

COLUMBIA RIVER GORGE COMMISSION

Meeting Minutes

August 13, 2002

Location: Best Western Inn, Cascade Locks, Oregon

Time: 8:30 a.m.

MEMBERS PRESENT

Kenn Adcock

Jane Jacobsen

Joe Palena

Kathy Sheehan

Anne Squier

Doug Crow

Walt Loehrke

Joyce Reinig

Kim Titus

Wayne Wooster

MEMBERS EXCUSED

Don Dunn

Dave Robertson

Michael Farrow

STAFF PRESENT

Allen Bell, Senior Planner

Keith Fredrickson, Public Outreach Coordinator

Brian Litt, Senior Planner

Jeffrey Litwak, Counsel

Bob McIntyre, Administrative Assistant

AUDIENCE PRESENT

Benson, Jessie. Cascade Locks, Oregon

Davis, Judy. League of Women Voters. Portland, Oregon

Gibson, Bus. Mazamas. Portland, Oregon

Kenslow, Tiffany. Friends of the Columbia Gorge. Hood River, Oregon

Lemons, Nancy. Columbia Gorge Discovery Center. The Dalles, Oregon

Miles, Larry. Lyle, Washington

Quick, Ann. Cascade Locks, Oregon

Sauter, David. Klickitat County, Washington

Sims, Pat. Portland, Oregon

Thiemann, Phyllis. Corbett, Oregon

Watson, Kathy. Columbia River Gorge Visitors Association. Hood River, Oregon

Wilkins, Maxine. Portland, Oregon

CALL TO ORDER

The meeting began at 8:35. Roll was called.

APPROVAL OF MINUTES

The minutes of June 11, 2002 were reviewed and approved as written. The minutes of the July 9, 2002 meeting were reviewed and approved with minor corrections.

PUBLIC COMMENT

Bud Quinn, Skamania County Commissioner, spoke to the Gorge Commission about compensation to landowners impacted by the Scenic Area Act. He discussed fire danger, believing the Forest Service is not managing the land properly. He discussed the hiring of a planner by the Forest Service, and stated that he is troubled by the role the Forest Service is taking, and would like some answers. Chair Squier responded that she would convey his concerns to Acting Area Manager Kim Titus upon her arrival. Commissioner Crow agreed with Quinn's concern regarding fire danger, stating that he will do all in his power to focus Commission attention on this issue.

Commissioner Sheehan addressed Quinn's concern over Forest Service planning duties. Sheehan stated that the Forest Service does have planning responsibilities for land it owns. She stated that the fire danger is extreme, but that is not completely the fault of the Forest Service, as we all share in the responsibility for fire. She said she supports the payments to the counties for the Scenic Area Act, and she believes some type of compensation to landowners, especially in GMA lands is justified.

CONTESTED CASE HEARING ON SUPPLEMENTAL NOTICE OF ALLEGED VIOLATION—CASE #E98-D-G-53

Chair Squier opened the contested case hearing on the supplemental notice of alleged violation by Mr. Dan Stingl of Lyle, Washington. Present for the hearing were Mr. Dan Stingl representing himself. Jeffrey Litwak represented the Executive Director and Brian Litt participated as a member of the Gorge Commission staff. Oregon Assistant Attorney General Michael Huston was present to advise the Commission.

Chair Squier asked the Commissioners if any had ex-parte contacts to disclose. Commissioner Reinig stated that she and Larry Miles had a discussion, but this specific matter was not a topic.

Chair Squier went over preliminary matters and procedures for the hearing that would follow.

Mr. Litt began by outlining the case on behalf of Martha Bennett. Jeffrey Litwak stated that this would be the third time the Commission would hear this issue. He stated the Commission accepted a Resolution Through Agreement in August, 2001. In March, 2002, the Commission granted an extension allowing Mr. Stingl until June 30th, 2002 to complete the agreed work. Mr. Stingl had not completed the items agreed to, and staff recommended a civil penalty.

Brian Litt presented 6 photos as new evidence. The photos were shown to Mr. Stingl. He had no objection to their use. The photos were allowed as exhibits. Mr. Litt stated that the Commission was being asked to do three things:

- Compel compliance with the resolution through agreement, granting one more extension of time.
- Modify the agreement to allow smaller trees.
- Impose a civil penalty.

Mr. Stingl presented his opening arguments. He presented a letter outlining the landscaping requirements, and expressed his desire to comply. He apologized for the trouble coming into compliance, stating that he is a part-time resident of the Gorge. He asked the Commission to forego a civil penalty.

Mr. Litt outlined the areas of noncompliance, including painting and vegetation. He provided background information, and reviewed the requirements that Mr. Stingl was to comply with. Litt reviewed the specific violations on the painting of the window trim and sashes, and that no additional landscaping had been done. He stated that Mr. Stingl had complied with the painting of the pump house and treatment of the roof, however.

