

Columbia River Gorge Commission
Meeting Minutes
January 28, 2003

Location: Rock Creek Recreation Center, Stevenson, WA

Time: Meeting commenced at 9:00 a.m.

MEMBERS IN ATTENDANCE

Doug Crow	Kathy Sheehan
Jane Jacobsen	Kim Titus
Walt Loehrke	Wayne Wooster
Joe Palena	Anne Squier
Joyce Reinig	

MEMBERS EXCUSED

Kenn Adcock	Michael Farrow
Don Dunn	Dave Robertson

STAFF PRESENT

Allen Bell	Keith Fredrickson
Martha Bennett	Gary Pagenstecher

AUDIENCE PRESENT

Bradley Andersen. Attorney, Stevenson, Washington.
Borland, Stacey. Skamania County Planning Department.
Cornett, Todd. Wasco County Planning Department.
Craig, Ralph. Washougal, Washington.
Fosburg, Bill, Washougal, Washington.
Heuker, Casey. Dodson, Oregon.
Heuker, Chris. Dodson, Oregon.
Holman, Brent. Skamania County Public Works Director.
Kloos, Jeanette. Oregon Department of Transportation.
Lang, Michael. Friends of the Columbia Gorge.
Lemons, Nancy. The Dalles Chronicle, The Dalles, Oregon.
Owen, Glenn. Owen Holdings, Vancouver, Washington.
Sanborn, Gene. Washougal, Washington.
Sauter, David. Klickitat County.
Carole Stooner. Washougal, Washington.
Thiemann, Phyllis. Columbia River Gorge Visitors Association.
Tokos, Derrick. Multnomah County Planning Department.

Walker, Eric. Hood River County Planning Department.
Wertz, Clint. Wasco County Planning Department.
Witherspoon, Karen. Skamania County Planning Department.
Wittenburg, Bob. Skamania County Public Utility District.

PUBLIC HEARING ON PROPOSED GENERAL LAND USE RECOMMENDATIONS

Chair Anne Squier opened the special meeting by stating its purpose was to take public testimony on proposed changes to the Management Plan dealing with General Land Use and Natural Resources, with the General Land Use hearing proceeding first, followed by Natural Resources. Chair Squier reminded the Commission to refrain from any discussion that would suggest it was reaching any conclusions on the proposed recommendations. The record will remain open until February 7, 2003 to receive additional comments.

Commission Senior Planner Allen Bell and U.S. Forest Service Planner Virginia Kelly then presented Commissioners with copies of a January 27, 2003, memorandum that clarified and refined several options on the 14 proposed General Land Use position papers the Commissions received at its January 14, 2003, meeting. (See Attachment A.)

Chair Squier, noting that the presentation by Bell and Kelly addressed 6 of the General Land Use recommendations, asked the presenters to provide capsule summaries of the other 8 General Land Use recommendations for audience members who may not have attended the January 14, 2003 meeting. Chair Squire then opened the hearing for public testimony.

PUBLIC TESTIMONY – General Land Use topics

Wasco County Planning Director Todd Cornett discussed Wasco County concerns regarding 9 of the 14 General Land Use topics. He said of the remaining 5 topics, Wasco County supported the staff recommendations. (See Attachment B.)

Skamania County Planning Director Karen Witherspoon testified that Skamania County had concerns about 6 of the 14 topics, and that she would speak about four of them and the County's Public Works Director, Brent Holman would address the other two.

Concerning Accessory Buildings and Structures Allowed Without Review, Witherspoon said Skamania County has similar concerns with Wasco County and that allowing buildings up to 120 square feet should be considered. Addressing Accessory Buildings and Structures, she agreed that Issue A should be clarified. On Issue B, Witherspoon voiced concern with the 1,500-square-foot limit. She said that limit may work on parcels of five acres or a smaller, but suggested a staggered size limit that would be linked to the size of a parcel; as the parcel increases in size, the size of an exempt accessory building could also be increased. On issue C, depending on outcome of Issue B, she said the County is looking at one building not exceeding that size limit but allowing any number of accessory buildings provided that one building cannot exceed what ever that size limit is, and the total combined footprints cannot exceed a higher limit. Witherspoon gave as an example: 1,500 square feet maximum for one building and the total amount of accessory buildings not exceeding 2,500 square feet. On issue D, she said the County wants to make sure that that the provisions for agricultural lands also apply to

