

# **Clean Water Services**

## **Clean Water Advisory Commission Meeting Notes**

**April 9, 2014**

### **Attendance**

The meeting was attended by Commission Chair Tony Weller (Builder/Developer), Vice Chair Mike McKillip (District 3-Rogers), and Commission members Molly Brown (District 2-Malinowski), Alan DeHarport (Builder/Developer), Lori Hennings (Environmental), John Jackson (Agriculture), John Kuiper (Business), Art Larrance (At-Large-Duyck), Stephanie Shanley (Business), Cathy Stanton (District 1-Schouten), Richard Vial (District 4-Terry), and Clean Water Services District General Manager Bill Gaffi.

Commission members Erin Holmes (Environmental), Judy Olsen (Agriculture), and David Waffle (Cities) did not attend.

The meeting was also attended by Tualatin Riverkeepers representatives John Driscoll, Sue Marshall, Brian Wegener, and Paul Whitney.

Clean Water Services staff attending included Mark Jockers (Government and Public Affairs Manager), Jerry Linder (General Counsel), Carrie Pak (Engineering Division Manager), Damon Reische (Development Services Manager), Diane Taniguchi-Dennis (Deputy General Manager), and Dr. Ken Williamson (Regulatory Affairs Department Director).

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

Mr. Weller called the meeting to order at 6:37 PM in the conference room at the Clean Water Services Administration Building.

### **2. Review of March 12, 2014 Meeting Notes**

There were no comments on the Meeting Notes from March 12, 2014.

### **3. Clean Water Services Integrated Municipal Watershed-Based Permit**

#### **Part 2: How Stormwater is Regulated and Managed**

Dr. Williamson and Ms. Pak presented background information (*presentation attached*) on regulation and management of nonpoint pollution sources and stormwater under the Federal Clean Water Act (CWA). This is the second of three informational presentations about point and nonpoint source regulation and management and the integrated, watershed-based NPDES (National Pollutant Discharge Elimination System) permit held by Clean Water Services.

Dr. Williamson's comments included:

1. Since the original CWA and subsequent legislation was implemented, the share of pollution from point sources has been reduced and nonpoint sources have gotten more attention as they now account for about 70% of pollution issues.
2. Urban stormwater is defined as a point source but is regulated by an MS4 (Municipal Separate Storm Sewer System) permit which requires a multi-faceted SWMP (Stormwater Management Plan). The SWMP and the regulations for nonpoint sources are based on BMPs (best management practices) to reduce pollutants “to the maximum extent practicable,” rather than the numeric limits seen for (non-stormwater) point sources under the NPDES permit.
3. Other regulations, such as the ESA (Federal Endangered Species Act) and Metro Title 3 and Goal 5 are inter-connected with the watershed-based NPDES permit conditions, including the MS4. Responses to these diverse and sometimes conflicting requirements are brought together in The Healthy Streams Plan.
4. The MS4 permit also requires hydromodification (MS4 discharge-related impacts on natural water movement/flow changes in the flow regime of a stream resulting from storm runoff) assessments and a retrofit strategy (a plan for providing treatment in areas that were developed before stormwater regulation began in 1990).
5. About 26 percent of the total developed area in Washington County has stormwater treatment facilities.

Ms. Pak outlined how Clean Water Services addresses each aspect of its SWMP requirements. The emphasis is on prevention, but enforcement can also be used. She noted that Clean Water Services tries to use a combination of tools that are the right fit for the Tualatin watershed.

Ms. Pak also described the Design and Construction Standards (D&Cs), which have been modified over the years to meet NPDES/MS4 permit requirements and other regulations and to support efficient operation of the storm and sanitary sewer infrastructure. The D&Cs outline acceptable stormwater management approaches and options for all public infrastructures. Developments are presumed to be in compliance with stormwater treatment requirements as long as the Design & Construction Standards (D&Cs) are met.

Clean Water Services began a D&Cs update process about a year ago. Staff has begun writing some of the proposed revisions but is still awaiting the NPDES permit renewal as some aspects of it will affect the D&Cs. Depending on when the permit renewal approval is final, a draft of the updated D&Cs will likely be out in 6-9 months. Then there will be public involvement and stakeholder engagement opportunities before the update is actually approved and implemented.

Questions and comments from Commission members are attached in Appendix A.

Comments from the public are attached in Appendix B.

**4. Announcements**

The annual Tualatin Riverkeepers Green Heron Gala will be May 3 at Tualatin Country Club and all are welcome. Mr. Driscoll will be honored with the Green Heron Award. Information/tickets available online.

All are invited to the celebration at Fernhill Wetlands May 1, 12-1 followed by tours of the filter media pilot project and high-purity water pilot projects (discussed at the March meeting).

The Clean Water Services Budget Committee will meet Friday, May 9.

The next CWAC meeting will be Wednesday, May 14.

**5. Adjournment**

Mr. Weller declared the meeting adjourned at 8:21 PM.