Litt asked the Commission to grant an extension of time to mid-November, and modify the Resolution Through Agreement to allow trees 8 to 10 feet in height, rather than the 15-foot trees originally required. Mr. Litwak presented the penalty criteria in rule 350-30-090. He stated that staff recommends a \$4,000 civil penalty, with an additional penalty of \$2,500 to be waived if the work is done by the final deadline of mid-November.

Mr. Stingl presented his oral argument. Stingl presented two photographs of the property to Litt and Litwak, to be taken as exhibits. The photos were shown to Litt and Litwak; they had no objection. The photos were provided to the Commission.

Brian Litt presented his rebuttal. Commissioners asked clarifying questions, and the parties then presented brief closing arguments.

The Commission deliberated. The Commission received some advice from Counsel Huston. Commissioner Reinig moved that the Commission order the civil penalty recommended by the staff, of \$4,000 with an additional \$2,500 for staff time be waived if conditions are met by November 15, 2002, painting or replacement of windows and garage door to adhere to the color standard, and completion of the landscaping plan , with the modification that the native trees be 4 to 6 feet in height. Commissioner Loehrke seconded the motion. There was further discussion. Commissioner Sheehan offered an amendment that would require 6-8 foot trees, rather than 4-6 foot. Commissioners Reinig and Loehrke accepted the amendment.

After additional deliberation the question was called. The motion to proceed to a vote on the main motion passed 7 to 2. The Commissioners voted as follows:

Crow—Yes	Adcock—Yes	Wooster—Yes
Sheehan—Yes	Reinig—Yes	Palena—Yes
Loehrke—No	Jacobsen—Yes	Squier--No

A vote was then taken on the main motion, as amended. The Commissioners voted as follows:

Crow—No	Adcock—Yes	Wooster—No
Sheehan—Yes	Reinig—Yes	Palena—No
Loehrke—Yes	Jacobsen—No	Squier—Yes

The motion passed 5 to 4.

CONTESTED CASE HEARING, STINGL, #E01-K-G-67 (GRADING)

Mr. Stingl made a procedural motion for postponement of this item, stating that he desired representation by an attorney. Jeff Litwak stated that the Executive Director had no objection to this. Chair Squier ruled to postpone the hearing.

DIRECTOR'S REPORT

Allen Bell, Acting Director, stated that there had been two changes on the agenda: the motion for reconsideration on the Heuker decision and the hearing and deliberation on Plan Review. Both of these items were postponed until the September meeting.

SCENIC COMMITTEE REPORT

Commission Wooster reported that the Scenic Committee had met and discussed Key Viewing Areas. A group of landscape architects provided written materials and a presentation on minimizing visibility and key viewing areas. There was a staff recommendation to remove one or two of the KVA's and to provide clarity on one or two of the others. Wooster read the committee's recommendations: delete Larch Mountain, keep Wyeth Bench Road, clarify that the pullouts along highways are part of the highway KVA's, and clarify that the top of Multnomah Falls is a KVA. The group discussed the Hood River Bridge, Tom McCall point, U.S. 197, Dalles Mountain Road and Cape Horn. Further discussion will take place at the August 20 meeting.

The Port of Hood River is concerned about the Hood River Bridge being included as a KVA. Brian Litt, and Commissioners Wooster and Reining attended the Port's meeting about this, and there will be more discussion before a final decision is made. There was some misunderstanding about what the impacts would mean.

RULES COMMITTEE

Jeff Litwak reported that the rules committee had met, and some suggested changes had been included in the packet for Commissioner review. He said the proposed amendments would make the rules consistent with the more restrictive of the states' statutes, as required by the Act. These amendments related to open meetings, public records, administrative procedures and conflicts of interest. Litwak then highlighted some of the amendments. He emphasized that the Commission was not being asked to adopt rule changes today, but simply to authorize the publication of the changes in the state register so that a hearing could be scheduled. The Commission asked that the draft rules be posted on the website.

Commissioner Reining moved to authorize moving forward on the rules changes. Commission Crow seconded this. The Commission voted unanimously by voice vote to authorize the rule making activity.

PRESENTATION ON LEWIS AND CLARK PREPARATIONS

Kathy Watson presented information to the Commission on planning for upcoming activities related to the Lewis and Clark Celebration. She stated that this is a very important event for the region. She reviewed the Lewis and Clark travel route, timeline and major activities of the two explorers. She highlighted some of the major stops on the way, including Maryhill, LePage Park, Celilo

Park, The Dalles Dam, Horsethief Lake, and others.

