Clean Water Services
Clean Water Advisory Commission
Meeting Minutes
April 17, 2013

Attendance

The meeting was attended by Commission Chair Tony Weller (Builder/Developer) and Commission members Alan DeHarpport (Builder/Developer), Lori Hennings (District 1-Schouten), Mike McKillip (District 3-Rogers), Art Larrance (At-Large-Duyck), Judy Olsen (Agriculture), David Waffle (Cities), and Jerry Ward (Agriculture), and Clean Water Services District General Manager Bill Gaffi.

Commission members Molly Brown (District 2-Malinowski), Erin Holmes (Environmental), John Kuiper (Business), Stephanie Shanley (Business), Richard Vial (District 4-Terry), and Sandy Webb (Environmental) did not attend.

Also attending were Cathy Stanton, who will succeed Lori Hennings in September, and Brian Wegener (Tualatin Riverkeepers).

Attendees from Clean Water Services included Nora Curtis (Conveyance Department Director), Roger Dilts (Water Resources Analyst), Rich Hunter (Senior Water Resources), Mark Jockers (Government and Public Affairs Manager), Jerry Linder (General Counsel), Raj Kapur (Water Resources Analyst), Michelle Mann (Administrative Associate), Damon Reische (Development Services Supervisor), Bruce Roll (Watershed Management Department Director), and Diane Taniguchi-Dennis (Deputy District General Manager).

1. Call to Order

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

2. Review/Approval of March 20 Meeting Notes

Mr. Waffle moved to approve the minutes of the meeting held March 20, 2013. Ms. Hennings seconded. Motion passed.

3. Nutrient Recovery Product

Mr. Roll handed out samples of Clean Water Grow™ All-Purpose Plant Food, which is making its retail debut this weekend. It contains CrystalGreen®, a slow-release fertilizer product made with nitrogen, phosphorus, and magnesium recovered from treated wastewater using a process developed by the Ostara company. Ostara installed one of its first nutrient recovery units at the Durham AWWTF (Advanced Wastewater Treatment Facility) several years ago, and last summer opened the world's largest recovery facility at the Rock Creek AWWTF. The process prevents formation of concrete-like struvite,

which can build up and clog pipes, and is an environmentally sound, sustainable source of phosphorous, a finite resource that is otherwise mined and can be found in only a few places around the world. Unlike water-soluble phosphorous products, the phosphorus in CrystalGreen® is activated by the acids from plant roots, so it goes more directly to the plant, only as it is needed, and is less likely to wash off into streams. Locations and online ordering information can be found at www.cleanwaterpro.com.

Mr. Gaffi added that it makes sense to try to recover some of the thousands of dollars per pound that is spent to keep phosphorous out of the Tualatin River. Clean Water Services will see how this retail effort goes before deciding whether to pursue national distribution. A commercial version of this product is already popular with golf courses and container nurseries. In response to a question about producing and marketing a product containing phosphates when phosphates are prohibited in detergents, Mr. Gaffi said he was involved in the effort to ban phosphates for that use, but plants require phosphorus and it is an accepted fertilizer ingredient because it is often not available in sufficient quantities in the soil. However, the CrystalGreen® production process makes it far less likely to become a pollution concern than conventional fertilizers.

4. Regional Conservation Strategy and Tualatin Basin Partnership Opportunities

Mr. Roll and Mr. Hunter spoke about The Intertwine Alliance and shared copies of three documents recently published by the group ***(presentation attached)***. Mr. Roll described The Intertwine Alliance as a consortium of about 75 diverse public and private agencies and organizations in the Portland-Vancouver area, including Clean Water Services, all with a common theme of protecting and preserving critical natural areas. Staff from these agencies voluntarily came together and worked for about three years to develop consensus on a regional vision and strategy that would provide a framework for collaboration to optimize resources and leverage funding proposals, and to gather information to provide a larger context for the numerous and varied natural resource projects in the area. He noted that there were a surprising number of common themes from participants which were so different in location, program focus, size, and other characteristics.

The Alliance has published its Regional Conservation Strategy for the Greater Portland-Vancouver Region and a companion document, Biodiversity Guide for the Greater Portland-Vancouver Region. A third document, an Executive Summary of the strategy, is also available and color copies of it were included in the pre-meeting mailing to Commission members. These publications, as well as detailed GIS habitat maps and some viewing tools, are available on the website, www.theintertwine.org/conservation.

