

Columbia River Gorge Commission

Meeting Minutes

March 23, 2004

A complete record of this meeting is available on audiotape

Location: Hood River County Administration Building
601 State Street, Hood River, OR

Time: 9:00 a.m.

MEMBERS IN ATTENDANCE

Kenn Adcock

Judy Davis

Michael Farrow (9:05)

Dan Harkenrider

Jane Jacobsen (9:45)

Walt Loehrke

Joe Palena (9:05)

Joyce Reinig

Dave Robertson

Kathy Sheehan

Anne Squier

Wayne Wooster

MEMBERS ABSENT

Doug Crow (excused)

STAFF PRESENT

Allen Bell, Senior Planner

Martha Bennett, Executive Director

Jeff Litwak, Counsel

AUDIENCE PRESENT

Andersen, Steven. Cascade Planning

Borland, Stacey. Skamania County Planning Department

Hall, Priscilla. Portland, Oregon

Heuker, Chris. Cascade Locks, Oregon

Karabut, Diana. Portland, Oregon

Kloos, Jeanette. Oregon Department of Transportation

Lang, Michael. Friends of the Columbia Gorge (FOCG)

Leipper, Bob. Troutdale, Oregon

Lichtenthaler, Eric. Corbett, Oregon

Pizanelli, Phil. Corbett, Oregon

Sonneck, Vera. Nez Perce Tribe

Thiemann, Phyllis. Columbia River Gorge Visitors Association

Tokos, Derrick. Multnomah County Planning Department

Walker, Eric. Hood River County Planning Department
Witherspoon, Karen. Skamania County Planning Department

Commission Discussion of Plan Review Public Comments

Chair Squier explained the purpose of the meeting and stated the intent is to provide direction to staff in developing a final draft. There will be no final decisions today, even if there's a vote at this meeting, it is strictly to provide direction to staff.

Martha Bennett provided a review of the Management Plan (Plan) process and stated that the Commission heard nine hours of public testimony from over 40 people on February 24th, received about 250 comment letters and a few late comment letters, received after the March 10th deadline. All comments have been provided to the Commissioners with the draft minutes of the February 24th public hearing. She said staff reviewed all the public comments, although not every letter is commented on. She said in particular the staff do not have response if the comments received expressed a general area of concern, such as don't weaken Plan. She added that some of the issues raised by comments were already addressed in the Plan, and staff is not directly addressing these either.

She said staff has prepared an outline of recommendations for the issues raised by the Commission. Those recommendations were color coded as follows:

- Yellow- new data was provided or there were many comments with conflicting opinions related to the issue. She requested the Commission to deliberate on these issues and determine if the draft Plan meets the general intent of the Commission.
- Blue- significant policy issues raised by public comments. Staff has either recommended a change in the Plan in response or no action to the comment. She requested the Commission review these items and give feedback to staff about their recommendations.
- Pink- minor wording or technical issues raised primarily by counties and other agencies. Staff is recommending changes for some of these issues and is disagreeing with other comments. The Commission can provide feedback if time allows.
- Green- Issues not in the scope of Plan Review or for which the Commission has made a conscious decision not to address at this time.

Chair Squier opened the discussion of items to the Commission starting with the unresolved items in the yellow packet (see attachment A).

Comment Period for Expedited Review

Chair Squier explained that if the Commission chose not to make any further changes on this item, the draft Expedited Review process would include a 10-day comment period as previously discussed.

Bennett stated nearly all of the counties wish to eliminate the comment period. She noted that the draft Plan defined a narrow list of uses allowed in this category with minor effects, which will limit the need and demand for public comments. She stated other people said a public comment period was important. Multnomah County recommended that the Commission eliminate the public comment period but allow anyone to appeal a decision, eliminating the requirement to comment in order to preserve legal standing.

Allen Bell, Senior Planner explained the pros and cons of keeping or eliminating the public comment period. Chair Squier asked whether the issue was the complete elimination of a public comment period. She asked if this would result in no comment period for state agencies, tribal governments or adjacent land owners.

Bell responded that four counties said the comment period should be eliminated completely. Counties would receive an application, process it without public notice, issue a decision and then there would be an opportunity to appeal that decision. Skamania County suggests that a public notice is not sent out but state agencies, forest service, tribal governments and the Commission could comment before a decision is made. If the Commission opts to eliminate the comment period, they must decide who has opportunity to appeal and who receives a notice of the decision.

Commissioner Davis asked how agencies would be consulted regarding a natural resource issue. Bennett said if there was a resource question, such as natural or cultural resource, it would not be eligible for the expedited process and would go through the full review process.

Commissioner Sheehan said as long as anyone has standing to appeal, she'd favor dropping the comment period as long as people currently being notified receive the decision. Commissioner Reinig agreed.

Commissioner Robertson said he generally agrees with this idea as a full review is still available if people can appeal a decision.

Chair Squier asked what the appeal fees would be and whether there is any legal issue in stating everyone has standing to appeal. She also asked how such a change would affect the tribal chapter of the Plan as it currently says local governments or the Commission will notify the Tribes of any land use actions.

Commissioner Loehrke said the list of items eligible for the expedited process were carefully reviewed as these items typically don't receive comments and that this was not an irresponsible or frivolous action to streamline the process. He stated that he supports Commissioner Sheehan's comments.

