

Columbia River Gorge Commission

Meeting Minutes

January 12, 2010

A complete record of this meeting is available on compact disc

Hood River Best Western Inn-Gorge Room

1108 East Marina Way, Hood River, Oregon

9:00 a.m.

MEMBERS IN ATTENDANCE

Harold Abbe

Judy Davis

Sara Grigsby

Dan Harkenrider

Walt Loehrke

Lonny Macy (9:21am)

Jim Middaugh

Carl McNew

Joe Palena

Barbara Roberts

Joyce Reinig

MEMBERS ABSENT

Don Bonker-excused

STAFF PRESENT

Jill Arens, Executive Director

Brian Litt, Principal Planner

Jeff Litwak, Counsel

Kathy Obayashi-Bartsch, Specialist

AUDIENCE PRESENT

Baker, Nathan. Friends of the Columbia Gorge (FOCG)

Banks, Peter. Skamania County Attorney

Barber, Anthony. US Environmental Protection Agency

Guess, Dean. Hood River County

Hollatz, Nicole. Skamania County

Irish, Sherrie. Washougal, WA

Kahn, Gary. Reeves, Kahn & Hennessy

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

Keister, Larry. Washougal, WA

Newell, Sally. Underwood, WA

Olson, Todd. PacifiCorp

Paymar, Brad. Columbia Land Trust

Repar, Mary. Stevenson, WA

Sauter, David. Klickitat County Commission

Sinks, Ian. Columbia Land Trust

Stampfli, Steve. Hood River Watershed Group, OR

Taylor, Isa. Parkdale, OR
Thompson, Michael. Yakama Nation
Witherspoon, Karen. Skamania County

Others were present during the day.

Call to Order and Role Call

Chair Reinig called the meeting to order at 9:00 am and role was called.

Approval of Minutes- December 8, 2009

Chair Reinig asked the Commission to review the draft minutes. Commissioner Davis made a motion to adopt the minutes as drafted. Commissioner Loehrke seconded the motion. A voice vote was taken and unanimously approved.

Public Comment

Michael Lang of Friends of the Gorge referred to the November minutes and said the minutes did not reflect the Commission's comments on geologic features.

Rick Till of Friends of the Gorge provided comments on cumulative adverse effects (see attachment A).

Sally Newell, Underwood WA provided comments on winery related events and potential conflicts with agricultural practices (see attachment B).

Mary Repar, Stevenson WA commented on cumulative impacts and the need for the Commission to address this issue.

Opportunity for Treaty Tribe Nations to address Commission

As part of the consultation process treaty tribe members may speak about any issue on the agenda or any other matter. There was no testimony.

Follow up on Pro Bono Opportunity

Jill Arens, Executive Director discussed the general needs and goals of pro bono lobbying efforts on behalf of the agency (see attachment C). She said there are questions related to the scope of the work and potential legal issues. She said the Director of the Washington State Ethics Board advised the Commission to get legal opinions from both state Attorney General offices which would cost the agency several thousand dollars. She does not recommend pursuing this opportunity at this time.

Commissioner Roberts said the corresponding Oregon ethics agency should be contacted for their opinion as well but it seems that the Commission should wait until there is more clarity on this issue.

Commissioner Abbe concurred and said he keeps a log of the amount of time he spends discussing Commission issues with legislators.

There was general agreement by the Commission to wait to pursue this opportunity.

National Scenic Area Manager's Report

Commissioner Harkenrider said a Cape Horn decision was released which includes a trail network, parking plan and avian protection. He is hopeful this plan will not be challenged. He said a decision on Coyote Wall and Catherine Creek area will be issued by the end of the month and is pleased that a wildlife habitat and fuel reduction stewardship contract has been awarded for the Burdoin Mountain area.

Chair Reinig reviewed a new meeting process for making motions. She asked the maker of the motion to make notes and to be prepared to state it several times. The Executive Director and Counsel will write down the exact language of the motion and restate it verbatim for the Commissioners before a vote is taken.

Appeal Hearing – Friends of the Columbia Gorge v. Skamania County, CRGC No. COA-S-09-02

NOTE: The audio recording and the final order serve as the record of the hearing and are available at the Gorge Commission office.

The Commission heard oral argument and deliberated to a decision on this appeal, which involves a Skamania County decision approving a cluster development. This was not a public hearing; only the appellant (Friends of the Columbia Gorge) and Respondent (Skamania County) presented oral argument. The hearing was held pursuant to the Commission's rules for appeals of county decisions (Commission Rule 350-60).

