
Columbia River Gorge Commission
Meeting Minutes
April 10, 2001

Location: The Discovery Center
Time: 9:00 a.m.

MEMBERS PRESENT

Anne Squier, Chair
Kenn Adcock
Don Dunn
Dan Harkenrider
Walt Loehrke

Joe Palena
Louie Pitt, Jr.
Joyce Reinig
Dave Robertson
Katharine Sheehan
Wayne Wooster

COMMISSIONERS ABSENT

Jim Luce

STAFF PRESENT

Claire Puchy, Executive Director
Bob McIntyre, Administrative Assistant
Jeffrey Litwak, Counsel

AUDIENCE PRESENT

Allen, Roger. Dallesport, Washington
Arndt, Burt and Keith. Dallesport, Washington
Bacus, Joseph and Sandra. Stevenson, Washington
Baker, Nathan. Friends of the Columbia Gorge. Portland, Oregon
Benedict, Michael. Hood River Planning Department. Hood River, Oregon
Bradley Andersen. Skamania County Prosecuting Attorney. Stevenson, Washington
Diana Karabut. Portland, Oregon
Harry, Steve. Oregon Department of Transportation. Portland, Oregon
Heather O'Donnell. Skamania County Planning Department. Stevenson, Washington
Jervy, Gay. Columbia Gorge Recreation Coalition.
Kahn, Gary. Friends of the Columbia Gorge. Portland, Oregon
Lang, Michael. Friends of the Columbia Gorge. Portland, Oregon
Mazeski, Mark. Skamania County Planning Department. Stevenson, Washington
Miller, Bobbie. Columbia Gorge United
Newton, Tiffany. Friends of the Columbia Gorge. Hood River, Oregon
Sims, Pat. Portland, Oregon
Thiemann, Phyllis. Corbett, Oregon

Wilkins, Maxine. Portland, Oregon

MEETING AGENDA

1. Roll Call
2. Approval of Minutes
3. Public Comment
4. Hearing on Skamania County Ordinance, 2000-11
5. Hearing on Requested Modification of Cascade Locks Urban Area Boundary
6. Hearing on Proposed Resolution Through Agreement, Bert Arndt
7. Economic Grant Certification Requests
8. Director's Report
9. NSA Managers Report
10. Committee Reports
11. Other Business
12. Executive Session
13. Adjournment

1. Roll Call

The meeting began at 9:05. Roll was called.

2. Approval of Minutes

The minutes of the February and March 2001 meetings were reviewed. Some changes were suggested for the February minutes. The minutes will be brought back to the May meeting for approval.

Minor changes were suggested for the March minutes, and these minutes were approved with the changes.

3. Public Comment

Steve Harry, Oregon Department of Transportation, spoke regarding the boat ramp at Corbett, Oregon (see attachment 1), and ODOT's intent to not repair this ramp. Mr. Harry was asked if the ramp was owned by ODOT. He responded that it was, but that transportation money could not be used for a repair project. Commissioner Crow stated that ODOT should look into federal opportunities to fund it. Commissioner Pitt stated that in general, access to the river is limited.

Joe Bacus distributed a letter he received from Harpreet Sandhu, Director of Skamania County Planning Department (see attachment 2). He spoke about the solid waste landfill area in Skamania County, and the definition of "fill" material in the Management Plan and Skamania County ordinances. He noted that the letter from Ms. Sandhu defines "fill", and this material does not meet that definition. He said the county is stonewalling this issue, and urged the Commission to take action on this immediately.

Gay Jervey, Mosier, Oregon, thanked the Commission, and the Forest Service for the National Scenic Area grant that was recently received by the City of Mosier. She then gave a progress report. She complimented the Oregon Parks Department and the Oregon Department of Transportation for their cooperation. She then offered comments about the boat ramp, and

offered her organization's help in resolving the problem.

She then spoke about the Rainbow Project. She also said it would be helpful for the Commission to have a "host" person who could help individuals appearing before the Commission to orient them to the process, and help put them at ease.