Commissioner Palena concurred with Commissioners Sheehan and Loehrke.

Jeff Litwak stated that appeal fees would be approximately \$250 to \$1,000 and anyone aggrieved can appeal. He said in Washington there was not a specific requirement for a comment period for land use applications. If the Commission eliminated the comment period, this would not be inconsistent with how land use decisions are made in both states.

Commissioner Adcock said substantive items are not eligible for Expedited Review. He made a motion to eliminate the comment period entirely, retain the right for anyone to appeal a decision, and that counties must notify all agencies and Tribes of a decision as is the current practice. Commissioner Reinig seconded the motion.

Commissioner Robertson said the motion was good but there was still a question as to how notification of the Tribes should be addressed.

Commissioner Farrow stated the issue with the Tribes is staffing to monitor applications and noted his Tribe has only one person to do this work. He said he can't speak for the other Tribes. He asked how we monitor other agencies to make sure that they are working in a timely manner and noted the Commission may be set up to be the "bad guys" as counties and states pass a decision along.

Bennett stated that Skamania County suggested when an Expedited Review application is received a notice is sent to the Forest Service, Commission and the Tribes before a decision is made with a brief window for comments.

Commissioner Robertson offered an amendment to the motion to include per Skamania County's recommendation that notice of an application is sent to the Commission, Forest Service, and the Tribes with a comment period before a decision is made. Commissioner Adcock as maker of the motion agreed with these changes. Commissioner Reinig as second agreed with these changes.

Chair Squier said the amended motion includes the following:

1. Public comment period is eliminated.
2. All people have a right to appeal a decision.
3. Counties send a notice of the decision to all people who have a right to appeal in the current process, such as adjacent land owners.
4. Counties shall promptly send notice of an original application to the Forest Service, Gorge Commission and Tribes. At least five days shall elapse before a final decision can be made.

Commissioner Harkenrider noted that the idea of eliminating a 10-day comment period has turned into a process with a five day comment period.

Bennett stated the change will not require a formal notice process which includes considerable work for the counties and while it will require a slight delay for the counties, it simplifies their work. This change does allow more of an opportunity for the Tribes to review and comment.

Chair Squier said she was uncomfortable as the process would now require someone to appeal a decision and spend money to do so. She expressed concern that if something important has been missed, such as a cultural resource; someone would have to appeal the decision. She stated that she would feel better if there was some structure to waive appeal fees if this was the case.

Commissioner Adcock said a reason for his support of the change is that it would save county money and the counties would like more items to be identified as expedited. Commissioner Reinig stated that we are debating an issue that staff and counties have stated is really not an issue.

A vote was taken and the motion passed 9 to 1.

Kenn Adcock-aye

Judy Davis-aye

Michael Farrow-aye

Walt Loehrke-aye

Joe Palena-aye

Joyce Reinig-aye

Dave Robertson-aye

Kathy Sheehan- aye

Anne Squier-no

Wayne Wooster-aye

Commercial Events

Bennett reviewed the issue and noted that many comments were received either confirming the Commission decision of July 2003 or requesting further review and revision of the previous decision.

Commissioner Loehrke stated his concern with the previous decision as it would eliminate things that are already taking place. He said the county comments were good and we need to allow for these uses. He asked, is the Gorge going to be a place devoid of action besides hiking trails on the National Forest or driving the freeway, or is this a place where life happens?

Commissioner Reinig stated that with more information on the economic impact to the area, she would like to reconsider the issue. She stated that in 1979 when the issue of windsurfing came up, we might have done things differently regarding recreation in the Gorge. We rarely get to support the economic aspect of the Act, and we must consider how to assist the economically depressed areas around the Gorge. We have a basic structure for events, could place controls on events and we should allow them to occur.

There is a tremendous desire to get married in the Gorge, and we can allow it without having destructive impacts.

Commissioner Palena stated that in reviewing the comments, most residents near the potential event sites don't want them in their neighborhood. The owner of the Gorge Hotel stated that this type of activity is "whacking away from their business." He expressed doubt whether much revenue is lost from the area and that the wedding business should be confined to the 13 urban areas and commercial businesses.

Commissioner Sheehan stated that agri-tourism makes more sense and that small weddings would be okay but what's being proposed is too invasive for a residential area. She said that large events create a huge impact on neighbors and allowing large-scale events in a residential area, possibly impacting every weekend all summer, would be turning these areas into a commercial zone.

Commissioner Jacobsen said she considered what will happen in the future by allowing a pristine area to become developed, we're like everywhere else and that attraction to the Gorge is lost. She supports creating a structure for small events but wouldn't favor having a neighbor holding a wedding every Saturday throughout the summer.

Commissioner Farrow said there are a number non-conforming uses throughout the counties and if we continue to allow disorderly growth, we are digging a deeper hole.

Commissioner Harkenrider stated his belief that Skamania County is most directly impacted, due to settings that can be used for these events in other counties that Skamania does not have. He was concerned about not having all the facts, or a good assessment of what the future impacts would be. He said such regulations would be a nightmare to enforce. His experience living near the Flerchinger Winery was pretty good with their events every weekend.

Commissioner Davis stated the proposal being considered was too broad, and she would not support allowing events at every lawful dwelling. She favors use at existing places that can handle this type of activity such as bed and breakfast inns or wineries.

