

Columbia River Gorge Commission

Meeting Minutes

September 13, 2005

A complete record of this meeting is available on audiotape

Location: Best Western Columbia River Inn at the Bridge of the Gods
735 WaNaPa Street Cascade Locks, Oregon
Time: 9:00 a.m.

MEMBERS IN ATTENDANCE

Harold Abbe
Kenn Adcock
Jeffrey Condit (9:06 a.m.)
Judy Davis
Jane Jacobsen
Virginia Kelly for Dan Harkenrider
Walt Loehrke
Jim Middaugh
Joe Palena
Honna Sheffield

MEMBERS ABSENT

Doug Crow-excused
Joyce Reinig-excused

STAFF PRESENT

Tom Ascher, planner
Martha Bennett, Executive Director
Jennifer Kaden, Planner
Jeff Litwak, Counsel
Jessica Metta, Planner
Kathy Obayashi-Bartsch, Administrative Assistant

AUDIENCE PRESENT

Andersen, Steven. Cascade Planning Associates
Benedict, Michael. Hood River County Planning Department
Cornett, Todd. Wasco County Planning Department
Davenport, Jessica. Skamania County Planning Department
Flint, Lewis. Mosier, Oregon
Gaul, Willard. Portland, Oregon
Lang, Michael. Friends of the Columbia Gorge (FOCG)
Leipper, Bob. Troutdale, Oregon
Miller, Bobbie. Columbia Gorge United (GLU)
Sims, Pat. Portland, Oregon
Swyers, Rita. GLU
Tokos, Derrick. Multnomah County Planning Department

Walker, Eric, Hood River County Planning Department
Wilkins, Maxine. Portland, Oregon
Wooster, Wayne. Klickitat County

Others were present during the day

Call to Order

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

Approval of Minutes

Chair Davis asked the Commission to review and comment on the draft minutes for August 9, 2005. Commissioner Adcock said his comment on page six, paragraph five should include the detail he provided about Klickitat County. He said the county hired an air quality expert to work on the air quality study to ensure good science is used. Adcock asked that staff check the tape to get his exact wording. Commissioner Abbe said he wished to clarify the intent of his comment on page three, last paragraph in the draft minutes. He said it was not his intent to say the Snake River Canyon air quality study could substitute for the Gorge air quality study. He said no change was needed in the minutes. Commissioner Sheffield made a motion to adopt the minutes as drafted with the addition of Commissioner Adcock's comment. Commissioner Palena seconded the motion. A voice vote was taken and passed unanimously.

Martha Bennett, Executive Director introduced Jessica Metta who began work as a planner for the Commission on September 12.

Public Comment

Bobbie Miller of The Dalles, Oregon commented on the air quality issue. She read from prepared testimony (see attachment A) expressing her belief that since the wind blows from the west, she believes it's not correct that the Gorge air pollution comes from the east. She provided picture of a tree in her yard and a flag showing the wind blowing from the west. She provided a petition, signed by over 150 people objecting to the study and to any additional expenditure on the study.

Commissioner Adcock asked her to clarify which air quality study she was referring to. She said she refers to the information presented at the last Commission meeting. Commissioner Adcock said most of media reports were directed to the fog water study.

Bob Leipper of Troutdale, Oregon read from prepared testimony (see attachment B) which addressed Multnomah County's enforcement statistics provided by county staff at the last Commission meeting.

Willard Gaul of Portland, Oregon said when the Commission first started, there were six Commissioners who were also Friends of the Gorge members and one Commissioner who was a member of 1,000 Friends of Oregon. Currently there are Commissioners that either were or are affiliated with environmental groups or worked for a political leader

that lobbied for the Scenic Area Act. He said he has no problem with these individuals personally but believes these affiliations create a conflict of interest.

Opportunity for Tribal Members to offer Public Comment

Chair Davis asked if there were any tribal members present to offer comment to the Commission. There were no members present.

Economic Development Certification-Grant W05-0121

Tom Ascher, planner provided a summary of the grant request and recommended the Commission certify a \$10,000 National Scenic Area Act grant to the Columbia Gorge Discovery Center. The grant will partially fund a larger project to upgrade the Discovery Center's kitchen (see attachment C).

Commissioner Jacobsen asked what the total cost of the project is and Ascher said the total cost of the project is \$26,515. Commissioner Jacobsen said through her involvement with the Discovery Center board, she knows that income from the café and catering are a significant part of their operation and expressed her support of the grant.