Bobbie Miller, Columbia Gorge United, spoke to the Commission about the Gail Castle issue, stating that she hopes this issue will be resolved soon. Claire Puchy, Director, responded that Ms. Castle received her permit, and staff is working with her and her builder. All issues have been resolved.

4. Hearing on Skamania County Ordinance 2000-11 for Consistency with the Management Plan.

The Commission held a hearing to determine consistency of Skamania County's ordinance 2000-11 with the Management Plan. Jeff Litwak, Counsel, reviewed the staff report and recommendation. He reviewed the staff report and recommendation. He noted that Skamania County was provided a copy, and that Friends of the Gorge requested a copy as well.

Chair Squier read the preliminary rules for holding hearings. Jeff Litwak explained the job of the Commissioners to determine the consistency of this amendment to an already existing ordinance in Skamania County. Staff recommended the Commission find this amendment inconsistent.

Bradley Andersen, Skamania County Prosecuting Attorney, testified. He stated that this amendment will not "breathe new life into ancient subdivisions" or circumvent the Management Plan, and that the term "ancient" subdivision should not be confused with "illegal". This amendment is directed at very few parcels, and it would not impact any prior decision of the Commission. **Mark Mazeski** then testified, and spoke of lots in Wasco County that were created in 1910. He provided history, documentation and background of these lots, and drew comparisons of how these lots are similar to those in Skamania County.

Public Comment was then taken. **Ron Reynier** said standards need to be developed for the counties to follow. In 1988 he applied for and was approved for building on his land, and later, after the permit expired he reapplied, and was denied. He stated that Skamania County is trying to correct this problem with this amendment. It permits the integration of these lots into an existing community, and there will no be rampant growth because of it.

Gary Kahn provided responses to some of the issues (see attachment 3). He said this amendment would greatly increase land development directly across from Multnomah Falls.

Joe Bacus said the Commission needs to keep in mind that it has the authority to regulate the zoning requirements in the Scenic Area. He said the county wants the Commission to approve its definition of a parcel, which would affect all counties, and not be exclusive to Skamania County. He said the Commission should be careful not to open a "Pandora's Box".

The Commission then deliberated. Commissioner Robertson underscored the desire of the Commissioners to be viewed as partners to the counties. Commissioner Crow agreed. Commissioner Reinig said this is a difficult decision, and she is very sympathetic to the counties, but supporting it would be inconsistent with prior decisions.

Commissioner Sheehan stated that Skamania County has taken a reasonable approach, and she supports the county, but the Commission should apply regulations fairly, taking into consideration all counties. Chair Squier expressed concerns about the amendment in terms of its lack of information regarding impacts, and its inconsistency with what constitutes a parcel under the Management Plan.

Commissioner Palena moved to deny the ordinance, feeling that Skamania County's issue could be taken care of in the Plan Review Process. Chair Squier asked Jeffrey Litwak to explain to the Commission how specific it needed to be in determining the reasons for finding it not consistent with the Management Plan, which he then did. He said if the Commission was to find the amendment inconsistent, then it must submit suggested modifications to make it consistent. Even if this were taken up in Plan Review, the Commission would also need to make findings consistent with The Act. Chair Squier went over some of her notes of the Commission deliberation to help the Commission formulate a detailed motion. The Commission had noted that there was insufficient information on the impacts this ordinance will have "on the ground". Secondly, the ordinance amendment is inconsistent with the current definition of parcel in the Management Plan.

The third point was that the ordinance imposed a burden of proof requiring proof of state of mind. Commissioner Sheehan said that in regard to the issue of insufficient information on impacts, this isn't something that would normally be included in an ordinance. An ordinance wouldn't necessarily say what the impacts would be. It's a concern, but it's not something that can be pointed to for correction. She then asked if someone could explain why it is inconsistent. She believes it is clarifying what "legal" means, but it isn't affecting the definition of parcel. She felt this needed to be discussed further before arriving at a motion. Commissioner Palena withdrew the motion for more discussion.

