

Columbia River Gorge Commission
Meeting Minutes
February 14, 2006
A complete record of this meeting is available on audiotape

Location: Columbia Gorge Discovery Center, 5000 Discovery Drive
The Dalles, Oregon 97058
Time: 9:00 a.m.

MEMBERS IN ATTENDANCE

Harold Abbe
Kenn Adcock
Jeffrey Condit
Doug Crow (9:10 am)
Judy Davis
Dan Harkenrider
Walt Loehrke
Jim Middaugh
Joe Palena
Joyce Reinig (9:15 am)
Honna Sheffield

MEMBERS ABSENT

Jane Jacobsen
Roberta Kirk (excused)

STAFF PRESENT

Martha Bennett, Executive Director
Jeff Litwak, Counsel
Kathy Obayashi-Bartsch, Administrative Assistant

AUDIENCE PRESENT

Andersen, Steven. Cascade Planning Associates
Curtis, Lee. Mid-Columbia Economic Development District (MCEDD)
Hollatz, Nicole. Skamania County Planning Department
Jewell, Paul. Tidewater Barge
Lang, Michael. Friends of the Columbia Gorge (FOCG)
Leipper, Bob. Troutdale, Oregon
Nichols, Rodger. *The Dalles Chronicle*
Nicolai, Thomas. Portland, Oregon

Others were present during the day.

Call to Order

Chair Davis called the meeting to order at 9:00 a.m. and role was called.

Approval of Minutes – December 13, 2005

Commissioner Abbe moved to adopt the minutes as drafted and Commissioner Condit seconded the motion. A voice vote was taken and unanimously approved.

Public Comment

Paul Jewell, Tidewater Barge, said the company has an opportunity to apply for a \$500,000 grant through the Environmental Protection Agency (EPA) to reduce emissions and sent an e-mail requesting the Commission's support. Martha Bennett, Executive Director said staff is interested in assisting Tidewater in their effort for the grant funds. This grant proposal would assist in reducing diesel emissions from the Tidewater boats. Bennett said staff is discussing the project with Oregon DEQ to sort out who will sponsor the grant. Commissioner Palena said perhaps this would be of interest to the Tribes and suggested the Commission facilitate work with various partners.

Commissioner Loehrke asked Mr. Jewell what work would be done with these funds. Mr. Jewell said they will replace tug boat engines if the grant is received rather than repairing existing engines. He said a new engine would be considerably more efficient, produce far less emissions and bio-diesel fuel may be considered based on EPA recommendations. He said the new engines would use ultra low sulfur diesel fuel resulting in a huge improvement in emissions. The Commission expressed their support of his request and instructed staff to work with Mr. Jewell on this grant request.

Michael Lang, Friends of the Columbia Gorge said FOCG would support the efforts of Tidewater to reduce their emissions. He commented on the President's budget including the proposed sale of public lands (see attachment A). He said that many of the proposed parcels for sale are in the Scenic Area and is looking forward to further explanation of how and why these parcels were identified.

He referenced the recent Plan Amendment allowing commercial uses in historic buildings and said there is another proposal from the original applicant with many changes that are acceptable to FOCG. He said FOCG filed an appeal of the historic buildings Plan Amendment and will continue to discuss the resource concerns and is exploring alternatives with the applicants.

Commissioner Condit asked if there is a map of the Forest Service parcels that were identified in this sale of public lands. Commissioner Harkenrider said he will display a map displaying the parcels during the Scenic Area Manager's Report.

Commissioner Middaugh asked if the Commission should act as facilitator in any way regarding the Plan Amendment allowing commercial uses in historic buildings. Jeff Litwak, Counsel said the Commissioners should not act as a mediators as the issue is in litigation.

Opportunity for Tribal Nations to address Commission

There were no tribal representatives present.

Commission Work session on draft revisions to Plan Amendment Rule (350-50)

Chair Davis introduced the topic and said no decisions will be made today and the work session is for the Commission to review the revisions and ask questions of staff.

Jeff Litwak, Counsel, said at the December meeting, the Commission voted to initiate rulemaking for draft amendments to Rule 350-50 (Plan Amendments). The Commission requested staff to conduct a workshop on the draft amendments prior to the rulemaking hearing and that is the purpose of today's discussion. The rulemaking hearing will be held on March 14, 2006.

He provided a review of the draft revisions to Plan Amendment Rule (see attachment B).

