



## Clackamas County Water Environment Services Governing Board

### Elected Officials Forum

**Date:** June 25, 2018  
**Time:** 6:00 – 7:00 p.m.  
**Location:** Development Services Building, First Level Conference Room 118  
150 Beaver Creek Road, Oregon City

**Facilitator:** Don Krupp

*Water and cookies will be provided.*

### AGENDA

Time	Topic
6:00 p.m.	<b>Welcome</b> <ul style="list-style-type: none"><li>• Chair Jim Bernard</li></ul>
	<b>Oregon Consensus Update</b> <ul style="list-style-type: none"><li>• Scope of Work Assessment</li><li>• Next Steps</li></ul>
	<b>Open Discussions and Future Agenda Items</b>
	<b>Group Discussion on Next Meeting Date</b>
7:00 pm	<b>Adjourn</b>





## Clackamas County Water Environment Services Governing Board

### Elected Officials Forum

**Date:** March 29, 2018  
**Time:** 5:00 – 6:00 p.m.  
**Location:** Water Environment Services, 150 Beaver Creek Road, Oregon City  
 Development Services Building, First Level Conference Rooms 119 / 120

**Facilitator:** Commissioner Ken Humberston

**Elected Officials and Staff:** Commissioner Humberston, Commissioner Savas, Tammy Stempel, Gladstone Mayor, Markley Drake, Happy Valley City Councilor, Dan Holladay, Oregon City Mayor, Frank O'Donnell, Oregon City Commissioner, Vince Ballard, Johnson City Mayor, Russ Axelrod, West Linn Mayor, Shane Abma, Milwaukie City Councilor, Laurel Butman, Deputy County Administrator, Ann Ober Milwaukie City Manager, Greg Geist, WES Director, Chris Storey, Assistant WES Director, Commissioner Fischer, Kevin Moss, County Administration, Lauren Haney, WES, Peter Harkema, Oregon Consensus,

**Also Attending:** Eric Hofeld, John Lewis, Jacque Betz, Diana Helm, Chris Randall, Jim Whyntat

### Notes

Time	Topic
5:00 p.m.	<p><b>Welcome</b></p> <ul style="list-style-type: none"> <li>• Commissioner Ken Humberston welcomed everyone to the meeting and had each person introduce themselves.</li> <li>• Deputy County Administrator Laurel Butman congratulated Oregon City on their Main Street Award</li> </ul>
5:05 pm	<p><b>Oregon Consensus</b></p> <p><b>Chris Storey introduced Peter Harkema with Oregon Consensus</b></p> <ul style="list-style-type: none"> <li>• Mr. Harkema gave an Overview of what Oregon Consensus does and how they can be a neutral party helping local governments and cities</li> <li>• Discussion followed with questions from elected officials about how Oregon Consensus is funded and how much would it cost to do an assessment and how it would be funded</li> <li>• Each city discussed that contributions will have to be taken up by their respected councils for decisions. Markey Drake proposed that WES pay for the initial assessment phase and then the cities could allocate funding for the next phase if needed or reimburse</li> </ul>

	<p>WES for their part of the assessment. Laurel Butman said WES and the BCC can discuss the proposal</p> <ul style="list-style-type: none"> <li>• Next Steps <ul style="list-style-type: none"> <li>○ Request was made by the group to have Oregon Consensus provide a rate schedule and a Skeleton design of what the assessment scope would look like and provide in advance of next scheduled meeting.</li> </ul> </li> </ul>
<b>5:35 pm</b>	<p><b>Elected Officials Forum Structure</b></p> <ul style="list-style-type: none"> <li>• Standing membership <ul style="list-style-type: none"> <li>○ The group clarified the structure of membership that each city shall be represented by their mayor/designee and one other council member and that each Cities manager would be invited but each City would have 1 vote for the committee</li> </ul> </li> </ul>
<b>5:40 pm</b>	<p><b>Right of Way Fees</b></p> <ul style="list-style-type: none"> <li>• Group Discussion on right of ways fees. Oregon City raised their concerns on the fees and how residents are charged. Milwaukie shared concerns about the policies. There was discussion about getting a legal opinion on the issue. Commissioner Humberston asked if there was group consensus for a legal opinion on the Right of Way Fees. The group gave consensus. Commissioner Humberston also mentioned that if any cities have agenda items they should contact Administrator Krupp to have them added to future agendas.</li> </ul>
<b>6:00 pm</b>	<p><b>Next Meeting Date</b></p> <ul style="list-style-type: none"> <li>• Commissioner Humberston announced the next meeting date of April 26<sup>th</sup> at 5pm before the cities dinner. The City Councils expressed concern about the date and time affecting their ability to get to the cities dinners. City Councilors said there was a need for more discussion on next meeting date.</li> </ul>