Commissioner Adcock stated that it would be possible for the Commission to simply not act on this issue, and let it die. The amendment would then become effective by default. If it is turned down with the suggestion of revisiting it, there is no assurance of that. If it is allowed to die and it becomes effective, the commission can then determine how workable it is. If it doesn't work, it can be taken up at Plan Review at that time.

Jeffrey Litwak emphasized that the Commission may at this time find the amendment consistent with the Management Plan, find it inconsistent with the Management Plan, or simply choose to take no action on it, which would mean it would become automatically approved in 90 days.

Commissioner Crow expressed concerns about the Commission's efforts to be consistent, in regard to this amendment and prior decisions of the Commission. There is no information about how this affects the resources of the Gorge, which the Commission is charged to protect and enhance. This decision is precedent setting for all Gorge counties and we should know what the impacts would be throughout the Gorge.

Commissioner Dunn said that there could be difficulty in gaining uniformity throughout the Gorge Counties due to different state laws, and that he supports this amendment.

Commissioner Adcock moved the Commission take no action. Commissioner Dunn seconded this. Commissioner Robertson said he doesn't believe the Commission can move to take no action. A motion to do something would need to fail, and then another to do something else

would need to fail, and the default would be no action. Chair Squier turned to counsel for clarification about moving to table an action. Jeffrey Litwak referred to Roberts Rules of Order, and said the intent of the Act is to require that the Commission take some action. The Act did not intend for the Commission to make an affirmative motion to do nothing.

Commissioner Reinig said the county is trying to clear up a long-standing problem for the property owner, and the Commission needs to make a clear vote and proceed.

Commissioner Adcock amended his motion to find Skamania County's ordinance consistent with the Management Plan. Commissioner Dunn accepted the amendment. The Commissioners voted as follows:

Adcock-Yes
Dunn-Yes
Palena-No
Pitt-No
Loerhke-Yes
Reinig-Yes
Robertson-No
Sheehan-Yes
Crow-No
Wooster-Yes
Squier-No

The vote was 6 to 5, with only 2 Oregon Commissioners voting to approve. Therefore, the motion failed.

Commissioner Robertson moved:

"The Commission finds the Skamania County Ordinance #2000-11 is inconsistent with the Management Plan because:

1. It is inconsistent with the definition of parcel, as defined in the Management Plan.
2. The impacts of the ordinance amendment in the other counties in the Scenic Area are not known.
3. The scope of the amendment in Skamania County is also unclear.

The Commission further finds that it is important to resolve this in a manner in a way that is consistent throughout the National Scenic Area, and therefore suggests that the six county Planning Directors and the Gorge Commission Executive Director collaborate within 60 days to reach agreement on a broader approach to resolving this issue in a way that is consistent with the Management Plan."

Commissioner Crow seconded this. Commissioner Reinig suggested changing the 60-day timeframe to a six-month timeframe.

Commissioner Robertson amended his motion "The Commission further finds that it is important to resolve this matter in a manner that is consistent throughout the National Scenic Area and therefore suggests the Gorge Commission Executive Director collaborate with the six county Planning Directors on a broader approach to resolving this issue in a way

that is consistent with the Management Plan, and report back to the Gorge Commission on progress within 120 days.”

Commissioner Crow accepted this amendment. Commissioner Sheehan said she felt the first issue regarding the parcel definition should be removed from the motion. Commissioner Wooster agreed with Commissioner Sheehan.

Commissioner Sheehan proposed an amendment to the motion striking the first element of the motion. Commissioner Palena seconded this. A vote was taken on deleting the first point of the amendment. The Commissioners voted as follows:

Adcock-No
Dunn-Yes
Palena-Yes
Pitt-No
Loehrke-Yes
Reinig-No
Robertson-No
Sheehan-Yes
Crow-Yes
Wooster-Yes
Squier-No

The motion to delete point one of the original motion passed.

