

Board of County Commissioners Business Meeting Minutes – APPROVED 04/20/2023

A complete video copy and packet including staff reports of this meeting can be viewed at <https://www.clackamas.us/meetings/bcc/business>.

Thursday, April 13, 2023 – 6:00 PM

In person and via virtual technology (Zoom)

PRESENT: Chair Tootie Smith
Commissioner Mark Shull
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Ben West

CALL TO ORDER

I. PUBLIC HEARINGS

A. Review of 2022 Community Development Programs and Proposed 2023 Action Plan

Deputy Director Denise Swanson and Community Development staff member Mark Sirois made a brief presentation on the 2022 programs and 2023 proposal.

Chair Smith asked about HUD funding applications. Mark Sirois indicated that the application window will reopen in 2024.

Chair Smith asked about the change in contract administration and how the County will handle cost overruns. Mark Sirois explained that the County has a funding agreement with the project partners that indicates how much funding the County will provide, this change is really to make the project partners responsible for contracts and agreements that the County has historically handled on their behalf.

Commissioner Schrader asked if staff were aware of the recent discussions around HUD funding. Staff indicated they were not, Commissioner Schrader offered to contact the National Association of Counties to get more particulars.

Commissioner Savas offered general comments on Community Development and asked what effect the change in contract administration would have on administrative overhead. Staff explained the change would reduce some administrative overhead, but there is still a lot of work to be done. Commissioner Savas asked County Counsel about the legal effects of the change, County Counsel offered that it would depend on the circumstances of the situation, but that in general, this change should reduce liability by removing the County from the administration of the contract.

Chair Smith opened the meeting for public testimony.

Dan Hohn (North Willamette Valley Habitat for Humanity Director) – In support of the proposal

Chair Smith discussed her volunteer work on a Habitat for Humanity project.

Commissioner Schrader asked about the area covered by the North Willamette Valley Habitat for Humanity, Dan Hohn outlined the area of responsibility.

Pat Torson (Molalla) – In support of the proposal and seeking funding for the Molalla Community Center

Rich Truitt (Wilsonville) – In support of the proposal

Chair Smith closed the meeting for public testimony and asked if there was any further discussion. Hearing none, staff were directed to return the final plan for approval at an upcoming business meeting.

Chair Smith recessed as the Board of County Commissioners and convened as the Water Environment Services Board of Directors.

II. WATER ENVIRONMENT SERVICES PUBLIC HEARINGS

A. First Reading of an Ordinance Adopting Rules and Regulations for Water Environment Services

Assistant Director Ron Wierenga briefed the Board on the proposed ordinance and a technical error in the posted materials relating to the delegation of authority to the district administrator.

Chair Smith asked for more information, District Administrator Gary Schmidt explained that the changes were discussed at a recent policy session and that they were related to the fact that certain authorities were delegated to the District Director, but not to the District Administrator, who oversees the District Director.

Director Savas offered his concerns about certain proposals in the technical standards, namely the slope requirements for laterals. Assistant Director Wierenga indicated that those technical standards were not the subject of this ordinance, but staff would be prepared to discuss Director Savas's concerns further. Director Savas asked when those technical standards would be coming before the Board for approval, Assistant Director Wierenga indicated that the technical standards are adopted by the District Director.

Chair Smith opened the meeting for public testimony.

Laura Rost (Milwaukie) – Comments on proposed rules and regulations (attached)

Chair Smith closed the meeting for public testimony and asked if there was any further discussion.

Director Shull asked if the comments made by Laura Rost had been addressed by staff. Assistant Director Wierenga indicated that staff have received similar submissions from Laura Rost during the public participation phase of drafting the ordinance, and that they had been considered in drafting the proposed ordinance.

Director West: "Chair, I move we read the Ordinance by title only." Director Schrader seconded the motion.

Clerk called the poll

Director West Aye

Director Schrader Aye

Director Savas Aye

Director Shull Aye

Chair Smith Aye; motion passes 5-0.

Chair Smith announced that the second reading would be on Thursday, May 4, 2023, at the Board's regularly scheduled business meeting.

Chair Smith adjourned as the Water Environment Services Board of Directors and reconvened as the Board of County Commissioners.