Commissioner Robertson said after reviewing the comments and information, he still believes that the data to make a good decision has yet to be provided. He stated that due to the complexity and the issues at stake, more information is needed.

Commissioner Wooster said the decision made last summer was a mistake. He asked about the difference between vehicles at a wedding site or at a trailhead. The Commission should allow this type of activity in the Gorge and allow the counties to work out the enforcement and procedural issues. He encourages the Commission to allow this activity. He said the draft language should include a review every two years, so if it doesn't work, we can stop it.

Commissioner Adcock stated that it is not our business to protect individual business interests, such as the Gorge Hotel. He supports Commissioner Wooster's ideas and asked staff how a new commercial event, such as the Gorge Games would be allowed in the area. Bennett responded that temporary events apply for a special use permit and this issue has been put on the Commission's long range work plan.

Chair Squier asked if anyone wished to offer a motion at this time.

Commissioner Loehrke made a motion to revisit this commercial event issue, noting they will continue to occur and are important to many people in the Gorge. He specified that his motion includes allowing commercial events. Commissioner Adcock seconded the motion. Bennett suggested that the Commission vote on the motion and if it passes they can work on the specifics of the item.

A vote was taken and failed 7 to 4.

Kenn Adcock-aye

Judy Davis-no

Michael Farrow-no

Jane Jacobsen-no

Walt Loehrke-aye

Joe Palena-no

Joyce Reinig-aye

Dave Robertson-no

Kathy Sheehan- no

Anne Squier-no

Wayne Wooster-aye

Winery Tasting Rooms

Bell provided a review of the issue and said the tasting room size restrictions pertain only to wineries in residential zones. Tasting rooms would be limited to 500 sq. ft. with an additional 500 sq. ft. for exterior structures, such as a deck. Many comments received said the tasting room size was too restrictive. He clarified that the term tasting room only pertains to the retail aspect of the operation. This area is independent of production areas, storage and/or office space. Several counties commented that the term should be clarified and staff agrees.

Commissioner Wooster asked for clarification regarding the retail function and Bennett responded that there is no intent to regulate tasting from a barrel if a winery chooses to offer this.

Commissioner Robertson asked how allowing an accessory structure in residential areas of 1,500 sq. ft. affects this type of use. He asked whether a tasting room is in addition to this, or is it included in the accessory structure. Bennett responded that the accessory structure is related to a residence and the tasting room is related to the winery, so there could be multiple buildings. Commissioner Robertson asked how to make an accessory building independent of regulations for a tasting room. Bennett

responded that the size limitation of the tasting room was intended to preserve the residential feeling of an area.

Commissioner Reinig indicated that a lot of these areas were originally farms and because of the Plan and the Department of Land Conservation and Development (DLCD) in Oregon, counties had to make a projection of where they're going to grow and a rural residential zone was made. Is there an inventory of situations of properties that have started as farms, but now are designated as rural residential? What is the size of the Flerchinger tasting room in Hood River?

Bell responded that some vineyards have been established on lands designated residential, such as in Hood River County and Klickitat County. However, this activity is not widespread. As to the issue of size and looking at Flerchinger Winery specifically, he said staff looked at the site plans for the approved tasting room and used those measurements as a guideline. He noted that there were other areas approved for office and laboratory use, but those functions were not considered as part of the tasting room. Bennett stated that, if anything, Flerchinger has more of an issue with outdoor space.

Commissioner Palena said the outside area was the problem to neighbors and favors consideration of a larger area for an inside tasting room.

Commissioner Adcock said he has operated a winery, vineyard and tasting room and 1,200 sq. ft. is not enough for a larger operation like Flerchinger. He said at least 1,000 sq. ft. should be allowed.

Commissioner Farrow said he agreed with Commissioner Reinig and doesn't want to see good soil go under concrete. He suggested other crops could be produced and noted small orchard and vineyard operations in his area have been successful.

Commissioner Davis said she was concerned about the cumulative total and it should not exceed 1,500 sq. ft., noting the operators can decide what portion of the building would be used for tasting.

Commissioner Loehrke asked whether the issue is putting a tasting room in an existing building or building a new structure. Bennett said most operators add a tasting room on the side of an existing building but we are leaving this up to the operator. Commissioner Loehrke said 500 sq. ft. is a fine size for a residential area. If an operation is growing to 100-200 people then it's changing the use of residential area and the operator should be looking to expand into an agricultural area. He suggested that staff clarify this issue.

Commissioner Harkenrider indicated that if the Commission determines that a residential setting is appropriate for a winery operation, size is not the issue to get hung up on. In trying to protect the area from noise, traffic, etc., we should look at some of the sample provisions for commercial events and apply them accordingly.

Commissioner Wooster expressed his concern in determining the right number. He asked staff how to respond to the comments received, requesting that we eliminate a size restriction, but keep the character of setting. Bennett responded that the size proposal was developed to protect residential areas and that staff is aware of two operations in residential zones. She stated that other wineries are in commercial or agricultural zones. She asked whether the Commission wants tour busses in a residential zone.

Commissioner Sheehan moved to keep the 500 sq. ft. size for inside tasting rooms for wineries in residential areas and an additional 500 sq. ft. for outside areas and to go forward with clarification on points outlined by staff. Commissioner Davis seconded.