Mr. Hunter said the Conservation Strategy and the Biodiversity Guide each represent the first time that applicable existing information and plans from diverse agencies have been compiled into a single integrated document. In addition, the GIS habitat maps bring together a broad range of information in greater detail than has ever been done, using 5-meter pixels instead of the usual 30-meter pixels.

Mr. Roll said the Conservation Strategy is a technical document and not a regulatory

plan, though it may help guide some agencies in meeting regulations, and is not meant to replace existing agency efforts. Each agency and organization will continue to work on its own, but now with information about how best to focus its efforts, how those efforts fit into the regional picture, and how they might complement the efforts of others for an even greater total impact. Each will use the information in whatever way best applies to their work.

Mr. Hunter described how the Intertwine data could be applied to different types of projects and how Clean Water Services can use the information to help maximize its investment in protecting our water resources by enhancing the surrounding environment.

Mr. Wegener asked if these are tools that might guide policies and decisions on stormwater treatment retrofits and reduction of impervious cover. Mr. Hunter said there are analyses that can be done with the existing data to get at that issue.

Mr. Hunter said any additional questions could be emailed to him at hunter@cleanwaterservices.org .

5. Clean Water Services Permits and Design and Construction Standards

Ms. Curtis, Mr. Kapur, and Mr. Dilts presented information about the current Clean Water Services Design and Construction Standards (D&Cs) and how they relate to the District's NPDES (National Pollutant Discharge Elimination System) permit, as context for future issues that may arise as the D&Cs update process continues ***(presentation attached)***.

The major federal legislation that has shaped today's regulations includes the Clean Water Act and amendments in 1972 and 1977, and the Water Quality Act of 1987. There was broad public support for the original Clean Water Act; Congress overrode a Presidential veto to enact it. Originally aimed at using NPDES permits and technology-based limits to address industrial pollutants and municipal effluent discharges, water quality regulations evolved to address municipal stormwater and construction-related runoff, set TMDLs (total maximum daily loads) for point sources (discharges) and nonpoint sources, and to include land-use based solutions such as ag/forestry/construction practices and riparian buffers, and the use of water quality trading programs.

The NPDES permit for sanitary sewer discharges and municipal stormwater discharges and the TMDLs stem from different provisions of the Clean Water Act and are addressed through different sections of the CFR (Code of Federal Regulations) and OARs (Oregon Administrative Rules) but all are implemented through local ordinances or standards. Setting rates and charges is part of local implementation, as is establishing D&Cs. The D&Cs carry out the parts of the NPDES and TMDL regulations which apply to development and redevelopment. The D&Cs have focused on runoff from construction projects, post-construction runoff from developed areas, and riparian buffers (vegetation alongside streams). Some of the existing D&Cs are more stringent than required, but the upcoming NPDES permit renewal will make some of those mandatory, will expand other existing requirements, and will require a few new ones.

The NPDES permit renewal was a factor in undertaking the current D&Cs update, but not the only driver. The D&Cs are also influenced by other legislation such as the Federal ESA (Endangered Species Act) and by regulations, policies, or procedures of other agencies with interests in the Tualatin River basin, such as DSL (Oregon Department of State Lands), ODFW (Oregon Department of Fish and Wildlife), or COE (US Army Corps of Engineers). At the request of partner cities in the 1990s, Clean Water Services led a coordinated effort to revise the for D&Cs to provide an efficient and consistent response to federal fish habitat protection rules and state land use planning goals. Although these requirements apply only to the cities and not to the District, the subject matter—protection of sensitive areas and use of Best Management Practices—is consistent with the District's goals. Since all of the cities are required to follow the District's D&Cs, coordinating a single set of revisions to the D&C to address the ESA and land use rules eliminated the need for each city to go through individual program development and review processes . Because the D&Cs are driven by multiple requirements, there is not necessarily a direct line from an item in the NPDES permit or the TMDL to an item in the D&Cs. For example, erosion control requirements in the Clean Water Services D&Cs come from its role as agent for the DEQ (Oregon Department of Environmental Quality) 1200-C Program as well as from its NPDES permit.

As Ms. Curtis summed up, the D&Cs are a multi-objective document that is part of a multi-objective program; they are just one element of the total Clean Water Services compliance package.

