

**CLARK COUNTY
CLEAN WATER COMMISSION**

Meeting Notes

Wednesday, December 5, 2007

6:30 – 8:30 P.M.

Public Works Operations Conference Room B-1
4700 NE 78th Street, Vancouver

Call to Order

Members Present

Don Moe, Bill Owen, Virginia van Breemen, Art Stubbs, Patty Page

Members Absent

Ron Wilson, Tim Crawford, Susan Rasmussen, Bob Even

Clark County Staff

Earl Rowell, Trista Kobluskie, Chad Hoxeng, Tim Kraft, Robin Krause, Jeff Schnabel

Public & Guests

Dan Vizzini, Thom McConathy, Greg Winters

A quorum was achieved.

Agenda and Material Review

1. Agenda
2. Notes from November 7, 2007 meeting
3. "Alliance gears up to restore Salmon Creek" Nov. 11 article from *The Columbian*
4. Notes from the November 15, 2007 open house
5. Letter from Mr. Owen to BOCC in support of the Public Health application for Community Development Block Grant funds
6. News release announcing application period for Clean Water Commission
- 7a-c. Materials relating to research on incentives and grants
8. Personal e-mail from Mr. Owen regarding planning agreement with Vancouver
9. Clean Water Program Budget as of October 31, 2007
10. Clean Water Commission 2007 Schedule of Activities

Approval

The November 7, 2007 notes were amended to correct names on three quotes. Ms. Page appreciates going on record on how to approach the public on fee increases. Mr. Stubbs agreed. The notes were approved as amended

Communications with the Public

Work Session with Board of County Commissioners

Mr. Rowell and Mr. Krause reviewed the first work session with the BOCC to discuss the code update. Mr. Krause reviewed the general process and tried to introduce some of the issues from SAC and TAC to the Commissioners, including the idea of finding incentives to help with



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financial impacts of new regulations on infill and redevelopment. Commissioners stated that they are not willing to adopt a code in which pre-European settlement condition is the existing condition for flow control. Commissioners directed staff to come up with alternatives. Commissioners asked staff to present examples of agricultural development under new regulations, and infill with low impact development compared to Ecology's 2005 Stormwater Management Manual for Western Washington.

Mr. Moe asked if Commissioners eschew pre-European for all development or only redevelopment? Mr. Krause: all development. Mr. Owen asked what are the consequences. Mr. Krause: the county would be non-compliant with its NPDES Permit and open to 3rd party lawsuit. Mr. Rowell relayed the Deputy Prosecuting Attorney's opinion, which is that the county will be out of compliance. He does not know how likely we would be to incur fines and penalties. The county will not be protected from 3rd party lawsuits under the Clean Water Act.

Ms. Page asked if staff feels that the pre-European condition is reasonable for protecting the environment. Mr. Krause: Ecology spent time and did studies to come up with the standard in the absence of more precise watershed-level data to prevent further degradation. For a customized standard, it requires a study of our own watersheds to a more precise level. Ms. Page asked if Clark County will take that approach. Mr. Krause: We need direction from the Board's Office. The challenge is what scientific data can we provide to show that a different standard can be applied county-wide. The existing basin studies are not to a sufficient geo-morphological level, but they have showed that streams have continued to degrade using the current methodology of looking back 30 years for pre-existing condition. He clarified that pre-European settlement is equivalent to a forested condition in Clark County.

Mr. McConathy noted that Ecology arrived at the standard more than one year ago, and public debates were held on it.

Mr. Moe asked if the other Phase I permittees have adopted the standard or done basin studies. Mr. Krause: the few completed basin studies have indicated more stringent flow control standards. There is some push back by the development community in Pierce County. Indications are that King County either falls under the 40% rule or the sites are currently forested today. Portions of Seattle and Tacoma fall under the 40% rule. Also, King County has already been developing with a duration standard for many years.

