



# ENERGY FACILITY SITING COUNCIL

■ Kent Howe, Chair ■ Cindy Condon, Vice-Chair ■ Marcy Grail ■ Katie Imes ■ Perry Chocktoot ■ Ann Beier ■ Richard Devlin

## Energy Facility Siting Council Meeting Minutes

Friday February 23, 2024 8:30 AM

Oregon Department of Energy  
550 Capitol St. NE  
Salem, OR 97301

- A. Consent Calendar (Action Item & Information Item)<sup>1</sup>
- B. Contested Case Rulemaking (Action Item)<sup>2</sup>
- C. 2024 Site Certificate Amendment Rulemaking (Action Item)<sup>3</sup>
- D. Public Comment Period (Information Item)<sup>4</sup>
- E. 2024 annual Election of Officers (Action Item)<sup>5</sup>
- F. Trojan Independent Spent Fuel Storage Installation Security Plan Update ( Action Item)<sup>6</sup>
- G. Financial Assurance Review (Action Item)<sup>7</sup>
- H. Operations and Policy Analyst Process Improvement Work Plan (Information Item)<sup>8</sup>
- I. Request to Amend Mitigation Plans (Action Item)<sup>9</sup>

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

**Call to Order:** Chair Grail called the meeting to order on January 26, 2024, at 8:30 a.m.

**Roll Call:** Chair Marcy Grail, Vice-Chair Kent Howe and Council Members Ann Beier, Cynthia Condon, Katie Imes were present in person. Council Members Richard Devlin and Perry Chocktoot were present virtually.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary, Todd Cornett; Senior Policy Advisor, Sarah Esterson; Rules Coordinator Tom Jackman; Fiscal Analyst, Sisily Fleming; Senior Siting Analyst, Christopher Clark; ODOE

<sup>1</sup> Audio/Video for Agenda Item A = 00:05:50 - 2024-02-23-EFSC-Meeting-Audio/Video

<sup>2</sup> Audio/Video for Agenda Item B = 00:50:06- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>3</sup> Audio/Video for Agenda Item C = 02:01:54- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>4</sup> Audio/Video for Agenda Item D = 02:17:48- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>5</sup> Audio/Video for Agenda Item E = 02:50:12- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>6</sup> Audio/Video for Agenda Item F = 02:58:37- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>7</sup> Audio/Video for Agenda Item G = 03:17:05- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>8</sup> Audio/Video for Agenda Item H = 03:23:00- 2024-02-23-EFSC-Meeting-Audio/Video

<sup>9</sup> Audio/Video for Agenda Item I = 03:40:12- 2024-02-23-EFSC-Meeting-Audio/Video

Radiological Emergency Planning Coordinator, Mark Reese and Administrative Specialist, Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present. Operations and Policy Analyst, Amrit Kaur was present virtually.

### **Agenda Clarification and Modification**

- **Agenda Item F: Trojan Independent Spent Fuel Storage Installation Security Plan Update**  
The Security Plan Update was not included in the timeline for the meeting as it was going to be an agenda modification and rescheduled for March EFSC meeting. Radiological Emergency Planning Coordination Coordinator Mark Reese was cleared for the Security Plan inspection last week and was able to inspect the site this week. He will be presenting the information to Council during this meeting. Council was provided with copies of the staff report.
  - **Agenda Item G: Financial Assurance Review**  
This agenda Item included three elements. The third one was a request to add language to the Hermiston Power Project letter of credit. Based on recent conversations with the Site Certificate Holder, they are no longer pursuing their proposed change to their letter of credit. This portion of Agenda Item G therefore no longer required evaluation by Council.
- A. Consent Calendar (Action Item & Information Item)<sup>10</sup>** – Approval of January 26, 2024 minutes; Council Secretary Report; and other routine Council business.

Vice Chair Howe motioned the Council approve the January 2024 meeting minutes as presented with the following changes:

- Chair Grail opened the meeting
- Council Member Condon’s question about the mitigation plan in Agenda Item G regarding the impacts and the requirements of habitat mitigation.

Council Member Beier seconded the motion.

Council Member Imes recused herself from voting.

Council approved the motion.

