

Columbia River Gorge Commission
Meeting Minutes
March 13, 2007

A complete record of this meeting is available on compact disc

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

Time: 9:00 am

MEMBERS IN ATTENDANCE

Harold Abbe
Kenn Adcock
Jeffrey Condit
Doug Crow (9:05 a.m.-3:50 p.m.)
Judy Davis
Dan Harkenrider
Walt Loehrke (9:24 am)
Lonny Macy
Jim Middaugh
Joyce Reinig
Honna Sheffield

MEMBERS ABSENT

Jane Jacobsen (excused)
Joe Palena (excused)

STAFF PRESENT

Jill Arens, Executive Director
Tom Ascher, Planner
Brian Litt, Planning Manager
Jeff Litwak, Counsel
Jessica Metta, Planner
Kathy Obayashi-Bartsch, Assistant

AUDIENCE PRESENT

Bryan, Peggy. Skamania County Economic Development Council
Calkin, Larry. Oregon Department of Environmental Quality (ODEQ)
Candin, Mike. Klickitat County Economic Development
Cassese, Clifford. Yakama Nation
Cornelison, Peter. Friends of the Columbia Gorge (FOCG)
Crafts, Kate. Columbia Gorge Windsurfing Association (CGWA)
Davenport, Jessica. Skamania County Planning Department
Decker, Duane. Port of Portland
Hawk-Elwood, Rebecca. Yakama Nation
Imperati, Sam. KM Inc.
Kimiranskes, Kendra. GRACE Factory Form Project
Kindness, Mavis. Yakama Nation
Lande, Gregg. DEQ

Lang, Michael. FOCG
Leipper, Bob. Troutdale, OR
Mairose, Paul. Southwest Clean Air Agency (SWCAA)
Max, Thomas. Multnomah County
Meeks, Pat and Lloyd. White Salmon, WA
Nichols, Rodger. *The Dalles Chronicle*
Norton, Dennis. Portland Gas and Electric (PGE)
Phillips, Page. Representative Brian Baird's office
Pratt, Gary. Dallesport, WA
Repar, Mary. Stevenson, WA
Roeder, Casey. Skamania County Chamber of Commerce
Sakata, Rachel. ODEQ
Smartlowit, John. Yakama Nation
Spadaro, Jason. SDS/Broughton Lumber
Teitzel, Judy and David. Port of Skamania County/Carson, WA
Wooster, Wayne. White Salmon, WA
Others were present during the day

Call to Order

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

Approval of Minutes –February 13, 2007

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

Public Comment

Mary Repar of Stevenson, WA read from prepared testimony regarding the draft Environmental Impact Statement (EIS) for the proposed casino in Cascade Locks, Oregon (see attachment A).

Commissioner Reinig said the Commission has not taken a position on this issue as the proposal is in an urban area which the Commission has no jurisdiction over. The Commission cannot comment on this issue as the Commission may be in a position of conducting a hearing on the location of the proposed casino, if the Warm Springs Tribe chooses to use the location near Hood River.

Commissioner Condit concurred with Commissioner Reinig. He said it would be interesting to review the study in terms of Gorge wide impacts.

Brian Litt, Planning Manager said staff will receive a copy of the study and will review the draft EIS. Commissioner Crow suggested newer Commissioners may need a refresher on the history of the issue and the Commission's involvement.

Bob Leipper of Troutdale, Oregon said many of the Commission rules and definitions used in the Management Plan have inconsistencies and provided

several examples (see attachment B). He said the Commission's website does not have the Commission by-laws or the Committee assignments posted.

Bylaws Update and Vote

Jeff Litwak, Counsel said at the last Commission meeting, proposed update changes to the bylaws were discussed. The Commission requested a revised copy (see attachment C) reflecting these changes for a final review.

Commissioner Adcock said he agreed with the changes made to the by-laws.

Commissioner Abbe made a motion to adopt the bylaws as drafted and Commissioner Adcock seconded the motion.

A vote was taken and approved unanimously.

Harold Abbe-aye

Kenn Adcock-aye

Jeffrey Condit-aye

Doug Crow-aye

Judy Davis-aye

Lonny Macy-aye

Jim Middaugh-aye

Joyce Reinig-aye

Honna Sheffield-aye

Commissioner Reinig asked the Commission to consider when the next election of officers should occur. She said the Commission could elect officers in June or in December. If the Commission holds the election of officers in December, then the terms of current officers would be extended for six months.