Mr. Stubbs understood the reluctance of the development community to adopt stricter standards. He asked: since the SAC has been unanimous in all the decisions and reached consensus on every issue, where did the Commissioners get these ideas? How much information did they get directly from the development community, bypassing the Stakeholder group? Mr. Krause countered that at least three SAC members do not support the forested condition. The Development Engineering Advisory Board (DEAB) also does not support the forested condition. TAC did not tackle the issue, though a lot of science backs up the forested condition as a starting point. TAC agrees it will make a significant impact in pond size.

The next work session is on December 19, 2007 at 9:30 a.m. at the Public Service Center. The next SAC meeting is on December 18, 2007 at 6:00 p.m.

Mr. Owen asked the group to consider giving its opinion to the BOCC.

Mr. Winters asked if the county appealed the existing condition rule. Mr. Krause: no.

Open House

Mr. Rowell asked the group to read the notes from the November 15 open house and discuss at the next meeting.

Newspaper Articles

Articles about the stormwater code update have appeared in *The Columbian* and in *The Vancouver Business Journal*.

Block Grant

Mr. Owen wrote a letter to BOCC supporting Public Health application for a Block Grant to provide no-interest loans for septic system repairs.

Public Comment

Mr. McConathy requested that the Clean Water Commission invite Code Enforcement to another meeting to ask staff specifically about certain projects that have received unsatisfactory attention after he has complained. He claimed that major projects in Hazel Dell have no erosion control in place and no BMPs on the site. Mr. Rowell asked for a list of the sites.

Mr. McConathy requested that the Commission ask staff to prepare a report showing which areas flood. He advised against locating facilities in flood-prone areas. Mr. Owen asked if there are design standards for treatment facilities in a floodplain. Mr. Krause: a water quality facility cannot be flooded during a water quality storm – 67% of the 2-year storm. The recent storm was probably a 10 to 15 year storm. Mr. McConathy argued that they're not to be located within natural drainage-ways. Mr. Krause argued that that may or may not include the floodway. Mr. Owen: SCIPIT will reconvene next year and keep Mr. McConathy's thoughts in mind.

New Business

Clean River Rewards

Mr. Vizzini works for the City of Portland, Bureau of Environmental Services. He helped establish the Clean River Rewards, a discount program for those who manage stormwater on-site.

Commissioners listed some questions for Mr. Vizzini to focus his presentation around. Ms. Page: how are does Clark County differ from Portland? Mr. Stubbs asked if Portland's program was developed with an incentive program in mind, thus rates were set to allow for it. Mr. McConathy: how effective are incentives? Mr. Moe: how much of the incentives are based on reducing flow to the Combined Sewer Overflow (CSO)? Mr. Owen: who decided that there was an equity problem with original rate structure?

The biggest difference between Portland and Clark County is that Portland has been managing stormwater drainage far longer. Mud and river quality have been issues for 100 years. The stormwater utility was formed in 1977, earlier than most urban areas in the country. Clark County is predominantly suburban, exurban and rural, so drainage issues have come to the fore primarily because of federal regulations rather than local conditions.

Portland has a long history of community environmentalism. In the modern era, this has been shown in the form of litigation. Portland government makes changes over time in response to

negative stimuli such as citizens lawsuits, courts, etc. Clark County may be moving in this direction.

Portland's geography has resulted in several different stormwater management systems, including CSO, sumps & drywells, and conveyance using natural stream systems. There are different levels of and sources of regulation on each type.

The original rate structure was based on building footprint/impervious area. Residential properties were given a class average impervious area. In 1977, the rate was 70 cents/month; now it \$17.33/month. The rate has increased at an annual growth of 11% /year since 1977. A bill that is growing incrementally over time (even steeply) goes over much better than a huge increase.

