



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission meeting

396th regular meeting

Jan. 18 and 19, 2018

*Portland State University Native American Student and Community Center
710 SW Jackson Street
Portland*

Thursday, Jan. 18, 2018: 9 a.m. to 5 p.m.; evening town hall 5:30 to 7 p.m.

Commissioner George, presiding for the meeting, convened the commission at approximately 9:05 a.m. Commissioner George, Commissioner Baraso, Commissioner Kile and Commissioner Mosby were all present for the full meeting day. Commissioner George opened the meeting with a review of the DEQ mission and shared vision. Director Whitman provided additional comments to the agency's mission and shared vision.

A. Action item: Meeting minutes

Commissioners reviewed the proposed draft minutes from the Nov. 2-3, 2017, EQC meeting.

Action: Approve the minutes as presented

Move: Commissioner Mosby

Second: Commissioner Kile

The commission unanimously approved the minutes as presented

B. Action item: Director's annual transactions

Mark Brown, DEQ Financial Services manager, presented the director's annual transactions for commission review and approval. Commissioner Mosby asked if there was a way to modify the process to remove the full commission review and approval for these transactions. Brown described the state accounting laws that govern the process and noted that DEQ is working to digitize much of that process.

Action: Approve the director's annual transactions as presented

Move: Commissioner Baraso

Second: Commissioner Mosby

The commission unanimously approved the director's annual transactions as presented

C. Action item: Delegation of appointing authority for advisory committees

Director Whitman presented a proposed statement of delegation of formal authority from the commission to him, as director, for the purposes of appointing individuals to DEQ’s advisory committees.

The commissioners asked Director Whitman to provide the commission advance notice of upcoming opportunities for solicitation of rulemaking advisory committee members and also reporting back to the commission periodically about the committees. Gary Vrooman, EQC legal counsel, provided clarification for the legal process to provide formal delegation.

Action: Affirm the five findings as outlined in Section 1 of Attachment A to the report for this item and approve the resolution in Section 2 of Attachment A to the report for this item

Move: Commissioner Baraso

Second: Commissioner Mosby

The commission unanimously approved the motion and indicated that Commissioner George would sign the formal delegation on behalf of the commission.

D. Action item: Commission process for public comment at EQC meetings

Director Whitman presented a proposal for the commission to revise the ways it schedules public comment at regular EQC meetings. He described the proposed process and outlined the DEQ reasoning to propose the changes outlined in this item.

Commissioners discussed their perspectives on the matter, and concerns associated with the current format and proposed changes.

Action: Adopt the staff recommendation as included in the report for this item

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the motion

E. Informational item: Legislative updates

Director Whitman introduced this item and the presenters. He noted that Annalisa Grunwald is DEQ’s new senior legislative advisor. Grunwald provided some additional information on her background and work at DEQ. Matt Davis, Air Quality policy and legislative analyst, and Rian Hooff, Land Quality policy and legislative analyst, presented updates about the outcomes of the January 2018 Legislative Organizing Days and discussed proposed legislation of interest for DEQ in the 2018 Oregon Legislative Session, starting February 5.

Davis described some items expected in the 2018 Session, including:

- A new electric vehicle rebate program, as directed in the 2017 Transportation Bill, and adjustments that DEQ and partners will propose in the 2018 Session
- Several bills related to Cleaner Air Oregon, and an expectation for active discussion in both House and Senate committees
- Development of the Green Energy Jobs effort, guided by a coalition of partners and not a DEQ-directed process
- Diesel emission reductions work, including bills planned by others for the ability of local governments to establish no-idling zones for vehicles in specific circumstances

Hooff described the Land Quality Program-related bills and issues expected in the 2018 Session, including:

- Safety planning and emergency response related to oil trains
- A new product stewardship approach for household hazardous wastes
- Development of new tools and approaches, including a potential tax credit, related to the cleanup and reuse of land designated as brownfields across the state

Hoof also noted that DEQ will request funding to support IT work, including the Electronic Data Management System. Commissioners asked clarifying and informational questions throughout the presentation. Director Whitman provided additional information for elements discussed during this item.

F. Informational item: Budget updates

Mark Brown, Financial Services manager, introduced this item and provided an overview of the agency's Legislatively-adopted budget and its relationship to the development of the operating budget.

Adam Coutu, Water Quality Program budget analyst, described the current state of the operating budget, including budget pressures or concerns. He walked the commission through a spotlight chart indicating the general health of the subprogram budgets in the current operating budget and looking forward toward the 2019-21 biennium.

Matt Davis, Air Quality Program policy and legislative analyst, described the state of the current air quality subprogram budgets and budget pressures for those subprograms. He described the outlook for the subprograms entering the 2019-21 biennium and the relationship between this outlook and the development of the 2019-21 Agency Request Budget.

Sandra James, Land Quality Program budget analyst, described the current state of the land quality subprograms and discussed the budget pressures for those subprograms. She described the outlook for the subprograms entering the 2019-21 biennium, and the associated issues.

