limitation of topics discussed (usually limited to the noticed agenda).
- Cannot prevent an attendee from recording (audio or visual) a meeting.
- A disrupter may be asked to leave and if they do not leave, may be treated as a trespasser – but only if actually disruptive.
- Dissent, rudeness, and offensive speech are all protected by the First Amendment.



Recordkeeping

- A body must keep written minutes of its meetings AND executive sessions. Written minutes must include:
 - Members present.
 - Motions, proposal, resolutions, ordinances, and measures and their disposition.
 - Results of all votes and who voted which way – except if the public body has over 25 members.
 - Substance of any discussion on any matter – DO NOT KEEP VERBATIM NOTES – just a true reflection of the matters discussed and views of members.
 - Reference to all documents received or discussed unless exempt under the public records law.



Recordkeeping

- An audio or video recording can substitute for written minutes.
- Senate Bill 11 (2023)
- Minutes or recording must be available to the public.



Pop Quiz: Is This a Public Meeting?

- Telephone discussion between two members of the commission?
- Email conversation in which all 15 members of the commission are copied?
- Discussion between eight members of the commission at a holiday party?
- Training sessions?



Oregon Ethics Law

- Congratulations! You are a public official (and so am I)!
 - A public official is “an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.” ORS 244.020(15).
- Subject to the Oregon ethics law.
- Great resource: [Oregon Government Ethics Law: A Guide for Public Officials](#).



Relatives of Public Officials

General rule:

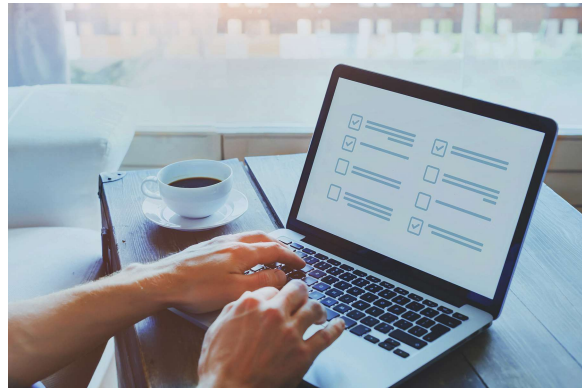
A public official cannot use the official's position to benefit the official, a relative, household member, or business with which the official is associated.

Who are relatives?

- Spouse
- Children
- Children of the spouse
- Siblings
- Siblings of spouse
- Spouse of siblings
- Spouse of siblings of the spouse
- Parents
- Parents of spouse
- Person for whom the public official has a legal support obligation
- Person who receives from or provides benefits to the public official

Business

- A “business” is a self-employed individual and any legal entity that has been formed to produce economic gain.
- A “business” is not a nonprofit formed under 501(c) if the official is only a member, a member of the Board of Directors, or in another unpaid position.



Associated with a Business

- A person is “associated” with a business if:
 - The person is a director, officer, owner, employee, or agent of a **private business** or a **closely held corporation**.
 - The person currently holds, or held during the preceding calendar year, stock, stock options, an equity interest, or debt instrument worth \$1,000 or more in a **private business** or **closely held corporation**.
 - The person currently owns, or has owned during the preceding calendar year, stock, stock options, an equity interest, or debt instruments of \$100,000 or more in a **publicly held corporation**.
 - The person is an officer or director of a **publicly held corporation**.

Conflicts of Interest

A public official has a conflict of interest when participating in official action that would or could result in a financial benefit or detriment to the public official, a relative of the public official, or a business with which either is associated.

- Would = actual conflict of interest (must not participate)
- Could = potential conflict of interest (may participate after disclosure)
 - The official must announce the nature of the conflict at a public meeting

Not Prohibited

- Official compensation
- Reimbursement of expenses
- Honoraria
 - Less than \$50
 - Performed in relation to the official's private profession, avocation, or expertise
- Awards for professional achievement (e.g., Oregon Teacher of the Year)



Outside Employment Is Allowed, but:

- Officials must not use their public position to create the opportunity for additional personal income.
- Officials may not use a government agency's supplies, facilities, equipment, employees, records, or any other public resources to engage in their private employment or business interests.
- Officials are not to engage in private business interests or other employment activities on their government agency's time.
- Confidential information gained as an official is not to be used to obtain a financial benefit for the public official, a relative or member of the official's household, or a business with which any are associated.

