

Columbia River Gorge Commission
Meeting Minutes
April 10, 2007

A complete record of this meeting is available on compact disc

Location: Rock Creek Drive, Stevenson WA

Time: 9:00 am

MEMBERS IN ATTENDANCE

Harold Abbe

Kenn Adcock

Jeffrey Condit (9:06 am)

Doug Crow (9:08 am)

Judy Davis

Dan Harkenrider

Jane Jacobsen

Walt Loehrke

Lonny Macy

Jim Middaugh

Honna Sheffield (excused 10:45-11:45 am)

MEMBERS ABSENT

Joe Palena (excused)

Joyce Reinig (excused)

STAFF PRESENT

Jill Arens, Executive Director

Brian Litt, Planning Manager

Jeff Litwak, Counsel

Kathy Obayashi-Bartsch, Assistant

AUDIENCE PRESENT

Cassese, Clifford. Yakama Nation

Hoglund, Michael. Metro

Hollatz, Nicole. Skamania County Planning Department

Jewell, Paul. Tidewater Barge

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

Leipper, Bob. Troutdale, OR

Mills, Jack. Mount Hood Railroad

Nichols, Rodger. *The Dalles Chronicle*

Skakel, Katie. Mosier, Oregon

Singer, Michelle. Oregon Health and Science University

Thiemann, Phyllis. Columbia Gorge Visitors Association

Zanavich, Greg. Tidewater Barge

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 –March 13, 2007

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

Public Comment

Bob Leipper of Troutdale, Oregon read from prepared testimony (see attachment [redacted]) commenting on Multnomah County's recent presentation to the Commission on enforcement activities and procedures.

Paul Jewell of Tidewater Bridge said it was nearly a year ago that he addressed the Commission requesting the Commission's support of Tidewater's grant application to retrofit diesel engines. He said they were unsuccessful receiving the grant but new EPA certified diesel engines will be installed in their towboat "The Chief". He thanked the Commission, Clifford Casseseka of the Yakama Nation, Michael Lang of Friends of the Gorge and Martha Bennett, past Gorge Commission Executive Director for their support and assistance (see attachment [redacted]).

Michael Lang of Friends of the Gorge (FOCG) said FOCG supports the Commission's budget request and hopes that the Commission receives full funding to carry out its work. He read from prepared testimony (see attachment [redacted]) commenting on the implementation of Commission rule 350-50, Plan Amendments. He addressed the issue of what role staff should play in a Legislative Plan Amendment.

Commissioner Middaugh said now that the Commission has some experience with the new Plan Amendment rules it would be useful to review how the rules could be improved.

Commissioner Condit said the Commission developed the Legislative Plan Amendment rules in such a way to manage the Plan Amendment case load.

Chair Davis said the Rules Committee will be discussing this issue in the future.

Opportunity for Tribal Nations to address Commission

There were no representatives present who wished to offer testimony.

METRO Solid Waste Contract

Jill Arens, Executive Director introduced Mike Hogle and Chuck Geyer of Metro. Mr. Hogle provided a review of Metro, explaining the agency is the regional government of Portland, Oregon.

Mr. Hogle said Metro's truck transport contract that delivers waste between the Portland metro area and Columbia Ridge Landfill in Gilliam County, Oregon expires 12/31/09. Metro is beginning the process to solicit proposals for the next contract, including research on comparing potential modes (barge, truck and rail) of transport. He presented background on the current contract, the process and schedule for selecting the next carrier, and opportunities for public input (see attachment C).

Commissioner Crow said he understands that cancer levels increase with exposure to diesel emissions. He said because the Gorge is a constricted area this makes people in the area very vulnerable and asked that Metro consider such impacts to the Gorge. He also commented on related economic development aspects and asked if Metro has been in contact with groups such as North Wasco Public Utility District (PUD) and their plans for investment in coal-fired plants.

Mr. Hogle said fuel emissions and efficiency are priorities and expects the new contract will require the most energy efficient standards. He said Metro has been in contact with agencies such as North Wasco PUD.

