

# **Columbia River Gorge Commission**

## **Meeting Minutes**

**June 14, 2005**

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

Location: White Salmon Community Library  
59 Wauna Street, White Salmon, WA 98672

Time: 9:00 a.m.

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

Harold Abbe  
Kenn Adcock  
Jeffrey Condit  
Doug Crow -9:05 a.m.  
Judy Davis  
Dan Harkenrider  
Walt Loehrke  
Kathy Sheehan  
Anne Squier

### ***MEMBERS ABSENT***

Jane Jacobsen (excused)  
Joe Palena (excused)  
Joyce Reinig

### ***STAFF PRESENT***

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

### ***AUDIENCE PRESENT***

Andersen, Steven. Cascade Planning Associates  
Baker, Nathan. Friends of the Columbia Gorge (FOCG)  
Cukendall, Jennifer. USFS  
Sheffield, Honna. Skamania County, Washington  
Leipper, Bob. Corbett, Oregon  
Swyers, Rita. Gorge Landowners United (GLU)

Others were present during the day

### **Call to Order**

Chair Squier called the meeting to order at 9:00 a.m. and role was called. She introduced Honna Sheffield, the Washington State Governor's appointee to the Commission. Ms. Sheffield will replace Kathy Sheehan, whose term expires in June 2005.

## **Approval of Minutes -- May 10, 2005 Meeting**

Chair Squier asked for review and comment of the May 10, 2005 minutes.

Commissioner Adcock asked staff to check his comment on page 8, paragraph 7 as he believes his comment should include the concept that the idea of a destination resort area seems like a good one. Commissioner Sheehan made a motion to adopt the minutes with the change requested by Commissioner Adcock on page 8, after checking the audio tape. Commissioner Adcock seconded the motion. A voice vote was taken and approved unanimously.

## **Public Comment**

Bob Leipper read from prepared testimony (see attachment A) addressing his concern about the lack of enforcement of National Scenic Area (NSA) ordinances in Multnomah County. Chair Squier asked if he submitted this material to Multnomah County. Leipper said he has not given the material to the County and has given up trying to work with them directly. Commissioner Loehrke asked for clarification about the exhibit #3 in the attachment, which Mr. Leipper described as showing a deck extension. Leipper provided clarification. Commissioner Loehrke asked staff what will be done with this information. Martha Bennett, Executive Director said staff will follow up with Multnomah County about the concerns addressed in Mr. Leipper's testimony. She said we can respond individually to each county but the Commission might consider a gorge-wide process to address counties about enforcement issues. Bennett reminded the Commission that staff would be providing a report on enforcement throughout the Gorge to the Commission. Commissioner Adcock said he'd like staff to follow up with this particular issue regardless of any broader process review.

Chair Squier asked when the Commission could expect a report on enforcement. Bennett said the report will be ready in July or August and staff would like to give the counties an opportunity to respond.

## **Opportunity for Tribal Nations to address Commission**

Chair Squier said no representatives were present.

## **Executive Committee Report**

Commissioner Sheehan, Executive Committee chair, reported on their June 7, 2005 meeting. The topics for this meeting were the evaluation of the Executive Director and a report on the projected expenditures for the 2003-2005 biennium. Commissioner Sheehan provided more detail about the evaluation process and provided an evaluation summary report (see attachment B). She commended Bennett for her excellent work, noting that on specific evaluation items, about 90% of the Commissioner evaluations and 93% of the staff evaluations were rated "good" or "excellent" (not including "no observation" ratings).

Chair Squier said under the Commission bylaws the committee assists the chair in developing a performance evaluation. She said Bennett is doing an excellent job and that she fully concurred with the report. Commissioner Sheehan said as part of the Committee's discussion, it was determined that the evaluation process itself should be

evaluated and revised accordingly. This item should be on the agenda for the next Executive Committee meeting. Commissioner Condit moved to accept the report and the motion was seconded by Commissioner Crow. A voice vote was taken and approved unanimously.

Bennett provided a review of the 03-05 budget expenditures and projections (see attachment C). She explained that the budget amounts represent budget authority, not necessarily actual funds. An example of this is the Forest Service contract for a GIS program, where there is budget authority allotted to the program but funds are not being spent. She said the trend of under-spending showing on the books at this time is primarily due to staff vacancies. She said if there is any remaining balance at the close of the biennium, that would go to the state general funds and would not carry over into the next year for the agency.