Gifts

If the source of a gift to a public official has a **legislative or administrative interest** in the decisions or votes of the official, the official can only accept gifts from that source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year.

- A gift is something of economic value.
 - Without valuable consideration of equivalent value
 - Or with valuable consideration but less than that required of the public
- Legislative or economic interest is an economic interest distinct from that of the general public.

These same prohibitions apply to staff.



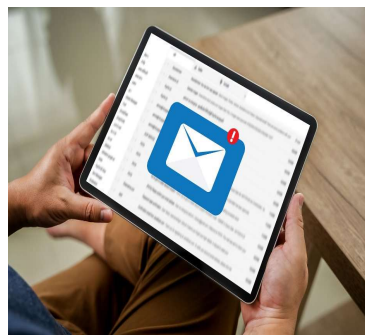
Public Records Law

A public record is:

“any writing that contains information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics”

A writing includes:

- Emails
- Text messages
- Chat messages
- Voicemails
- Handwritten notes
- Calendar entries
- To-do and task lists
- Audio or video recordings



Public Records Law

- **Anything** in the possession of Clean Water Services is a public record.
- **Anything** produced or used by a Clean Water Services employee or official in the course of their duties is a public record.



Questions?



Thank you



Our Operating Intergovernmental Agreements: Collaboration for the Future

Clean Water Services Advisory Commission

Joe Gall, Chief Utility Relations Officer
Bob Baumgartner, Regulatory Affairs Director
October 9, 2024



Operating Intergovernmental Agreements (IGAs)

- Regional service agreements
 - Beaverton, Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard, and Tualatin
- Regional and local service agreements
 - Banks, Durham, Gaston, King City, and North Plains
- Washington County
- Others
 - Lake Oswego, Portland, Oregon Department of Transportation



Operating IGAs: History

- Earliest operating IGAs: 1990
- Current IGAs: Most are from 2005-2009
- Requirement in National Pollutant Discharge Elimination System (NPDES) permit
 - IGAs need to be updated by November 2026
- Hillsboro IGA: 34 pages with appendices



Scope of Operating Agreements

- Roles
- Division of responsibilities
- Administrative and operating provisions
- Ownership and maintenance of infrastructure
- Financial relationship
- Dispute resolution



IGA Update Process

- Understanding the importance of the NPDES permit
- Co-creation
- Peer-to-peer relationships and trust
- Some cities taking on greater responsibility in their jurisdictions
 - Sanitary sewer collection, conveyance
 - Stormwater
- Clean Water Services oversight
 - NPDES permit and compliance
 - Unincorporated stormwater and conveyance
 - Treatment and large interceptors, pump stations



Goals for New Agreements: CWS Responsibilities

- NPDES permit
 - Retain authority for compliance
 - Oversight and administration of permit
 - Provide training as needed
 - Act as needed to achieve compliance
- Master planning for regional conveyance
- Subbasin planning at watershed scale
 - Including ecological approaches that can support the cities' stormwater master planning
- Capacity and treatment planning
- Long-term compliance planning



Goals for New Agreements: City Responsibilities

- Direct implementation of local program and ensuring compliance
- Operation and maintenance of gravity sewer and stormwater systems
- Environmental stewardship, collecting fees, billing, and other administrative duties
- Master planning for sanitary and stormwater conveyance within city
- Provide projections for growth and development as needed by CWS for regional master planning



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Shared Responsibilities

- Recognize different approaches may exist to ensure compliance
 - Cities may develop their own programs
 - ❖ Stormwater Management Plan
 - ❖ Capacity Management Operation and Maintenance Plan
 - ❖ Erosion prevention and sediment control program
 - ❖ Fats, oils, and grease (FOG) abatement program
 - CWS oversight to ensure consistency with permit, adaptive management
 - Training and communicating required information
- Facilitate annexation process for unincorporated areas
 - Transfer of assets
- Coordination (annual meetings)
- Database communication and information sharing