Susan Braun, Central Services Division budget analyst, described the operating budget status and forecast for the Agency Management programs going into the 2019-21 biennium. She noted that Agency Management programs are funded mostly through a pass-through charge on the Air, Water and Land Quality programs so the budget outlook is always dependent on the status of those program budgets.

Commissioners asked clarifying and informational questions throughout the item. Director Whitman provided contextual and agency information in addition to the program responses.

The commission recessed for lunch from 11:45 a.m. to 1 p.m.

G. Informational item: Process for developing the Agency Request Budget and Legislative Concepts for the 2019-21 Legislative Session, and early Policy Option Packages and Legislative Concept ideas

Abby Boudouris, Office of Policy and Analysis acting manager, introduced the item. She described the outline of the presentation, and noted that the intent of the item is to gather early input from the commission and public for expanded engagement on the agency's budget and policy development for 2019-21.

Boudouris described the process used for the development, and refinement, of DEQ's budget on a two-year planning cycle. She presented a proposed schedule for development and engagement, with the commission and public, for the Agency Request Budget and initial policy option package and legislative concept ideas.

Director Whitman described the agency's staffing levels since 2001, showing an overall decline in both filled and legislatively-authorized positions. He noted that the trend is largely driven by structural budget issues and misalignments, which the agency is working to evaluate and fully understand. Director Whitman described some of the environmental consequences of the decline in funding for the agency, and under-resourcing of existing work, and his intent for reversing that decline starting in the 2019-21 Session.

Melissa Aerne, Central Services Division policy analyst, Karen Tarnow, Water Quality Division policy analyst, Rian Hooff, Land Quality Division policy analyst, and Matt Davis, Air Quality Division policy analyst, described the agency ideas for policy and legislative changes in the 2019-21 Session. The analysts described the content of the attachment for this item, and

noted that items include infrastructure needs, current responsibilities and emerging work for the agency. Commissioners asked clarifying questions throughout the presentations.

The commissioners recessed for a short break and reconvened for final discussion on the matter.

Commissioners offered their feedback on the items presented, and noted areas of further research for the agency as it develops its concepts and policies for the 2019-21 Session. Commissioner Baraso recommended that the commission create a subgroup of one or two commissioners to be a workgroup for development of these items, or otherwise meet with staff.

H. Public forum

The commissioners opened a public comment opportunity at approximately 2:45 p.m. People were able to provide comment in-person at the meeting or by toll-free telephone conference line.

Nine people presented comment in the meeting room. Two people presented comment by phone.

Comments included:

- Feedback on the agency's Triennial Review and three-year work plan, including a recommendation for requests from the commission for regular updates on this plan
- Emphasis that the commission can help the agency advance its mission and fulfill its vision statement and general comments in support of the work of DEQ and the commission
- Concerns about the City of Molalla's failure to manage its wastewater, endangering Bear Creek, and DEQ's engagement on this issue
- Support for the agency and commission as it develops its legislative requests
- Comments specific to the use of variances in its water quality program, and concerns for mercury discharge variance in the Willamette and Columbia Rivers
- Concerns about Riverbend Landfill's ongoing operations, including test well results showing water quality impacts from landfill leachate and a specific request for a response from DEQ on a report submitted on these issues
- A request for commission involvement in the Board of Forestry's potential actions related to monitoring for cold water stream protections in several Forestry regions
- Feedback on the successful public engagement with the DEQ on the Water Quality Triennial Review and associated work plan
- An offer from a Waste Management representative to provide additional information, if requested, and invitation for commissioners

- The request from multiple Tribal nations and environmental advocacy organizations for the revisions to the narrative requirements for toxics in Oregon’s water
- Concerns about the policies outlined within the Cleaner Air Oregon draft rules, specific to the disproportionate impacts to communities with environmental justice concerns

The commission closed the comment opportunity at 3:35 p.m.

I. Informational item: Meeting follow-ups and planning

Abby Boudouris, Office of Policy and Analysis acting manager, provided an update on the planned items for the March EQC meeting. Stephanie Caldera, commission assistant, and Director Whitman provided additional detail for this item.

Boudouris also provided updates about the content planned for the May and July commission meetings, noting that many items may be added to these agendas as the agency rules calendar is updated. Commissioners noted items they would like to have included for the March, and other, meeting agendas.

Boudouris noted that DEQ will provide weekly updates on the Legislative Session and will engage with the commission for a subgroup that may be more involved in the legislative and policy development process.

J. Informational item: Commissioner reports

The commissioners provided verbal updates on their recent activities of interest to the commission.

Commissioner Mosby noted his thanks to Director Whitman and staff for their work to keep the commission informed of the Secretary of State’s audit process and the agency’s response.

Commissioner Kile noted her appreciation for the weekly communications updates from DEQ staff. She explained that she is presenting at a conference June 24 and 25 in Corvallis for Tribal health and environmental outcomes, and extended an invitation for DEQ participation in the conference.

Commissioner George described her recent attendance at an awards ceremony for a site reuse in Troutdale. She thanked the DEQ staff, and all project partners, who worked on this site in cooperation with the Confederated Tribes of Grand Ronde. She noted that she has met with EPA staff working on Columbia River work and an invitation for EPA to bring an update to the commission.

