

# **Columbia River Gorge Commission**

## **Meeting Minutes**

**December 14, 2004**

***A complete record of this meeting is available on audiotape***

Location: Best Western Hood River Inn  
1108 East Marina Way, Hood River Oregon  
Time: 9:00 a.m.

### ***MEMBERS IN ATTENDANCE***

Harold Abbe  
Kenn Adcock  
Jeffrey Condit  
Doug Crow  
Judy Davis  
Jane Jacobsen  
Chris Knopp (for Dan Harkenrider)  
Walt Loehrke (10:20 a.m.)  
Joe Palena  
Joyce Reinig (10:00 a.m.)  
Kathy Sheehan  
Anne Squier

### ***MEMBERS ABSENT***

### ***STAFF PRESENT***

Tom Ascher, Planner  
Allen Bell, Senior Planner & Acting Executive Director  
Brian Litt, Senior Planner  
Jeff Litwak, Counsel  
Kathy Obayashi-Bartsch, Administrative Assistant

### ***AUDIENCE PRESENT***

Andersen, Steven. Cascade Planning Associates  
Carlson, June. Oregon Department of Transportation (ODOT)  
Cheiarniach, Mark. City of Mosier  
Curtis, Lee. Mid-Columbia Economic Development District (MCEDD)  
Johnson, Patrick. Skamania County Planning Department  
Kelly, Virginia. United States Forest Service (USFS)  
Lang, Michael. Friends of the Columbia Gorge (FOCG)  
Leipper, Bob. Troutdale, Oregon  
Meyer, Dave. The Dalles, Oregon  
Miller, Bobbie. Gorge Landowners United (GLU)  
Pizanelli, Phil. Corbett, Oregon  
Prigel, Brian. City of Bingen, Washington  
Ray, Michael. ODOT  
Robins, Dale. Regional Transportation Committee

Simione, Angelo. GLU  
Thiemann, Phyllis. Columbia River Gorge Visitors Association  
Thompson, Geoff. GLU  
Tobet, Jimmie. Confederated Tribes of the Warm Springs Reservation  
Witherspoon, Karen. Skamania County Planning Department

Chair Squier called the meeting to order at 9:03 a.m. and role was called. She introduced new Oregon Commissioner Jeffery Condit. He replaces Dave Robertson on the Commission. She also welcomed Chris Knopp who is the Acting National Scenic Area (NSA) Manager while Dan Harkenrider is working in Washington D.C.

### **Approval of Minutes**

Chair Squier asked the Commission to review and comment on the draft minutes.

October 12, 2004 Commissioner Davis said the minutes should reflect the next regularly scheduled meeting to be November 9, 2004 as the meeting was canceled and changed to a special meeting after the October 12th meeting.

Commissioner Crow asked that his comment on page six be revised as follows: "Commissioner Crow does not like the negotiation aspect with the Executive Director." Commissioner Jacobsen moved to adopt the minutes with these changes and Commissioner Sheehan seconded the motion. A voice vote was taken and passed unanimously.

November 9, 2004 Commissioner Davis moved to adopt the minutes and Commissioner Sheehan seconded the motion. A voice vote was taken and passed unanimously.

Chair Squier said blank Commissioner agreements scorecard forms are available for those in the audience who are interested, noting the results of these scorecards would be discussed later in the meeting.

### **Public Comment**

Dave Meyer of The Dalles, Oregon said he is an orchardist and requests the Commission change the current policy of dark colors for new construction. He said seasonal housing units have been constructed in the past with light colors in order to reflect heat as these units are temporary housing for seasonal workers and do not have air conditioning. He is trying to build another seasonal housing unit and Wasco County required a dark color based on their interpretation of the Management Plan (Plan). He understands wanting to make buildings blend in with the surroundings but the dark color acts as a heat collector. He said the workers are laboring in high temperatures as The Dalles is often in the 100 degree range and feels this is an unfair policy to apply. Chair Squier said his comments are appreciated and the Commission is aware of the tradeoffs among temperature and color.