Commissioner Sheffield said she preferred extending the term through December 2007.

Commissioner Adcock said he favored conducting the election in June 2007.

Commissioner Condit said he has no preference whether the Commission conducts an election in June or an election in December, with the current officers a serving an additional six months. He said if any new Commissioners are going to be appointed that may determine whether to conduct elections in June or December and suggested postponing the decision when information about new appointments may be available.

Commissioner Abbe made a motion to extend the officers terms to December 31, 2007 and conduct a vote in December 2007. Commissioner Sheffield seconded the motion.

Commissioner Adcock said he felt that this extension would be going against the by-laws. Sheffield said she did not agree.

Jeff Litwak, Counsel said for the motion to pass, there must be a majority from each state.

A vote was taken and failed 3 to 7. A majority from each state did not approve the motion.

Harold Abbe-aye

Kenn Adcock-no

Jeffrey Condit-aye

Doug Crow-aye

Judy Davis-aye

Walt Loerhke-no

Lonny Macy-aye

Jim Middaugh-aye

Joyce Reinig-no

Honna Sheffield-aye

Commissioner Condit made a motion to reconsider the election of officers at the May meeting. Commissioner Adcock seconded the motion. A voice vote was taken and unanimously approved.

Opportunity of Tribal Nations to address Commission

Rebecca Hawk-Elwood of the Yakama Nation read from prepared testimony (see attachment D) pertaining to the air quality study. She said the Yakama Nation contracted with Dr. Jaffe to analyze the air quality studies and his work contradicts statements that air quality in the Gorge is improving. The study is not an intensive or deep study but clarifies issues to understand the bigger picture. She said the source determination of air quality pollutants is particularly important due to its impact on cultural resources.

Clifford Casseseka of the Yakama Nation said the ceded Yakama home lands in the Gorge have never been paid for and the protection of these lands is a great concern to the Yakama Nation.

Commissioner Crow thanked him for his testimony and said the Commission is also trying protect the Gorge.

Multnomah County Compliance Update

Karen Schilling, Multnomah County Planning Director, and Michael Grimmatt, Multnomah County Code Compliance Specialist, presented an update on enforcement activities in Multnomah County's portion of the National Scenic Area (see attachment E).

Commissioner Sheffield said if the county received the same number of new cases each year and only half are resolved then the backlog of cases will actually increase. Mr. Grimmatt agreed.

Commissioner Adcock asked if more full-time staff have been added to administer the Scenic Area rules and whether the funds received from the state adequately fund this work. Ms. Schilling said no additional staff have been hired and the state funds equate to approximately half of the cost to administer the Scenic Area rules.

Commissioner Condit said he understands the county's approach for prioritizing enforcement cases to address health and safety issues. He asked if Commission staff or pooling all Gorge county resources could provide assistance on lower priority issues. Jill Arens, Executive Director said Commission staff work with all county staff and the level of additional assistance depends on the agency's overall work plan.

Commissioner Middaugh said it would be helpful to have a better understanding of how Gorge counties are handling enforcement programs.

Ms. Schilling said she has requested funding for an additional staff to work on code compliance issues but is uncertain if that request will be granted.

Commissioner Sheffield said it would be helpful to understand what the nexus is between reporting a violation and the number of violations.

Chair Davis suggested a review of all counties enforcement practices and their statistics.

Commissioner Loehrke said Skamania County performs follow-up on the conditions of approval for development reviews and this practice is a result of the Bea case. He said he believes other Gorge counties do not perform this level of follow-up.

Break 10:25-10:35

Yakama Nation Air Quality Report

Jill Arens, Executive Director introduced the air quality topic and introduced Sam Imperati, facilitator for the Columbia River Gorge Visibility Project. Mr. Imperati provided a Gorge Visibility Project draft working timeline (see attachment F).

Commissioner Middaugh asked for more information on the science peer review segment. Paul Mairose of the Southwest Clean Air Agency said there are three or four air quality scientists, not involved in the project, who indicated an interest in providing peer review.

Arens introduced Dr. Jaffe, professor at the University of Washington. Dr. Jaffe prepared a summary of the air quality reports of the Scenic Area at the request of the Yakama Nation and provided a review of his report (see attachment G). His report suggests that the worst air quality days are not improving and he does not conclude that air quality is getting better.