Chair Davis asked what the difference is between quasi-judicial amendments and legislative amendments. Litwak said the new rule would make a distinction between amendments that affect many people (legislative) or a few people (quasi-judicial) and cited some examples.

Commissioner Crow said the standards should be very high to process a quasi-judicial amendment. He suggested these cases should be reserved for situations where there was a previous error or omission and believes those cases are rare. All other proposed amendments would be legislative.

Commissioner Loehrke said the Commission needs to be careful with land owner rights and if an owner believes that conditions have significantly changed, they have the right to a hearing.

Commissioner Harkenrider said this is the crux of the issue and the standards used to proceed with a plan amendment should be high. Commissioner Middaugh concurred with Commissioner Crow.

Commissioner Condit said the Commission should be able to determine the number of plan amendments processed based on the Commission budget and work plans rather than create an atmosphere where people feel they are entitled to a plan amendment.

Commissioner Sheffield said if an individual brings up an issue, many others may be affected as well and this must be considered.

Commissioner Reinig said the Commission should remember property owner rights and there must be a path for the individual landowner to come before the Commission. She suggested a time frame could be assigned to these applications. She expressed her concern that the Commission continue to provide this opportunity for people.

Commissioner Condit said there needs to be a distinction between making a change within our existing regulatory scheme and applications that request something outside of the existing scheme.

Bennett asked if Commissioner Condit means that a quasi-judicial amendment should only address map changes, such as a change in land use designation or landscape setting and not a request for a new use. Commissioner Condit said this is what he is suggesting.

Commissioner Harkenrider said if a quasi-judicial application only pertains to a smaller issue, the proposed time line may not need to be as lengthy as outlined.

Commissioner Adcock said he agrees that the standards should be high but is concerned that individual property owners will not have an opportunity to bring their concern before the Commission. He asked who will be in a position to deny an applicant.

Bennett said under the draft rules, for a quasi-judicial application the Commission would make the final decision. Only legislative applications would be reviewed for processing based on the Commission's budget and the workplan.

Commissioner Condit agreed with other commissioners that a process must be available for individual property owners. He said the Commission needs to be able to set a number or level per year for plan amendments if the quantity of applications becomes a problem.

Litwak said the Commission has had 12 amendments in the last 12 years, so this may provide some perspective of quantity of applications received.

Commissioner Middaugh said staff will make the distinction between what is a quasi-judicial or legislative amendment. Commissioner Condit said if an applicant's amendment is determined to be quasi-judicial and not legislative, there should be a process to appeal this determination to the Commission. Bennett said a process to address this situation could be included. She added that if the Commission limits quasi-judicial applications to "map changes" as suggested by Commissioner Condit, there will be no discretion in the decision.

Chair Davis said there may need to change the wording for "property that would be affected" as there seems to be confusion with this wording.

Commissioner Adcock commented on the proposed language on page 7, item g: "For legislative amendments, the Commission may modify the recommended language in any manner." He expressed concern that if the Commission modifies the recommended language, this may result in hijacking the original application. Bennett said for legislative amendments, the applicant is the Commission's staff not an individual property owner and the Commission may make any language changes it wishes.

Commissioner Reinig asked if the originator of the legislative amendment may withdraw the application. Bennett said the originator may make comments during a public comment period but the applicant of a legislative amendment is Commission staff.

Commissioner Middaugh said he wants to clarify that a pre-application conference is not necessarily a replacement for a government to government consultation, such as with the Tribes. He also clarified that once a party requests notice, this would serve as a request for notice on all aspects of the application.

Chair Davis referred to the comments received by Mr. Nicolai and said the current language meets the needs of the planners rather than to the applicants. Davis suggested adding language to assist the applicant. Commissioner Reinig said this has not been a problem in the past.

Commissioner Middaugh asked why public notice is limited to 200 feet from the property boundary lines. Litwak said the 200 feet is consistent with the rest of the Plan but cannot

recall why that number was selected. Commissioner Reinig said that number was selected based on cost and resources to notify a larger area.

Bennett said staff will look into drafting language to manage work load implications of plan amendments as well.

Commissioner Abbe said he would not want to restrict notice to 200 feet depending on the nature and impact of the issue. He said staff should use discretion on this issue and Commissioner Palena concurred.

Break

Chair Davis called for a break at 10:30 a.m. and called the meeting to order at 10:45 a.m.