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<sup>10</sup> Audio/Video for Agenda Item A = 00:05:50 - 2024-02-23-EFSC-Meeting-Audio/Video

## **Council Secretary Report**

Secretary Cornett offered the following comments during his report to the Council:

### **Staffing/Council Updates**

Katie Imes - Katie Imes was confirmed by the full senate on February 9<sup>th</sup> and her first term officially started on February 16<sup>th</sup>. On behalf of Staff, Secretary Cornett welcomed Council Member Imes to the Council and thanked her for volunteering her time to a very important Council.

*Council Member Imes expressed her gratitude for the opportunity to serve and learn with the Council.*

Perry Chocktoot – Council Member Chocktoot’s first term ends on March 15<sup>th</sup>. He has submitted his request for a second term. His senate confirmation will be in the next legislative days in April. Secretary Cornett expressed Council’s appreciation for his willingness to serve a second term.

### **Project Updates**

#### **Summit Ridge Wind Farm**

The Summit Ridge Wind Farm is an approved wind energy generation facility in northeastern Wasco County approved for 72 wind turbines with a peak generating capacity of 194.4 megawatts (MW). It was originally approved in 2011. Since then, there have been five approved amendments and the sixth is currently under review. These amendments related to extending the beginning construction deadlines, changing ownership, and most recently, proposing to add solar and battery storage.

This project has had two appeals to Circuit Court in Multnomah County by the Friends of the Columbia Gorge related to denial of the contested case on one of the amendments and the status of the facility, as being active or not active.

On February 14<sup>th</sup>, the Department received a request to withdraw Amendment 6, decommission the facility as well as terminate the site certificate. The decommissioning request requires a notice and comment period, which will be sent out shortly. Once the site certificate is terminated, the parties have agreed to drop the two Circuit Court appeals.

#### **Summit Ridge Renewable Energy Facility**

Even though the Summit Ridge Wind Farm is in the process of being terminated, the Department received a Notice of Intent from the same developer for the Summit Ridge

Renewable Energy Facility at the end of January. It is very similar if not identical to what was approved in the Summit Ridge Wind Farm through Amendment 5 and what was proposed in Amendment 6. It would include 32 Wind Turbines equaling up to 201 MW, Solar equaling 60 MW, Battery Storage equaling 201 MW. A notice of the Notice of Intent will be issued soon. A webpage has been set up and includes the Notice of Intent.

*Council Member Condon questioned the applicant's purpose in terminating a site certificate and issuing a Notice of Intent on a similar project in the same area as a means to remove the Circuit Court appeals.*

*Secretary Cornett, not speaking for the developers, offered that does appear to be happening.*

*Council Member Condon stated for the Council the NOI starts a new process. She questioned if the analysis is the same.*

*Secretary Cornett stated it would largely be the same, assuming the standards and requirements are the same. The initial application was in 2011 and there were several amendments. New information is valuable to assure that conditions in the area haven't changed.*

#### Boardman Solar Energy Facility

Boardman Solar is an approved 75 MW solar energy project on 798 acres located in north Morrow County. It was originally approved in early 2018 with a deadline to begin construction in February 2021. The Council approved Amendment #1 allowing a three year extension of the beginning construction deadline to February 23<sup>rd</sup> 2024. The Certificate holder has stated they will not be seeking another time extension and will let the approval expire. They indicated they will be seeking County approval instead, as the Counties can review larger solar projects due to legislative changes of EFSC and County jurisdiction during the 2023 legislative session. The Council will have to terminate the site certificate at a future Council meeting.

#### Carty Generating Station

The Carty Generation Station is located in Morrow County and consists of two main components: a 450 MW combined cycle natural gas-fueled electrical generating power plant that was approved in 2012; and a 50 MW solar PV electric generating component on 315 acres which was approved under Amendment #1 in December 2018 with a deadline to begin construction by February 2022. The beginning construction deadline was extended under Amendment #3 to February 2025. Earlier this month we received Amendment #4 requesting to increase the solar component from 50 MW to 185 MW and adding 156 MW of battery storage on 850 acres.

#### Muddy Creek Energy Park

At the last Council meeting, Council was provided comments that were submitted regarding the Muddy Creek Energy Park outside of the public comment period directly to a couple of Council members. This was to ensure you all had received the same information and no one could

claim that the information that Council members were relying on to make a decision was different. That information was also provided to the applicant. There was one remaining question which was whether those comments were or were not part of the decision record.