Commissioner Adcock said the data is from the Wishram, WA site and that area is very impacted by cattle operations. He said the cattle are brought down into that area in November which is very windy. He questioned how effective the data is given the environmental conditions at the site. Dr. Jaffe said analysis of the data does not indicate that elements found in soil occur significantly during these poor air quality days.

Clifford Casseseka of the Yakama nation asked for Dr. Jaffe to comment on the effect of poor air quality on human health and on rock images.

Dr. Jaffe said he believes there are health impacts on these poor air quality days and a Forest Service study found high nitrogen levels which impact lichen growth thereby affecting rock images.

Commissioner Loehrke asked what the air quality baseline should be to protect rock images. Dr. Jaffe said that baseline still needs to be developed unless the area is considered a class one air shed and standards exist for that classification.

Commissioner Middaugh suggested that representatives from the metropolitan areas should also be aware of their impact, particularly in the summer when air quality is most noticeable to recreational users and visitors in the Gorge.

Public Hearing (Continued from January 9, 2007) on Plan Amendment PA 06-04 (Non-Profit Horse Boarding)

Chair Davis provided a summary of the proceedings and Brian Litt, Planning Manager provided a summary of the Plan Amendment process.

Jessica Metta, Planner said this is a legislative plan amendment proposed by Gorge Commission staff. The amendment would: (1) change the definition of horse boarding to include non-profit horse boarding; and (2) allow horse boarding as a review use in the 10-Acre Residential Land Use Designation.

Metta summarized a March 2, 2007 addendum (see attachment H) to the staff report which addresses issues raised by the Commission and public comments at the January 9, 2007 hearing.

Commissioner Sheffield asked how Commission staff conduct enforcement of conditions of approval. Metta said for projects within Klickitat County, Commission staff is working to improve its follow up on conditions of approval.

Commissioner Adcock asked whether a humane society for animals would be included. Litt said typical dog and cat rescue centers occur in urban areas and a horse rescue facility requires a larger parcel of land.

Commissioner Middaugh asked how a review use would be implemented. Metta said outside agencies would be involved in this process.

Commissioner Middaugh asked what threshold is used to determine that there is significant need for such a Plan Amendment. He said three instances doesn't seem significant enough to warrant a Plan Amendment.

Litt said these three instances are the situations that staff is aware of and it's likely that more of these situations exist.

Commissioner Condit asked what uses are currently allowed in a 10-acre residential zone. Metta said the agricultural use is allowed such as horse breeding; where a commodity is raised and sold.

Public Comment

Mary Repar of Stevenson, WA read from written testimony (see attachment I) stating her reasons for disapproval of the proposed amendment. She said the proposal is not consistent with the purposes and the standards of the Scenic Area Act, adverse or cumulative impacts from this activity were not adequately addressed, and conditions in the Scenic Area have not significantly changed to warrant a Plan Amendment.

Michael Lang of Friends of the Columbia Gorge said that the Plan Amendment fails to meet the criteria for a Plan Amendment. He said the revelation of a violation should not qualify as a significant change in conditions for a Plan Amendment. He said three reports of violations do not rise to the level of considering a Plan Amendment. He said setting a standard for the number of horses per acre is something that other counties have adopted and urged the Commission to determine a ratio that would protect resources and resolve neighborhood concerns. He said smaller parcels of less than 10-acres such should not be allowed to have such operations.

Bob Leipper of Troutdale, OR read from written testimony (see attachment J) outlining his concerns with the proposed Plan Amendment. He said the Plan Amendment is being used to respond to an enforcement issue and if approved this Plan Amendment will make the Scenic Area worse, not better.

Peter Cornelison of Hood River, Oregon said he looked at the property in question which is relatively denuded of vegetation. He said if the Plan Amendment is approved, defining a maximum number of horses is needed.

Commissioner Crow said he is concerned about damage to the land and believes an appropriate ratio of horses to acreage should be determined.

Commissioner Loehrke said based on his experience with horses, there are impacts on the land but horse abuse is not going away and the Commission needs to be involved in this land use issue.

Commissioner Sheffield said she is concerned that the Plan Amendment's significant change in circumstances is the result of a violation. She said it's disturbing that the Commission must choose to approve the Plan Amendment as there is no alternative. She said if the owner did not wish to have non-profit status for horse boarding, the property owner would have no restriction on the number of horses on the property. She said requiring a ratio of horses to acre as a condition of approval should be considered.

