

**OREGON TRANSPORTATION COMMISSION**

**Minutes of the Regular Monthly Meeting  
June 23, 2009  
Salem, Oregon**

On Tuesday, June 23, 2009, at 9:00 a.m., the Oregon Transportation Commission and Oregon Department of Transportation staff held the regular monthly meeting in Conference Room 122 of the Transportation Building, 355 Capitol Street NE, Salem. Commission members participated by telephone.

Notice of this meeting was made by press release of local and statewide media circulation throughout the state. Those attending part or all of the meeting included:

Chair Gail Achterman	Public Transit Administrator Michael Ward
Commissioner Wilson	Governor's Sr. Trans. Advisor Chris Warner
Commissioner David Lohman	Region 1 Manager Jason Tell
Director Matt Garrett	Region 2 Manager Jane Lee
Chief of Staff Joan Plank	Region 3 Manager Paul Mather
Deputy Director for Highway Doug Tindall	Region 4 Manager Bob Bryant
Deputy Director Central Services Lorna Youngs	Technical Services Admin. Cathy Nelson
Trans. Development Administrator Jerri Bohard	Rail Division Administrator Kelly Taylor
Communications Div. Admin. Patrick Cooney	Commission Assistant Amy Merckling

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Chair Achterman called the meeting to order at 9:00 a.m.

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Public comments were received from:

--Terry Goforth requested the Commission's help to reopen access to the Fort Hill Restaurant Highway 18/22. Fort Hill Restaurant has been in business at this location for 28 years. Closing the access to this location has resulted in the lay-off of eight employees, and is a major traffic safety issue on many levels. People try to cross the highway on foot, bicyclists are trying to cross the median and falling, and people who have been coming to this location for years do not understand that there is no longer an access. They are crossing the two west bound lanes to come into the property, and once realizing there is no entrance, continue heading eastbound in the westbound lanes.

Ms. Goforth said ODOT District 3 Area Manager Tim Potter informed her that the access could be bought back. She questioned why the access was ever closed if it was of a nature that it could be bought back. She asked the Commission to remove the barrier without additional cost to the restaurant which has already suffered from the lack of access.

Ms. Goforth provided the Commission a list of 1400 signatures from people petitioning for re-opening the access for economic and safety reasons.

Chair Achterman said the commission is always concerned when issues arise on projects that are aimed at improving one situation, but sometimes have consequences on others. The Commission will ask Region 2 Manager Jane Lee to provide background information on the access issues associated with the business, and ODOT staff will work to address both the impacts to the business and the safety concerns raised.

--Kathy Thole voiced opposition to the Fort Hill expressway median, citing the loss to established and successful local businesses and the people who work there. She also noted the numerous safety issues involved. People attempt turns they have made for years, only to find no access and nowhere to go. She noted that the 2008-2011 STIP indicated a right-in, right-out access requirement.

Kathy Thole added her support to Terry Goforth and Fort Hill Restaurant's request, and asked the Commission to consider removing the access barrier.



The Commission considered approval of a request for three Small Urban Area Job Access and Reverse Commute (JARC) projects in the aggregate amount of \$716,572 for the 2009-2011 Discretionary Grant Program. *(Background material in General Files, Salem)*

Public Transit Senior Policy Analyst Dinah VanDerHyde stood in for Public Transit Administrator Michael Ward. She asked the Commission to consider approval of the 2009-2011 Small Urban Job Access and Reverse Commute (JARC) discretionary program recommendations. The program is federally funded to provide access to jobs for low income individuals, older adults, and people with disabilities. Requests were received from three small urban areas; the City of Bend, the City of Corvallis, and the Rogue Valley Transportation District.

Commissioner Lohman declared a possible conflict of interest as his firm does legal work for the Rogue Valley Transportation District.

Commissioner Wilson moved to approve the request for discretionary funds. The Commission unanimously approved the motion.