*Mr. Rowe stated there are two difficulties the comments pose. First, the applicant needs to be given the opportunity to review, respond and provide their input if comments are to be included in the decision making record. Second, administratively it is difficult for staff. If comments are received outside of the comment period, staff would need to keep record of all of the comments, provide them to the applicant for their process and present the comments on the record for inclusion in the decision making record.*

*The public is given two opportunities for comments [not including participation in a contested case hearing] that are made part of Council's decision-making record, during the Notice of Intent phase and the Draft Proposed Order phase. There is no EFSC rule that requires Council to include comments on a proposed project that are made outside those comment periods in the decision-making record for the project.*

*Oregon Public Meeting Law requires the public be able to observe and monitor public meetings. There is nothing in the law that requires Council to accept public comments during a public meeting. Council has a rule that says during a public meeting, Council will take comments from the public on matters of concern, except for those matters that are closed for public comment. That rule does not require Council to accept comments on a pending application nor to make any such comments received during a public meeting part of Council's decision-making record.*

*Council Member Condon asked for clarification of the process to have comments included in the record and about comments provided in the public comment portal.*

*Secretary Cornett explained there is a public comment opportunity during a Council meeting to comment on projects outside of a contested case project. The Department would inform an applicant about any comments made on their project during a public meeting [but those comments would not be made part of the decision-making record]. It is a recorded public meeting with information being provided to the public and the applicant. Separately, there is a public comment portal and comment time frames associated with an active project. A timeframe and methods by which to provide comments is sent out in a notice with the Notice of Intent notice or the Draft Proposed Order notice. The public comment portal for any specific project is open for comment only during the comment periods.*

*Council Member Condon questioned if the members of the public are notified if their comments are received outside of the comment period.*

*Secretary Cornett confirmed they are.*

*Council Member Beier confirmed her understanding that comments received outside of the comment period for the Notice of Intent and the Draft Proposed Order comment period are not included in the decision making record.*

*Secretary Cornett confirmed that was correct.*

#### Boardman to Hemingway Amendment #1

Mr. Rowe updated the Council on the challenge to the Council's denial of a request for contested case. The motion to transfer the case to the Supreme Court has been denied. For now, the case is proceeding in Union County Circuit Court.

*Council Member Beier inquired what the timeframe is for a decision on the appeal of the Council's granting a site certificate for the Nolin Hills Wind Power project.*

*Secretary Cornett and Mr. Rowe confirmed the Court has 6 months from the time of filing to render a final decision.*

#### **Compliance Updates**

The Council was updated on an incident at the Biglow Canyon Wind Project. A broken blade bearing bolt was found approximately 3 feet from the base of Turbine 28. Shortly after the incident, the turbine was inspected, and all other bolts were ping tested to confirm there were no other loose or broken bolts. The turbine was last inspected by the certificate holder on 12/13/2023. Current bearing bolt inspection protocol requires they be torque checked annually. No further follow up is needed.

#### **Legislation**

The Council received an update on the following legislation:

HB 4015 – Would define Battery Energy Storage Systems in EFSC definitional statutes and allow for developers to opt in to EFSC jurisdiction and counties to defer jurisdiction to EFSC, after consulting with the developer.

HB 4090 – Would eliminate EFSC jurisdiction on projects that are entirely proposed on Federal Lands.

HB 1525 – The bill does several things related to the Oregon Department of Energy. Portland General Electric has added a component that would allow for standby generators to be connected to the electrical grid and be dispatched to the grid in certain circumstances.

- The standby generators would have to use renewable fuels if they are available and if they do not impact the warranty of the generator.
- The standby generators can only provide power to the grid in emergency situations with time limitations that are described in 40 Code of Federal Regulations 63.6640(f)
- These standby generators would cumulatively be a peaker plant when there is a need and justification as described in the Code of Federal Regulations.

Council Member Condon noted Council has done recent work on its rules and standards for standby generators. She asked if the legislation would require Council to make changes to its rules and standards.

Secretary Cornett stated, though the specific language has not been evaluated, the legislation will likely require Council to reexamine its rule and standards regarding standby generators.

Chair Grail requested Staff send Council the current language for the legislative bill for their information on the new legislation.

Secretary Cornett acknowledged the request.