Gregory L. Geist  
Director

May 17, 2018

Board of County Commissioners as the Governing Body of  
Water Environment Services

Approval of an Intergovernmental Agreement with Portland State University  
Regarding Oregon Consensus

<b>Purpose/Outcomes</b>	Adoption of IGA
<b>Dollar Amount and Fiscal Impact</b>	Up to \$20,000
<b>Funding Source</b>	WES Budget
<b>Duration</b>	Phased work over several months, ending no later than June 30, 2019
<b>Previous Board Action</b>	Discussed at April 10, 2018, Policy Session
<b>Strategic Plan Alignment</b>	1. Build public trust through good government – allow all affected stakeholders to voice their perspective regarding WES governance
<b>Contact Person</b>	Chris Storey, WES Assistant Director
<b>Contract No.</b>	PSU Contract #550066

**BACKGROUND:**

In 2015, there were conversations between Clackamas County Service District No. 1 (“CCSD#1”) and the Tri-City Service District (“TCSD”) about joint investment in solids handling, including pursuant to the “Regional Committee” which was a group consisting mainly of elected officials from both districts, plus one unincorporated resident, with a charter to discuss the appropriateness of joint investments between the then-separate districts. During the course of those conversations some elected officials pushed for a broader conversation regarding governance of the two service districts – with a proposed change that would put city councils, or representatives from them, in charge of each district instead of the Board of County Commissioners. In response, the County noted that the cities were not identifying problems with service but merely a demand for greater control, and expressed concern over the localized management of a regional system, especially with several cities having challenges managing their own retail sewer systems.

Nevertheless, the Board of County Commissioners responded they were open to having the conversation, and proposed utilizing Oregon Consensus, a dispute resolution mechanism supported by the Governor’s office and housed at Portland State University (“PSU”), to facilitate the discussion. The concept was a facilitated conversation in which all parties work together to try and find a mutually agreeable solution. This is a mediation process with no requirement to act on the results other than persuasion. The participants were to be representatives of all affected stakeholders, especially ratepayers, and including the business and development community and environmental advocates. At least some of the cities refused to agree to Oregon Consensus at that time. Work continued and eventually the Regional Committee agreed to a joint effort on solids handling, a recommendation that was incorporated into the foundational document creating the Water Environment Services (“WES”) partnership.

The formation of WES in November 2016, answered definitively at least part of the governance conversation that was raised in 2015. There was at that time a strong suggestion from both Gladstone and Oregon City representatives that TCSD would be better off not working with CCSD1, despite staff and consultant reports to the contrary. The BCC concluded that all ratepayers would benefit from a regional approach to such an economies of scale business as wastewater and surface water, and directed the formation of WES and the combination of all three service districts' business dealing with those issues into the single entity of WES. That combination is scheduled to be fully implemented as of July 1, 2018.

Since that time, representatives from various cities have raised the issue twice more. Each time, the Board indicated its willingness to have that conversation with all interested stakeholders participating, again proposing Oregon Consensus as a facilitator. Those offers were not accepted. At the Elected Officials Forum in February 2018, the issue of "governance" was raised. After Administrator Krupp noted the BCC's continued openness to the conversation with outside facilitation, those cities present (Happy Valley, Johnson City, Oregon City, and West Linn) agreed to utilize the Oregon Consensus process. This was affirmed at the March Elected Officials Forum by a broader group including Milwaukie and Gladstone.