III. CONSENT AGENDA

A. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

B. Health, Housing, & Human Services

1. Approval of a Personal Services Contract with The Mental Health Association of Oregon for Adult Peer Delivered Services. Contract value is \$203,223.66 for 22 months. Funding is through Oregon Health Authority. No County General Funds are involved.
2. Approval of Amendment #8 increasing funding of an Intergovernmental Agreement with the Oregon Health Authority to finance Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services. Amendment value is \$3,000 for six months. Agreement value is increased to \$15,401,689.98 for 1.5 years. Funding through Oregon Health Authority. No County General Funds are involved.

C. Transportation & Development

1. Approval of an Intergovernmental Agreement with State of Oregon Department of Corrections for Work Crew Labor. Total value is \$25,000 for 4.67 years. Funding is through County Park user fees and other park revenue sources. No County General Funds are involved.
2. Approval of an On-Call Contract with DKS Associates for Traffic Engineering Services. Total contract value is \$150,000 for 2.25 years. Funding is through County Road Fund. No County General Funds are involved.
3. Approval of an On-Call Contract with Kittelson & Associates for Traffic Engineering services. Total contract value is \$150,000 for 2.25 years. Funding is through the County Road Fund. No County General Funds are involved.

Clerk Mayernik read the consent agenda.

Chair Smith called for requests to remove items from the consent agenda. None were received.

Commissioner Schrader: "I move we approve the consent agenda." Commissioner Shull seconded the motion.

Chair Smith called for further discussion. None was heard.

Clerk Mayernik called the poll

Commissioner West Aye

Commissioner Schrader Aye

Commissioner Shull Aye

Commissioner Savas Aye

Chair Smith Aye; motion passes 5-0.

IV. PUBLIC COMMUNICATION

Chair Smith opened the meeting for public communication.

Tammy Stevens (Beavercreek) – Update on the Carus Schoolhouse

Commissioner Schrader offered her appreciation for the update.

Chris Ritter (Oregon City) – Update on the Carus Schoolhouse

Chair Smith closed the meeting for public communication.

V. COUNTY ADMINISTRATOR UPDATE

County Administrator Schmidt recognized Elections Division staff for their work on the May 16 election and Medical Examiner staff for their outstanding service to a family that experienced the loss of a family member.

VI. COMMISSIONER COMMUNICATION

Commissioner Savas offered comments on transportation and homelessness.

Commissioner Schrader offered comments on tolling, Clackamas Workforce Partnership grant applications, childcare, the Tourism Development Council, and the Bear Creek Apartments project in Molalla.

Commissioner West offered comments on Oregon Senate Bill 449, the Wooden Shoe Tulip Festival, an upcoming visit with Confederated Tribes of the Grand Ronde, and tolling.

Commissioner Shull offered comments on upcoming school board elections, Oregon Senate Bill 409, County Clerk staff, the Wooden Shoe Tulip Festival, upcoming policy sessions, Oregon Senate Bill 774, and the Oregon budget.

Chair Smith offered comments on the Association of Oregon Counties, the proposed bridge for I-5 over the Columbia, tolling, housing, and county governance.

Chair Smith adjourned the meeting at 7:26 PM.



April 13, 2023

To The Clackamas County Board of County Commissioners,

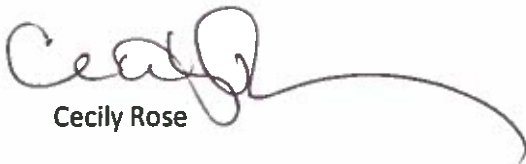
My Name is Cecily Rose, I am a resident of Clackamas County, residing in Colton, Oregon and am honored to be representing the Molalla Adult Community Center and Molalla Area Seniors Inc. today as their Director. We are a Center that serves the rural areas of Clackamas County including Molalla, Mulino, Colton, Beavercreek and the rural areas of Canby inside the Molalla River School District.

Our Center provides vital services to seniors and people with disabilities. Last year our Center provided 27,221 Older American's Act qualified meals, 19,734 of them to the most vulnerable home-bound in our area. We provide life sustaining medical transportation including 7,222 rides last year, case management, reassurance, and we partner with the County to provide additional programming and services to those desperate for aid.