Commissioner Crow asked if this situation portrays a deceptive picture to Congress, leading them to believe we have sufficient funding and cannot spend all that has been allotted. Bennett said this is a good topic for discussion for the External Affairs Committee. She said the issue is whether we are doing the work that is mandated. Bennett emphasized that the agency ending balance for the biennium will be very small, as there are critical needs for replacing equipment, such as computers, that she will work to fulfill as much as funds allow. She explained that while the Gorge Commission is expected to keep equipment updated on the same schedule as other agencies (a matter of work efficiency & repair costs) the agency does not have any budget allocation for replacement.

Chair Squier thanked Commissioner Sheehan for her work on these issues. Chair Squier said the Executive Committee ought to have a discussion of Bennett's compensation after the agency budget is finalized.

### **Director's Report**

Bennett provided an update of the following items:

Commission Budget- the Washington budget is complete but the Oregon budget is still uncertain (see attachment D-1). The Oregon House of Representatives is considering a proposed budget that if passed will result in a reduction of 1.75 F.T.E., which means a reduction of one planner (currently vacant), 1/2 time GIS Coordinator and a reduction of Legal Counsel to 1/2 time. Chair Squier said hearing 1.75 F.T.E. is not as meaningful to legislators as expressing the reduction as a percentage of agency staff, which is more than 25% of the current staffing.

Extension of the Intergovernmental Agreement with Oregon Department of Transportation (ODOT). Bennett requested that the Commission authorize her to sign an extension of the agreement with ODOT for work on the I-84 corridor strategy and bridge replacement program. The extension includes an additional \$10,000 and a six month extension. This agreement allows for reimbursement of our planning work and is allowing the agency to fund the part-time, temporary position currently filled by Jennifer Kaden. Commissioner Crow made a motion to approve Bennett's authority to sign the

agreement and Commissioner Condit seconded the motion. A voice vote was taken and approved unanimously.

Commissioner Expenses- Expenses must be submitted by June 30th. It is very important that the Commissioners submit for reimbursement for budget reasons. Commissioner Condit asked what is the best schedule to submit the reimbursements throughout the year—monthly or quarterly. Bennett said she and Nancy Andring would determine the best schedule and inform the Commission.

July meeting- the Commission will elect a new Chair and Vice-Chair.

Vacation rentals in Rowena, Oregon- Bobbie Miller brought the issue of vacation rentals up at the last meeting and a copy of the letter sent to her addressing this issue is in the Commission packets. The Management Plan does not address vacation rentals. Staff will do some minimal research with other communities. Staff will not go into great detail with the issue, unless the Commission wants more work on the issue. Commissioner Davis said she spoke to Todd Cornett, Wasco County Planning and he said there have been no complaints and as the county is short-staffed, Wasco County will not pursue the issue. Commissioner Loehrke said this is a policy issue that needs to be addressed.

County Enforcement Report- as mentioned earlier, the report is being worked on and should be presented in July or August.

Status of County Ordinance Adoption (see attachment D-2)- Three counties are on track to adopt ordinances in June, and the Commission will consider whether their ordinances are consistent with the Management Plan in September. Clark and Skamania counties are beyond the 270 days but are making progress. Commissioner Sheehan said it's not a concern if a county is late as long as they are making good progress. Commissioner Davis agreed with Commissioner Sheehan.

Staffing- a GIS coordinator has been hired. His name is Mark Gardner, and he will start in July. Hiring for a planner has not been successful and the agency will be recruiting again.

Commissioner Crow asked for an update on the Skamania Lodge concern raised at the last meeting; not allowing public access to the facilities. Commissioner Harkenrider said he has called but not received any information.

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

#### **Commissioner Harkenrider provided an update on the following items:**

Rails to Trails- the Transportation board dismissed the trail opponents' claim that the line was severed from the main line. The project continues to progress as planned. Commissioner Crow asked whether there is a potential trail connection with the rails to trails and other trails in the area, such as the Dalles Mountain Ranch. Commissioner Harkenrider said he knows it has been discussed, but there currently is not such a project.