Commissioner Robertson offered an amendment to the motion in order to be consistent with accessory building regulations. He said 1,500 sq. ft. should be allowed and divided at the owner's discretion, encompassing both indoor and outdoor space. This would not affect the allowed accessory structure regulations of 1,500 sq. ft. and Commissioner Wooster seconded the amendment proposed by Commissioner Robertson.

Commissioner Sheehan did not accept the amendment and said that she favored changing her original motion to include 1,000 sq. ft. indoor and 500 sq ft. outdoor.

Chair Squier clarified the motion to amend, noting that the land owner and the county would work out the details of how the 1,500 sq. ft. would be distributed. Bennett commented that without direction on criteria the county will use in determining inside and outside facilities, whatever the land owner proposes is probably what will happen.

Commissioner Loehrke said if you allow more people and vehicles, we have made no allowances for this and may be allowing a wedding without calling it a wedding. Commissioner Robertson responded that the winery is in place now and sees that the issue of weddings on these premises may need further clarification.

Commissioner Harkenrider asked whether the county would be directed to look at whether the property can support the use, independent of the size of the tasting room. Bennett responded that the counties regulate traffic, noise, and congestion.

Chair Squier clarified the issue at hand and asked who would regulate these issues raised by Commissioner Harkenrider. Bennett stated that the Plan serves as the "floor" and the counties have discretion to go beyond the Plan if they wish. Commissioner Davis said she read something about cottage industries and number of vehicles in the Plan.

A vote on the amendment was taken and failed 6 to 5.

Kenn Adcock-aye

Judy Davis-no

Michael Farrow-no

Jane Jacobsen-no

Walt Loehrke-aye
Joe Palena-no
Joyce Reinig-aye
Dave Robertson-aye
Kathy Sheehan-no
Anne Squier-no
Wayne Wooster-aye

Commissioner Wooster proposed an amendment to Commissioner Sheehan's motion for wineries within residential areas to include a tasting/retail area of 1,000 sq. ft that may be distributed either inside or outside at the owner's discretion and the other clarifications suggested by staff. Commissioner Adcock seconded the motion. Commissioner Sheehan accepted the amendment.

A vote was taken and passed unanimously.

Kenn Adcock-aye
Judy Davis-aye
Michael Farrow-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Joe Palena-aye
Joyce Reinig-aye
Dave Robertson-aye
Kathy Sheehan-aye
Anne Squier-aye
Wayne Wooster-aye

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

Size of Accessory Structures Allowed Outright

Bell reviewed this issue and said it falls into two categories: Uses Allowed Outright and Expedited Review. He said in Uses Allowed Outright, a Scenic Area permit was not required and in Expedited Review a permit was required but there were fewer guidelines to apply. He said in the draft, staff recommends accessory structures up to 60 sq. ft. should be allowed outright. Accessory structures from 60-120 sq. ft. should be reviewed under expedited review. Based on written comments, some counties want structures up to 120 sq. ft. allowed outright based on the uniform building code. However, Hood River County stated their building code has changed and now allows structures up to 200 sq. ft. without a building permit. Staff checked on these guidelines and found that the uniform building code is being replaced by the international residential code which uses a 200 sq. ft. building threshold. This new code is currently in effect in Oregon and will be in effect in Washington counties (Klickitat and Skamania) in July 2004.

Staff proposes:

1. 60 sq. ft. and 10 ft. in height would be allowed in Uses Allowed Outright
2. 60-200 sq. ft. and 10 ft. in height would qualify for Expedited Review
3. 200+ sq. ft. would require a full review

Bell said many comments were concerned with cumulative impacts, and staff recommends that only one accessory structure per parcel be allowed through Expedited Review at this time.

Commissioner Adcock asked how the 10 ft. height was determined. Bell responded that it came from the building code limits that are now in effect in Oregon. Bennett responded that the staff recommendation to lower the height in the Plan was to simplify the permit process and to be consistent with the counties.

Commissioner Farrow commended staff for developing these options.

Commissioner Wooster asked where the 200 sq. ft. came from? Bennett responded that it came from the international residential code, and it would be tied to structural safety. Commissioner Loehrke provided details as to how these standards were developed.

Chair Squier opened the floor for discussion.

Commissioner Wooster said he favored buildings up to 120 sq. ft. in Uses Allowed Outright and doesn't want to place the public in a position of running afoul of the rules.

Commissioner Farrow asked where the international residential code came from. Commissioner Loehrke explained that it replaced the uniform building code and was intended for use on an international scale.

Commissioner Sheehan stated that it makes sense to lower the height to 10 ft. to be consistent with the building codes and to bump up the size to 200 sq. ft. for Expedited Review. She favored allowing one building per parcel with a review of cumulative effects for any proposed additional buildings.

Commissioner Reinig asked whether Expedited Review will consider color and reflectivity. Bennett stated that Uses Allowed Outright would not consider color and reflectivity and Expedited Review would consider color and reflectivity. Chair Squier noted that Uses Allowed Outright means no review of any kind. For the Special Management Area (SMA) as proposed, all structures shall be earth-tone colors similar to those found at the site. Commissioner Reinig suggested that a color standard needs to be applied and Bennett said this would be an enforcement issue.