She said this event is important in terms of commerce, because the Gorge is one of the top four destinations for tourists along the Lewis and Clark Trail. There will be many visitors to the area, and one of the major goals is to get them to extend their stay. She then reviewed some of the tools being used for advertising, major events in the area, and exhibits. Commissioner Adcock asked about the various tribes. Watson stated that the tribes do not necessarily celebrate the arrival of Lewis and Clark. Commissioner Jacobsen mentioned that architect Maya Lin will be doing a project that will draw people to the Gorge. Commissioner Palena advised anyone interested in Native American history to read "Legend of the Wapato".

Ken Karminski then discussed the Cargo Exhibit that will be taking place at the Discovery Center in The Dalles. He said some 60-thousand pounds of equipment was brought along with Lewis and Clark. Though none of the original equipment was saved, this display will recreate what they brought to provide some detail on the volume and range of supplies they carried.

EXECUTIVE DIRECTOR'S REPORT, Continued

Allen Bell presented the monthly update on Plan Review progress (see attachment A).

NSA MANAGER'S REPORT

Kim Titus discussed the fire situation, stating many Forest Service employees were fighting fires, and the cost of fighting these fires is having budgetary impacts.

Titus said the Forest Service has hired a new Planner, Steve Grichel.

Titus stated that she is also taking over the duties of Mike Kania and Jurgen Hess.

OTHER BUSINESS

Commissioner Adcock stated that the Gorge Commission should make a provision for how to handle a tie vote. In a previous meeting, the Attorney General's office had to be called for assistance in determining how to proceed. Chair Squier turned to Jeffrey Litwak for advice. He said this has been a problem in the past, and there is not any one right or wrong way to handle this. He said this is not addressed in Roberts Rules of Order. Chair Squier noted that the

Commission has always handled a tie vote as a fail. Squier suggested that Jeff Litwak look into how other agencies in the two states deal with tie votes where a decision is made, and then schedule a small discussion for the Commission. The Commission could then decide if they wish to make changes to the bylaws.

Chair Squier noted that Commissioners Palena and Loehrke will be available as will she to assist staff as needed on office building issues.

EXECUTIVE SESSION

At 3:15 p.m. Chair Squier stated that the Commission would go into Executive Session to discuss litigation matters. The audience was cleared, and no members of the press were present. She reference Commission rule 350-11-006-1(g).

The Commission returned from Executive Session 5:46 p.m. No issues required action in open session.

ADJOURNMENT

The meeting adjourned at 5:48 p.m.

Meeting notes taken by Bob McIntyre

Date minutes approved by Commission: October 8, 2002

PLAN REVIEW PROGRESS REPORT – AUGUST 13, 2002

Topic	Work Completed	Work Pending / In Progress
Scenic Resources	<ul style="list-style-type: none"> • Committee meeting held on 7/30/02. • Committee heard presentation by American Society of Landscape Architects on various scenic topics in scope of review. • Committee discussed refinements to KVA list proposed by staff. • Committee made several recommendations regarding deleting, keeping, and clarifying several KVAs. The Committee deferred decisions on deleting or adding several KVAs to the next meeting. 	<ul style="list-style-type: none"> • Next Scenic Committee meeting set for 8/20/02. • Committee to continue refining the list of KVAs, and discuss color guidelines at next meeting.
Land Use	<ul style="list-style-type: none"> • Staff prepared preliminary draft overviews for four topics: expedited review process; new schools; commercial fishing facilities/businesses; Scenic Area Act direction for wild and scenic rivers. • Technical advisory committee (TAC) held its fourth meeting on 8/8/02 to discuss the four topics listed above. 	<ul style="list-style-type: none"> • Staff revising preliminary draft options based on TAC input at fourth TAC meeting. • Fifth TAC meeting set for 9/25/02. • Staff preparing overviews for the five final topics in General Land Use for review with TAC on 9/25/02.
Natural Resources	<ul style="list-style-type: none"> • Planning team reviewed and refined preliminary staff recommendations for issues relating to providing clarity and flexibility in guidelines. • Researched data availability and constraints for updating inventories. • Continued work on updating guidelines to reflect changes in other applicable laws. 	<ul style="list-style-type: none"> • Preparing packet for September Commission meeting with recommended revisions on issues relating to providing clarity/flexibility in guidelines, and recommended process for updating resource inventories.
Public Outreach	<ul style="list-style-type: none"> • News release sent out on July 22 publicizing July 30 Scenic Committee meeting. • Letter to editor published in July 17 <i>The Columbian</i> newspaper clarifying Scenic Resources Committee's recommendation on replacing "minimize visibility" standard. 	<ul style="list-style-type: none"> • Feature-style news release planned for September on GIS role in plan review. • Preliminary planning underway for open houses on Scenic Resources and Land Use, set for late September. • Press release planned for late August on Commission review of proposed Natural Resources revisions in September.