Fire- a small wildfire started in Klickitat County, despite the unseasonably cool weather. The cause is unknown.

Sandy River Delta- a sweep of indigent population and garbage clean up occurred in Sandy River Delta area.

Fee Demo Program- as discussed at the last meeting, the federal criteria for charging fees has changed and the number of sites charging fees in Oregon and Washington has gone from 1,300 to 530 sites.

Burdoin Mountain Fuel Reduction Program- this is a collaborative approach for fuel management to determine the kinds of treatments for desired end results. He said this approach is being used to minimize appeals and other barriers. Commissioner Harkenrider asked Commissioner Adcock for his comments about the program. Commissioner Adcock said the meeting process seems to be moving slowly but the next meeting is supposed to result in some decisions.

#### **Initial work planning discussions for 2005-2007**

Bennett provided a review of a draft work plan (see attachment E) for the 2005-2007 biennium, at the Governor's recommended budget level. This initial discussion is not to prioritize work plan items for 2005-2007 biennium, but rather to determine if other items should be added and whether any items can be deleted for consideration in deciding a final work plan. The final work plan will not be adopted until after the Commission's budget is finalized by the State of Oregon, and after the Commission hears views of the public on priorities for the coming biennium. She identified items that are mandatory and those that are discretionary.

#### **Break**

Chair Squier called for a break 10:20 a.m. and reconvened the meeting at 10:30 a.m. Chair Squier asked for public comment on the work plan.

Bob Leipper said in his opinion the current planning program including code compliance and county enforcement and permitting needs attention. An application should not be rubber stamped by the Commission staff. He said he is concerned when an application is approved one day after the public comment period has ended. Leipper said Multnomah County is not enforcing ordinances and the Commission is not holding them accountable. He said he believes the Oregon House budget is more than enough because the Commission is not performing enforcement or making the County enforce the rules. He said he'd like some of the Commissioner comments from the September 2004 work session to be publicized.

Nathan Baker, staff attorney for Friends of the Columbia Gorge (FOCG) read from prepared testimony (see attachment F) which addresses items that the FOCG believe should be addressed during the upcoming biennium.

Chair Squier said as there were no questions or additional public testimony, that the Commission should begin their discussion of the issue. Bennett said it would be helpful if the Commission discussed items they would like to add or items that they would like to delete.

Commissioner Davis said Wasco County would like definition of a legal parcel; in a situation where a development was approved but not on a legal parcel. Wasco County also requests the issue of home based businesses be reviewed, as many may be considered a "use allowed outright".

Commissioner Adcock asked how the Commission staff performs enforcement duties. Bennett said staff respond to complaints by citizens, staff may also report a violation if they happen to see something while out in the field. She said Commission staff does not check every permit because the agency lacks the resources to do so. Counties can more easily follow up on permits because the planning department usually has to sign off on building permits; they have an internal system of monitoring for compliance. Commissioner Adcock said it doesn't make sense to him to issue conditions of approval and not follow up on them.

Commissioner Crow said perhaps the county should have a system in place that after a project has been approved and developed, the county should go back out with a check list to determine if all conditions have been met. He said the Commission seems to be involved too early in the Plan Amendment process and the process should be reviewed. Chair Squier noted that some of these concerns are already included on the list of work items.

Commissioner Loehrke said the Commission needs to address the issue of uniform enforcement under the rulemaking function. He said we are not the Gorge police for enforcement but need to ensure there is a uniform administration of the Act throughout the Gorge.

Commissioner Condit said issues to be considered include changes in Exclusive Farm Use lands, especially as related to Measure 37, and water quality issues.

Chair Squier said the water quality issue was set aside during Plan Review because we lacked sufficient information to determine whether the existing buffers are effective. It was decided that more information was needed before making changes.

Commissioner Condit asked for clarification about the process to incorporate Plan Amendments into the Management Plan. Bennett said when the Plan was adopted in 1991, the Commission adopted the whole thing including the narrative, all the text and lists. In retrospect, it would have been better if it was formally adopted but not adopted as the "Plan". For instance, if staff needs to change the text, – it would be good if staff could come to the Commission for a vote rather than have to follow the entire Plan Amendment process.

Commissioner Davis asked about the timing on applications for urban area boundary revisions. Bennett said with the exception of Lyle, WA, more applications are at least two years away.

