

Columbia River Gorge Commission

Meeting Minutes

July 11, 2006

A complete record of this meeting is available on audiotape

Location: Columbia Gorge Discovery Center
5000 Discovery Drive, The Dalles, Oregon

Time: 9:00 a.m.

MEMBERS IN ATTENDANCE

Harold Abbe
Kenn Adcock
Jeffrey Condit
Doug Crow
Judy Davis
Jane Jacobsen
Dan Harkenrider
Walt Loehrke
Jim Middaugh
Joe Palena
Joyce Reinig

MEMBERS ABSENT

Roberta Kirk
Honna Sheffield-excused

STAFF PRESENT

Brian Litt, Senior Planner
Jeff Litwak, Counsel
Kathy Obayashi-Bartsch, Administrative Assistant
Al Wright, Interim Executive Director

AUDIENCE PRESENT

Alvarez, Jose. Clark County Planning Department
Beamer, Kelly. Friends of the Columbia Gorge (FOCG)
Davenport, Jessica. Skamania County Planning Department
Euler, Gordon. Clark County Planning Department
Lang, Michael. FOCG
Leipper, Bob. Troutdale, Oregon
Nichols, Rodger. *The Dalles Chronicle*
Williams, Jackie. Columbia Gorge United (GLU)

Call to Order

Chair Davis called the meeting to order at 9:05 a.m. and role was called.

Election of Officers

Chair Davis said the first order of business is the election of officers for the upcoming year. She said in order for a nomination to be approved, it is necessary to have a super majority from each state. She passed the gavel to Vice-Chair Condit.

Vice-Chair Condit called for nominations for Commission Chair. Commissioner Palena nominated Judy Davis for Chair and Vice-Chair Condit seconded the nomination. The motion failed with 3 ayes and 2 naves from Washington and 4 ayes and 1 nay from Oregon.

Harold Abbe-aye
Kenn Adcock-no
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-no
Jim Middaugh-aye
Joe Palena-aye
Joyce Reinig-no

The motion having failed, Vice-Chair Condit called for additional nominations for Chair. Commissioner Loehrke nominated Harold Abbe and Commissioner Abbe declined.

Commissioner Adcock nominated Walt Loehrke and Commissioner Reinig seconded the motion. The motion failed with 3 ayes and 2 naves from Washington and 1 aye, 3 naves and 1 abstention from Oregon.

Harold Abbe-no
Kenn Adcock-aye
Jeffrey Condit-no
Doug Crow-no
Judy Davis-abstain
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-no
Joe Palena-no
Joyce Reinig-aye

The motion having failed, Vice-Chair Condit again called for additional nominations for Chair. Commissioner Adcock nominated Joyce Reinig and Commissioner Reinig declined.

Commissioner Adcock nominated Doug Crow and Commissioner Crow declined.

Commissioner Abbe re-nominated Judy Davis and Commissioner Palena seconded the motion. The motion failed with 3 ayes and 2 naves from Washington and 4 ayes and 1 nay from Oregon.

Harold Abbe-aye
Kenn Adcock-no
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-no
Jim Middaugh-aye
Joe Palena-aye
Joyce Reinig-no

Commissioner Crow made a motion to postpone the election of officers until the August meeting. Commissioner Palena seconded the motion and the motion passed unanimously.

Harold Abbe-aye
Kenn Adcock-aye
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-aye
Joe Palena-aye
Joyce Reinig-aye

Approval of Minutes – June 13, 2006

Chair Davis asked the Commission to review and comment on the draft minutes. Commissioner Crow referred to page nine and said he believes Brian Litt also commented that the issue of the terms “may” and “shall” has not been a problem in the past.

Commissioner Abbe made a motion to adopt the draft minutes with a possible addition to this section after staff researches this item. Commissioner Adcock seconded the motion. A voice vote was taken and unanimously approved.

Public Comment

Bob Leipper of Troutdale, Oregon commented on air quality and haze in the Gorge. He said that burning occurs that is prohibited and he has contacted the air quality agencies about this issue. He expressed his frustration that these agencies are not responsive to his concerns. He also commented on the lack of

code compliance in Multnomah County. He said truthfulness in development applications is a critical component and needs to be addressed through systematic enforcement before, during and after the development process.