Commissioner Adcock stated that a 60 sq. ft. building is senseless as you can't store anything in something that small. He said most people need a riding lawn mower, hand tools and other items. He prefers at least 120 sq. ft. for Uses Allowed Outright and

doesn't support these in Expedited Review. He said anything over 120 sq. ft. should have a full review.

Commissioner Jacobsen said a building up to 120 sq. ft. should be allowed in the Uses Allowed Outright instead of 60 sq. ft. and asked about the siting requirements. Bennett clarified that in the category of Uses Allowed Outright there is no review and has no siting, color or reflectivity requirements.

Commissioner Davis said that the 60 sq. ft. rule is well known and can't see allowing larger structures without regulation for colors and exterior finishes. She said she supports the staff recommendations as outlined.

Commissioner Wooster said the reason for selecting some of these size limits was based on building codes and permit requirements. He supports using 120 sq. ft. as it is a well known rule and creates less confusion for the public.

Commissioner Wooster made a motion to allow up to 120 sq. ft and 10 ft. in height in the category of Uses Allowed Outright, to allow accessory structures 120-200 sq. ft. and 10 ft. in height in the category of Expedited Review and that any accessory structures larger than 200 sq. ft or taller than 10 ft. in height would be subject to full review and to allow one small accessory building per parcel as outlined by staff. Commissioner Adcock seconded the motion.

Commissioner Robertson offered an amendment to the motion to strike out 120 sq. ft., replacing it with 60 sq. ft. and was seconded by Commissioner Reinig. The amendment was not accepted by Commissioner Wooster.

Commissioner Reinig asked whether school bus shelters would be allowed and Bell responded if they are less than 60 sq. ft, which is standard for these structures, these would be in the Uses Allowed Outright category.

Commissioner Adcock said four counties recommend using 120 sq. ft. and we're ignoring the counties, if we don't incorporate this.

A vote was taken on Commissioner Robertson's amendment to allow up to 60 sq. ft. and 10 ft. in height in the category of Uses Allowed Outright.

The motion passed 7 to 4.

Kenn Adcock-no

Judy Davis-aye

Michael Farrow-aye

Jane Jacobsen-aye

Walt Loehrke-no

Joe Palena-no

Joyce Reinig-aye

Dave Robertson-aye

Kathy Sheehan-aye
Anne Squier-aye
Wayne Wooster-no

Chair Squier said the Commission should vote on the main motion which is the staff alternative as set forth on page 3, paragraph 5 of the yellow packet.

The motion passed 9 to 2.

Kenn Adcock-no
Judy Davis-aye
Michael Farrow-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Joe Palena-aye
Joyce Reinig-aye
Dave Robertson-aye
Kathy Sheehan-aye
Anne Squier-aye
Wayne Wooster-no

Chair Squier noted staff should follow the suggestions as outlined in the summary paper. Chair Squier asked Commissioner Harkenrider to comment on the SMA regarding the prior three topics. He concurred with the comment period for Expedited Review.

Expirations of Permits

Bell introduced the topic and explained that currently once a person starts work on a project, they can keep working on it indefinitely as long as they don't stop for more than a year. Some projects continue for years, without meeting conditions of approval and agencies must track what is still a valid project and enforce against others.

He outlined the proposed new draft Plan language: a permit is valid for two years with a possible one year extension. Once construction begins, there are two years to complete the exterior and comply with exterior conditions of approval, with a possible one year extension. Interior work can go on indefinitely.

He said some of the counties recommended keeping the current standards and others felt that the construction time frame was too short. He said that if the Commission felt a longer period was necessary, staff would recommend a three year period to complete the exterior and a one year extension. Bennett stated that it was not the initial permit period that was a concern but the construction period.

Commissioner Sheehan asked what happens if a project is not finished within the time frame. Bennett responded that it is an enforcement issue and the remedy would be decided by the county.

Commissioner Loehrke said that the remedy may not be another permit but a three month extension might be granted and if completed then a new permit could be issued.

Commissioner Wooster said if the rules don't change, it doesn't make sense to go through a full review in spite of any time frame. Litwak said the issue described is a non-conforming use. He said there is a need for some certainty that certain land use conditions are met. Bennett said we don't want to prescribe to the counties what remedies must be sought.

Commissioner Farrow said three years is too long and if they apply they should get it done.

Commissioner Loehrke stated that most people finish in a year or so and the person needing six or more years will always have a problem.

Chair Squier said the original direction to staff appears still valid and asked if there were any dissenting opinions. There was no further comment. Commissioner Harkenrider concurred with comments on this item regarding the SMA.

Bennett said the Commissioners should review the policy items in the blue packet and Commissioners should give additional direction for any other items needing change.

Chair Squier recessed for a lunch break at 12:00 p.m. and called the meeting back to order at 1:00 p.m.

Mobile Home Replacement and Land Divisions

Bell provided a brief review of the topics which staff recommends a change (see Attachment B). There was no significant discussion of changes for the topics of mobile home replacement and land divisions.

Orchard Fans

Bell said based on Wasco County's request to allow orchard fans in the category of Uses Allowed Outright, staff recommend placing orchard fans in the category of Expedited Review.

Commissioner Reinig asked if multiple fans are on the same property would they have a separate review process. Bell responded that the application can be submitted as a group, rather than individually.