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Operating IGAs: Major Components

- CWS, City, and shared responsibilities
- Definitions
- General agreements
 - Reporting, compliance, coordination, emergency response, etc.
- Finance
- Specific sanitary and stormwater agreements
 - Asset maintenance and ownership, annexation, asset transfer, erosion control, response to sanitary sewer overflows and illicit discharges, development review, etc.
- Industrial, FOG program agreements
 - 1200-Z industrial stormwater program, pretreatment, FOG, temporary discharge requests, etc.
- Dispute resolution
- Amendment
- Termination

Operating IGAs – Appendix A

- Summarizes roles and responsibilities
- Ownership of sanitary and stormwater assets
- Maintenance of sanitary and stormwater programs
- Capital improvement projects
 - Inflow and infiltration, pipeline repairs, replacements, construction, etc.
- Engineering, inspection, support elements
 - Development review, erosion control permit issuance, illicit discharge response, master planning, etc.

Sanitary Sewer Maintenance Programs within City of Hillsboro		Local Program	Regional Program	Notes
Sanitary Sewer Lines Less Than 24 inches	1. Ownership of gravity sanitary sewer lines including maintenance holes and lids	--	--	For public sanitary mainlines that cross jurisdictional boundaries: The mainline segment will be owned and maintained by whichever agency's territory encompasses the downstream structure or maintenance hole.
	2. Line cleaning	City	--	Boundary conditions (see ownership criteria in item 1).
	3. Root cutting and chemical control	City (root cutting only)	District (chemical control)	
	4. CCTV inspection	City	--	
	5. Vector control	City	--	
	6. Ownership of easement and access road maintenance	City	--	
	7. Siphon maintenance where line leading to siphon is less than 24 inches	City	--	
	8. Utility locates	City	District	City for all City-owned sanitary assets. District for all District-owned sanitary assets.
	9. Minor repairs including	City		

City of Hillsboro

- 2005 Operating Agreement
 - Amended in 2006, 2008, 2009, and 2017
- Regional services: CWS
- Local services: City of Hillsboro
- Negotiation start date: January 2023
- Negotiation completion date: December 2023

INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF HILLSBORO AND CLEAN WATER SERVICES REGARDING COOPERATIVE MANAGEMENT

THIS INTERGOVERNMENTAL AGREEMENT (Agreement) dated 12/27/2023 is between the **City of Hillsboro**, a municipal corporation within the State of Oregon, hereinafter referred to as "City," and **Clean Water Services**, a county service district within the State of Oregon organized under Oregon Revised Statutes (ORS) Chapter 451, hereinafter referred to as "District." This Agreement replaces the January 4, 2005, agreement between the City and the District including amendments dated July 1, 2008, July 1, 2009, and March 7, 2017.

I. RECITALS

WHEREAS the District has the legal authority for the sanitary sewer and stormwater management programs within its service boundaries consistent with relevant laws, rules, and agreements; and

WHEREAS the City has certain legal authority to own, operate, and maintain the local sanitary sewer and stormwater management systems as provided for under its charter, relevant laws, rules, and this Agreement. The City performs a variety of functions critical to operating, maintaining, and managing sanitary sewerage and stormwater management systems as outlined in the Agreement. It is anticipated that this Agreement may periodically require updating or modification by agreement of the parties; and

WHEREAS the City and District previously entered into an Agreement for the cooperative management of sanitary sewer and stormwater and this Agreement, and its subsequent amendments that expired. The City and District agree this is a new Agreement that supersedes all past agreements and amendments; and

WHEREAS the City and District recognize the Agreement describes a new and

City of Beaverton

- 2004 Operating Agreement
 - Amended in 2005, 2006, 2008, 2009, 2010, and 2017
- Regional services: CWS
- Local services: City of Beaverton
- Negotiation start date: May 2023
- Anticipated negotiation completion date: October 2024

INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF BEAVERTON AND CLEAN WATER SERVICES REGARDING COOPERATIVE MANAGEMENT

THIS INTERGOVERNMENTAL AGREEMENT (Agreement) dated _____ is between the **City of Beaverton**, a municipal corporation within the State of Oregon, hereinafter referred to as "City," and **Clean Water Services**, a county service district within the State of Oregon organized under Oregon Revised Statutes (ORS) Chapter 451, hereinafter referred to as "District." This Agreement replaces the May 7, 2004, agreement and amendments dated May 16, 2005, March 23, 2006, August 5, 2008, July 1, 2009, September 10, 2010, and March 7, 2017, between the City and the District.