Commissioner Crow asked if the burning was a commercial operation. Mr. Leipper said it was in his opinion considered a commercial operation.

Commissioner Adcock said that some of the issues with burning and haze can be attributed to the Forest Service. He said it was important that Mr. Leipper receive a response to his concerns.

Commissioner Crow concurred with Commissioner Adcock and said the Commission should work to facilitate solutions to these issues.

Commissioner Harkenrider said the Forest Service uses controlled burning and would like to provide the Commission with an overview of the fire suppression program, including the nature, extent and scope of the program.

Chair Davis said it would be helpful to have additional information on the fire suppression program in the future. She said the issue of the air quality will be on the September agenda.

Commissioner Jacobsen said there needs to be discussion on what the Commission can do to address these issues.

Commissioner Adcock said that the Scenic Act, section 15, paragraph one on public law may provide some idea of what the Commission can and cannot do.

Michael Lang of Friends of the Columbia Gorge (FOCG) thanked the Commission for sending a letter to the Washington and Oregon Governors office addressing the air quality issue. He referenced a Department of Environmental Quality (DEQ) clean air mercury rule that is being developed and said this may be another opportunity for Commission involvement.

Commissioner Crow said Al Wright, Interim Director has considerable experience coordinating the efforts of various agencies and perhaps he could provide the Commission with some assistance.

Opportunity for Tribal Nations to address Commission

There were no representatives from tribal nations to address the Commission.

Public Hearing on Clark County Ordinance

The Commission held a public hearing on the Clark County Land Use Ordinance, which implements the revisions to the Management Plan (Plan) adopted during Plan Review. The ordinance also includes the historic buildings plan amendment.

Brian Litt, Senior Planner provided a review of the issue (see attachment A1)

The Commission received a letter from the Forest Service recommending the Commission find the ordinance consistent with Revisions to the Plan for the Special Management Area (SMA) portion (see attachment A2).

Commissioner Abbe asked what differences exist between the Plan and the Clark County ordinance without the updates. Litt said these updates reflect all the changes based on the revised Plan. He said the Clark County ordinance is a comprehensive revision based on the revised Plan and the historic buildings plan amendment.

Gordon Euler of Clark County Planning provided an overview of the process that the county used in developing the ordinance and thanked staff for their assistance. Commissioner Middaugh referred to the portion of the ordinance addressing the historic buildings plan amendment. He asked if the county made a decision not to implement additional restrictions for these parcels. Mr. Euler said this was correct and there are only four buildings in the Clark County portion of the National Scenic Area (NSA) identified as potentially eligible for adaptive reuse.

Michael Lang of FOCG commented on Clark County's ordinance (see attachment B). He said FOCG supports the Clark County ordinance and expressed concern about the practice of pre-approval. He said the historic buildings plan amendment was appealed by FOCG and several property owners and this may impact the ordinance. He referred to the adaptive reuse of historic properties and expressed concern that no language addressing health, safety or other potential conflicts of adjoining parcels is included in the ordinance. He also expressed disappointment that the Commission did not require additional regulations when developing the plan amendment for historic properties.

Chair Davis said as there was no further public comment, the Commission would close the public hearing and deliberate on the issue.

Commissioner Jacobsen asked if the Commission has ever pre-approved. Litt said last year, the Commission pre-approved the Hood River ordinance. He said this allowed Hood River County to move forward with the process and they have made the corrections requested by the Commission.

Commissioner Condit said he supports the staff recommendation and agrees with the FOCG opinion that pre-approval is not the best manner to conduct business. Commissioner Palena concurred.

Commissioner Middaugh said he was disappointed that Clark County and the Commission did not take the opportunity to address the issue of potential conflicts among property owners.

Commissioner Loerkhe said most counties have nuisance laws that address these types of issues, such as noise, traffic and parking.

Commissioner Crow made a motion to adopt the ordinance as consistent with the Plan contingent on conditions as outlined in the staff report. Commissioner Abbe seconded the motion.