Commissioner Condit said he is inclined to approve the Plan Amendment with the additional criteria of determining the number of horses allowed on the parcel.

Commissioner Abbe agreed with Commissioner Condit's comments. He said it is difficult to determine an appropriate ratio as it would vary case by case.

Commissioner Middaugh said he is inclined to view this situation as an enforcement issue. He said the change in conditions doesn't rise to the standard intended by Congress for a Plan Amendment. He said the Commission has spent considerable time and resources on this issue when those efforts could be directed to the Indicators Project.

Commissioner Crow said a standard is needed to determine the number of horses allowed on a property with consideration of the topography and whether the operation will include feed as a supplement to grazing.

Litt asked the Commission if the standard should apply in all areas or only the residential 10-acre zone.

Commissioner Harkenrider said the critical issue is determining an appropriate number of horses per acre to manage the impact on resources. He said the Commission should apply these standards to all areas and not just for operations with a non-profit designation.

Commissioner Condit made a motion to approve the Plan Amendment with specific criteria requiring the determination of a maximum number of horses allowed based on parcel size, property characteristics and the impact on neighbors.

Commissioner Sheffield said the impact of the Plan Amendment is really unknown at this time.

Commissioner Loehrke said there is a difference between a horse rescue operation and a horse depository.

Commissioner Reinig said originally she was not in favor of this Plan Amendment but changed her opinion because the consequence is these operations will occur without regulation.

Commissioner Middaugh said the Commission has enforcement capabilities and the authority to protect resources in the Gorge. He said the Commission has tools to regulate these impacts without the proposed Plan Amendment.

Commissioner Crow seconded the motion.

Chair Davis said this change requires reopening the public hearing for comment on the change to the proposed Plan Amendment.

Commissioner Middaugh said this change may impact others outside of the 10-acre residential zone.

Litwak said this is not a substantive change but is a procedural step.

Public Comment

Bob Leipper of Troutdale, OR said this change would be a significant impact on neighbors and the Commission should take this into consideration.

Mary Repar of Stevenson, WA said this change expands the application to Agriculture and Forest zones. She said the Commission should at least re-notice this change for public comment. She said it's unlikely there are sufficient resources to properly administer and enforce the additional criteria.

Michael Lang of Friends of the Gorge said while Friends does not support the Plan Amendment, the suggested change of setting a maximum number of horses is an improvement. He said the neighborhood impact will be very difficult to quantify and urged the Commission to further define that concept.

Litt said his understanding of the proposed change includes determining a maximum number of horses allowed for such use in General Management Area (GMA), Agriculture, Forest and residential 10-acre zones.

Commissioner Condit said his reason for suggesting the criteria of determining the number of horses allowed, is to protect resources. He said this new criteria would apply to new operations but not existing operations.

Commissioner Adcock made a motion to stop the discussion and vote on the motion on the table. Commissioner Crow seconded the motion.

A vote was taken and passed 7 to 3.

Harold Abbe-aye

Kenn Adcock-aye

Jeffrey Condit-no

Doug Crow-aye

Judy Davis-aye

Walt Loehrke-aye

Lonny Macy-no

Jim Middaugh-no

Joyce Reinig-aye

Honna Sheffield-aye

A vote was taken on the original motion and passed 7 to 3 with a majority from each state.

Harold Abbe-aye

Kenn Adcock-aye

Jeffrey Condit-aye

Doug Crow-aye

Judy Davis-aye

Walt Loehrke-aye

Lonny Macy-no

Jim Middaugh-no

Joyce Reinig-aye

Honna Sheffield-no

Lunch 1:20-2:00 p.m.

Chair Davis called the meeting to order 2:00 p.m.

Recreation Resort Plan Amendment Update

Jill Arens, Executive Director said the Commission asked at the last meeting how much time agency staff is spending on the Recreation Resort Plan Amendment. She said Tom Ascher is spending most of his time on the project with involvement of Brian Litt and herself. Total Commission staff resources expenditure is approximately one FTE (full time equivalent) right now.

Ascher, Planner provided background information on the legislative history of Commercial Recreation policies, the original resort proposal approved by the Commission in 1990, and factors being evaluated regarding changes in conditions in the Scenic Area relative to the Recreation Resort Plan Amendment proposal (see attachment K1-K2).

Commissioner Crow said the most significant economic change to be considered is the decline of the timber industry.