Commissioner Wooster said if the ground has been disturbed in an orchard for some time, this is an example of regulatory excess. He said orchard fans should be included in Uses Allowed Outright. Commissioner Reinig agreed and noted that fans are a common practice.

Commissioner Loehrke said a standardized type of fan is not something that's an abuse. Bennett responded that the concern is ground disturbance.

Commissioner Robertson asked about the purpose of an orchard fan. Bennett responded it is to control frost and the color and reflectivity standards will not apply. Commissioner Reinig said there was a switch from smudge pots to fans.

Commissioner Reinig said pulling out trees is a disturbance and did not see what the difference is. Bennett said it's a double check that is designed to protect resources.

Chair Squier explained the current process requires full review and staff suggests changing this to the expedited process. Commissioner Palena said he was satisfied with this change.

Commissioner Wooster made a motion to allow orchard fans in Uses Allowed Outright. Commissioner Reinig seconded the motion.

A vote was taken and the motion passed 9 to 2.

Kenn Adcock-aye

Judy Davis-aye

Michael Farrow-aye

Jane Jacobsen-aye

Walt Loehrke-aye

Joe Palena-aye

Joyce Reinig-aye

Dave Robertson-no

Kathy Sheehan-aye

Anne Squier-no

Wayne Wooster-aye

Commissioner Harkenrider said he concurs with decisions made on the mobile homes replacement and land divisions. However, orchard fans in the SMA will be reviewed under Expedited Review.

Uniform Interpretation of Rules in the Scenic Area.

Litwak introduced the next topic of Uniform Interpretation of Rules in the Scenic Area. He said Friends of the Columbia Gorge brought up the issue and staff agrees that a policy should direct uniform interpretation of rules in the Scenic Area. He said this reflects no change in the way the Commission has been operating and it's simply a codification of the principal.

Chair Squier asked where this item would be in the Plan, and Litwak responded that it may need to be in the general portion.

Commissioner Sheehan asked whether this would affect the ability of counties to set more restrictive guidelines. Litwak said it would not.

Commissioner Adcock asked why there is a need for codification, as any policies developed should be clear. Litwak said policies aren't always clear enough to eliminate the need for interpretation. He said if there's a question, we should look to create uniformity.

Commissioner Wooster asked if the counties do differ a little bit from the Plan, does this create problems or grounds for an appeal. Litwak said this would not create another way to appeal a decision but would make things more clear.

Commissioner Jacobsen said the Plan is a baseline and should be stated that way. Chair Squier said staff should develop language and let the Commission decide to accept it or not. Bennett agreed that staff will prepare a draft for review at the April 13th meeting. Chair Squier said this is pretty amorphous at this time and Bennett responded that staff is not trying to create problems for the counties.

Minor Uses in Riparian Buffers

Bell said many comments reflected concern that the Commission's decisions to allow minor uses in wetland and riparian buffers would cause cumulative negative effects. He said we do not have good information to make changes to the buffer zones and, therefore, we don't know if the current buffer zones are adequately protecting resources. He said staff recommends deleting the provisions in the draft Plan that would allow minor uses in riparian buffers.

Commissioner Farrow said that the bridges and many of the transportation corridors are too close to the streams. He supports wide buffers with 300 ft. from fish bearing streams.

Commissioner Loehrke said a more holistic approach is needed. Data collection is needed, we can't just make assumptions and this should be in our Plan sooner than later. Bennett responded that much work is needed to determine how well our buffers work, what's critical and what's flexible. She said that adequate time is needed to study the science, and the issue can create a huge political mess.

Chair Squier said we have a recommended change not to proceed with allowing minor changes in riparian buffers and a staff recommendation to make no change in establishing wider buffers. Staff indicates this is a very complex issue with conflicting and absent data. She said the issue today is whether the Commission feels comfortable making a decision not to include a provision on minor uses in riparian buffers.

Commissioner Farrow asked if people would be allowed to work on stream rehabilitation. Bennett said enhancement projects are allowed. The minor effects would include items like decks on people's houses and paving driveways.

Commissioner Robertson moved to accept both staff recommendations related to buffers. Commissioner Reinig seconded the motion.

A vote was taken and passed unanimously.

Kenn Adcock-aye

Judy Davis-aye

Michael Farrow-aye

Jane Jacobsen-aye

Walt Loehrke-aye

Joe Palena-aye

Joyce Reinig-aye

Dave Robertson-aye

Kathy Sheehan-aye

Anne Squier-aye

Wayne Wooster-aye

Commissioner Harkenrider agreed that taking a conservative approach is appropriate as it's a very sensitive area. He said the Forest Service is coming out with guidelines that the Commission might find helpful.

Chair Squier said there are an additional number of items that staff is not recommending any change and asked the Commission to discuss if a change is needed or if there are any questions.

Fish Processing

Commissioner Harkenrider said that he was concerned about fish processing and support operations as it is not consistent within a residential setting and that the 2,500 sq. ft. building is not in line with other accessory buildings. He is uncertain what the Forest Service position is on this and if the use is industrial, it is not allowed by the Act.

Commissioner Jacobsen said she received calls about this issue of the opinion that it was inconsistent and it was an example of spot zoning. She believes it sets a bad precedent. Chair Squier expressed her concern about the ability to combine small docks into a large dock. No change from prior direction to staff was proposed.