Bobbie Miller of Gorge Landowners United (GLU) asked for the background of the new Commissioners. Chair Squier said press releases have been issued for

Commissioners Abbe and Condit. Commissioner Knopp, Condit and Abbe provided a brief summary of their backgrounds. Miller also asked if the Commission has issued any information pertaining to Oregon's Measure 37. Jeff Litwak, Counsel said staff provided a document addressing Measure 37 and the National Scenic Area to the counties and would provide a copy to Ms. Miller.

Bob Leipper of Troutdale, Oregon read from prepared testimony (see attachment A) outlining his concern that inconsistent application of the National Scenic Area Act (Act) and/or enforcement of the Act and a request for a citizen's advisory board. Commissioner Crow noted past storage of U-haul trucks and trailers was within the Mosier urban area.

Angelo Simione of GLU thanked the Commission for allowing commercial events in the NSA as outlined in the revised Management Plan (Plan). He explained that in discussing the application of this policy with Multnomah County, he was told that certain items, such as commercial events, may be subject to litigation and the county is not prepared to implement this policy until the legal issues are resolved. He asked whether the Commission and the Forest Service decisions would trump any decision made by a county. Allen Bell, Acting Executive Director explained after the revised Plan was transmitted to the counties, five of the counties indicted their plan to move forward with implementing a land use ordinance reflective of the revised Plan. Chair Squier suggested Mr. Simione speak to staff about the matter during a break for more details.

Chair Squier noted that she had failed to announce that Allen Bell is the Acting Executive Director at this time. Brian Litt and Allen Bell are sharing the Executive Director duties while Martha Bennett is on parental leave.

#### **Skamania County Ordinance Certification (Ordinance 2004-01)**

Allen Bell, Acting Executive Director said Senior Planner, Brian Litt and Counsel, Jeff Litwak will provide a summary (see attachment B) of the proposed amendment to Skamania County's Subdivision and Short Plat Ordinance. The amendment revises the definition of "lot" and clarifies the relationship between the County's Subdivision and Short Plat Ordinance and its Scenic Area Ordinance.

Litwak provided the history of the ordinance. He said the amendment is consistent with the Act and Plan and recommends approval of the amendment. He said a key detail missing from the staff report is that the definition of what is a parcel or lot must start with the Act. Staff finds the amendment is consistent with the Act and Plan, with a tentative finding of consistency for the Special Management Area (SMA) to be forwarded to the Secretary of Agriculture for concurrence.

Squier asked for questions by the Commission. Commissioner Crow asked about the definition of roadway and Litwak responded.

The Commission conducted a public hearing to determine consistency of

amendments to Skamania County's Subdivision and Short Plat Ordinance with the Act and Plan. Chair Squier asked whether Karen Witherspoon, Skamania County Planning Director would like to speak. Witherspoon said she agreed with the staff report and had no other comment. Chair Squier called for public comment on the issue.

Michael Lang of Friends of the Columbia Gorge said they agree with the staff recommendation and find the amendment to be consistent with the Act and Plan. He thanked Skamania County for their efforts revising this amendment.

No other members of the public desired to speak on this issue.

Commissioner Adcock moved to approve the Skamania ordinance and Commissioner Condit seconded the motion. A voice vote was taken and the motion passed unanimously.

Chair Squier said the meeting is slightly ahead of schedule and asked to have the Directors Report at this time.

### **Director's Report**

Bell provided an update on the following items:

#### *Counties Acknowledgement of the Revised Management Plan*

Bell explained that five of the six counties have responded in writing (see attachment C) and are preparing to adopt revised land use ordinances. Klickitat County has not responded in writing and after speaking with the Planning Director, Curt Dreyer, confirmed verbally that they have no intent to adopt a Scenic Area ordinance for Klickitat County. He said Multnomah County indicated that due to pending litigation on certain items such as fish processing and commercial events, they believe by not allowing these activities, until the litigation is resolved, they are providing a higher level of protection. Commissioner Condit asked for the legal status of the Plan. Litwak said there has been no stay issued or in effect at this time. He provided a brief summary of the Commission's earlier discussion pertaining to adopting revisions with legal action pending.