In the late 1980s Portland began talking about discounts. Industrial and large commercial property owners questioned paying the bill after they had to deal with runoff on-site. If I have less impact on the utility, why don't I pay less? In 1992 city council adopted a 34% discount if on-site facilities met the requirements. The discount was paid for within the rate structure. Within months, tax court ruled that stormwater charges were a tax if there were not controllable. The city then instituted discount program that any ratepayer could qualify for and allowed ratepayers to avoid the charge entirely. It provided a very liberal discount based on percentage of impervious area that controlled the property. It was not linked to variable cost to provide service or to the fact that runoff from roads is a big part of it. In 1995, the Supreme Court overturned the tax court. City council immediately eliminated discount for everybody, but phased it out over 2 years. This created inequity between neighbors and popular unrest.

The rate structure had two basic flaws.

1. It did not recognize how much of the utility has to cover street drainage; many costs incurred in public ROW. Users not paying for it.
2. It did not foresee expansion of regulation that would drive private property owners to do so much to control stormwater.

He concluded that a rate structure must be linked to science.....and use trip generation charges, gas taxes, etc., for street drainage.

He noted that the discount does not appear to be enough of an incentive for ratepayers to install costly new systems. Disconnecting downspouts has good payback, but commercial sites would need to spend several thousand on improvements, which would be paid back by the discount over a long period, like 20 years. Out of 170,000 ratepayers, the city estimates that 110,000 have stormwater facilities that would qualify for a discount, but only 32,000 signed up in the first year.

The discount deals with the public perception of fairness.

The discount is not tied to the CSO. There is a uniform rate citywide for the CSO.

Public outcry moved city council to correct the equity perception problem.

He talked about finding creative incentives to get property owners to do the right thing; programmatic, grants, non-profits. Ways to get private stormwater management done without rate issues.

Rate structures must be well-grounded, fair and legally sound. There needs to be direct relationship between what you pay and what you do.

Mr. Vizzini stressed the importance of managing stormwater on private property in fast-growing areas. Portland abandoned ponds in the 1980s in favor of stormwater built into the design of the development. We're finding in Portland, they become almost invisible – they're not the facility, they're the garden.

Mr. Owen asked which are the most cost-effective programmatic incentives. Mr. Vizzini had several ideas:

- In most cases, rate adjustments. Most are strict and difficult to get, but then you get a big break. In Clackamas County, if you control the 100-year storm, they give you a huge break. Our downspout disconnection program took over 1 billion gallons out of the system by paying owners \$58 or paying a non-profit \$13 to do the work for you. It costs a lot less than pipe over-sizing would have.
- Targeted incentives. Washington County is thinking of distributing car wash coupons to minimize detergents in streams. It is cheap and reduces the cost of meeting the county's NPDES permit.
- Social marketing. Figure out ways to animate the market. Portland connected 50,000 homes on the east side to sewer. It could not have been done without enticing folks to become sewer connection contractors. Link self-interest in community with public interest. Help reduce cost of compliance and increase public education. Figure out the carrots.

Mr. Stubbs asked how Portland affords the Clean River Rewards. It reduces the utility's budget. Mr. Vizzini: the rate increased 23% in the first year of the program (06-07) in order to offset the discounts. There was no public outcry.

Mr. McConathy asked if roads pay for street sweeping. Mr. Vizzini: no, ratepayers finance street sweeping. All of the costs that used to be borne by the gas tax, such as street sweeping, catch basin cleaning, and trash rack cleaning, are financed by the stormwater utility.

Volunteer Monitoring Presentation

Mr. Hoxeng presented information about water quality monitoring by volunteers. The volunteer monitoring program has been reconfigured to provide data for ongoing county monitoring projects. Monitors help describe stream and lake conditions, identify water quality problem areas, and organize restoration projects. Their data will be used for Stormwater Needs Assessment Program (SNAP) work, hydrology monitoring, and short-term focused assessments to help meet NPDES Permit requirements.

In 2008, volunteers will gather data in the following watersheds: Salmon Creek, Cougar Creek, Gee Creek, Morgan Creek, Vancouver Lake, and Lacamas Lake.

Volunteers collect data on a variety of parameters, including chemical (e.g. pH, turbidity), biological (bacteria, aquatic bugs), and physical (stream flow, canopy closure). Some parameters are collected in response to TMDLs on those streams.