Paving Existing Roads

Commissioner Harkenrider said he is concerned about including paving existing dirt roads as a Use Allowed Outright. Bennett responded that Wasco County plans to use pavement grinds from I-84 in summer 2004 or in 2005 on county roads and has a narrow window of time to do this work. In their case, the base work is already done. Other counties are doing base work, digging and preparing to pave. Bennett said in all cases, counties know far in advance that about these projects and can get permits lined up before the project begins.

Commissioner Adcock asked if this work could be in the Expedited Review. Bennett said paving an existing roadbed is allowed in Expedited Review.

Chair Squier said a county can look at a project and determine if there is no resource implication it would be eligible for Expedited Review. Chair Squier asked if anyone would like to make a motion for staff to make changes. There was no response.

Agricultural Fences (Woven-Wire)

Chair Squier asked for clarification on this topic. Was the process to be expedited if colors are within the Scenic Area Plan? She asked whether a full review would be required whenever there were sensitive resources; was the default position a full review or expedited review if there are no sensitive resources. Bell said all fences currently require full review. He explained that staff identified some fences that should be allowed outright and some that should be eligible for expedited review. There are concerns with 8 to 10 ft. tall fences regarding cultural and wildlife resources and not just visual impact. He said tall wove-wire fences and those within winter range would still require a full review.

Chair Squier asked why fences in other areas need a full review if they're not inside winter range. Commissioner Harkenrider noted the two categories are Uses Allowed Outright and Expedited Review and asked what additional information is needed to determine if a full review is needed? He asked with regard to agricultural fences, what benefit would be gained by full review for that particular use? Chair Squier asked what would be the benefit unless you identified resources to be harmed. Bennett said tall woven-wire fences have a greater potential to impact sensitive resources that split rail fences and other agricultural fences. She said we need to evaluate fences based on the fencing material and not just the general purpose of the fence. Bennett added that the draft guidelines for Uses Allowed Outright and Expedited Review may inadvertently omit some types of wire-strand fences. She said staff will go back to the lists and revise them as necessary. Chair Squier also asked staff to review page 109 under Uses Allowed Outright, "wire strand fences shall be allowed provided it is painted brown or black if visible from key viewing area." She suggested deleting if visible from key viewing areas to simplify the guideline.

Landscaping

Chair Squier called attention to the issue of timing for landscaping. Multnomah County requested a fixed starting point and suggested at the time of permit approval. Bennett said we can't time it to issuance of permit since construction doesn't have to begin for three years. Chair Squier said we need a starting point and believes commencement of construction to be appropriate. She said five years is more than generous to allow for vegetation growth.

Commissioner Robertson said most landscaping is not done until the end of construction Commissioner Loehrke said we want a scheme that works and most people don't plant until the house is built, due to ongoing house construction activities.

Commissioner Davis said the summer her house was built there was no water and plants would have died if she had planted before the water was turned on. Davis suggested that a building department inspection could trigger the starting time.

Commissioner Sheehan said having a five year time limit is fine, even if it starts when the foundation is poured. It is reasonable and an improvement over the two years we have now. Commissioner Adcock said that a starting point should be defined.

Bennett said staff understands the Commission wishes to include commencement of construction to be the starting point with a five year period to complete landscaping.

Siting

Chair Squier expressed her concern that the interplay between some of the guidelines, specifically #2, #5 and #6 is not clear. Bennett agreed it was the second guideline was of concern to her and said it could be revised.

Chair Squier stated that there was no mention in General Management Area (GMA) guidelines about retaining existing landscape vegetation although it is noted in other sections. She doesn't suggest changing those items as there is reason for slightly different language in each section. She suggested making a reference to the requirement for retention of existing vegetation and to advise applicants to check what land management area is relevant, so vegetation isn't removed by mistake.

Commissioner Wooster encouraged staff to talk with the counties and noted they are generally supportive. Bennett said she was concerned about Hood River County's concern about being too prescriptive on siting. She agreed some work is needed to get the policy intent across without having it interpreted differently.

Discontinued Uses

Commissioner Harkenrider said a different time frame was identified in the SMA for discontinued uses than the GMA and for consistency; they will alter theirs to keep this consistent. He concurred with the comments made on previously discussed items

Technical Items

Chair Squier said the next area of review would be on items in the pink category (see Attachment C) which included minor wording or technical issues.

Commissioner Loehrke asked if a detached deck is considered an accessory structure Bell responded that detached decks are considered an accessory structures.

Commissioner Farrow asked would there be protection for the remains of the Oregon Trail as people are buried along every mile of this road and said we protect graves on our lands. Bennett said those kinds of resources are protected in the Plan.

Chair Squier said on page 2 there is a note about a loophole pertaining to additions to existing dwellings. Bell said staff would like direction from the Commission. He said the

draft guideline allows someone to put a large addition onto a relatively small accessory building, such as a 250 sq. ft. addition on to an 80 sq. ft. building. He said that this guideline could be revised to only allow additions to relatively large existing buildings. Commissioners discussed this issue and agreed that this loophole should be addressed. Staff agreed to develop a size threshold.