Update briefing on Columbia Gorge Discovery Center

Ken Karsmizki, Executive Director of the Gorge Discovery Center and Museum provided an update to the Gorge Commission. Karsmizki discussed the Discovery Center's work as the interpretive center of the National Scenic Area and its collection. He said the Discovery Center is situated on a reclaimed cement plant and provided a briefing of the Center's chronology (see attachment C). He expressed concern about the Center's budget to maintain operations and building maintenance. He also discussed the need for study of some of the Museum's collections, such as the Native American Indian basket collection.

Commissioner Crow asked what the Commission could do to support the Center. Mr. Karsmizki said one way could be a request for federal appropriations for operational support.

Commissioner Palena asked how the projection for visitation could deviate so significantly from what has occurred. Mr. Karsmizki said the original visitation projections were based on a free admission policy, a different freeway exit configuration and a higher projected visitation from the Seattle area. Mr. Karsmizki said as the economy and development of The Dalles changes this will likely make a difference to the Center and hopes this will have a positive impact on the Center.

Commissioner Reinig expressed support of the Center and suggested FOCG support their operations.

Bennett said the Commission will be discussing the federal appropriations request and should be aware of the difficulty receiving these appropriations. Mr. Karsmizki said the future operation of the facility may require a vendor or concessionaire to run the facility, perhaps as a convention center.

Chair Davis thanked Mr. Karsmizki for the presentation and his efforts with the Discovery Center.

Report on Commission internal process on Code Compliance and Enforcement

Bennett provided a review of internal code compliance and enforcement process (see attachment D). She said she would like the Commission's thoughts on how violations are reported, how cases are prioritized and whether the Commission is providing a good balance between reaching compliance and enforcement.

Bennett said the Commission staff assume responsibility for a potential violation- if the Commission issued the original permit, which means that much of the agency's own enforcement work is done in Klickitat County. Many cases are referred to the county that the property is in as the county administers the land use ordinance. The Commission only assumes responsibility of these cases if a County actively refuses to enforce its own ordinance.

Commissioner Middaugh asked how the Commission is notified of these cases. Bennett said when certain kinds of cases are completed a deminimis report is issued to the Commissioners. If a case results in a Notice of Violation, then the Commission has a hearing on the case. She said there have been approximately 116 cases and there are currently 26 unresolved cases.

Commissioner Adcock said there is a belief in Klickitat County that the Commission is more stringent in Klickitat than in other counties. Bennett said other counties have more enforcement cases than in Klickitat County. Commissioner Adcock said he is concerned about consistent enforcement in the Gorge and not enforcement just in Klickitat County. Bennett said that helping improve enforcement throughout the Gorge is on the work plan, but this report covers only the Commission's own program, not that of the other counties.

Commissioner Reinig thanked Bennett for the report and said it would be great if a six county data base could be developed and shared with all the counties. Commissioner Adcock said he would like more data comparing the enforcement efforts in each county and thanked Bennett for the report and commended the process being used for enforcement.

Commissioner Middaugh said it would be helpful to know what the status is of cases that are referred to other counties. Commissioner Adcock said the Commission's process should be shared with other counties and asked if staff are conducting meetings with county planning staff. Bennett said meetings have been scheduled and this process is a good discussion item.

Lunch

Chair Davis called for a break at 12:15 p.m. and reconvened the meeting at 1:05 p.m.

Approve Federal Fiscal Year 2007 Appropriations Request

Bennett said each year, the Columbia River Gorge Commission requests that Congress appropriate funds to fulfill the authorizations in the National Scenic Area Act (see attachment E). Past appropriations have created jobs, constructed recreation facilities, assisted Gorge landowners, and preserved scenic vistas and critical habitat. She said this year's request differs from last year's request in several ways. There is no GIS program request, no request for an indicator's project and no request for utility under grounding in Cascade Locks as Cascade Locks received funding for this.

Bennett said this year's request for recreation projects is new. A coalition of interest groups worked to develop the new recreation request and all parties involved agree to support the request, whether or not they have a specific project on the list. She reviewed the list of recreation projects proposed in the request. She said critical features of all the projects provide for new recreational uses and tie into existing projects.

She said staff propose the Commission approve a request for Federal Fiscal Year 2007 that has four parts:

- \$3.7 million for recreation projects on four urban waterfronts
- \$2.5 million for grants and loans that create jobs in the Gorge
- \$9 million to reconstruct a key link on the Historic Columbia River Highway
- \$1.8 million to acquire critical Gorge lands that will be changed to a \$1 million request because this is the amount in the President's budget.