Commissioner Jacobsen asked if Metro planned to factor in higher standards for diesel emissions and efficiency rather than awarding the contract based on the lowest cost. Mr. Hogle said Metro doesn't intend to award the contract based on the lowest cost alone but to consider other aspects as well.

Commissioner Condit said depending on how the Commission is involved in this issue in the future, he may have a conflict of interest.

Commissioner Abbe referred to Metro's standards for awarding the contract and said he hopes the environmental and social concerns are a higher priority than economics and reliability.

Chair Davis thanked Mr. Hogle and Mr. Geyer for their presentation.

Break 10:00-10:15 am

Portland State University Institute for Tribal Government

Arens introduced Elizabeth Furse and Roy Sampsel, Director of the Institute for Tribal Government. Ms. Furse said Mr. Sampsel is of the Choctaw and Wyandotte Tribes. Ms. Furse and Mr. Sampsel presented an overview of the foundation of tribal rights under the United States Constitution, federal law and federal policy.

Ms. Furse provided an historical summary of how governments have used treaties in their dealings with aboriginal people. She said it was determined that aboriginal people have rights to the land and the party which "discovers" the land must enter into a treaty or contract with the aboriginal people.

She said in the United States treaties were used to obtain title of the land and to establish peace and friendship, so Indian Tribes would not aid other countries in a war against the United States. The purpose of treaties for Indian Tribes was to safeguard certain lands from encroachment of non-Indians.

Ms. Furse explained the relationship between states, the federal government and Tribal Nations. She said Tribal Nations may only enter into an agreement with another sovereign nation and provided a review of the history of the United States' congressional policies, such as relocation, reorganization, termination and self-determination.

Ms. Furse provided a review of how canons of construction work in a court of law. She said it was determined that because Tribal Nations are at a disadvantage, court cases must be viewed from a Tribal stand point. She said Tribal Nations are considered to be dependent sovereign nations.

Ms. Furse explained how a reserve right such as the right to hunt and fish in the usual and accustomed places is applied outside of a reservation. She said Tribal Nations reserve their rights on ceded lands. She stressed the significance of the concept that Indian Tribes had all the rights as the original "landowners" and granted certain rights to the federal government in exchange.

She said Indian Tribal nations are in a government to government relationship with the federal government and commended the Commission for acknowledging this relationship.

She provided an overview of the National Indian Gaming Act of 1988 which is significant because it an example of a restriction of Tribal rights. She said the Act was a result of a case which originated in California. A Tribe wished to conduct high stakes bingo on its lands and it was ruled that the Tribe had the right to do so and the state could not regulate this action. As a result of that ruling, the National Indian Gaming Act was developed, restricting Tribal rights and requiring a Tribe to receive approval from the state for gaming operations.

Mr. Sampsel said the Institute for Tribal government was developed as an opportunity for Tribes to fine tune their government skills. The initial idea for developing the Institute was to help Tribal governments better govern themselves including general governance rights and responsibilities and to address specific

issues identified by the Tribe. He said an example of one of these specific issues is how a Tribal government should provide oversight of its operations.

Mr. Sampsel said one of the greatest dilemmas has been the interface between local government and Tribal nations. He said on many different levels the issue of how Tribes and dominant societies interface is being discussed such as how indigenous knowledge is used in the mainstream educational system. Mr. Sampsel said at a variety of levels there is Tribal involvement, such as in natural resource policies.

Mr. Sampsel recommended Metro discuss their project with the Tribes and not just the Gorge Commission. He said people get into difficulty when engagement of the Tribes does not occur regularly. He encouraged the efforts of the Tribal Outreach Committee to continue meeting with Tribal representatives. He said the Institute maintains a Tribal leader history which would provide Commissioners and staff with an understanding of Tribal leaders and this would enhance communication with the Tribes as well. He said there is great value in getting to know one another in less formal settings rather than scheduling meetings over specific issues.