#### *GIS Specialist Position*

Bell said the Commission and the Forest Service have not filled this position earlier due to budget constraints in 2004. Terms for a job share program have been agreed upon and recruitment began in November, with the application deadline of December 10th. He said staff hopes to conduct interviews in mid-January, intending to have the person begin work in February.

#### *Oregon Governor's Recommended Budget*

The Governor's recommended budget for Oregon has been released and is the base budget plus about \$170,000 for policy packages for the upcoming biennium. This amount would establish the Oregon portion of the Commission's budget for the 2005-2007 biennium, if approved by the legislature. Washington's

recommended budget has not been released, although it is expected later this week.

Commissioner Crow asked about the rock pit project by Oregon State Parks. Bell said there is an old ODOT quarry near the Tom McCall Preserve and the Oregon State Parks is restoring the pit. He said they hope to restore the shallow area in one year but will take up to five years for the deeper areas. It is an enhancement project that was approved by Wasco County and State Parks secured funding for the project.

### **Gorge Commission Land Use Ordinance Revisions Update**

Brian Litt, Senior Planner provided an update on preparation of revisions to the Commission's Scenic Area Land Use Ordinance for Klickitat County (see attachment D) by the January 2005 deadline. He said if staff is authorized to proceed a full draft will be available at prior to the January meeting and there will be a lengthy public comment period.

Jeff Litwak, Counsel provided a review of the rulemaking procedure and timeline. He said the document that is sent to the States for notice purposes will not show strikes and underlines as is currently used to show deletions and additions to the existing ordinance.

Commissioner Adcock asked if Klickitat County has been involved. Bell said they have not been involved. Commissioner Adcock said this seems unusual, asking why rush on this ordinance especially as litigation is pending. Bell said staff was following the timelines in the Act as well as rulemaking procedures for the two states.

Commissioner Crow asked where the language referring to maximum costs comes from. Litwak said the language mirrors the language used by the Commission for setting fees for appeals and other items. This language was used for consistency. Litt said staff will review the draft ordinance with Klickitat County.

Chair Squier recapped the issue to be considered; staff is asking for authority to submit a complete draft to the state of Washington before the Commission meets again to review the complete draft in January. This is in order to meet the proposed schedule. There are no substantive issues involved and the Commission will have another opportunity to make changes after the draft is complete. Chair Squier asked for public comment.

Angelo Simone of GLU said it appears that the Commission wants to push this through in spite of the litigation and is in effect trumping any county decision. He asked why the Commission would prepare an ordinance with litigation pending. Bell responded that the Act instructs the counties to respond within certain a time frame, and instructs the Commission to adopt an ordinance for any county that fails to do so. Since Klickitat County did not respond, the Commission is proceeding to draft an ordinance to apply in Klickitat County portions of the

Scenic Area. The Commission thus is in the same position of the five counties that are going forward with ordinance development; this has nothing to do with the authority to override or trump a county decision.

Michael Lang of Friends of the Gorge said the counties have 60 days to respond the Commission as to their intent in adopting an ordinance. As Klickitat County has not responded, the Commission will draft the ordinance for the county. Bell said the response was due by November 10th and Klickitat County did not respond. Mr. Lang said the Commission is now proceeding with developing a land use ordinance based on the Plan revisions and each county may adopt stronger ordinances than what the Plan prescribes. He noted in reference to pending legal action alluded to there are many other groups, besides Friends of the Gorge as well as individuals involved in the lawsuit.

Geoff Thompson of GLU said while the Commission staff is very good, he urged the Commission to review everything that is prepared by staff. He cautioned the Commission to not allow any submittal to the states before they had the opportunity to review the document, noting this creates more problems with public perception if items have to be revised.

Chair Squier said we are talking about whether to submit a draft for the public notice process in Washington, not about making any decision. There are going to be two or three checkpoints thereafter in which the Commission will have the full draft and the benefit of public input. Before any rule is adopted and made effective, it would have very careful scrutiny.

Commissioner Reinig said that in 17 years of being on the Commission, we have never acted or made decisions based on a draft and the Commissioners review the information pertaining to an issue well in advance of making any decision. She said this particular request is for procedural reasons and there are many opportunities to make changes if needed.