forest lands, so that in forest zones, buildings approved in conjunction with established forest uses given the same constraints that apply to agricultural buildings. She said the County also wants to make sure that agricultural buildings are not tied to the agriculture income test. She then encouraged the Commission to allow 120-square-foot buildings to be allowed without review rather than be on the Expedited Review list. Witherspoon said the County will provide written comments to the Commission before February 7.

Ralph Craig, a resident of Washougal, addressed large agriculture. Craig said his complaint concerned regulations for building a house on 40 acres zoned large agriculture. Chair Squier said that topic was not among the 14 specific topics that were being addressed at this meeting. Staff said particular land use designations will be addressed in another section of Plan Review that won't begin for several months. Chair Squier said staff would contact Craig when his issue is being addressed. Craig also brought up the subject of churches and schools, and Chair Squier asked him to hold his comments on those topics until they are addressed by the Commission in the second set of General Land Use proposed recommendations.

David Sauter testified representing Klickitat County. Sauter said Klickitat County supports Wasco and Skamania counties' position on the proposed recommendations. On the topic Accessory Buildings and Structures Allowed Without Review, Klickitat County supports Option 2, which raises the threshold to 120 square feet. Regarding Accessory Buildings and Structures, Issue B (dealing with size), Sauter said Klickitat County thinks the 1,500-square-foot limit is too restrictive. If a building's use is incidental and subordinate, and can be sited appropriately and be compatible with adjacent uses, it should be allowed, he said. Sauter said Klickitat County is concerned with Issue D in the Accessory Buildings and Structures topic, noting that Option 2's purpose is to clarify that proposed agricultural buildings can only be approved in conjunction with established agricultural uses and the size of agricultural buildings must be proportional to current and imminent agricultural operations. Sauter said that language may be too shortsighted, particularly regarding the use of "imminent". He said it is cheaper to build one big building when you're planning for production to increase four or five years in the future. Sauter said the farm income test was relevant to the current hearing because some farmers can't meet the income test, so they build necessary farm buildings as accessory buildings, and that the 1,500-square-foot limit may not allow them to adequately meet their needs.

Chair Squier asked Bell to clarify the size limit on accessory buildings as it applies to agricultural buildings. Bell said that in General Management Areas, agricultural buildings are not tied to the income test; in the Special Management Areas, there is a link to the income test to qualify for agricultural buildings. Commissioner Walt Loehrke also asked Sauter's reaction to a sliding scale for determining the size of an accessory building, and Sauter said he agreed with such a concept.

Bob Wittenberg, Manager of Public Utility District No. 1 of Skamania County, testified about the Repair and Maintenance topic. Wittenberg suggested a definition for Repair and Maintenance that he said may solve the confusion over the issue without adversely affecting resources in the Scenic Area. (See Attachment C.)