Lee Curtis, Mid-Columbia Economic Development Department and the Oregon Investment Board said the Board approved the grant, recognizing that this upgrade would benefit tourism in the area.

Chair Davis invited public comment on the certification request. No one wished to testify. Davis closed the hearing.

Commissioner Adcock made a motion to certify the grant request and Commissioner Middaugh seconded the motion. A voice vote was taken and passed unanimously.

Director's Report

Martha Bennett, Executive Director, said Multnomah County had sent a letter as a follow up to their presentation on code enforcement and compliance. Bennett said the County had failed to include detailed information in their presentation about how they counted the violations that had been consolidated into a single enforcement file. She noted that county staff apologizes for any misunderstanding. (see attachment D)

Bennett said there will be public open house for the Scenic Handbook project on Tuesday, October 4th from 5-8 p.m. at the Hood River County Library. The open house is an opportunity for the public to view the draft recommendations about materials and to provide feedback. Staff will present the handbook to the Commission in November. Bennett said staff has asked interested groups such as the local real estate association to provide feedback. Chair Davis asked Bennett to provide an overview of the project. Bennett noted that the handbook is required by the Revisions to the Management Plan. She said it is an advisory document that will include recommendations to people proposing developing projects in the Scenic Area to help them select building materials, color, reflectivity, landscaping, and references for building suppliers. Applicants would not be required to use the items in the handbook, but the handbook should help people

think through their projects. Commissioner Jacobsen asked if the intent was to supply the handbook not only to property owners but to hardware and building suppliers. Bennett said staff hopes that building suppliers, contractors, architects, realtors and others would use the handbook.

Jeff Litwak, Counsel said the Oregon Circuit Court's ruling on Ballot Measure 37 was appealed to the Oregon Court of Appeals. He said a legal brief may be completed by March 2006 and it would take another nine months (end of next year), before the parties would argue the case before the Court.

Consistency Determinations for County Ordinances to implement the Revisions to the Management Plan

The Commission held a public hearing and deliberated on ordinances adopted by three Gorge counties to enact the Revisions to the Management Plan. The Commission held a single public hearing for ordinances adopted by Hood River County, Multnomah County and Wasco County.

Chair Davis said the Commission would first hear staff reports on each of the county ordinances. Bennett provided a review of how the Management Plan is adopted, how the Secretary of Agriculture concurs, and the timeline for counties to adopt their ordinances to implement the Management Plan. Bennett said the Commission has ninety days for review of the proposed ordinances for the General Management Area (GMA) portions once they receive them from the counties. She added that the Commission will make a tentative finding for the Special Management Area portions of each county's ordinance and forward those to the Secretary of Agriculture, who has delegated authority to the Regional Forester. The Regional Forester has ninety days to review the SMA portions for consistency.

Bennett provided a staff report (see attachment E-1) on the Multnomah County ordinance, noting the areas that vary from the Adopted Management Plan Revisions. Bennett said staff recommends that the Commission find the GMA portions of the ordinance to be consistent with the Management Plan, make a tentative finding that the SMA portions are consistent, and forward the SMA portions to the Regional Forester.

Commissioner Loehrke asked for clarification on the compatibility guideline. Bennett said Multnomah County will compare houses to houses, out-buildings to out-buildings, etc. when reviewing applications. This issue of compatibility most often pertains to size, although all other scenic criteria must be met.

Commissioner Condit asked for a clarification between the terms visual subordination and minimize visibility. Bennett explained the terms.

Ascher provided a staff report (see attachment E-2) on the Hood River County ordinance noting the one change that staff believes must be made. Staff recommends that the Commission should find that commercial events, such as weddings are not allowed on established farms. He said Hood River County is in agreement with this

request and will be making the appropriate change. Ascher said staff recommends that the Commission direct Hood River County to apply the Management Plan for commercial events until they have amended their ordinance, direct Hood River County to make that amendment within 24 months, find the remainder of the GMA portions the ordinance to be consistent with the Management Plan, make a tentative finding that the SMA portions are consistent, and forward the SMA portions to the Regional Forester.

Commissioner Loehrke asked for clarification of how this guideline would apply. Ascher explained that commercial events, such as weddings are allowed in the Management Plan at established wineries and bed and breakfasts but not on established farms. The County would directly apply the Management Plan language for commercial events until they have revised their land use ordinance.