Chair Squier asked Dave Robertson to restate the amended motion. It reads “The Commission finds Skamania County ordinance 2000-11 inconsistent with the Management Plan because:

1. The impacts of the ordinance amendment in the other counties in the National Scenic Area are not known.
2. The scope of the amendment in Skamania County is also unclear.

The Commission further finds that it is important to resolve this matter in a manner that is consistent throughout the National Scenic Area, and therefore suggests that the Gorge Commission Executive Director collaborate with the six county Planning Directors on a broader approach to resolving this issue in a way that is consistent with the Management Plan, and report back to the Gorge Commission on progress within 120 days.”

A vote was taken. The Commissioners voted as follows:

Adcock-No
Dunn-No
Palena-Yes
Pitt-Yes
Loehrke-No
Reinig-No
Robertson-Yes
Sheehan-Yes
Crow-Yes

Wooster-No
Squier-Yes

Commissioner Litwak read the section of the Act dealing with voting regulations: "Within 90 days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each state, shall approve the ordinance, unless it determines the ordinance is inconsistent with the Management Plan".

Chair Squier ruled that the Commission had found the ordinance inconsistent with the Management Plan.

5. Hearing on Requested Modification of Cascade Locks Urban Area Boundary

The Commission held a hearing to decide on approval of the change in the Cascade Locks urban area boundary. **Carol York**, Hood River County Commissioner provided a brief background of this change, and urged the Commission to approve it.

Will Carey, counsel for Hood River County, stated that he appreciates the efforts of the Friends of the Gorge, and that from a legal standpoint, nobody has intervened in this case. He also urged the Commission to approve this.

Bob Willoughby, City Manager for the City of Cascade Locks, spoke of the amendment, and also urged the Commission to approve it.

Jurgen Hess, USDA Forest Service, noted that the Forest Service did intervene, but it was simply to get its comments on record. The Forest Service recommends approval of the change.

Commissioner Dunn moved to approve the amendment. Commissioner Adcock seconded this. Commissioner Sheehan thanked the parties for their work and cooperation on this issue.

The Commissioners voted, and the vote was unanimous to approve the amendment.

Chair Squier announced Commissioner Dunn had been excused for the remainder of the meeting, and that Commissioner Reinig had to leave for a short time and would return, but would not be participating in the following discussion.

6. Hearing on Proposed Resolution Through Agreement, Bert Arndt

Jeffrey Litwak, Commission Counsel, stated that there was a proposed resolution to a proposed violation through agreement between the Executive Director and Bert Arndt. He stated that the Executive Director would present to the Commission, and then Mr. Arndt would comment. If the Commission chose not to accept the agreement, then a hearing would be scheduled. Chair Squier read the appropriate rule governing the issue, 350-30-060, and then reviewed the preliminary items.

Mr. Litwak detailed the alleged violation, emphasizing this is an alleged violation. Claire Puchy stated that when Mr. Arndt built his home he did not receive approval for the colors used. He has submitted color samples that were approved, and are incorporated in the proposed resolution. The body color of the house will remain the same, but the trim, garage door and

roof colors will be changed. If any change is made to the body of the home, those colors must be approved by the Executive Director for consistency with the original land use decision. Final approval will be given when the job is done. The Executive Director is not seeking any civil penalty, just compliance. Ms. Puchy stated that this agreement is the first time a Director has entered into an agreement after a notice has been given. She is pleased to bring this agreement to the commission, and she hopes it will be supported.

Mr. Arndt approached the Commission. He had no prepared statements, but said he could answer any questions the Commissioners may have. Commissioner Adcock asked about the roof color. Mr. Arndt replied that he put white rock on the roof of the house due to the high summer temperatures in the area. Commissioner Adcock asked if it is common for staff to tell applicants what color to paint their home. Jeffrey Litwak explained that it is common for applicants to submit a selection of colors to the staff for determination of compliance.