The Commission considered approval of a Type C Immediate Opportunity Fund (IOF) request in the amount of \$290,000 to assist the City of Canby with its transportation improvements. *(Background material in General Files, Salem)*

Region 1 Manager Jason Tell, Transportation Development Administrator Jerri Bohard, and Chad Freeman from the Oregon Economic and Community Development Department (OECDD) were present. Also in attendance to show their support for this effort were Clackamas County Business and Economic Development Manager Cindy Hagen, Canby Economic Development Manager Catherine Comer, Canby Public Works Director Dwayne Barnes, and Canby City Engineer Curt McLeod.

Catherine Comer said the addition of Walnut Street to the industrial park is critical for the economic development of Canby. Over the past four years, the city has demonstrated the success of investing in infrastructure for the industrial park by the creation of over 390 jobs; the latest being American Steel, which opened last October and currently has 74 employees. The addition of Walnut Street will open 63 additional acres for the industrial park development.

As this is the first application for a Type C IOF, the Commission asked for comments on how the process could be improved. Director Garrett responded that he was extremely comfortable with the level of partnership between ODOT and OECDD. He also thanked the City of Canby for its hard work, and for setting a high standard for future Type C applicants.

Jerri Bohard said the ODOT staff report shows the request in the amount of \$290,000. However, she noted that the report also recognized four issues that should be addressed when Canby updates its transportation plan.

1. Truck movement to and from the industrial park should be facilitated via Walnut Street to Sequoia Parkway rather than at South 1<sup>st</sup> Avenue and Sequoia Parkway.
2. Assessment of alternative truck routes and an enhanced street network to make certain that projected future overcapacity at Highway 99E and Sequoia Parkway does not significantly compromise the operation of the state highway facility.
3. The financially constrained project list in the TSP must address any needed transportation improvements to serve the industrial park within the time horizon of the TSP.
4. The TSP should consider methods to fund future improvements that address access and circulation to, from and within the industrial area, such as System Development Charges.

Chair Achterman noted that the staff report shows a current balance on Type C IOFs of \$2 million for the 2007-2009 biennium. She asked what is being done with OECDD to assure the funds are invested and the money put to work. Jerri Bohard responded that the funds allotted for Type C IOFs are nearly expended, but she will prepare a report for the next meeting on the remaining balance, if unused funds roll over to the next biennium, and what opportunities exist to obligate any remaining funds before the end of the month.

The Commission said that, from a policy standpoint, ODOT and OECDD staff should look at allocations between the various types of IOF funds to see where we are getting the biggest return in terms of jobs and economic development. If we are getting better returns and better

performance by partnering with local governments and communities like Canby, we might re-think the fund balances for IOF loan types.

Commissioner Lohman moved to approve the IOF loan with the provision that Canby address the four issues listed above when updating its transportation plan. The Commission unanimously approved the motion.



The Commission considered approval of a request for American Recovery and Reinvestment Act (ARRA) funds for a portion of the Pioneer Mountain – Eddyville project to be done by independent contract, rather than change order. The Commission also participated in a discussion to provide direction and guidance on expenditure of ARRA funds for staff to bring back a formal proposal in July for reallocating these funds. (*Background material in General Files, Salem*)

Deputy Director for Highways Doug Tindall said early estimates of bids coming in show ODOT will be under-spending what the Commission allocated by approximately \$15 million. ODOT requests OTC approval to contract for the remaining component of work on the Pioneer Mountain – Eddyville project because it feels the work can be done for less money than the existing (Contract Change Order) contractor has been willing to agree to. Deputy Director Tindall talked about different options for reallocation of the funds, and after discussion, the Commission said it preferred to use unspent funds to make overages on approved projects whole, and then to add scope to existing projects before considering new projects for funding.

Commissioner Wilson moved to approve the portion of the Pioneer Mountain – Eddyville project to be done by an independent contractor rather than a change order. The Commission unanimously approved the motion.