Commissioner Reinig said she supports the request but asked whether the Hood River Waterfront project would create a conflict of interest, as their plan may encroach in the Scenic Area. Bennett said all of the projects would need to get the proper permitting so this should not be an issue.

Commissioner Crow asked why the Discovery Center was not included in the request and Bennett said she asked for input and had not heard from Mr. Karzmiski until today's meeting.

Commissioner Middaugh suggested some federal accounts that would fit into these projects, such as through the Army Corp of Engineers.

Commissioner Crow asked how long the trail section is for the historic highway request and if this could be included in the request. Bennett said this section is about three miles long and the information could easily be added.

Commissioner Harkenrider discussed the proposed sale of 730 acres of Forest Service lands. He said the parcels identified were isolated and difficult or costly to manage, were not identified as having high probability for a cultural site, may be in urban areas and do not have particularly significant resources. He said the largest portion are lands transferred from the Bureau of Land Management (BLM) to the Forest Service and primarily are in Washington. The lands if sold would not lose their current designation so protection would still exist. He said there will be a period for public review and people may comment on the entire project and on specific parcels. The program is targeted to fund the rural schools and road programs for five years.

Commissioner Adcock said he supports this project and the sale of these public lands. He said a conservation easement could be placed on the property and many potential buyers exist.

Commissioner Loehrke asked if most of the land was in the Special Management Area (SMA) or General Management Area (GMA). Commissioner Harkenrider said the bulk of the land is in a GMA designation and believes is zoned for large scale of agriculture.

Commissioner Middaugh asked whether such a sale would trigger a change in conditions and create new plan amendments. Bennett said that is a possibility that the Commission may wish to consider.

Commissioner Condit said property in urban areas should be considered differently and parcels should be reviewed on a case by case basis to determine the merits of each potential sale and its impact.

Bennett said it sounds like staff should review the potential sale of these lands and be prepared to discuss the issue at the next meeting.

Public Comment

Michael Lang, FOCG commended staff and the Commission for their efforts in seeking federal appropriations. FOCG supports the appropriation request and either an amendment to the proposed letter or another letter about the sale of public lands in the Scenic Area. He said the funds generated by the sale of Forest Service land in urban areas should be set aside for the purchase of lands in the Scenic Area and not be deposited in the general fund.

Lee Curtis, Mid Columbia Economic Development District (MCEDD) said the agency supports the appropriation request for recreation projects and the economic development request.

Chair Davis closed the public hearing.

Commissioner Condit made a motion to adopt the draft federal appropriation request with minor revisions to include:

- change from 1.8 million to 1 million for land acquisition
- change the fund named as a source of funds for Historic Columbia River Highway reconstruction
- adding appropriate federal program accounts to the requests as suggested by Commissioner Middaugh
- adding the distance of three miles to the description for the Historic Highway request

Commissioner Abbe seconded the motion.

Commissioner Loehrke said Skamania County is not supportive of the requests for the Historic Highway or the purchase of Scenic Area land as the benefits to Oregon are considerably more significant than they are for Washington. Commissioner Loehrke said Skamania County is in a dire financial situation and that is a driving factor in their decisions.

Commissioner Condit applauded the efforts of the coalition in support of the projects.

Commissioner Adcock said he supports removal of the \$1.8 million request for Scenic Area land acquisition in favor of adding that amount to the request for recreation projects.

Commissioner Abbe said rather than give staff direction about the sale of public lands at this time, more research is needed to study the issue. Commissioner Reinig said further study is needed before the Commission can make a determination on the sale of public lands in the Gorge. Commissioner Sheffield said the appraisal of land values is needed to make a more informed decision or opinion. Commissioner Harkenrider said he would follow up with more detailed information and would provide this information to Bennett for the Commission. Commissioner Condit said he would like more information about the land in Corbett, specifically the history of how and why these parcels became public land.

A vote was taken and passed 8 to 1.
Harold Abbe-aye

Kenn Adcock-aye
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Walt Loehrke-no
Jim Middaugh-aye
Joyce Reinig-aye
Honna Sheffield-aye

Committee Reports

The Commission heard reports from the following committees:

Executive Committee

Commissioner Condit, Executive Committee Chair said the projects for the Committee include revising the form used for evaluating the Executive Director and reviewing the rules used for proceedings in Commission meetings.