### **Future Meetings**

The March 21-22, 2024 meeting will be held at the Oxford Suites in Hermiston beginning at 5:30 p.m. As suggested by Council Member Beier, Staff will make arrangements for a possible site visit in the area.

**B. Contested Case Rulemaking (Action Item)<sup>11</sup>**- Thomas Jackman, Rulemaking Coordinator. Council considered staff's recommendation to formally initiate the Contested Case Rulemaking by filing a Notice of Proposed Rulemaking with the Oregon Secretary of State. The rulemaking will evaluate options to improve clarity in the contested case process and improve consistency with the Attorney General's Model Rules for Contested Cases under OAR chapter 137.

Council Member Beier asked if Staff could produce a chevron graphic to show the process of contested cases for the public.

Mr. Jackman confirmed Staff could produce the visual for the public.

Council Member Condon confirmed her understanding that, in the Proposed Contested Case Guide, EFSC has the ability to propose its own hearing model rules and not rely totally on the Attorney General's Administrative Hearing Model Rules (AHMR) if Council determines it is necessary.

Mr. Jackman confirmed that is correct. He further explained that Council is excluded from being required to choose between the AHMR and their own rules. Council can determine whether to use either rule set or a combination of both.

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<sup>11</sup> Audio/Video for Agenda Item B = 00:50:06- 2024-02-23-EFSC-Meeting-Audio/Video

*Council Member Condon confirmed the AHMR is providing the basic foundation.*

*Mr. Jackman agreed, adding the Council has the opportunity to make the rules more specific to its work with the additional guidance for clarification.*

*Chair Grail expressed her appreciation for the proposed language change regarding Sufficient Specificity as it will provide clarification for Council, Hearing Officers, and the Public.*

***Due to technical issues Council Member Beier's comments are not available.***

*Secretary Cornett offered the new language is related not only to the Contested Case Rules but will also be utilized in public information meetings, draft proposed order meetings and hearings in an effort to make the requirements as clear as possible. He reiterated contested cases are not just an opportunity to challenge a project. They are an opportunity to ensure that a project is consistent with the Standards. All of the stages in an application process are refining the application to align with the Standards. The intent of a contested case is that something is wrong, and a Standard has not been met, and to resolve those issues, if possible.*

*Council Member Condon noted the confusion from the term "sufficient specificity" for Council and members of the Public. She stated the new language is very clear.*

*Council Member Beier stated this system puts the applicants on notice. These are real issues being raised which require them to be responsive.*

*In reference to the changes in the language for the Limited Party Status, Chair Grail expressed members of the public do not have to become experts in the process but encouraged the public to be involved and become educated in the process and the many opportunities for public participation provided.*

*Secretary Cornett, referencing the steps in the application process, agreed, adding the entire process is designed to give an opportunity for people to become educated. These are big, complicated projects. Educating the public on the EFSC process, EFSC Standards and Rules and what the project is, begins with the Notice of Intent stage. There are more details and more information provided through every step in the process.*

*Council Member Condon asked if this change in language is in response to a prior project Council discussed when a hearing officer asked Council to make its own determination on who qualified for Limited Party Status.*

*Mr. Jackman stated the idea of the language change is to provide what is optimal and supported by statute, not to address one situation.*

*Council Member Condon noted that the new language is very clear. Limited parties speak only to the issues they have raised.*

Secretary Cornett stated in recent contested cases, it was the hearing officer who established limited party status where parties were limited in participating only in the issues they had raised.

Mr. Jackman added that what designates Limited Party Status is now clear in the new language.

Secretary Cornett stated the Department is working on a specific contested case Public Comment Portal to aid members of the public in submitting their request to participated in a contested case, if they desire.

Council Member Condon asked if the public has access to their past comments that are on the record.

Secretary Cornett provided several ways to access public comments.

**Due to technical issues, Council Member Beier's comments are not available.**

Mr. Rowe reviewed the previous language and the proposed language regarding Limited Party Status in the Contested Case phase.

Council Member Condon asked if "in person" submitted comments also refers to electronic comment submission in reference to the Limited Party Status language.

Secretary Cornett confirmed that was correct. As all EFSC meetings are hybrid, that would be the interpretation. The rule does not explicitly state that, but language could be added.