During the pandemic, we lost our building and are in need of funding to build a new Senior Center in our area. We are currently in a shared space location that does not best meet the needs of the Center, the community, or those we serve. Our current location has unfortunately impeded best practices as well as placed barriers to services being inside the walls of a religious organization. While we are grateful for the space, it isn't the most inclusive home for a center whose mission is to serve its entire eligible population.

While we understand tonight's meeting is about the action plan for 2023. We want to share the dire need of funding to build a new Center in Molalla in hopes that you will consider not just ours, but all Senior Center's needs for Community Development Block Grant Funds in the future, as well as the possibility of any funding that may become available either from this round of funding or the next.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Cecily Rose", is written over a long, horizontal, wavy line that extends to the right.

Executive Director
Molalla Adult Community Center
122 Grange Ave. Molalla, OR 97038
cecily@foothillsonline.com

April 16, 2021

Ron Wierenga
Clackamas Water Environment Services
150 Beaver Creek Road
Oregon City, OR 97045

CC: Leah Johanson

Dear Ron,

We would like to thank Clackamas County Water Environmental Services (WES) for working with us and the communities we all serve while developing this expansive reworking of WES' Sanitary and Stormwater Rules and Standards. We appreciate WES' longstanding work protecting our watersheds and willingness to put such principles into writing and policies. We look forward to remaining involved through the next steps of this process, and we also thank WES for their longstanding partnership with our Councils and organizations, in which the watersheds, fish and wildlife, and current and future residents WES's service areas are the beneficiaries.

We appreciate that WES has taken an integrated approach to its new rules and standards. As watersheds take no notice of political boundaries these standards are a good step toward a common set of robust standards that apply to all the watersheds within WES' jurisdiction, and ideally, toward a set of robust standards adopted across neighboring jurisdictions that have management authority over portions of the same watersheds.

WES' new rules and standards are a big step in the right direction in many areas. There are many elements of the draft standards that we support. There are also sections that we believe should be made stronger. Our more detailed comments are as follows:

Stormwater Standards

Climate Resilience – and Storm Events in Stormwater Sizing

We are concerned that the 10-year storm event that drives stormwater sizing is inadequate. While this is based on past rainfall, we know that climate change is changing weather patterns to more intense storms, and will continue to do so in the future, with models projecting an increase of +32% for the 10-year event with a 1-hour duration at Portland Airport. (Morgan et al, 2021, Moustakis et al 2021). Past rainfall patterns will not be an accurate predictor of future rainfall. WES's stormwater facility standards should address both the hydromodification effects of smaller (2-year design storms) and larger storm events effects on both water quality and hydrology.

We understand that WES is part of an interagency (BES, City of Gresham) effort to model these changes. As this information is now becoming available, it should begin to be incorporated into future standards. In the meantime, precautionary principles should apply, and storm guidelines should be set with a margin of safety that addresses both the lower hydromodifying flows, and impacts to both water quality and

hydromodification from more frequent intense storms. It will also be critical to incorporate these models into future standards on a timely basis as the pace of change in weather patterns accelerates.

Stormwater Design Process

- *Support Inclusion of Stormwater into Pre-Application Meeting*
NCWC applauds the encouragement of applicants to seek out a pre-application meeting with WES and the local planning authority to provide an opportunity for applicants to consider stormwater design needs in relation to their preliminary development and/or redevelopment plans. This is a critical step into making stormwater a part of the design process rather than an afterthought. We have more thoughts on this process, below.
- *Require Incorporation of LID/GI in Preapplication*
Low-Impact Development (LID) and Green Infrastructure (GI) should be integrated into design early into the process, before applicants have invested funds in the design of grey infrastructure to which they then feel committed for fear of not wanting to invest in a second design. Far too often, applicants first design the building under grey infrastructure principles, and stormwater is then forced to fit around it (often resulting in proposed incursions in to WQRAs and HCAs, noted below) rather than the two being designed together. Therefore, WES should create a process that incorporates LID designs into stormwater management plans at the earliest possible stage.
- *Land Use Approval to Include Stormwater Management Plan*
Land use approval should not be issued until an applicant has demonstrated a practicable stormwater management plan, infiltration test results, and any required geotechnical report.