Bennett provided a status report of the Commission's expenses (see attachment F). She said there are some projects that joint program funds will be used for and that the Commission budget is slightly under spent from what she would like to see at this point in the biennium. She said part of the reason for this is because planning staff were hired later than originally planned. She also said the Commissioner accounts include the cost of self insurance for Oregon and Washington and these charges have been processed. She said the Oregon Commissioners should submit their per diem and reimbursement charges to reflect a more realistic account of expenditures. Commissioner Crow asked if this information could be posted on the website. Bennett said this can be posted but will need some explanation to make the figures understandable.

Commissioner Reinig said in the past, the Commission's work was drastically affected because unforeseen expenses impacted the Commission. Bennett said she is tracking expenses and the only unknown items are legal expenses from the Oregon Attorney General's office and pending lawsuits.

External Affairs Committee

Commissioner Abbe, External Affairs Committee Chair said the Commission's past outreach efforts have been targeted to the general public. He said it was determined that training is needed to provide presentations to various groups and to expand the speaker's bureau. He said Bennett will be providing this training today and this will prepare more Commissioners for this function.

Commissioner Abbe said it was determined that the Commission needs to provide more outreach to elected officials and their staff. Each member of the committee shall provide a list of people who should be invited to go on tours of the Gorge hosted by the Commissioners themselves.

Commissioner Adcock said the speaker's bureau is a great idea because there is a lot of misunderstanding about the Commission. Bennett said if any of the Commissioners have a group that would be interested or should be contacted, please provide that information to staff and staff will contact those groups.

Assessment Committee

Commissioner Harkenrider, Assessment Committee Chair said one of the items brought forth during Plan Review was the need for quantifiable measures and standards to make decisions. The Committee met and decided that there is a need for an indicator's project which would provide the quantifiable measures and standards and this work could coincide with the 20th anniversary of the Act. This anniversary focus is not so much a celebration of the Act but to convene interested persons and promote a look toward the future. Bennett provided a review of the proposed Gorge Forums and Start of Indicators Project (see attachment G). She said that for each item listed, there would be a short report on the topic.

Commissioner Crow said he would like the indicator's project to be data driven and provide a time series of hard data.

Commissioner Adcock said he supports this project as proposed as he does not believe that a private consultant should be hired to perform this work. He provided a list of reasons why he believes the Commission is not working and shared them with the Commission.

Commissioner Davis said as there seems to be no objection to the project as proposed, staff should proceed with the project as presented.

Director's Report

Bennett said FOCG and several property owners have challenged the recently adopted Plan Amendment pertaining to commercial use of historic buildings and requested that Commissioners not discuss this issue.

Bennett said Multnomah County submitted a letter to the Commission expressing their intent to accelerate implementation of the historic buildings plan amendment. She said Clark County has also indicated they will move forward with their land use ordinance amendments, which will include use of historic buildings. Clark County intends to adopt an ordinance in April.

Bennett said the Scenic Handbook is complete, copies have been distributed to all counties and a meeting was held for all county planning staff. She said the Historic Highway master plan was released and there are copies for the Commission's review.

Bennett said the next Commission meeting will include the rule making hearing and release of the air quality data so it will be a lengthy meeting.

NSA Manager's Report

Commissioner Harkenrider said a new staff person, Greg Cox will replace Kim Titus starting in late February.

Commissioner Harkenrider said several letters were circulated from attorney Mike Neff who represents Mr. and Mrs. Stone on a property they offered under section 8.(o) program. He said there was disagreement of the appraisal value and the owners received some relief in court with a change in designation. The property owners want to sell the property again but now the Forest Service is not in a position to purchase the property.

Commissioner Harkenrider said the Klickitat County Rails to Trails agreement will be signed with Washington State Parks.

Other Business

There was no other business.

Speakers Bureau Slide Show Training

Bennett said the External Affairs Committee asked for training on the basic presentation that is available for Commissioners to give to service clubs. She provided an overview of the standard 15 minute presentation, including the PowerPoint presentation.

Bennett said she will prepare a frequently asked question and answer sheet for those who will give the presentation.

Adjourn

Chair Davis adjourned the meeting at 3:30 p.m.

The next regular meeting is scheduled for 3/14/06 at the Hood River County Administration building in Hood River, Oregon

Minutes taken by Kathy Obayashi-Bartsch

Minutes approved on 4/11/06