Mr. Reische reviewed key concepts and definitions in the current D&Cs, including vegetated corridors (VCs, often called buffers), water quality sensitive areas (wetlands, streams, etc.) enhancement, encroachment, and mitigation. These terms have been mentioned during previous presentations to the Commission about the D&Cs update process, and will continue to come up as certain issues need further discussion. Mr. Reische explained that the TMDLs mentioned earlier apply to water quality sensitive areas, and the VCs are designed to help protect those areas from pollutants. The terms enhancement, encroachment, and mitigation are also used by DSL and COE as they regulate wetlands, but have different meanings as they apply to vegetated corridors in the D&Cs.

Mr. Reische provided examples of how these terms are used in the D&Cs. Every *water quality sensitive area* must be bordered by a *VC* (requirements for VC widths vary). When development occurs on a parcel that includes a water quality sensitive area, the applicable VC area must be *enhanced* (brought up to good condition as specified in the D&Cs) no matter where on the parcel the development takes place or whether there are encroachments into the VC. *Encroachment* occurs when part(s) of the development is in the VC area. The encroachment(s) must be offset by *mitigation* areas, which also must be enhanced to good condition. A minor encroachment typically affects 20% or less of the VC. More than that requires a tiered alternatives analysis, including documentation that the encroachment is unavoidable and that it is as minimal as possible. There are also

allowed uses, such as a road or trail project, which are not subject to an alternatives analysis as long as the projects stay within the described parameters for that type of project; however mitigation for encroachment is still required . The VC mitigation can be done by the developer on the development site or at a different approved location, or with approval, the developer can pay a fee that goes into a fund used by Clean Water Services to establish or enhance VCs elsewhere in the service district. Finally, Mr. Reische described the Service Provider Letter (SPL), which is issued by Clean Water Services after an environmental review and becomes part of the land use application required for development. Any VC and mitigation requirements become conditions of the approved land use application. Following land use approval, Clean Water Services reviews the engineering plans to be sure they comply with D&Cs for storm and sanitary sewer systems and erosion control as well as to ensure the plans include the VC and are consistent with the conditions ofthe SPL.

Mr. Reische repeated an earlier clarification from Mr. Linder that Clean Water Services is not a land use agency, but the environmental review and resulting SPL inform the land use process. Clean Water Services regulations are not in place because of land use regulations, but the city or county or other applicable land use authority will require that Clean Water Services regulations be addressed before approving a land use application.

Ms. Hennings asked if a bridge be put in without mitigation, as road projects are an allowed use. Mr. Reische clarified that an allowed use is one that is accepted without an alternatives analysis as long as it stays within certain parameters, which include requirements for mitigation. Only a few specific projects are exempt from mitigation requirements, such as a trail of 3 feet or less in width, or utilities manhole.

6. Announcements

Mr. Jockers noted a Budget Committee hearing will be held May 3. A 3% increase is proposed for sewer rates, and a $0.50 increase is proposed for stormwater management. Clean Water Services will be working with member cities on outreach related to rates. Ratepayers will get a $3 coupon good toward purchase of the new plant food product introduced earlier in the meeting.

Mr. Jockers also said Clean Water Services along with Washington County is launching a "Join the Conversation" program through joinwestsidevoices.org. It is similar to Metro's "opt-in" program and will engage west side residents/customers with questions related to Clean Water Services, urbanization, county issues, land use issues, etc. This approach is less expensive than phone surveys and allows many more people to be involved which will increase the scientific validity of the results.

Mr. DeHarpport said his understanding is that many people in the Metro "opt-in" program are employees of Metro or other public agencies and asked if there is a way to verify that Clean Water Services participants actually represent a good cross-section representation of the population in the service area. Mr. Jockers said census data is used to compare participant data to demographic data. Data can be sorted for participant location, gender, income, education, and political affiliation but he is not sure about type

of employment or employer. He added that the Metro participant pool is about 19,000 now.

Mr. Jockers asked Commission members to think about any conflicts with changing the meeting to the second or fourth Wednesday of each month from the current third Wednesday. He will contact everyone for input.

The next meeting is scheduled for May 15, 2013.

Dave Waffle mentioned that Bob Baumgartner, Clean Water Services Regulatory Affairs Division Manager, will be sharing FOG (Fats, Oils, and Grease) information at the next county managers' meeting.

7. Adjournment

Mr. Weller adjourned the meeting at 8:41 PM.

(Meeting notes prepared by Sue Baumgartner)