Pre-developed hydrology

- *Support Grass as Pre-Development State for Redevelopment*
NCWC strongly supports the return to grass as the pre-development state for redevelopment flow control requirements. This requirement will provide improvement when sites are redeveloped, and WES is to be saluted for this measure.
- *Map-based Establishment of Predevelopment State for New Development*
For new development, we recommend WES produce maps showing the truly pre-developed state of the area (e.g. whether it was originally a wetland, forest, prairie, etc.). These maps would then be used to determine allowable runoff, as opposed to accepting the land in its current condition, which generally produces more surface runoff than its natural state (e.g., vacant lots, farms, etc.). This will both provide an accurate matching to predevelopment conditions and stronger watershed protections.

Clarify Unmitigated Flow Standards

The new standards allow for unmitigated flow off of development sites where topographical constraints preclude flow control. However, there is no written criteria to determine when this unmitigated flow standard may be applied. Such criteria included in the standards would help to avoid abuse of this allowance.

Equivalent Stormwater Management and Fee-In-Lieu

The arrangement described in this section holds promise as a workable solution to target work in the most valuable locations, when done under a watchful eye. This system will require a robust tracking of mitigation sites to ensure that they are not later developed, and thereby lose the promised benefit. We

recommend using a geospatial watershed assessment tool of some kind to best target the mitigation/Fee-In-Lieu sites for the most watershed benefit.

Green Infrastructure & Low Impact Development

- **LID and GI as Default Standard**

As mentioned previously, we strongly favor use of Green Infrastructure (GI) and Low Impact Development (LID) where appropriate, and believe it should be incorporated early in the process. GI and LID are effective at treating stormwater and also provide additional benefits, such as wildlife habitat, carbon sequestration, improved air quality; aesthetics, and the ability to educate the public, developers, and others about stormwater, and designing with nature. These LID and GI elements are also critical at managing the hydromodification effects of 2-year design storms and mimicking the natural pre-development hydrology.

We are pleased to read that applicants are “highly encouraged to incorporate LID strategies during the site planning phase of any project”, and we appreciate the design guidance provided for green infrastructure BMPs in the manual. However, we believe GI and LID should be the *default* requirement for all projects, with the burden on the applicant to show why conditions prohibit use of such approaches.

- **Inclusion of Pavement Removal in LID Strategies**

Within the list of common LID strategies, we ask that WES also consider adding ‘pavement removal’. Since WES stormwater standards apply to redevelopment of commercial properties, many of which have little to no pervious areas, we think this practice deserves consideration alongside the other common LID strategies listed.

- **Proprietary Cartridge Systems - Concerns**

We are concerned about the allowance of proprietary cartridge filter systems which do not provide the same collateral benefits as LID and GI, such as wildlife habitat, carbon sequestration, etc. These are not allowed in other jurisdictions (e.g. City of Gresham) and concerns have been raised that their invisibility and relatively high cost of maintenance will result in poor maintenance over time without significant enforcement resources dedicated by WES. We urge WES to reconsider these systems.

Lowering Burden on Voluntary Stormwater Retrofit Projects

We believe WES’ stormwater standards should facilitate the implementation of voluntary stormwater retrofit projects that incorporate LID even when there are no larger development or redevelopment projects occurring on the site. It is becoming more common for community-based, public benefit organizations, landowners, and some businesses to spearhead “green” site makeovers on both residential and commercial properties. Complex application requirements are a disincentive to these positive, community-led projects.

For example, efforts to retrofit and incorporate rain gardens can require that a stormwater management plan be stamped by a registered licensed professional engineer. Permitting costs for such work can be prohibitive. WES should consider pathways to ease the burden on potential applicants undertaking voluntary retrofits. WES should also designate a staff liaison to assist non-professionals seeking to implement such voluntary retrofits.