I. RECITALS

WHEREAS the District has the legal authority for the sanitary sewer and stormwater management programs within its service boundaries consistent with relevant laws, rules, and agreements; and

WHEREAS the City has certain legal authority to own, operate, and maintain the local sanitary sewer and stormwater management systems as provided for under its charter, relevant laws, rules, and this Agreement. The City performs a variety of functions critical to operating, maintaining, and managing sanitary sewerage and stormwater management systems as outlined in the Agreement. It is anticipated that this Agreement may periodically require updating or modification by agreement of the parties; and

WHEREAS the City and District previously entered into an Agreement for the cooperative management of sanitary sewer and stormwater and this Agreement, and its

City of Cornelius

- 2004 Operating Agreement
 - Amended in 2005, 2006, 2008, and 2009
- Regional services: CWS
- Local services: City of Cornelius
- Negotiation start date: April 2024
- Anticipated negotiation completion date: December 2024



Washington County

- 2005 Operating Agreement
 - Amended in 2009
- Regional services: CWS
- Local services: CWS
- Negotiation start date: March 2024
- Anticipated negotiation completion date: August 2025



City of Tualatin

- 2005 Operating Agreement
 - Amended in 2009
- Regional services: CWS
- Local services: City of Tualatin
- Negotiation start date: September 2024
- Anticipated negotiation completion date: May 2025



City of Tualatin

City of King City

- 1990 Operating Agreement
- Regional services: CWS
- Local services: CWS
- Negotiation start date: September 2024
- Anticipated negotiation completion date: December 2024



City of North Plains

- 2008 Operating Agreement
- Regional services: CWS
- Local services: CWS
- Anticipated negotiation start date: November 2024
- Anticipated negotiation completion date: February 2025



City of Durham

- 2020 Operating Agreement
- Regional services: CWS
- Local services: CWS
- Anticipated negotiation start date: February 2025
- Anticipated negotiation completion date: May 2025



City of Tigard

- 2005 Operating Agreement
 - Amended in 2006, 2008, 2009, 2012, and 2017
- Regional services: CWS
- Local services: City of Tigard

- Anticipated negotiation start date: March 2025
- Anticipated negotiation completion date: November 2025



City of Banks

- 2008 Operating Agreement
 - Amended in 2009
- Regional services: CWS
- Local services: CWS

- Anticipated negotiation start date: April 2025
- Anticipated negotiation completion date: July 2025



City of Gaston

- 1990 Operating Agreement
- Regional services: CWS
- Local services: CWS
- Anticipated negotiation start date: June 2025
- Anticipated negotiation completion date: September 2025



City of Forest Grove

- 2005 Operating Agreement
 - Amended in 2008, 2009, 2010, 2012, and 2013
- Regional services: CWS
- Local services: City of Forest Grove
- Anticipated negotiation start date: September 2025
- Anticipated negotiation completion date: May 2026



City of Sherwood

- 2005 Operating Agreement
 - Amended in 2006, 2008, and 2009
- Regional services: CWS
- Local services: City of Sherwood
- Anticipated negotiation start date:
October 2025
- Anticipated negotiation completion date:
June 2026



City of Lake Oswego

- 2011 Operating Agreement
- Anticipated negotiation start date: January 2026
- Anticipated negotiation completion date: April 2026



City of Portland

- 2012 Operating Agreement
- Anticipated negotiation start date: January 2026
- Anticipated negotiation completion date: April 2026



CleanWater  Services

Thank you