A vote was taken and passed with 4 ayes and 1 abstention from Washington and 4 ayes and 1 nay from Oregon.

Harold Abbe-aye
Kenn Adcock-abstain
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-no
Joe Palena-aye
Joyce Reinig-aye

Break

Chair Davis called for a break at 10:30 a.m. and called the meeting back to order at 10:40 am.

Tribal Affairs Committee Report

Commissioner Palena said the committee met on June 13th to discuss the relationship with the four treaty Tribes; Nez Perce, Warm Springs, Umatilla and Yakama. He said the Cowlitz, which is a non-treaty Tribe also asked to be involved in Commission issues as well. He said the committee will focus on the four treaty Tribes. He said the Tribes are asking for support at the federal level and have expressed the desire for more communication with the Commission. He said Commissioner Middaugh prepared a letter expressing the Commission's commitment to working with the Yakama Nation and this letter was sent.

Commissioner Middaugh said the letter expressed the Commission's commitment to working with all treaty Tribes and asked how to best engage in communication with the Yakama. Commissioner Palena said the committee will follow up with the other Tribes.

Commissioner Loehrke asked what response was received from the Tribes and what areas of interest were identified. Commissioner Palena said the committee is anticipating a response from the Yakama Tribe.

Commissioner Crow asked if the appropriate point of contact for government to government consultation is the Forest Service. Commissioner Harkenrider said the Commission should consider conducting annual or semi-annual meetings

with Tribal governments to build relationships. He said the Tribes are asking for effort from the Commission and staff to build these relationships.

Commissioner Adcock said it seems that the term 'consult' needs to be better defined and suggested the Committee could work on this. He said the Tribes get notices and copies of all documents but the Tribes do not seem satisfied with this level of contact.

Executive Committee Report and Public Hearing on 2007-2009 Commission Budget Request Approval

Commissioner Condit said the Executive Committee met on June 28th to discuss the 07-09 agency budget request. He provided a review of the process in both Oregon and Washington and explained that the base budget proposed will be sufficient to sustain current operations. He said the more significant issue for the Commission to consider is the option package as detailed in the budget submittal. He said the Executive Committee recommends the full Commission support the budget request for submittal (see attachment ©) to the states.

Commissioner Loehrke said the amount of the option package is not sufficient for the Indicators Project. Commissioner Condit explained that this package will provide start-up funds for the project and additional funds from other sources will be sought.

Commissioner Reinig said there is a comprehensive set of existing data from the Gorge Counties and capability of the GIS program to be considered as well.

Public Comment

Michael Lang, FOCG said they strongly support a request for funding for the Indicators Project. This item is so significant that it should be part of the Commission's base budget through re-prioritization of projects and staff resources. He said FOCG is starting a new project addressing "build out" of the NSA.

Bob Leipper of Troutdale, Oregon said in the past he has not been supportive of the Commission's request for additional funding. He said nothing has really changed to improve enforcement and believes that the project should also include an enforcement component. He said he does see the need for the Indicators Project and hopes the Commission would consider broadening the scope of the duties for the position. He believes the Commission lacks the dedication to perform enforcement duties and this is a concern.

Commissioner Condit said one of the Commission priorities is to create a consistent process for enforcement throughout the Gorge and this priority has not changed.

Chair Davis closed the public hearing as there was no further testimony. After considering public testimony, the Commission deliberated on the budget package to submit to both states that includes a base budget and proposed new services. The package will be submitted to both Oregon and Washington for consideration in the 2007-2009 biennium budget process.

Commissioner Reinig thanked the Committee members for their work on the budget and made a motion to adopt the budget request as drafted. Commissioner Jacobsen seconded the motion.

Commissioner Middaugh concurred with Commissioner Reinig and said the Indicators Project is very important and enforcement should be a component.

Commissioner Adcock said he would like to see more of a comparison of what has been spent in the current biennium to what is being requested. He said he believes there are sufficient staff resources to work on projects, such as the Indicators Project without the request for additional funds as Plan Review is complete. He said he would support the request because there will likely be many more projects requiring extensive work in the near future, such as urban boundary growth applications.