Chair Reinig asked Commissioners to disclose conflicts of interest or *ex parte* contacts. No commissioners stated they had had any *ex parte* contacts or conflicts of interest. There were no objections from the parties. Chair Reinig reviewed the appeal procedures from the Notice of Hearing (see attachment D).

She said that no questions or discussion from the Commission would be allowed as this was to be uninterrupted oral argument. She said the Commissioners may ask the parties questions prior to oral arguments that they wish to have addressed in the oral arguments. The parties will have up to two minutes to respond to any questions asked after the conclusion of oral argument.

Break 9:35-9:40

Chair Reinig called the meeting back to order after a short break to allow Friends of the Columbia Gorge to set up a PowerPoint presentation. Several Commissioners asked questions of the parties.

The parties' legal counsel introduced themselves:

-Friends of the Columbia Gorge represented by Gary Kahn of Reeves, Kahn and Hennessy and Nathan Baker, staff attorney. Mr. Kahn and Mr. Baker presented their

oral argument including a PowerPoint presentation (see attachment E) for 18 minutes and reserved two minutes for rebuttal.

-Skamania County represented by Peter Banks, Prosecuting Attorney. Mr. Banks presented his oral argument.

Mr. Kahn presented a rebuttal for two minutes.

Chair Reinig said the Commissioners may ask questions of the parties concerning the facts of the case, the arguments made, and applicable law. She said each party would be allowed two minutes to respond to each question.

Several Commissioners asked questions of the parties and the parties responded to each question.

Chair Reinig asked the Commissioners not to discuss the case during the break with anyone or among themselves and called for a 15 minute break.

Break 10:46-11:00 am

Continuation of Appeal

Chair Reinig called the meeting to order at 11:02 am

Chair Reinig thanked the parties and said the Commission would deliberate and address the four assignments of error. She reviewed the Commission's options of upholding, remanding and reversing the hearing examiner's decision.

The Commission began its deliberation.

Commissioner Middaugh made a motion to remand the hearing examiner's decision on the first assignment of error regarding the requirement to protect at least 75% of the property as undeveloped land and Commissioner Roberts seconded the motion.

Arens restated Commissioner Middaugh's motion as follows: there is a motion to remand based on assignment of error number one to the county because the decision is not supported by substantial evidence in the record.

The motion passed 9 ayes to 1 no

Harold Abbe- aye

Judy Davis-aye

Sara Grigsby-aye

Walt Loehrke-no

Lonny Macy-aye

Jim Middaugh-aye

Carl McNew-aye

Joe Palena-aye

Barbara Roberts-aye
Joyce Reinig-aye

Commissioner Middaugh made a motion to reverse the hearing examiner's decision on the second assignment of error regarding the siting opportunity and Commissioner Grigsby seconded the motion.

Arens restated the motion as follows: a move to reverse the county's decision because it appears that clustering does not afford a siting opportunity otherwise available through conventional development based on the record before us.

The motion failed with a vote of 6 nos and 4 ayes.

Harold Abbe-no
Judy Davis-no
Sara Grigsby-yes
Walt Loehrke-no
Lonny Macy-yes
Jim Middaugh-yes
Carl McNew-no
Joe Palena-no
Barbara Roberts-yes
Joyce Reinig-no

Commissioner Middaugh made a motion to remand the county's decision because it appears that clustering does not afford a siting opportunity otherwise available through conventional development based on the record before us. Commissioner Roberts seconded the motion.

Arens restated the motion as follows: there is a move to remand the county's decision because it appears that clustering does not afford a siting opportunity otherwise available through conventional development based on the record before us.

Commissioner Loehrke offered a suggested amendment to the motion. Commissioner Middaugh rescinded the motion.

Commissioner McNew made a motion to remand the hearing examiner's decision on the second assignment of error regarding siting opportunity. Commissioner Roberts seconded the motion.

Arens restated motion as follows: to remand the county's decision based on the county's failure to clearly articulate that a similar benefit to the resource cannot be achieved through conventional development process rather than cluster development.

The motion passed unanimously.

Harold Abbe-yes
Judy Davis-yes

Sara Grigsby-yes
Walt Loehrke-yes
Lonny Macy-yes
Jim Middaugh-yes
Carl McNew-yes
Joe Palena-yes
Barbara Roberts-yes
Joyce Reinig-yes

Commissioner McNew made a motion to remand the hearing examiner's decision on the third assignment of error regarding clustered dwellings and Commissioner Palena seconded the motion.

Arens restated the motion as follows: there is a motion to remand number three back to Skamania County to re-evaluate the concept of cluster development.