Incentives for Retrofits

WES should incentivize retrofits by creating a revenue stream to support such actions taken by individuals, landowners, or community-based organizations, and to provide owners of large areas of impervious surface an incentive to undertake such projects. As existing developments are not affected by the new rules and standards and continue to impact watersheds, discounted rates or other financial incentives could encourage the removal of existing impervious surfaces. As of now, the costs would be borne entirely by the applicant, with the exception of the limited and competitive RiverHealth Grant Program, which has a maximum amount of \$30,000. The cities of Springfield and Eugene have an effective program that defrays the cost of the retrofits while also providing technical expertise.

Increasing Use of Pervious Pavement and Green Roofs

Appendix C: Stormwater Management Facilities Selection worksheets exclude pervious pavement and green roofs from suitability for publicly maintained facilities (like County buildings) or facilities within a public street/ROW. We would like to see their inclusion, or better understand the rationale behind the decision to exclude them.

Stormwater Management Requirements – General Comments

In section 1.2.1, #2, General Design Requirements, WES should change “maintain” to “prioritize”. We also find #3 and #5 to be problematic, as it is difficult to gauge pre-development hydrologic conditions and hard to keep water from mixing (offsite to onsite). While #9 is an admirable goal, we are concerned that it will be almost impossible to fulfill once infill and development (like in OLWSD) is at 80%+ impervious surface.

Require Erosion Control Permits at 500 sq ft.

We believe WES should reduce the project size threshold from 800 square feet to 500 square feet. This would align with WES’ neighboring entities, Oak Lodge Water Services District and the City of Milwaukie, which both use a 500 square foot size threshold. As some developers may attempt to piecemeal their soil disturbances to avoid a permit, we would also suggest that this 500 square foot threshold be a cumulative number, taking into account any soil disturbance on the site.

Buffer Standards

Maps

We strongly support and appreciate the requirement that all applicants depict Water Quality Resource Areas (WQRAs) on preliminary site plans. The effectiveness of this requirement hinges on accurate maps. WES must therefore maintain up-to-date maps of known primary and secondary streams and wetlands within its service area as a starting place for applicants.

To provide true protection of local wetlands, improved wetlands maps and stormwater infrastructure on GIS is needed. WES’s GIS system currently misses many wetlands that contain stormwater facilities. A 2020 study indicated that 42 wetlands that included stormwater infrastructure in the Kellogg-Mt. Scott Watershed were not within WES stormwater assets GIS (Zaret et al, 2020). WES should prioritize updating and ground-truthing its data sets.

WQRA Boundary

The WQRA boundary relies in part on slope measurements, but detailed instructions are not given on the appropriate methods to measure slope. WES should articulate these instructions.

Submittal Requirements – Decreasing Contour Interval

We agree that a WQRA development permit application should include a topographic map with contour intervals. However, we suggest that the required contour interval be two feet instead of five feet. Five-foot contour intervals are too coarse to resolve micro topographic features and are inconsistent with section 7.4, which requires a plan with 2-foot contours. Modern LiDAR-derived topographic maps make high-resolution topographic maps easy to generate.

Non-Native Vegetation

Elsewhere in the Submittal Requirements section, “Invasive Non-Native or Noxious Vegetation” is defined simply by referring to the Oregon Department of Agriculture’s (ODA) “Noxious Weed Policy and Classification System.” This list is very limited when compared to more up-to-date and comprehensive lists of non-native noxious vegetation that are available. We recommend that WES use a more up-to-date list such as Clackamas Soil & Water Conservation District’s list.

(See <https://weedwise.conservationdistrict.org/weeds>) A spreadsheet is available from Sam Leininger, with Clackamas SWCD.

Rules and Regulations

Civil penalties

Per the penalties outlined in Table 1 of subsection 8.7.1, the proposed fee schedule, only “Industrial Wastewater Discharge Permit Violations” and “All other Violations” are subject to a \$1,000/day fine, while all other violations are assessed \$500/day. WES’ neighboring jurisdiction, the City of Portland, fines each erosion control violation up to \$1,000. In the interest of regional continuity and providing a meaningful disincentive, we ask that WES do the same.

Thank you again for your consideration of these items, and for your working in partnership with us to develop and refine these standards. We look forward to the next step in the process.

Sincerely,



Neil Schulman
Executive Director



Ted Labbe
Executive Director