Commissioner Lohman moved that:

- 1) The director be authorized to use savings from existing approved ARRA projects to cover overages on other approved ARRA projects, within their existing scope.
- 2) Up to \$5 million of saved ARRA funds could be added to the scope of existing projects following the process described in Option 1 of the staff report:

*Option 1 - Because the primary purpose of these funds is to create jobs this summer and because many of these already approved projects have the opportunity to create even more jobs this summer, work could be added to existing projects using the following process:*

1. *Any jurisdiction with savings from the original OTC allocation would prepare a request to add work to its approved project by July 15<sup>th</sup>.*
2. *The ODOT director would approve the added work based on the following criteria:*
  - a. *Completed this construction season.*

- b. *Located in economically distressed county.*
- c. *Consistent with the type of work already approved.*

3) The director will report back to the Commission at the July meeting the balance of ARRA savings, and options for investment of those funds.

The Commission unanimously approved the motion.



The Commission considered approval of an extension to the target date for bid opening to the Oregon Parks and Recreation Department's American Recovery and Reinvestment Act projects. (*Background material in General Files, Salem*)

Doug Tindall and Oregon Parks and Recreation Department Assistant Director John Potter presented a request to extend the target date for bid opening from June 18, 2009, to July 15, 2009, to allow the Oregon Parks and Recreation Department (OPRD) adequate time to review these projects. John Potter explained that the projects to improve rest area restroom facilities at multiple locations in Eastern and Western Oregon were broken into separate projects rather than being consolidated into two large projects. As a result, more detail was required than originally anticipated and OPRD is requesting an extension of the bid opening date to July 15, 2009.

Commissioner Wilson moved to extend the target date from June 18, 2009, to July 15, 2009, for OPRD projects. The Commission unanimously approved the motion.



The Commission considered making a determination that, under the authority of Oregon Administrative Rule 731-070-0240, ODOT Solar Highway Projects – Innovative Partnerships have the potential to accelerate cost-effective delivery to promote innovative approaches to carrying out the projects. (*Background material and PowerPoint presentation in General Files, Salem*)

Doug Tindall asked approval to enroll solar highway projects in the Oregon Innovative Partnerships Program. This is important to open up opportunities for procurement in negotiation with the private sector and allows exploration of different methods of contracting for future solar highway projects. The Commission will approve each project before entering into a contract. ODOT believes solar highway projects are a benefit both to the department, and to reducing greenhouse gases and promoting green energy. Enrollment will mean that future solar highway projects qualify for special procurement and contracting provisions.

Oregon Solar Highway Project Manager Allison Hamilton talked about the *World's Largest Solar Highway Project*, 45 acres of ODOT land that might be used to place three megawatts of solar panels. At three megawatts, this would be the world's largest solar highway project, and would put about 150 people to work. ODOT is in the early stages of engaging the community and Portland General Electric in discussions.

Commissioner Wilson moved to approve enrolling the solar highway program into the Oregon Innovative Partnerships Program. The Commission unanimously approved the motion.



The Commission received a presentation about the rejection/award process for projects that are bid at 10% over the engineer's estimate. A discussion followed on bid awards that exceed the engineer's estimate. The Commission considered adoption of staff recommendations to award bids for two projects: the Region 2 signal replacement; and the Oregon 6: Wilson River – U.S. 26 – Highway 47 project.

Doug Tindall explained that currently the department can approve the award of construction projects that are less than 10% over the engineer's estimate. Projects that come in 10% over the engineer's estimate go to the Commission for approval, along with staff recommendations. Two projects have come in 10% over the engineer's estimate in the last month that must be acted upon within 30 days.

The Region 2 Signal Replacement project was bid at .36% over the 10% threshold. Staff recommends approving this project primarily because it is unlikely that a better price would be obtained by re-bidding.

In the case of the Oregon 6/Wilson River – US 26/Highway 47 project, the bid was 15.9% over the 10% threshold. The department believes there may be better prices available by re-bidding and is recommending rejecting the bid.

Commissioner Lohman moved to approve staff recommendations to approve the Region 2 Signal Replacement contract and reject the Oregon 6/Wilson River project. The Commission unanimously approved the motion.