Council Member Condon asked what the purpose was of the "in person" language.

Secretary Cornett suggested the language in the Rule was prior to meetings being hybrid or the ability to provide comments via the phone. There were only in person meetings. It has not been interpreted as physically in person for quite some time.

Council Member Beier expressed her gratitude to Staff for the hard work and to members of the RAC for their time and dedication to improving the language in the Rules.

Vice Chair Howe motioned the Council authorize formal initiation of the Contested Case Rulemaking as presented and recommended by Staff.

Council Member Condon seconded the motion.

The motion was carried unanimously.

- C. 2024 Site Certificate Amendment Rulemaking (Action Item)**<sup>12</sup>- Thomas Jackman, Rules Coordinator. Council considered Staff's recommendation to initiate informal proceedings to evaluate potential rule changes to the rules governing the amendment of site certificates in OAR chapter 345, division 027. Staff requested Council's authorization to solicit public comment to assist in the completion of the review required under ORS 183.405 for rules adopted in 2020, and to solicit applications to serve on a Rulemaking Advisory Committee for the rulemaking.

*Chair Grail noted Council has discussed the site issues that trigger an amendment as there have been changes in ownership on site, which required an amendment.*

*Council Member Condon stated how an amendment type is determined would be of interest to Council.*

*Council Member Condon noted her appreciation of the diversity on the RAC committees. She added there is a lot of public representation with three reviewing agencies, and the two resource interest groups as well as the two members of the public on the committees.*

*Secretary Cornett encouraged members of the Council to attend or listen to a RAC meeting.*

*Chair Grail asked where co-op utilities like Umatilla Electric Cooperative would be represented in the RAC.*

*Secretary Cornett stated the co-op would be included as part of the two investor-owned utilities. Dependent on the rulemaking, they may or may not be interested. Typically, a public utility district or a consumer utility wouldn't be part of the process because they do not seek site certificates.*

*Chair Grail emphasized the list for members of the RAC is a guide which can be adjusted.*

*Mr. Jackman added Staff is working on a balance for the committee including applicants, non-applicants, reviewing agencies, and members of the public.*

Vice Chair Howe motioned the Council authorize informal initiation of the 2024 Site Certificate Amendment Rulemaking as presented and recommended by Staff.

Council Member Beier seconded the motion.

The motion was approved unanimously.

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<sup>12</sup> Audio/Video for Agenda Item C = 02:01:54- 2024-02-23-EFSC-Meeting-Audio/Video

**D. Public Comment Period (Information Item)**<sup>13</sup>- This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

**Mr. Terry Hamilton**, from the Harrisburg area in Linn County, stated his concern for monitoring of contaminants in ground water on energy sites, particularly the proposed Muddy Creek Energy Park. Groundwater moves and contaminants can change. The groundwater is the water source for many wells in the area. He also noted the concern for the effect on animals and the offspring of the animals that are feeding on land and waters which may have contaminants. The animals become part of the food chain. Could all of those contaminants be passed through the food chain? Are there studies into the possibility?

Secretary Cornett offered there are Standards within the application process that address this type of issue. Staff would be available to aid in locating the information in Standards for his review.

Council Member Condon asked if Mr. Hamilton's concern was regarding the groundwater on agricultural land having an increase in contaminants when land is converted to a solar farm.

Mr. Hamilton agreed that is the concern. He further stated there are studies which show solar panels and battery storage have a higher contamination rate than other energy sources like wind turbines. The concern is also how are the contaminants measured. Being a high irrigation area, the contaminants are going to get into the groundwater. The water and the food supply are the main concern as it is consumed daily by residents in the area.

**Ms. Shannon Hamilton**, from the Harrisburg area in Linn County, questioned if there are any studies or data that are related to the environmental impacts with solar projects that also ensure protection of the EFU lands as well as the end of life decommissioning of hazardous materials from the project.

Chair Grail reminded the members of the Public that the Public Comment period is an opportunity for the public to make comments. In answer, she referenced Secretary Cornett's earlier comment that there are Standards that address these issues. The developers must demonstrate they can meet the Standards and Council evaluates applications based on the Standards. She encouraged the commentors to continue to participate and be involved.