Steven Anderson of Cascade Planning Associates commends staff for working on the ordinance and supports the request. He said this will allow staff to dedicate time on Plan Amendment applications starting in January.

Commissioner Abbe asked that a notation be made that the Commission has not yet approved a final draft when the draft is sent to the states. Litwak said we can certainly put some sort of note with the draft that would address potential minor changes such as numbering.

Commissioner Condit said the issue is procedural and not substantive. He said since we are acting for Klickitat County, we need to abide by some of the same rules and time frames imposed on Gorge Counties.

Commissioner Crow agreed with Commissioner Condit and noted this has been in the works for a long time. He made a motion to approve the staff request with a note stating the Commission has not yet approved a final draft.

Commissioner Adcock said there is no apparent answer why this is being rushed through. He said there has been no collaboration with Klickitat County and for that reason does not agree with the motion.

Commissioner Palena seconded the motion. A vote was taken and passed 10 to 1.

Harold Abbe-aye  
Kenn Adcock-no  
Jeffrey Condit-aye  
Doug Crow-aye  
Judy Davis-aye  
Jane Jacobsen-aye  
Walt Loehrke-aye  
Joe Palena-aye  
Joyce Reinig-aye  
Kathy Sheehan-aye  
Anne Squier-aye

Chair Squier called for a break at 10:45 a.m. and called the meeting back to order at 11:00 a.m.

#### **Economic Development Certification Request W04-0116**

Bell said typically Gorge Commission staff would not provide a recommendation before the investment board approved an application but prepared one at the request of the applicant in this case, pending action of the Investment Board which took place on December 9th. He said staff reviewed the application and developed an initial staff report (see attachment E) finding the project to be consistent with the Act and the Plan.

Tom Ascher, Planner, provided a summary of the economic development certification request for the Mosier Economic Development Program. The City of Mosier initially requested a grant and loan package totaling \$80,865. The funds would support land acquisition, aerial mapping, and facilities and land use planning efforts within this program. Ascher said the request is consistent with the Act and the Plan.

At the Oregon Investment Board (OIB) meeting on December 9th, the application was reviewed and changes were made. The primary change is that all funds will be issued as a loan and the City of Mosier will provide \$3,000 in matching funds, however the nature of the project was not changed. Ascher said a revised staff report (see attachment F) has been prepared to reflect these changes.

Lee Curtis of Mid-Columbia Economic Development District said the loan is to be repaid at four percent interest within two years. There were no questions from the Commission or additional public comment.

Commissioner Reinig made a motion to certify the request W04-0116 as consistent with the Act and the Plan. Commissioner Adcock seconded the motion. A voice vote was taken and passed unanimously.

### **ODOT Presentation and Update on SR 35 Bridge Replacement**

Michael Ray of Oregon Department of Transportation (ODOT) provided an update (see attachment G) on the status of the SR 35 Columbia River Crossing project, including the results of the Draft EIS.

Brian Prigel, Mayor of Bingen, said the feasibility study began as a result of efforts from local residents and is not a priority for the transportation agencies. They are hoping to get the funding for the final draft EIS from a variety of sources. The bridge tolls will not support the cost of the project, even at a dollar and a half per crossing; the tolls will only pay approximately 35% of the total cost. Prigel said they need a source of local funds and hope the Port of Hood River (Port) will agree to a 25% allotment from bridge fees to the project, which will raise approximately \$800,000 for bridge replacement.

Commissioner Reining asked about the breakdown of Washington and Oregon residents surveyed about an increased bridge toll. Dale Robins of Regional Transportation Agency (RTA) said a higher number of Washington residents were polled and generally seemed more willing to pay a higher toll if these funds were dedicated to bridge replacement.

Commissioner Reinig asked if the old bridge would be purchased from the Port of Hood River. Ray said the new bridge would be jointly owned by the states but the old bridge is still owned by the Port. Robins said part of the budget included \$10 million for demolition of the old bridge which is more cost effective than purchasing and relocating the old bridge.