Kaden provided a staff report (see attachment E-3) on the Wasco County ordinance. She said the only item omitted in their ordinance is for commercial fish processing. Kaden said staff recommends that the Commission find the GMA portions the ordinance to be consistent with the Management Plan, make a tentative finding that the SMA portions are consistent, and forward the SMA portions to the Regional Forester.

Commissioner Loehrke asked whether wind energy was addressed. He said individuals should be able to be off the grid or partially off the grid without being considered a commercial operation. Kaden responded that the electricity would be calculated by net metering over a year but the electricity would need to be used by the land owner and not sold.

Public comment

Chair Davis called on those who had signed up for public comment.

Bob Leipper of Troutdale, Oregon said he was part of the Multnomah County advisory committee. He said there were issues that were not discussed because the County did not want to address them. The Multnomah compatibility guideline does not account for illegal structures or past bad decisions being used in a comparison. He said there were many other issues that were not resolved and he read a list of the issues that had been “parked” during the process.

Michael Lang of Friends of the Gorge read from prepared testimony (see attachment F).

Break

Chair Davis called for a break at 10:35 a.m. and called the meeting back to order at 10:50 a.m.

Consistency Determinations for County Ordinances to implement the Revisions to the Management Plan—Continued

County Comments:

Derrick Tokos of Multnomah County Planning Department requested an effective date of January 1, 2006 if their ordinance is approved by the Commission. He said the county wants to provide a date certain to provide adequate public notice. He explained the process used in developing the ordinance. He said as a result of the ordinance process, the ordinance, zoning maps, comprehensive plan and handouts for citizens were developed. He explained how their expedited process will work for applications where no comments are received in an effort to streamline the process for citizens.

Commissioner Sheffield asked how the compatibility issue is handled if there is an illegal structure. Tokos responded that often 10-12 structures are used in a comparison and if any one of them is known to be illegal, it would not be used. Litwak said based on prior contested case hearings in Multnomah County, the county hearings officer made a determination that any structure known to be illegal should not be used in a comparison.

Mike Benedict and Eric Walker of Hood River County Planning Department said commercial events at established farms would be eliminated from their ordinance. Benedict said the ordinance is not in effect until the Commission adopts it for the GMA and the Secretary State concurs for the SMA. Bennett said the Commission could send the entire ordinance back to Hood River County but this seems to be unnecessary for a minor issue which will be revised. Commissioner Condit asked for clarification as to how the ordinance would be applied. Litwak said the particular provision can be found inconsistent with the Plan and therefore it's not applicable.

Walker requested the effective date of the ordinance to be January 1, 2006.

Todd Cornett, Wasco County Planning Department thanked Jennifer Kaden and Virginia Kelly for their work with Wasco County.

Commissioner Middaugh asked that Wasco County will continue to research records and document the legality of a structure. Cornett assured the Commission that every effort will be made to research the legality of structures.

Virginia Kelly, United States Forest Service (USFS) asked whether Wasco County wanted a date certain for their ordinance. Cornett said the County is prepared and anxious to begin implementing the ordinance when approved by the Commission for the GMA and Regional Forester for the SMA. Kelly thanked the county staff and commission staff for their work and referred to the letter written by Dan Harkenrider, NSA Manager supporting a tentative finding of consistency for the SMA portions of the ordinance (see attachment G).

As there were no additional comments, Commissioner Condit made a motion to approve all the ordinances as requested in the staff reports, with the addition of an effective date of January 1, 2006 for Multnomah County and Hood River County. The motion was seconded by Commissioner Jacobsen.

Chair Davis summarized the motion as follows:

Multnomah County with an effective date of January 1, 2006:

1. Find those portions of the amendments to Multnomah County's Scenic Area Ordinance (as contained in Multnomah County Ordinance No. 1064) affecting lands in the General Management Area (GMA) consistent with the Management Plan;
2. Make a tentative finding of consistency with the Management Plan for those provisions of Multnomah County Ordinance No. 1064 affecting lands in the Special Management Area (SMA) and transmit those provisions to the Secretary of Agriculture for concurrence; and
3. Order that should any provision contained in the Management Plan be found inconsistent with the Scenic Area Act as the result of litigation, Multnomah County shall amend the corresponding provision in Ordinance 1064.