**Mr. Troy Jones**, from the Harrisburg area in Linn County, stated his concern for the farmlands in the proposed Muddy Creek Energy Park area. The lands are considered farm wetlands. He stated his concern that EFSC is not required to follow the same requirements as LCDC, regarding considering an alternate site. He noted it is his hope that alternative sites can be considered as EFSC can modify or adapt the rules as required through the process. According to a recent Oregon Public Broadcasting article, as of 2022, 660,000 acres of EFU farmland in Oregon has gone away. Oregon took a lot of pride in establishing EFU farmland in 1973 to

<sup>13</sup> Audio/Video for Agenda Item D = 02:17:48- 2024-02-23-EFSC-Meeting-Audio/Video

protect our farmlands. It is his hope that Council will take that into consideration as this proposed project moves forward.

**Ms. Irene Gilbert**, from La Grande, stated she appreciated the time she and Jim Kreider spent on the RAC with Mr. Jackman discussing concerns with the changes to the Contested Case Rules and that some changes were made as a result of that. She is questioning whether EFSC and ODOE want to make many changes to the Oregon Administrative Rules (procedures). The rules have been evaluated and there have been court decisions regarding the interpretation of terms in the rules. There are many pitfalls that can happen when changes are made in rules that have already been vetted which could end up creating future litigation regarding the changes. She is concerned that significant changes and additions to the rules could be confusing to the public. She is also concerned about the changes in determining Limited Party Status versus Full Party Status. She feels the changes in the rules mean that no one from the public or representing a public agency or non-profit organization is going to be allowed to have Full Party Status unless they are the only group or person requesting a Contested Case. Limited Party Status makes it difficult to access the due process in a lot of areas. She reviewed the language regarding Limited Party Status issued by the Supreme Court in the Boardman to Hemingway Contested Case which she stated is different than the language in the EFSC rules. As the rules stand now, the only people with Full Party Status are the developer and ODOE. Given the limits created for the public, she believes it will cause some serious issues.

She is also concerned about the definition of specific specificity. There is a limit to what the public can be required to address in a public hearing. There is a conflict between the evaluation criteria and the requirements for what is included in a public comment. She feels the language being proposed conflicts with Court decisions that say a person cannot be required to be more specific than to identify their issues in their comments.

She stated she feels that there is a lack of timely notice being provided to the public when there's a decision that removes them from being allowed to have a contested case. She noted that in EFSC contested case proceedings when the Council decides not to allow someone party status or not allow an issue to be heard, the rules say the public has a right to timely notice and that anyone EFSC refused access to has the right to go to the County Courts who can mandate a timely notice. ODOE needs to look at the rules about the timeliness of notice.

She is also concerned about the Amendment Rules. The rules say that contested cases are only allowed on Division 22, 23 and 24. There are a lot of other rules for what must be included in the application. She referred to Supreme Court cases determinations. Court decision that deny someone access to a contested case become a non-contested case jurisdictionally and it is returned to the County Courts for reconsideration. In the Amendment Rules where there is an opportunity to remove someone from a contested case, Council should consider what information are they being given, are they given a timely notice and are they given the rule for where they have to appeal the decision.

**The Public Comment period was closed at 11:41 a.m.**

- E. 2024 Annual Election of Officers (Action Item)<sup>14</sup>** - Todd Cornett, Council Secretary.  
Consistent with OAR 345-011-0010(1), Council completed its obligation to annually elect a Chair and a Vice Chair.

After a brief discussion, Council Members expressed the appreciation of Chair Grail and Vice Chair Howe and the tremendous jobs they have done serving as Chairs to the Council.

Chair Grail motioned the Council elect Kent Howe to serve as Chair and elect Cindy Condon to serve as Vice-Chair starting in March of 2024.

Council Member Beier seconded the motion.

The motion carried unanimously.

- F. Trojan Independent Spent Fuel Storage Installation Security Plan Update (Action Item)<sup>15</sup>** - Mark Reese, ODOE Radiological Emergency Planning Coordinator. Council received an update on modifications to the Security Plan for the Trojan Independent Spent Fuel Storage Installation (ISFSI). Pursuant with ORS 469.430 and OAR chapter 345, division 070, Council reviewed the modifications and considered whether the revised plan contains adequate provisions to ensure the protection and public health and safety.