Commissioner Jacobsen asked if they had considered getting a portion of the commuter toll sales from the Port. Prigel said these are the types of issues that need to be discussed with the Port.

Commissioner Loehrke said with the proper design, the bridge could be a tourist amenity and urged local communities and businesses to support the project.

Chair Squier thanked Michael Ray, Brian Prigel and Dale Robins for the update on the project.

### **NSA Manager's Report**

Chris Knopp, Acting NSA Manager provided an update on the following:

July 2004 marked the 100 birthday of the United States Forest Service (USFS). Centennial forums throughout the country were conducted focusing on the role and direction of the USFS. The northwest forum was conducted at Skamania Lodge with USFS staff and other invitees. Discussion revealed that one of the primary uses of USFS land is for public recreation and the USFS should direct

efforts in light of this use. There will be meetings in January in Washington DC to present the findings from these forums.

There has been no update on the status of pending legal action related to the Management Plan.

A workshop to discuss the proposed Troutdale intermodal transportation station was conducted and the USFS expressed concern about air quality. While no final decisions have been made as to the location, the primary concern focuses on air quality and the effect of marine diesel emissions, which are particularly far reaching. Work is being done to mitigate these effects. Commissioner Crow asked if any Commission staff attended and Knopp responded that the meeting was primarily for USFS and other agencies.

Commissioner Crow said there are many visible clear cuts in the Carson, Washington area and he presumes they are in the GMA not the SMA. He said the Commission has very little regulatory authority in the GMA as state law applies. He is concerned about whether full compliance with state law is being met. He suggested the Forest Service, with its technical expertise in forest management, could advise the Commission as to how it might go about evaluating this. He said that he has received many questions about this area.

Bell said there is a boat launch dedication at Drano Lake at 10:00 a.m. on Thursday, December 16th and hoped some of the Commissioners would attend.

### **Other Business**

Chair Squier said as part of the Commission's September workshop, a self assessment worksheet was developed for the Commissioners to rate their performance on selected goals. In earlier discussions it was agreed that these should be completed every few meetings and discussed. She said in her estimation, the Commission scored in the middle of the range for most items and asked if any other Commissioners had comments. There being no additional comments, she suggested the scorecard could be discussed at the next meeting in January, after approval of the minutes.

Chair Squier said that she had distributed draft committee assignments for 2005 (see attachment H) a couple of weeks ago. Commissioner Adcock said that he had not received a copy and asked to be on the Executive Committee in 2005. Chair Squier said there was a typographical error and Commissioner Abbe's name would be added to the Cultural and Natural Resources Committee. Chair Squier said that the draft was emailed to all Commission members; that she would take Commissioner Adcock's concern under advisement and would come back to the Commission with a final set of assignments in January. In the meantime, assignments as shown on the draft will be effective for any committee meetings before the January meeting. Commissioner Jacobsen asked that the goals for each committee be distributed and each committee should evaluate their duties against the Commission's current work plan. Chair Squier agreed that this was a good suggestion and should be reviewed in January.

Commissioner Reinig suggested a discussion is needed on the trend of large houses in the Gorge and the impact of this development in the Gorge. Commissioner Reinig said there is a reporter from the Oregonian who is preparing an article on this issue and Reinig would like staff to discuss this item with the Commission, especially in terms of the scenic impact at the January 2005 meeting.

Bell noted that staff is monitoring this issue and has appealed several county decisions that approved very large houses. Staff has appealed one of these decisions to the Gorge Commission. He said staff will prepare a presentation for January, and will ensure that it does not compromise the Gorge Commission's ability to hear any pending or potential appeals regarding large houses.

Commissioner Crow said he attended a wind power conference in which there was discussion on the impact on plants and wildlife. He said he brought up the issues of siting, color, and visibility as items to consider.

Commissioner Abbe said he would like to receive budget information as soon as possible and has initiated some discussion with legislators about the budget.

There being no other business, Chair Squier adjourned the meeting at 11:45 a.m.

The next regular meeting is scheduled for 1/11/05 at the Hood River Inn in Hood River, Oregon at 9:00 a.m.

Minutes taken by Kathy Obayashi-Bartsch and approved on January 11, 2005