Michael Lang, Conservation Director for Friends of the Columbia River Gorge, testified that his organization would provide written comments on the proposed land use revisions before February 7, 2003. Friends supports the staff recommendation for Other Related Structures in the SMA with one minor change that would remove a redundant phrase [referring to parcels less than 40 acres in size]. On Accessory Buildings and Structures Allowed Without Review, Friends supports Option 2 for Issue A; for Issue B, Friends feels Option 3 could open up a loophole in the Management Plan and cautioned the Commission to take a careful approach with this topic. Friends believe Option 3 may be acceptable if the Expedited Review Process that would follow would really ensure protection of resources. For Buildings and Structures, Issue A, Lang suggested substituting the word "dwelling" for house. For Issue B on the same topic, Option 2 is acceptable with Friends, but Lang said it should be carefully reviewed so the word "structure(s)" is applied throughout the Plan. Concerning Additions, Lang said the recommendation corrects an oversight in the Plan, and that the Plan clearly intended to allow additions. On the topic of Dredge Spoil and Other Spills, Friends generally supports the staff recommendation, and suggested looking at some threshold that would allow landowners to stockpile some amount of materials for some landscaping without triggering a full review. Regarding Enhancement Projects, Friends supports the staff recommendation. On the topic of Review Uses and Inconsistencies, Friends supports the staff recommendations. Regarding Accessory Buildings and Structures, Friends agrees with the staff recommendation on Issue A and Issue B. On issue C, regarding limitations to total square footage of an accessory building, Lang said Friends would support the staff recommendation, especially in conjunction with Issue B. Lang said Expedited Review could work if it is very narrowly defined and administered, but it could open up a big loophole if it isn't. He said a loophole could be created if Expedited Review does not allow enough time for the public and interested parties to review and comment on the proposals and file land use appeals. Lang said the 10-day comment period for expedited review is too short and should be 20 days. For the appeal period, Friends supports a 15-day appeal period. Friends also supports the staff recommendation for the Repair and Maintenance and Lot- Line Adjustment topics. Lang added that lot-line adjustments should include public processes. For Temporary Hardship Dwellings, Friends supports Issue A that would limit hardship dwellings to parcels greater than 40 acres in the SMA and taking no action on Issue B of the same topic. Lang said he did not have the opportunity to review the January 27, 2003 staff memorandum and that Friends will address it in written comments.

Jeanette Kloos, Scenic Area Coordinator for Oregon Department of Transportation, testified next. She said ODOT generally supports the staff recommendations, but had concerns with five topics: Enhancement Projects, Review Uses and Inconsistencies, Expedited Review, Repair and Maintenance, and Dredge Spoils and Other Fill. (See Attachment D.)

Commissioner Doug Crow said there were many activities related to highways, such as fencing and barriers, drainage, curb construction and gates, and that he considers maintenance and should be done without a lot of regulation. He said it would be helpful for transportation agencies to furnish the Commission with a fairly long and detailed list of road maintenance projects. Kloos said she would furnish the Commission with a more complete list.

Susan Muir, Interim Planning Director for Multnomah County, testified next. She said, on balance, the work on the 14 land use topics was excellent, but the County did have specific concerns with some of the recommendations. She then listed those concerns. (See Attachment E.)

Commissioner Kathy Sheehan asked Muir if Multnomah County disagrees with the recommendation on Lot-Line Adjustments because of the example presented earlier in the day by staff that would allow 15 acres to be readjusted to allow three parcels in an area zoned for 5-acre minimum lot size. Muir answered that the county does not think lot-line adjustments should provide the opportunity for additional parcels.

Brent Holman, Public Works Director for Skamania County, testified on behalf of the public works directors of Skamania, Wasco, Hood River and Klickitat counties. Referring to the Maintenance and Repair topic, Holman said the glossary definition of repair and maintenance is in conflict with chapters in the Management Plan that include Uses Allowed Outright. He said the Commission staff has required a review and comment period on any activity that changes size, type dimension, material, etc. He said the recommended Option 2 does little to resolve this major conflict of interpretation of the Plan or to resolve the conflicts of definition of repair and maintenance activities versus Uses Allowed outright. (See Attachment F.)

Commissioner Crow said public works agencies have defined rights-of-way that should be used to do whatever is necessary to improve infrastructure, such as install water lines or underground utilities. Holman said that is what rights-of-way corridors were intended to do, and agencies need to have the ability to work within rights-of-way for repair and maintenance. Holman said he could not recall one repair and maintenance project that has been turned down after it has went through the permit process. He said the problem is the time and paperwork involved in getting a project approved,