Commissioner Baraso explained that he attended the December meeting of the Environmental Justice Task Force meeting, and noted an interest from that body for more engagement with EQC.

The commission recessed from approximately 5 to 5:30 p.m.

K. Evening town hall

Commissioners held an informal town hall-style session to engage in conversation about environmental issues of interest. The session was from 5:30 to 7 p.m.

The commission recessed at 7 p.m. until 9 a.m. on January 19

Friday, Jan. 19, 2018: 9 a.m. to noon; executive session noon to 1:30 p.m.

Commissioner George, presiding for the meeting, convened the commission at approximately 9 a.m. Commissioner George, Commissioner Baraso, Commissioner Kile and Commissioner Mosby were all present for the full meeting day.

L. Informational item: Water Quality Standards Program three-year work plan

Jennifer Wigal, Water Quality Program manager and acting Environmental Solutions Division administrator, introduced the item. Karen Williams, Basin Coordinator and project manager for the Triennial Review, presented an overview of the Water Quality Standards program and the process DEQ used to develop its three-year work plan through the Triennial Review Process.

Williams discussed the feedback from the public and project partners on the proposed work plan, and described the changes DEQ made to the final plan based on that input.

Debra Sturdevant, Water Quality Standards and Assessment title, reviewed the seven high-priority projects DEQ included in its three-year work plan. She provided detail on the projects and DEQ's plan. Sturdevant also described additional high-priority project areas to be initiated as the first seven projects are completed, which may be after 2020. Commissioners asked clarifying and informational questions throughout the presentation.

M. Informational item: Information technology at DEQ

Scott Brewen, Central Services Division administrator, and Angel Gillette, Project Manager, co-presented this item. Brewen provided an overview of the current state of the State of Oregon's IT office and changes, how that influences DEQ's IT systems, and the state's plan moving forward. Brewen described the Information Resources Management Project, initiated in summer 2017, to improve IT projects and outcomes at DEQ.

Gillette presented background information on the Electronic Data Management System project, the problems the project aims to correct and what the system will accomplish for DEQ. Gillette outlined the research DEQ has completed in its development process, and the lessons learned from other states, government partners and others using systems similar to EDMS.

Gillette discussed the State Gate Process – a multi-step review and approval process for large projects by state agencies to ensure fiscal and project sustainability. She noted that DEQ recently received Stage Gate 1 approval in early 2017 and is on track to continue with the project through the remaining steps. Gillette described the agency work to-date, and that DEQ will request Stage Gate 2 approval this winter and Stage Gate 3 by the end of 2018. She also noted that EDMS is a major priority for the agency, and will be a significant budget and policy focus for the agency in the 2018 and 2019 Legislative Sessions.

The commissioners asked informational questions about the project, timelines and next steps for the project. Director Whitman provided additional context for some questions.

N. Informational item: Director's report

Director Whitman provided written and verbal updates on state, regional and national issues of interest to the commission.

At the start of the item, Director Whitman thanked Mark Smith, who has been acting as Air Quality Manager and member of the Leadership Team for the past several months as a rotational opportunity from EPA Region 7. Smith thanked the commission and DEQ for their support and engagement.

The presentation included updates on:

- DEQ's agency reorganization
- The Secretary of State's audit of DEQ's Air Quality Air Permitting Program
- Cleaner Air Oregon
 - Keith Johnson, Special Advisor for Cleaner Air Oregon, and Gabriela Goldfarb, Oregon Health Authority program manager, provided additional detail for this item
- The Water Quality Permitting Improvement Program status
 - Keith Andersen, Special Advisor for Water Quality Permitting Improvements, Ron Doughten, Water Quality Program Manager, Jeff Navarro, Water Quality Policy Analyst, and Steve Schnurbush, Water Quality Permit Analyst, provided additional detail for this item
- VW settlement process status, and next steps for DEQ and Oregon
 - Kevin Downing, Air Quality Planner, presented updates and provided a handout with an updated project outline for the VW settlement process and next steps

- Kevin Parrett, Northwest Region Cleanup Manager, and Madi Novak, Cleanup Project Manager, co-presented an update on Portland Harbor, with additional detail from Director Whitman
- Dave Belyea, acting Western Region Division administrator, presented updates on Western Region highlights
 - A tanker crash in December 2017 that closed OR-22 for a week due to significant environmental risk to drinking water supply for several nearby communities and cleanup of contaminated soils near the roadway
 - The Jordan Cove LNG project and permitting process, for DEQ and other agencies
 - Cleanup of a former mill site in Sweet Home
- Eastern Region: A gold mining project in northeastern Oregon
- Northwest Region: A recent award for DEQ and project partners for the cleanup and redevelopment of a former industrial site in Troutdale

Commissioners asked clarifying and informational questions about many of the items and provided feedback on some projects and next steps.

Commissioner George adjourned the public meeting at approximately 12:20 p.m.

Working lunch and executive session

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch until approximately 1:30 p.m. This executive session was held under the authority of ORS 192.660(2)(h).