Chair Squier asked for an explanation on lot line adjustments. Litwak said there is an inconsistency between what staff defined and what the Commission directed staff to do. The definition indicated only one parcel line could be moved for each application. Staff previously recommended, and the Commission agreed that this didn't make sense so long as the end result fully complied with the proposed guidelines. Litwak also described putting language back in to specifically prevent an entire parcel from being relocated. The Commission discussed this in an early draft, but it didn't appear in the final draft changes. However, the guidelines would accomplish the same result, thus staff did not recommend this change. Chair Squier indicated that she would like to be shown this in greater detail later.

Commissioner Reinig asked for clarification as to the existing use of a structure and noted there may need to be clarification regarding "applicable" building permit as many structures did not need a permit when built. Bennett responded that the intent was the structure only has to comply with permit requirements that were in place at the time of construction.

Bennett explained in response to comments from the FOCG, whatever components are delegated to staff in developing the Scenic Area Handbook should not be regulatory in nature. She said staff will clearly portray the advisory role of handbook and the Commission will make the regulations.

Commissioner Harkenrider stated that in reference to these topics and the GMA, he had no concerns.

Chair Squier called for a five minute break and the meeting was called back to order to discuss the items in the green category ~~(See attachment D)~~ the long term list and items outside the scope of plan review. She asked that comments be made pertaining to any items that are inappropriate for this list or additional items to be included.

Commissioner Reinig said we can take a closer look at the list after Plan Review is complete but at this point in time we have a list of what we could not get done.

Commissioner Davis noted that fire protection needs to be addressed and while we do need to protect the forest, the focus today is protection of the urban interface. Bennett agreed with her statements and said more work is needed than just a couple of statements to address this issue but we are out of time to add to this project.

Chair Squier said Wasco County brought up the issue of low impact home occupations and the need to address this issue. Bennett responded that we need to deal with it later and that it isn't currently a prominent enforcement problem.

Commissioner Harkenrider said in response to the exemption of county forest lands that Senator Ferrioli's commented on, the staff statement that there are no county forest land currently impacted by the Plan is correct. He said while he believes this is 99.9% true, this should be checked.

Commissioner Wooster said once we're through with Plan Review, we should identify what items we'll deal with and let the public know soon as we can. Perhaps we can be more efficient, quicker and less costly going through it a second time.

Commissioner Robertson suggested we have an internal debriefing to develop a list of projects to work on and lessons learned.

Commissioner Farrow stated that his agency will be funding projects and would certainly consider an application from the Commission. He said his agency will be sending out an application to the Commission. Chair Squier thanked him for his support.

Commissioner Harkenrider said that he had prepared a statement pertaining to SMA changes and reviewed the most important items (see Attachment E)

1. SMA forest practice guidelines regarding clear cuts and opening thresholds
2. Road less area protection, specifically two areas in Oregon
3. Clearing trees for new agriculture
4. The SMA forest practices will apply to National Forest lands within GMA
5. Stream buffers
6. Old growth trees
7. Artificial stream/water courses
8. Wildlife protection termination
9. Consultation with agencies regarding endangered species
10. Reduce redundancy to landscape verbiage and is working with Commission staff so it's agreeable to both
11. Lot line adjustment
12. Road maintenance disposal sites
13. Replacement and expansion of culverts
14. Development reviews
15. Accessory structures to be the same as in the GMA

Commissioner Robertson requested Commissioner Harkenrider discuss the clear-cut issue as there was a lot of input. Commissioner Harkenrider responded that the principle mission is protection and enhancement. The Forest Service needs the flexibility to respond to wind, fires, etc.

Commissioner Farrow asked about the forest standards for the Mt. Hood area and about the forests on the urban fringe. He supports removing trees as needed, especially if we get another drought and said buffers are too narrow. Commissioner Harkenrider stated the eastern end of the Gorge is becoming more choked with firs, so you have dense stands and if there is a fire, the destruction is more significant. He said the west end historically has experienced infrequent, catastrophic fires. He said most of what we look at along the highway and communities is second growth and it's overgrown.

Chair Squier asked whether there was any other business. Commissioner Sheehan asked what would occur at the next meeting. Bennett responded that the final draft revisions would be released on April 9th. She said that the April 13th meeting would include the bridge guidelines and the proposed new policy of application of uniform standards. The April 27th meeting will be an all day meeting in Troutdale. There will be formal testimony and hopefully adoption in the evening. There will be a need for time limits for testimony.

Commissioner Wooster asked for clarification. Bennett said everything the Commission has decided up to that point has been guidance only. The Commission's formal action on all of these issues will be through adoption of the revisions to the Management Plan.

Commissioner Davis asked about rules for voting on adoption. Bennett said we will deal with changes you want first and will have a final adoption motion written down in advance. You must have three Commissioners from each state on the final vote but this doesn't apply to amendments. A vote of six (aye) to five (no) will pass as long as you have three from each state for adoption of the revisions.

Commissioner Reinig said she could not attend the April 27th meeting as her work will not allow it. Chair Squier thanked all people who made comments and wants to assure people that the comments have been carefully considered. She also thanked staff for organizing the comments in a meaningful and efficient manner.

Meeting adjourned at 4:15 p.m.

Next regular meeting is scheduled for 4/17/04 at Rock Creek Recreation Center, 710 SW Rock Creek Drive, Stevenson WA

Notes taken by Sue Baker

Minutes approved on June 8, 2004