*(Meeting notes prepared by Sue Baumgartner)*

## **Appendix A**

### **Clean Water Services Advisory Commission Meeting Notes**

#### **April 9, 2014**

Questions and Comments from Commission members and Clean Water Services staff throughout the meeting included:

1. Who is responsible for runoff from highways and other roads?
  - a. ODOT (Oregon Department of Transportation) has its own stormwater permit and manages the runoff from state highways. Runoff from county roads is managed by Clean Water Services.
2. What about runoff from rock quarries?
  - a. They are regulated under the state's 1200A program. DOGAMI (Oregon Department of Geology and Mineral Industries) is the agent for that program.
3. Is the soil from bioswales and other water quality treatment facilities ever tested?
  - a. The sediments that are cleaned out of these facilities every 10-15 years are taken to a landfill. The material has not been tested, but Clean Water Services is working with DEQ to see if it could be classified for beneficial uses such as a daily cover for landfills or for landscaping purposes.
4. There are some apartments in Sherwood that put in "green streets" for stormwater treatment—they look really nice and they functioned perfectly during a recent heavy rain.
5. Are there liability/ADA/other safety concerns related to the boulders and planter structures used in green streets, i.e., Burnham Street in Tigard?
  - a. The boulders are secured so they cannot be easily moved or used to vandalize property, but this is a good point regarding other issues.
6. What's an example of a change in the standards driven by the hydromodification requirement?
  - a. Standard would be more stringent; detention requirements—holding the water longer before it goes into the stream; an extreme might be saying that the effects of a post-development storm event must be reduced to what the pre-development effects would have been; storm precipitation might be measured in quarter-hour increments instead of hourly. Now we look at it in terms of how much water is generated; we might look instead at what the system can handle.
7. What is the benefit to continuing to raise/tighten stormwater standards for the small proportion of new development when almost ¾ of the total developed area in the county still doesn't have any stormwater treatment at all—why not retrofit

the larger proportion to a lower standard rather than driving the standard higher and higher for a smaller and smaller piece of the total development?

- a. That is the challenge—how to have reasonable standards to ensure that new development does not worsen the situation but still come up with a retrofit strategy that will uplift the entire basin.
8. Where redevelopment is going on, will stormwater retrofit requirements be like electrical work—any change requires the entire property to be brought up to current code? What would trigger stormwater retrofit requirements?
  - a. We don't know yet--everything is on the table. The D&Cs outline what activity triggers which requirement. These issues have been brought up by others, too—and we will consider them.
9. What is driving the new requirement for hydromodification assessment?
  - a. As the flow regime of a stream is changed—even if it's the same amount of water, it's going through in a different way—there is more bank undermining and erosion, more incising, more culvert stepping which creates fish passage issues, more sediment, and disconnection from the floodplain. All these things happen in nature anyway, but they are magnified by human activities.
10. Has there been anything more from the soils study a few years ago that looked at some of these issues in the watershed?
  - a. Yes, Clean Water Services continues to work with Dr. Andrew Simon, who was with the USDA but now works for a consulting firm, and has been looking at hydromodification based on stream capacity—can the stream be enhanced and made more resilient to additional flows or changing flow regime, rather than just detaining the water for a while.
11. It makes no sense to have the same detention levels throughout the basin—it is more critical upstream. When you have a large, long basin it takes some time for those flows to get to the lower parts of the stream. For example, in the 1996 flood, Tualatin's downtown was at peak flood three days after the peak rainfall while upstream at that time Fanno Creek was already back to its usual flow.
  - a. Clean Water Services is piloting the use of weather-dependent actuators, which would automatically open or close gates to release or hold water at detention facilities based on signals generated by computer models linked to a weather forecasting service and flow gauges.
12. Are we assured that the money spent on stormwater treatment retrofitting will actually produce some environmental benefits?
  - a. We will need a decision-making matrix showing the various options or levels of treatment, and the cost for each along with the expected relative benefits for water quality, stream health, habitat, fish populations, and more—not just water chemistry. The industry tends to look at each aspect or benefit separately but we need a plan that brings them all together.

## **Appendix B**

### **Clean Water Services Advisory Commission Meeting Notes**

#### **April 9, 2014**

Comments from members of the public during the meeting included:

1. Mr. Wegener noted that as we talk about integrated planning and where we urbanize, it would be good to tie in this stormwater permitting and these ecological services we are trying to protect with our land use planning. During the development of the last TMDLs, Metro was designated as the agency for land use planning. Mr. Wegener said the challenges at North Bethany, River Terrace, and Cooper Mountain are bigger than they would have been if land use planning had been taken into account.
2. Mr. Wegener questioned the need to wait for the NPDES permit renewal before completing the D&Cs update. His understanding from DEQ staff is that the MS4 portion of the permit will be the same as what was issued to other large jurisdictions a couple of years ago, so the permit conditions are already known and in the meantime opportunities are being missed to do things better as development begins to pick up.
3. Mr. Whitney described two severe erosion sites, one at the base of Bull Mountain and the other in the Hillshire neighborhood. He said peak flows in the stream on the Bull Mountain property increased more than 30 percent after upstream development occurred. Mr. Whitney said the “Best Management Practices” in the D&Cs were not adequate and that the response from Clean Water Services staff was unsatisfactory when contacted about these sites. Mr. Whitney gave Mr. Gaffi some printed information about stormwater planning and decision-making processes used in western Washington
4. Ms. Marshall said Tualatin Riverkeepers would be looking for accountability in meeting the TMDL wasteload allocations in the new NPDES permit and that BMPs for stormwater should be aimed toward that, in keeping with the results of a DEQ stormwater committee in which she participated several years ago.