Data shows that the Monitoring Resource Center, which lends monitoring equipment to volunteers and community groups, has been used with increasing frequency over the years. In 2007, equipment has been checked out 107 times, and 33 volunteer groups are active in the program. Staff hopes the number continue to improve, and plan to make equipment check-outs easier by creating "mobile monitoring kits", which would include all the equipment and materials needed in a convenient kit. This should help reduce staff overhead/support time while increase ease and efficiency for volunteers.

Mr. McConathy asked how much magnification the volunteers give staff time. Mr. Hoxeng replied that volunteers monitor stream sites on their own – the Gee Creek volunteers are self-sufficient, for instance. Lake monitoring requires the boat, so staff must lead the group.

Old Business

Stormwater Code Update

Mr. Moe updated the group on the Stakeholder Advisory Committee (SAC). The Committee has discussed exceptions and incentives, though recommendations may change based on today's work session with the BOCC. Some ideas for mitigating the extra cost involved in using the forested condition for flow control were: LID practices, maintenance, and location of stormwater facilities. He complimented Mr. Krause and Mr. Kraft.

Mr. Stubbs said SAC struggles with how to comply with permit while allowing economic growth and development. In the Highway 99 corridor, some of the new regulations would almost prohibit redevelopment. It is a balanced effort; SAC is looking at both sides. He expressed concern about the BOCC's seemingly negative view. He noted that SAC had given everybody an opportunity to express themselves and bring up issues. You want intelligent growth, not dumb growth. He complimented SAC.

Mr. Owen asked if the Commission would like to draft a recommendation to the BOCC in support of the process and noting the various opportunities for public involvement. Mr. Moe would first like to know the BOCC's reasons for deciding to put aside the forested condition.

Ms. Page reminded the group of her wish to find a way to change the terms of the public discourse. Instead of being polarized, find common ground. She noted an absence of discourse on what to do about the environment. Development is going to happen, and we and the developers know that. We also know that we care about the quality of the environment.

Mr. Stubbs: everybody has had a chance to speak through the process. Mr. Moe: some committee members do not agree with forested. I sensed resignation, not approval. Mr. Stubbs: SAC talked about mitigation in specific areas. Mr. Moe: yes, ways to mitigate the difficulty and the expense in areas like Hwy 99.

Ms. Page: the meeting notes show complaints, objections, or concerns without adequate response or conversation. Then the representatives go straight to the BOCC behind closed doors. Mr. Stubbs: those who have objections on specific issues have been asked for a remedy or alternate ideas. If the response is "I just don't like it," the conversation is over.

Mr. Owen suggested that the Commission could:

1. Give direction to Mr. Moe for the next SAC meeting
2. Write a recommendation to BOCC

Mr. Stubbs offered to be more sensitive and listen harder at SAC to try to ferret out unspoken hidden agendas. Mr. Moe suggested waiting until after the December 19 work session to decide on a course of action. The work session will review alternatives to using forested condition.

Mr. Owen encouraged all to attend the Dec. 19th work session.

Nominations

Motion 2007-12-01

Mr. Stubbs moved to nominate Mr. Owen as 2008 Chair. Ms. Van Breemen seconded. All were in favor. Motion passed.

The nomination of vice chair was tabled until the next meeting.

Interlocal Agreement for Joint Growth Management Planning

Mr. Owen wrote an e-mail to the county's Mr. Lowry to request the inclusion of stormwater planning in the agreement. However, the agreement was already accepted by Vancouver City Council on Monday and by Board of Clark County Commissioners on Tuesday.

Adjourn

The meeting adjourned at 8:40 p.m.

Next Meeting

The next meeting of the Clean Water Commission will be held on Wednesday, January 2, 2008 from 6:30 p.m. – 8:30 p.m.. The location is Clark County Public Works Operations Conference Room B-1 at 4700 NE 78th Street, Vancouver.

Respectfully Submitted,
Trista Kobluskie