Eric Walker, a senior planner for Hood River County, testified. He said that Hood River County generally supports most of the staff recommendations. On the topic of Accessory Buildings and Structures Allowed Without Review, Hood River recommends that buildings under 120-square feet in size be allowed without review, noting that 120-square-foot buildings offer no more appreciable risk to resources than 60-square-foot buildings. Also, 120-square-foot buildings would be consistent with the Uniform Building Code exemption. On Expedited Review, Walker said the list of developments eligible should include replacement of existing structures that do not meet the proposed definition of in-kind replacement but only require minor modifications to a structure's overall appearance, design or use of different materials. For Repair and Maintenance, the County believes small routine road maintenance and road projects should apply to private road improvements, too. Concerning Lot-Line Adjustments, Walker said the County does not believe it is necessary to restrict lot-line adjustments to just two parcels, and that this limitation would result in a succession of applications that could have been completed through a single review. The County also recommends that lot-line adjustments be considered under ministerial review rather than the expedited review. By crafting guidelines so they are objective and don't require interpretation or discretion, lot-line adjustments would remain non-land use decisions and save time and resources. The County also believes the 1,500-square-foot limit for accessory buildings

is too small for all situations and that added flexibility is needed, Additional concerns from Hood River County will be provided in written comments.

Bill Fosburg, a private citizen, testified that a development's size should not matter as long as it is incidental and subordinate. He questioned why more development should not be allowed through lot-line adjustments, which could increase property tax revenue. Bell responded that the key point of the staff recommendation is that lot-line adjustments shouldn't be used to undermine the minimum parcel size requirements; but in the case when there is enough land between combined parcels to meet the minimum lot-size requirements, an additional parcel could be created.

Bradley Andersen, a Stevenson, Washington, attorney, testified that some language in some of the proposed recommendations may be unconstitutionally vague. An example from the Accessory Buildings and Structures topic is the phrase that size of agricultural buildings must be "proportional to current and imminent operations," -- the word "imminent" may be too broad. He said another example occurs in Lot-Line Adjustments where the word "minor" is used. Andersen said in Skamania County, lot-line adjustments seem to work well as long as they do not create new development rights. He said they are approved as ministerial acts. If the Lot-Line Adjustment recommendation is intended to do the same thing, Andersen said he supports the proposal. He also voiced support for expedited review, then suggested that the Commission consider adding another type of review to its procedures: ministerial review when there is no decision rendered on a matter. He said any time a Gorge County makes a decision, there is a minimum of 30 days when it can be appealed to the Gorge Commission and before an applicant can proceed with a project.

Commissioner Crow commented that the Commission could pursue a fourth course of action further as a way to allow some minor projects to be approved more quickly with less cost to counties and fewer fees to homeowners while still allowing some kind of public comment or review.

PUBLIC HEARING ON PROPOSED NATURAL RESOURCES RECOMMENDATIONS

Commission Planner Gary Pagenstecher reviewed proposed revisions to the Natural Resources chapter of the Management Plan. Pagenstecher said that Commission and Forest Service staff proposed (at the January 14, 2003, Commission meeting) revisions to specific reference to state and federal natural resource protection laws cited in the Management Plan. The staff report covers 5 specific references, including state wetlands ordinances, delineating and defining wetlands, timing of in-water work, wildlife and plant inventories, and water quality standards. Staff recommended amending or revising two of those specific references – delineating of wetlands and timing of in-water work.

PUBLIC TESTIMONY – Natural Resources topics

Jeanette Kloos, Scenic Area Manager for Oregon Department of Transportation, testified on the Timing of in-Water Work. (See Attachment D.)

Kloos also asked if sensitive wildlife and plant inventories include state listed species. Chair Squier answered that sensitive lists do include all state-listed species from Oregon and Washington. Kloos then asked if the Management Plan referenced Oregon and Washington state ESA lists and "take" limitations and Oregon state fish passage statutes. Chair Squier said those are issues the Commission needs to clarify.

Michael Lang, Conservation Director for Friends of the Columbia Gorge, testified that the natural resource guidelines for protecting water resources have become outdated and are in need of revision. (See Attachment G.)

No one else requested to testify.

ADJOURNMENT

There being no further business, Chair Squier adjourned the meeting at 12:45 p.m.

Notes Taken by Keith Fredrickson

Date notes approved by Commission: March 11, 2003