Commissioner Adcock asked if the United States is unique in allowing nations within nations. Mr. Sampsel said many other nations are working with their aboriginal people at varying stages of development. He said Canada is engaged in a treaty making phase, in Mexico there are Tribes which are recognized and in New Zealand, the Maori Tribe is recognized and their relationship is becoming more defined with the national government.

Commissioner Jacobsen said she has been impressed with the deep patriotism of many Tribal members and asked for comments on her observation. Mr. Sampsel said he generally agrees with this observation and cannot think of a reservation that does not have a Veteran's memorial. He said there is no other group that volunteers for service on a per capita level more than Native Americans. He said there is a fundamental recognition among Tribal members of a responsibility to the United States. He said for example in the gymnasium on the Nez Perce reservation, there are pictures of every Tribal member serving in the armed forces and this makes an impact on all who enter that facility.

Commissioner Middaugh asked them to comment on the consultation process with the Tribes. Mr. Sampsel said formal consultation has been impacted on a federal level because of the Indian Self-Determination Act. He said on a state level there are major outreach efforts being made by some agencies, such as the Oregon Department of Environmental Quality. He said the next phase of communication development should progress beyond a role of consultation to more active involvement of Tribal Nations in the decision making process.

Mr. Sampsel said effective consultation and participation is a two-way process and it is very useful to discuss the process before discussing the issue at hand.

Chair Davis asked how the Commission could better understand an indigenous frame of reference to enhance communication between the Commission and the Tribes. Mr. Sampsel said there are several locally written pieces such as "When the River Runs Wild" and will provide a suggested reading list for the Commission.

Ms. Furse said there is a tape of an all day session that the Commission conducted with Tribal members in 1988. She said the Intertribal Fishing Commission has edited this recording into a shortened version that would provide some insight. Commissioner Middaugh said he would like to listen to a copy of the recording.

The Commission thanked Ms. Furse and Mr. Sampsel for their presentation.

Lunch 12:00-1:00 p.m.

Chair Davis called the meeting to order at 1:00 p.m.

Role of the Commission during Appeals Hearings

Jeff Litwak, Counsel reviewed the appeal hearing procedures with the Commission in advance of two appeal hearings that are likely to be scheduled in May and June (see attachment E1-E2). The merits of the appeals were not discussed.

Commissioner Crow said he was concerned about how the Commission Chair might influence the process. Litwak said all Commissioners may bring any issues forward at any time in the process if there are concerns. He said the Commissioners may review the entire file at any time and all Commissioners will receive a full copy of the official record.

Commissioners asked clarifying questions such as what role does Commissioner Harkenrider have in an appeal. Litwak said Commissioner Harkenrider may participate in the discussion but may not vote.

Commissioner Middaugh asked for the names of the parties involved in the upcoming appeal hearings so the Commissioners may avoid ex-parte contacts. Litwak said he would provide the names of the parties.

Assessment Committee Report

Commissioner Harkenrider, Chair of the Assessment Committee said the committee had a guest presenter, Jeff Tryens who has extensive experience in performance measurement for the state of Oregon and other agencies. He said

Mr. Tryens explained the importance of having a champion or champions within the Commission for the Indicators Project.

Commissioner Harkenrider said Mr. Tryens shared his perspective of measuring high level outcomes, monitoring mid-level outcomes and outputs and stressed how important it is for the Commission to engage the community. There was discussion of how important it is for the community to determine high level outcomes with the Commission.

Commissioner Harkenrider said while the Commission discussed kicking the Indicators Project off with a one-time event, Mr. Tryens recommended having multiple points of engagement with the community rather than a single public meeting or event. Mr. Tryens suggested identifying community leaders that are not necessarily community officials and conduct an informal survey of those people. He said there was also discussion of forming a citizen advisory committee and its role with the Indicators Project.

Arens said the Indicators Project is on the work plan which she considers to be one of the highest priorities for the Commission. She said there will be a short term contract to get the project started which will include a graduate student intern with experience in this field. She said depending on the Commission's funding, there are plans to hire a full-time staff person who will also work on this project.

Commissioner Crow said he is concerned that procedural overload will slow the project down so much that nothing will be accomplished.