Al Wright, Interim Executive Director summarized the projects that will impact the Commission work load and must be supported by the budget request.

Commissioner Abbe said he supports the request. He said this opportune time to approach the legislators in both states as there is a balanced budget in Oregon and Washington which is projected to hold through 2009.

Commissioner Harkenrider said there was general support to create an advisory committee to work on the Indicators Project. Commissioner Jacobsen said it was discussed that an advisory committee would be a good approach but will likely increase staffing costs.

The motion passed unanimously.

Harold Abbe-aye

Kenn Adcock-aye

Jeffrey Condit-aye

Doug Crow-aye

Judy Davis-aye

Jane Jacobsen-aye

Walt Loehrke-aye

Jim Middaugh-aye

Joe Palena-aye

Joyce Reinig-aye

Director's Report

Al Wright, Interim Director provided an update of the following items:

Response to Mr. Willard Gaul - Wright said he was looking into Mr. Gaul's concern that a double standard for land development is being used by the Commission.

Burlington Northern/Doug's Beach - Wright said a settlement is being finalized and staff will provide the Commission with a full report once this process is complete.

Commissioner Middaugh asked if there has been any follow up discussion with the FOCG regarding the lawsuit on the adaptive reuse of historic properties. Wright said there was still some ongoing discussion but it was too early to know if it will result in a settlement.

Commissioner Middaugh referenced the letter from Washington's Governor Gregoire and asked if the Commission could work to coordinate the efforts to improve air quality in the Gorge.

Commissioner Abbe said the letter from Governor Gregoire indicates she will seek further funding in the next legislative process.

Commissioner Harkenrider said Washington appropriated \$250,000 to the air quality program in the Gorge.

Commissioner Loehrke said he has discussed air quality with the Governor Gregoire and she intends Department of Environmental Quality to perform an analysis of Gorge air quality so she can make a request to the legislature and she is in favor of the air quality program.

NSA Manager's Report

Commissioner Harkenrider provided an update of the following items:

Land Sales - Harkenrider said it is unlikely that Congress will pass the land sales proposal and there is strong evidence if it's resurrected, the Scenic Area will be exempt.

Fire Season - Harkenrider said he would like to report on the fire suppression and related issues, such as air quality at a future meeting.

Commissioner Adcock asked if the Forest Service will purchase lands in the Bridal Veil Falls area from the Trust for Public Lands. Harkenrider said this would only occur if funds are available. Commissioner Adcock said he did not think this is a sound practice.

Other Business

Commissioner Jacobsen said she is the Commission's representative for the Columbia Gorge Discovery Center and referenced a letter from Discovery Center staff (see attachment D) expressing disappointment that the Commission and Forest Service has not provided financial support of the Center. They are requesting the Commission's support in seeking funding for the Center. Commissioner Crow and Reinig provided information about the Center's operation and its history.

Commissioner Abbe said the Outreach Committee conducted Gorge tours for legislators and staff. He said there is support from the legislators to assist the facility.

Commissioner Reinig suggested the Commission work to secure the federal funding designated for recreational projects and that may be available to assist the Discovery Center.

Chair Davis said the Trails Club of Oregon will be conducting a dedication on Sunday of the Labor Day weekend and the Commission has been invited. She said if anyone is interested in attending the event, to contact her for more details.

Break

Chair Davis called for a break at 11:45 a.m.

Commission Executive Session, pursuant to Commission Rule 350-11-006(1)(a) – Executive Director Hiring

Chair Davis said the Commission closed the meeting to the public at 12:00 p.m. to conduct an executive session to discuss the employment of the permanent Executive Director.

Chair Davis closed the executive session at 1:20 p.m. and opened the meeting to the public and said the Commission took no action during the executive session.

Adjourn

Chair Davis adjourned the meeting at 1:30 p.m.

The next regular meeting is scheduled for 08/08/06 at the Hood River County Building in Hood River, Oregon.

Minutes taken by Kathy Obayashi-Bartsch
Minutes approved on 9-12-06