The motion passes 9 ayes to 1 no.

Harold Abbe-aye
Judy Davis-aye
Sara Grigsby-aye
Walt Loehrke-no
Lonny Macy-aye
Jim Middaugh-aye
Carl McNew-aye
Joe Palena-aye
Barbara Roberts-aye
Joyce Reinig-aye

Commissioner Middaugh made a motion to remand the hearings officer's decision on the fourth assignment of error.

Arens restated the motion as follows: there is a move to remand number four back to the county because it did not clearly demonstrate that it adequately evaluated that access cannot be consolidated.

Commissioner Roberts suggested a wording change to the motion. The maker of the motion accepted the change. The maker of the motion and the second agreed to this change.

Arens restated the motion as follows: to remand number four back to the county because it did not clearly evaluate consolidation of access.

The motion passed unanimously.

Harold Abbe-aye
Judy Davis-aye
Sara Grigsby-aye

Walt Loehrke-aye
Lonny Macy-aye
Jim Middaugh-aye
Carl McNew-aye
Joe Palena-aye
Barbara Roberts-aye
Joyce Reinig-aye

Lunch 12:25-1:30 pm

Chair Reinig called the meeting to order at 1:40 pm.

Hood River Powerdale Corridor Dam Removal Project

Jill Arens, Executive Director introduced the guest presenters Todd Olson, Project Manager, PacifiCorp, Brad Paymar, Associate Director, and Ian Sinks of Columbia Land Trust, Dean Guess of Hood River County and Steve Stampfli of the Hood River Watershed Group.

Mr. Olson provided the Commission with an update on the Hood River Powerdale Corridor Dam Removal Project. The presentation (see attachment G1) covers the history of the Powerdale Dam on the Hood River, the decommissioning of the dam, and the cooperative efforts of many groups to accomplish this removal. Proposed land ownership transfer includes PacifiCorp turning over 400 acres to Hood River County, Columbia Land Trust, and the OR Department of Fish and Wildlife. Mr. Paymar and Mr. Sinks provided a presentation that focused on the land transfer ownership, restoration plans, and bringing together numerous stakeholders (see attachment G2). The speakers described environmental impacts of removal and future restoration efforts.

The Commission thanked them for their efforts on this project and the informative presentation.

Follow up on Appropriations Requests

Jill Arens, Executive Director provided a review of the appropriation requests. The Commission reviewed sample appropriations requests for the authorized but unfunded economic development and recreation facilities for the 2011 Federal fiscal year (see attachment H). Current appropriations forms are not available at the time of this distribution, but the samples are representative of the information requested.

Commissioner Middaugh suggested that Arens speak with staff to get an idea of what legislators would be most influential. The Commission generally agreed to this strategy.

Commissioner Abbe said once a request is better defined, it would better determine what legislator to address.

Commissioner Roberts suggested that the Commission should identify and focus on the people that would be most able and willing to assist the Commission.

Arens said she will continue to work with legislative staffers on language, the best way to approach the economic development request, and work with the economic development agencies.

Director's Report

Arens reported on the Commission activities in 2009 and the groups that have made presentations to the Commission (see attachment I). She requested ideas for future presentations. Commissioner Roberts suggested a tour or presentation on the cultural resources of the Gorge such as pictographs.

Brian Litt, Principal Planner said a large area of the Columbia Hills State Park was just designated a historic district in Washington State and stakeholders are seeking a national historic district designation as well. He provided a review of current planning work for 2009 summarizing systematic improvements including a new database, a comprehensive system of monitoring and a comprehensive log of customer service contacts. There were 18 direct applications the Commission received in 2009 out of a Gorge wide total of 125 applications reviewed in 2009, which is a 20% reduction from 2008. Staff had 485 customer service contacts that did not include direct applications, including phone calls, e-mails and people coming into the office.

Arens said we are working on an interagency agreement to sublet part of the office space to a Washington Fish and Wildlife manager. This agreement will generate a few thousand dollars for the agency.

Arens said the 2008 Passenger Rail and Improvement Act may impact Amtrack services in the Gorge. There are four options under study to connect passenger rail service from Chicago to Portland/Seattle.

Other Business

Commissioner Palena provided an update on the Tribal Affairs Committee meetings. He said they met with representatives the Yakama Tribe and rescheduled the Nez Perce meeting to July. There is a meeting in April with the Umatilla Tribe and the discussions are going well.

Commissioner Roberts provided an update on the pro bono design work of Wieden and Kennedy to create a 25th anniversary logo.

Adjourn 3:00 p.m.

Approved on 2-9-10
KOB