Commissioner Sheffield said there may be an opportunity with VISTA volunteers and she will forward the VISTA information to Arens.

Chair Davis said the Assessment Committee needs to be very involved in developing the work plan that will impact the Indicators Project.

Commissioner Abbe said it is important to inform the public through the media or editorial efforts about the project.

Commissioner Condit said it is important to perform outreach to a variety of groups and individuals to elicit as much participation as possible and to develop a community-wide approach.

Other Business

Commissioner Abbe said he attended a Work Force Housing Summit workshop last week in Hood River. He said there was discussion about the lack of buildable land in the Gorge and as the attractiveness of the area has grown, this has resulted in forcing many working people out of the housing market. This requires workers to live farther from their work which leads to increased commute time,

traffic and pollution. This situation also creates a hardship for employers that have difficulty attracting employees to the area.

Arens said it was generally agreed that Gorge counties should be buying land and creating a land bank. She said counties and communities are also trying to work together such as The Dalles, Oregon and Dallesport, Washington are considering a regional approach to these issues.

Director's Report

Arens said Mark Garner, GIS Coordinator has accepted a new position and will be leaving the Commission and US Forest Service later this week. She said Mr. Garner is an asset to the agency and will be missed. She said a revised job description is being drafted with a possible change in salary range.

Arens said the Commissioners packets have a copy of the State Auditor's report for the agency. She said there were no findings and recognized Nancy Andring and Kathy Obayashi-Bartsch for their work in this area. She said an Information Technology audit will be coming up and the agency has made great efforts in reaching prescribed compliance standards.

Arens said the new website will have the final interim guidelines and by-laws added soon, once the final formatting on these documents is completed.

Arens said there is a new Oregon performance measure for all boards and commissions. She said the Commission will be asked to perform a self evaluation in early summer to create a benchmark for this performance measure. She said one of the items to be considered is Commissioner access to fiscal records and asked the Commissioners to contact her if they would like more fiscal information. She said it appears that the Commission is already achieving a very high compliance level of 85-90%.

Brian Litt, Planning Manager provided an update on the selection of a consultant to facilitate the Recreation Resorts Plan Amendment Public Workshops. He said a request for proposals was sent out in March and several strong proposals were received. He said out of the proposals, three finalists were interviewed and a selection will be made this week, which would keep things on schedule for the public meetings in May.

Arens said Oregon Parks is receiving more funding for land acquisition to expand existing parks. She said if the Commissioners have feedback for possible land purchases to contact her with that information.

Arens said Commissioner Crow asked about possible legislation regarding Oregon water resources. She said there are multiple House and Senate bills addressing a variety of water related issues. She said an example of this is a

proposed bill that proposes pulling 1/2 million acre feet of water from the Columbia River rather than using groundwater.

Arens suggested scheduling half day Commission meetings to address any questions or discuss any upcoming issues as a more proactive rather than reactive approach to issues.

Commissioner Abbe said the Washington budget has been passed with full funding for the Commission, so it's important that Oregon provides full funding for the Indicators Project and matches the funding level that Washington plans to provide.

NSA Manager's Report

Commissioner Harkenrider said there is a recreation master plan meeting scheduled for April 19th in Cascade Locks, Oregon to determine which recreation facilities in the National Scenic Area are of the greatest concern to the public.

Chair Davis reminded the Commissioners to submit their expense and per diem reports as the fiscal year is coming to a close. She said there is an editorial from the Dalles Chronicle in the Commissioner packets and that she did not agree with the opinions expressed in the editorial. She said her response to the editorial was published but is not in the Commissioner packet.

Chair Davis said the Commission will adjourn and reconvene with members of the public that wish to participate for a "**Local Economic Development Successes' Field Trip**". Peggy Bryan of the Skamania County Economic Development Council provided a tour highlighting local businesses that have been assisted by Washington Investment Board funds via the Skamania County Economic Development Council.

Adjourn 2:30 p.m.

Minutes taken by Kathy Obayashi-Bartsch
Minutes approved on May 8, 2007