Commissioner Wilson indicated she does not support delegation in these instances. Overbids are a sensitive issue, and Commission approval shows the public there are double-checks in place. For future discussion on this issue, Commissioner Wilson suggested ODOT staff first talk to each commissioner separately to see what questions and issues they have individually. Then, staff should present a number of different options and a rationale for their recommendations, including the pros and cons of each option. Within this should be a report on what else has been delegated to other authorities in financial realms within ODOT.

Deputy Director Tindall said Joan Plank is currently preparing a complete list of delegations, and a discussion on the Commission's oversight responsibility is planned for the upcoming workshop.



The Commission considered approval of the Consent Calendar.

1. Approve the minutes of the May 20, 2009, meeting in Salem.
2. Confirm the next two commission meeting dates.
  - Thursday, July 23, 2009, in Forest Grove
  - Tuesday and Wednesday, August 18-19, 2009, in Klamath Falls
3. Adopt a resolution for authority to acquire real property by purchase, condemnation, agreement or donation.
4. Approve the following Oregon Administrative Rules (OAR) action:
  - i) Amendment of 734-062-0005 through 0040 and repeal of 734-062-00025, 0045 and 0050 relating to signs identifying cultural and historical features.
  - ii) Amendment of 735-060-0040 through 0130 and 735-062-0080 relating to CDL third party testing.
  - iii) Amendment of 735-064-0020 and 0040 relating to availability and requirements for hardship or probationary permit.
5. Approve a request to increase the American and Recovery Reinvestment Act (ARRA) funds for the U.S. 20: Bulger Creek – Riley Junction in Region 5. Funding will come from savings on three other Region 5 ARRA projects.
6. Approve an increase in construction authorization in the amount of \$778,621 for the Interstate 84: Cascade Locks – 2<sup>nd</sup> Street in Hood River. This will change the construction authorization from \$11,829,612 to \$12,608,234.
7. Approve a request to modify the *ConnectOregon* II Lakeview Branch Improvement project by removing Modoc Northern Railroad and replacing with Lake County as the primary applicant, and Lake County's new rail operator as the co-applicant.
8. Approve a request to amend the 2008-2011 Statewide Transportation Improvement Program to add the U.S. 101 Business: Lewis and Clark River Bridge in Astoria. The project will be funded with savings from the Interstate 205: Glenn Jackson and George Abernethy Bridge project in Region 1. The total estimated project cost for the new project is \$3,000,000.
9. Approve a request to amend the 2008-2011 Statewide Transportation Improvement Program to add the U.S. 30: Milepost 46.5 slide repair project in Region 1. The total estimated project cost for the new project is \$200,000.
10. Approve a request to amend the 2008-2011 Statewide Transportation Improvement Program to add two Region 2 Electrical Improvement projects. Funding for these projects will be savings from a recently cancelled project in Region 2.
11. Approve a request to delegate authority to the Office of Innovative Partnerships to approve agreements as specified by Oregon Administrative Rule for entities requesting access to state price agreements for the Electric Vehicle Charging Network project.
12. Consider the adoption of the proposed amendments to the Public Involvement Policy.

Commissioner Wilson moved to approve the Consent Calendar. The Commission unanimously approved the motion.

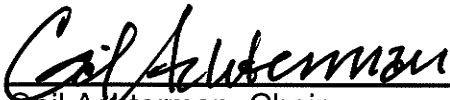


Public comments continued. None

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Chair Achterman adjourned the meeting at 11:05 AM.

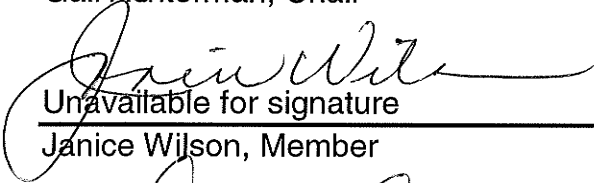
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Gail Achterman, Chair

Not in attendance

Michael Nelson, Vice Chair

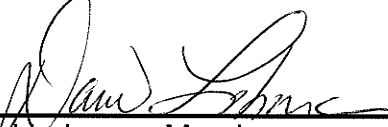


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Janice Wilson, Member

Not in attendance

Alan Brown, Member



David Lohman, Member



Roxanne Van Hess, Commission Support