The WES Advisory Committee was also briefed on the prospect of a governance discussion facilitated by the Oregon Consensus with reference materials, and by the Director of Oregon Consensus who graciously agreed to attend both meetings. As noted in the letter from the BCC addressing these issues sent on March 13, the BCC is desirous that all interested stakeholders have a voice in these ongoing discussions.

At the April 10, 2018, policy session with the Board, WES staff received direction to pursue obtaining an intergovernmental agreement with PSU for the services of Oregon Consensus. Under the direction given, WES will pay the initial cost of the Oregon Consensus work, estimated to be no more than twenty thousand dollars for the assessment phase, with the possibility of city reimbursement of some of the costs, and sharing in the ongoing costs with the cities if there is agreement to proceed beyond the assessment phase.

The initial work consists of an assessment, in which Oregon Consensus representative(s) engage in individual interviews with stakeholder representatives to ascertain the nature of the issue, determine if facilitated mediation could bring about progress towards a resolution, and if so the nature of that facilitated conversation.

The scope developed for the attached proposed IGA with PSU for Oregon Consensus efforts call for 25 interviews as part of the assessment phase, of which 20 will be pre-identified and the remainder will be identified by Oregon Consensus through the interview process. The intent of the interviews is to solicit the perspectives of those affected by a potential decision. Once completed, the information gathered as part of the assessment would be reported out to the stakeholders in a general sense either via oral report or, as staff recommends, via a written report that would be made available to all participants.

Steps to be taken after the assessment would be dependent upon the report provided by Oregon Consensus and the willingness of the parties to continue in the process.

**RECOMMENDATION:**

Staff respectfully recommends that the BCC, as the governing body of WES, approve the attached intergovernmental agreement with PSU for Oregon Consensus to perform the assessment phase of proposed work with respect to WES governance issues.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Greg Geist".

Greg Geist  
Water Environment Services Director

**Intergovernmental Agreement between  
Portland State University and  
Water Environment Services  
PSU Contract # [550066]**

This Agreement is between Portland State University and its Oregon Consensus Program (PSU/OC) and Water Environment Services, a municipal partnership (WES), individually a "Party" and collectively the "Parties", as referred to herein.

**I. TERM**

This agreement shall become effective on May 1, 2018 and shall expire on June 30, 2019. This Agreement may be amended by mutual written consent signed by both Parties.

**II. STATEMENT OF WORK**

Oregon Consensus will provide assessment services as specified in the attached Exhibit A – Scope of Work.

**III. CONSIDERATION**

WES agrees to pay PSU/OC an amount not to exceed Twenty Thousand and no/100 Dollars (\$20,000.00) payable within thirty (30) days of submission of invoices.

PSU/OC shall send invoices to:

Water Environment Services  
Attn: Chris Storey, Assistant Director  
150 Beaver Creek Road, 4<sup>th</sup> Floor  
Oregon City, OR 97045

**IV. WRITTEN NOTICE**

All notices regarding this agreement shall be sent to the parties at the following addresses:

To PSU:

Portland State University – Oregon Consensus  
Attn: Savannah Harris  
PO Box 751  
Portland, OR 97207-0751  
Phone: 503-725-9071  
Email: [NPCCFINC@pdx.edu](mailto:NPCCFINC@pdx.edu)

With Copy to:

Portland State University  
Attn: Contract Officer  
Contracting and Procurement Services  
PO Box 751 (FAST-CAPS)



Portland, OR 97207-0751  
Phone: 503-725-3441  
Email: [contract@pdx.edu](mailto:contract@pdx.edu)

To WES:

Water Environment Services  
Attn: Chris Storey, Assistant Director  
150 Beavercreek Road, 4<sup>th</sup> Floor  
Oregon City, OR 97045  
Phone: 503 742 4543  
Email: [chrissto@clackamas.us](mailto:chrissto@clackamas.us)

With Copy to:

Office of County Counsel  
Attn: Amanda Keller  
2051 Kaen Road, 2<sup>nd</sup> Floor  
Oregon City, OR 97045

**V. INDEMNITY/HOLD HARMLESS**

To the extent permitted by Oregon Law (ORS 30.260 through 30.300), PSU/OC shall be responsible for the acts, omissions or negligence of its own officers, employees or agents.