Commissioner Sheehan asked if the body color is one that would normally be approved. Jeffrey Litwak stated that the color did not exactly meet the director's expectations. However, as part of the agreement, the director chose not to make the change now, but in the future the director will need to approve a color change. Commissioner Crow moved to adopt the proposed resolution presented by the Executive Director. Commissioner Adcock seconded the motion. The Commission voted as follows:

Adcock-Yes
Palena-Yes
Pitt-Yes
Loehrke-Yes
Robertson-Yes
Sheehan-Yes
Crow-Yes
Wooster-Yes
Squier-No

The motion passed. The Commission will enter a written final order.

7. Economic Grant Certification Requests

Claire Puchy presented two economic grant certification requests (See attachments). The Port of Skamania County requested a loan to purchase land, and Waukeena Pacific requests a 450 thousand dollar loan to build a laminating plant in Hood River.

Tiffany Newton, Friends of the Gorge, presented support for both projects.

Commissioner Adcock moved to approve both loan certification requests. Commissioner Robertson seconded the motion. Both certification requests were unanimously approved.

Chair Squier noted that there have been a number of new buildings constructed in the urban area, and while the Commission has no jurisdiction in the urban areas and would not presume to tell developers what to build, she hopes they will to the extent possible construct their buildings that blend in. Anita Gahimer, Port of Skamania County, said the Port would be happy to discuss architectural design with the Commission.

8. Director's Report

Claire Puchy provided the Director's Report. Jim Hulbert has been hired on a short-term basis to set up the county meetings. Mr. Hulbert then introduced himself. He is a White Salmon resident, and has a wide range of experience. He has already been able to secure times and places for a few of the meetings.

Commissioner Adcock asked about the meetings for Klickitat County, and if that one would be the only one for the year. Ms. Puchy stated that there would be other rounds of meetings.

In regard to Clark County, Ms. Puchy stated that issues are being worked through. Mediation services have been secured, and all parties are cooperating.

In regard to the dump issue in Skamania County, Ms. Puchy has been in contact with the parties. No specific resolution has been reached but progress is being made and hopefully a good resolution will be agree upon.

Governor Locke's budget has passed the Washington Senate, and is now going to the House. In Oregon there will be a hearing later in the month. Ms. Puchy will be there, and Commissioner Robertson has agreed to attend as well.

Ms. Puchy noted both Public Outreach and GIS Positions have closed. The agency received about 35 applications for Public Outreach and 12 for GIS Coordinator. Roberta Robles has been temporarily hired to continue the GIS work.

Ms. Puchy noted that this is her last meeting. She thanked the Commission for allowing her to work with them, and stated this position has been a marvelous, rewarding experience.

9. NSA Managers Report

Jurgen Hess presented the NSA Manager's Report. He noted the window for submitting 8(o) requests ended. The Presidents budget includes 6 million dollars for land acquisition. The Forest Service is hoping to hire a real estate person. There will be a celebration in May of the Hood River Exchange. Virginia Kelley has received the "Taking Wing" award. Commissioner Crow asked about the priority breakdown of the properties selected for purchase. Hess stated that one-third of them are high priority.

10. Committee Reports

The **Human Resources** Committee has begun the search for a new director. Criteria for selection were used from the last director search. In all, there were 52 applicants, 7 of those have been interviewed. Full packets on these 7 will be sent to all Commissioners, and further interviews will take place.

11. Other Business

Louie Pitt noted that some of the Indian women have taken an aggressive stance on the use of derogatory terms, such as "Squaw". He encourages folks who are looking for an Indian name or term to contact the tribes ahead of time to learn about the term they are planning to use.

Chair Squier noted that it is financial disclosure time again and encouraged Commissioners to get their forms turned in.

12. Executive Session

The Commission went into Executive Session to discuss matters of pending litigation.

13. Adjournment

The meeting came back from Executive Session and adjourned at 4:15 p.m.

Notes taken by

Date Approved by Commission:

Bob McIntyre

July 10, 2001