Hood River County with an effective date of January 1, 2006:

1. Find those portions of amendments to Hood River County's Scenic Area Ordinance (as contained in Hood River County Ordinance No. 268) affecting lands in the General Management Area consistent with the Management Plan; with the exception of Hood River County Article 75 §152.J.2.a and §152.J.2.l where commercial events are permitted on an "established farm"; and
2. Order that with 24 months Hood River County shall amend the provisions of Article 75 to eliminate the allowance of commercial events to occur on established farms and until such an amended ordinance is adopted to apply Revised Management Plan Guideline 2.A for Commercial Events; and
3. Make a tentative finding of consistency with the Management Plan for those provisions of Hood River County Ordinance No. 268 affecting lands in the Special Management Area and transmit those provisions to the Secretary of Agriculture for concurrence; and
4. Order that should any provision contained in the Management Plan be found inconsistent with the Scenic Area Act as the result of litigation, Hood River County shall amend the corresponding provision in Ordinance 268.

Wasco County with an effective date based on adoption by Gorge Commission (GMA) and Secretary of State (SMA):

1. Find those portions of the amendments to Wasco County's Scenic Area Ordinance (as contained in Wasco County Ordinance No. ORD-05-101) affecting lands in the General Management Area (GMA) consistent with the Management Plan;
2. Make a tentative finding of consistency with the Management Plan for those provisions of Wasco County Ordinance No. ORD-05-101 affecting lands in the Special Management Area (SMA) and transmit those provisions to the Secretary of Agriculture for concurrence; and

3. Order that should any provision contained in the Management Plan be found inconsistent with the Scenic Area Act as the result of litigation, Wasco County shall amend the corresponding provision in Ordinance No. ORD-05-101.

A vote was taken and was approved by a vote of 9 ayes and 0 nays, with at least three Commissioners from each state.

Harold Abbe-aye
Kenn Adcock-aye
Jeffrey Condit-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-aye
Joe Palena-aye
Honna Sheffield-aye

Consistency Determination for Skamania County ordinance to implement Section 8(o) land use designations

The Commission held a public hearing and deliberated on an amendment to the Skamania County zoning ordinance (see attachment H). Kaden said the amendment changes the land use designation of a property that was offered to the Forest Service under Section 8(o) of the National Scenic Area Act. This amendment applies a new GMA designation.

There were no questions or public comments.

Commissioner Loehrke made a motion to approve the ordinance and was seconded by Commissioner Jacobsen. A vote was taken and was approved by a vote of 9 ayes and 0 nays, with at least three Commissioners from each state.

Harold Abbe-aye
Kenn Adcock-aye
Jeffrey Condit-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-aye
Joe Palena-aye
Honna Sheffield-aye

NSA Manager's Report

Virginia Kelly said the forest service has signed a decision for the Burdoin Mountain thinning project. Kelly said the forest service has also approved western pond turtle enhancement project in the Collins Creek area of Skamania County. Finally, Kelly said the water tank at Multnomah Falls will be replaced in early October.

Other Business

Commissioner Middaugh asked for an update about the authority the Commission has pertaining to air quality. Bennett said staff is working on the issue and will have a report to the Commission by January.

Chair Davis provided a draft roster of Commission Committees (see attachment I). She asked the Commissioners to contact her with any questions or concerns and hopes to have this finalized soon.

Commissioner Loehrke asked about the Skamania Lodge's policy for public access to the facilities. Kelly said Mike Ferris, USFS Public Affairs Officer provided her with information about this situation. She said while public access to the facilities is mentioned in the deed, there is no specific mention about the swimming pool. There is a new Washington state law, requiring a lifeguard for public use of a pool. Kelly said the Lodge has decided to restrict access to the pool due to this staffing issue. Other facilities, such as the fitness center, golf course, restaurants are open to the public. Bennett said the Commission could express their concern about the policy to the lodge or the Forest Service.

Commissioners Loehrke and Sheffield expressed concern about the effect of this decision on the local community.

Commissioner Jacobsen said perhaps an ad-hoc committee could be formed to develop a solution. Commissioner Palena said perhaps the Skamania economic development agencies may be interested as well.

Bennett said staff can help schedule a meeting to address the issue. Commissioners Loehrke, Palena, Sheffield, and Jacobsen volunteered.

Chair Davis adjourned the meeting at 11:45 a.m.

The next regular meeting is scheduled for 10/11/05 at the Rock Creek Recreation Center, Stevenson Washington at 9:00 a.m.

Minutes taken by Kathy Obayashi-Bartsch

Minutes approved on 10-11-05