**VI. AMENDMENTS**

The terms of this Agreement may only be modified, supplemented, or amended by written agreement signed by all parties.

**VII. INDEPENDENT CONTRACTOR**

The parties acknowledge and agree that PSU/OC and WES are acting as an independent contractor under this Agreement.

**VIII. FORCE MAJEURE**

Neither party shall be held responsible for delay or default caused by fire, riot, acts of God and war which are beyond its reasonable control. The affected Party shall, however, make all reasonable efforts to remove or eliminate such a cause or delay or default and shall upon cessation of this cause, diligently pursue performance of its obligations under this Agreement.

**IX. COMPLIANCE WITH APPLICABLE LAW**

Both Parties shall comply with all federal, state, and local laws, codes, regulations and ordinances applicable to the work done under this Agreement. Both Parties shall comply with the Americans with Disabilities Act of 1990 (Public Law No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659.425, and all regulations and administrative rules established pursuant to the laws.

**X. SERVABILITY**

If any section, paragraph, subparagraph or any sentence within any of the foregoing is declared by a court of competent jurisdiction to be void or unenforceable, such sentence, subparagraph, paragraph or section will be deemed severed from all the

remainder of the Agreement and the balance of this Agreement will remain in full force and effect.

**XI. WAIVER**

The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.

**XII. GOVERNING LAW**

This Agreement is subject to, and is to be governed by, the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

**XIII. COUNTERPARTS**

This Agreement and any subsequent amendments may be executed in several counterparts (including the execution and delivery of facsimile or email signature pages), all of which when taken together shall constitute one agreement binding to all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this agreement or any amendments so executed shall constitute an original.

**IN WITNESS WHEREOF**, the Parties hereto have caused this agreement to be executed by their duly authorized representative effective as of the day and year of the latest date appearing with the signatures.

**PORTLAND STATE UNIVERSITY:**

**Water Environment Services:**



5-9-18

Sr. Contract Officer  
Greg Smith

Date

XXXXXXXXXXXX

Date



## **Exhibit A- Scope of Work**

### **CLACKAMAS COUNTY WASTEWATER TREATMENT GOVERNANCE ASSESSMENT NATIONAL POLICY CONSENSUS CENTER – PORTLAND STATE UNIVERSITY**

In response to a request from the Water Environment Services (WES) of Clackamas County, Oregon Consensus (OC) is providing this scope of work for undertaking an assessment of the potential opportunity for a collaborative agreement-seeking process to address issues related to governance of wastewater infrastructure in Clackamas County.

#### Scope of Work – Assessment

NPCC will conduct a neutral assessment including interviewing of key stakeholders. A collaborative agreement seeking process frequently begins with an assessment to help determine whether conditions are ripe for collaboration and if so, how the process should be designed for the greatest likelihood of success. OC assessment process may include the following:

1. OC would (working with WES and other key stakeholders) develop and articulate the assessment scope, list of interviewees, and interview protocol/questions.
2. OC would conduct up to 25 interviews with relevant stakeholders (of which up to approximately 20 would be identified in advance with the remaining interviewees being identified through the interview process). OC may also conduct other research as needed to inform the assessment process.
3. OC would report back to WES and other stakeholders (in writing or orally, or both – to be determined) regarding the outcomes of the assessment, the likelihood of conducting a successful collaborative agreement seeking process, and, if appropriate, OC recommendations for next steps and/or process design.

#### Cost

The cost for conducting this assessment process as described above will not exceed \$20,000 including labor, travel expense, and other direct and indirect costs.