Commissioner Crow said the indicators project is very important to provide solid information and the project should be a high priority.

Chair Squier summarized the discussion. She said several Commissioners expressed agreement with the indicators monitoring process, plan amendments process and several issues related to enforcement, all of which appear on the draft list.

Chair Squier said Commissioners requested the addition of items. She noted Commissioner Davis requested including Wasco County's desire for changes to the Management Plan that deal with parcels that were not created legally, but where development has occurred. Commissioner Sheehan said that Wasco County needs to address this issue within the county first before the Commission works on the issue for the Scenic Area.

Chair Squier said Wasco County has asked the Commission to review the issue of home based businesses. Commissioner Abbe said he doesn't have a strong opinion about this item, but the list is long, so it's likely that the Commission will end up removing items.

Commissioner Harkenrider suggested that the Commission include both of the items requested by Wasco County because the process would be transparent and open. Commissioner Condit concurred. All Commissioners agreed to add the two items.

Chair Squier said there is a suggestion to add an agricultural and farm use issue and a water resource issue. Commissioner Harkenrider said perhaps the inventory project and indicators monitoring process would shed some light on the water quality issue, specifically revision of resource buffers.

Chair Squier said the agricultural lands issue has been suggested to be on the work plan. Commissioner Condit said he thought the Commission should put these items on the list and when we get to prioritization of the items, some items may be grouped together based on their interdependence to one another. Commissioner Loehrke agreed. Bennett said staff will provide a suggested process for prioritization because it will be difficult to make choices. Bennett said adoption of the workplan will likely be on the August agenda.

### **Other Business**

There was no other business.

### **Litigation Update**

Jeff Litwak, Counsel provided an update on litigation items as follows:

Stevenson Urban Area Boundary-the ruling in support of the Commission's decision on the Stevenson Urban Area Boundary has not been appealed.

Murray vs. State of Oregon-the Commission is an intervener in the case, it was argued at the Oregon Court of Appeals last August and still pending a ruling.

Ron Reynier vs. Skamania County- the Commission upheld a county decision that was appealed by Mr. Reynier. Mr. Reynier is setting a hearing date in September or October. Litwak said that staff will be looking at whether the Commission should continue to participate in the case.

Plan Review Lawsuit- FOCG has asked for a second extension to submit their brief, until July 21st. Staff opposed both requests for extensions, based on the Commission's direction that time is of the essence in getting the Plan Review issues resolved. If FOCG submit their brief by July 21st, the Commission brief will be due the first or second week of September.

Measure 37 Case-the case was argued in Hood River County on June 1<sup>st</sup>. The court issued an oral ruling in favor of the Commission's motion for summary judgement. The court made this ruling because of the federal law exemption in Measure 37. The court concluded that the regulations in the Management Plan are required by federal law and the land use ordinances that implement the regulations are therefore exempt. The court also suggested that if Measure 37 applies to the Oregon side of the Gorge, it might be damaging to Washington rights under the bi-state compact.

The next step in the process is release of a written decision, which then may be appealed. The judge allowed additional briefs to be submitted and the attorney for the land owner indicated a desire to submit an additional brief.

Chair Squier asked Litwak if the Commission needs to address anything in Executive Session related to the Rainier case and Litwak said it was not necessary at this time.

Chair Squier said this is likely Commissioner Sheehan's last meeting. Squier said she appreciated all of Sheehan's hard work and her level-headed and courteous approach. Commissioner Crow said he also commended Commissioner Sheehan for all of her work and to recognize Chair Squier's excellent service as well. He said he understood that Chair Squier term is expiring next month and he will not be able to attend the July meeting.

Commissioner Sheehan said as this likely may be Chair Squier's last meeting as well, she wanted to commend her for all her work as a Commissioner and the Chair. Sheehan said Squier has done a great job of keeping the Commission on track. Sheehan also said Squier's long term perspective will be sorely missed.

## **Adjourn**

Chair Squier adjourned the meeting at 11:27 a.m.

The next regular meeting is scheduled for 7/12/05 at the Columbia Gorge Discovery Center in The Dalles at 9:00 a.m.

Minutes taken by Kathy Obayashi-Bartsch  
Minutes approved on 7/12/05