*Council Member Condon asked for the general description of the security measures included in the plan.*

*Due to the security of the plant, Mr. Reese could not speak of the security measures.*

*Mr. Clark provided his understanding of the revisions as primarily administrative changes to include updated EFSC rules from 2021, updated organizational charts, and revisions to figures to reflect a newly installed vehicle barrier wall. Council could request a non-public meeting if more specific information is needed.*

After a brief discussion, Council Members chose to move their decision regarding the approval of the Security Plan to the March 2024 EFSC meeting to allow Staff time to prepare the updated report for better clarity and understanding prior to making its decision.

- G. Financial Assurance Review – Forms and Institutions (Action Items)<sup>16</sup>** - Sisily Fleming, Fiscal Analyst. Council considered the following:

- a)** A request from PGE to add Mizuho Bank to the list of financial institutions approved to act as issuers of financial instruments related to the Council's Retirement and Financial Assurance standard.

<sup>14</sup> Audio/Video for Agenda Item E = 02:50:12- 2024-02-23-EFSC-Meeting-Audio/Video

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- b) A request from Savion to add Deutsche Bank to the list of financial institutions approved to act as issuers of financial instruments related to the Council's Retirement and Financial Assurance standard.

*Council Member Condon noted the report for Mizuho Bank is dated March of 2023, and asked whether there an opportunity to review the upcoming March 2024 report.*

*Ms. Fleming confirmed she will review the upcoming report. If there are changes, Council would receive an update at a future meeting. It will also be reviewed during the annual reviews.*

Vice Chair Howe motioned the Council add Mizuho Bank and Deutsche Bank to the list of Council-approved financial institutions for use by site certificate holders in obtaining financial instruments, as presented, and recommended by staff.

Council Member Beier seconded the motion.

The motion carried unanimously.

- H. Operations and Policy Analyst Process Improvement Work Plan (Information Item)<sup>17</sup> -**  
Amrit Kaur, Operations and Policy Analyst. Council received an update on the Siting Division's plan and forecast for programmatic and resource improvements.

*Secretary Cornett offered an explanation regarding creating digital records from the recorded meetings currently on cassette tapes. Records management involves keeping permanent records, some of which need to be updated to a current digital format.*

*Council Member Condon questioned if Council should be considered as part of the Stakeholders in the workplan.*

*Secretary Cornett stated while there is no absolute definition, Council is considered part of the Stakeholders. Throughout the siting process, Stakeholders are represented by the different people who participate in the process.*

*Council Member Beier noted that Reviewing Agencies could be included in the process improvement Stakeholders list also. As Council relies on the timeliness of reviewing agency's comments, there may be a way to streamline the process.*

*Secretary Cornett agreed Reviewing Agencies should be included in the Stakeholder List. There is a continuing process of education for reviewing agencies of the EFSC process as staff members change. He noted Staff is also continuing to find ways to make the process easier for the reviewing agencies.*

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<sup>17</sup> Audio/Video for Agenda Item H = 03:23:00- 2024-02-23-EFSC-Meeting-Audio/Video

- I. Request to Amend Mitigation Plans (Action Item)<sup>18</sup>** - Sarah Esterson, Senior Policy Advisor. The certificate holder for the Montague Solar Facility Site Certificate (162 MW solar, Gilliam County) sought approval to allow use of sheep at the facility for weed and vegetation management. The use of sheep would be reflected in the Noxious Weed Plan and Fire Safety Plan, necessitating plan amendments.

*Council Member Beier asked if the applicant could provide a monitoring report to show the effectiveness of sheep grazing at the Solar Facility.*

*Ms. Esterson stated the benefit of having the sheep grazing as part of the Noxious Weed Plan and the Fire Safety Plan is that the certificate holder is required to report, though not necessarily on the success or failure of the sheep grazing plan. She further stated it would be ideal if the certificate holders could report a per head count and vegetation density report to support the forecasted results of this new mitigation plan.*

*Council Member Condon commented it will be interesting to see the results of the sheep grazing, noting that the proposed Muddy Creek Solar Project is also considering sheep grazing as part of its mitigation plans.*

*Council Member Imes stated in Morrow County, the US Army Corp of Engineers successfully use goats every year to clean the vegetation from the dams. She noted grazing is being utilized in other areas of applications. It will be interesting to see how it works on a solar field.*

*Council Member Chocktoot reminded before sheep are put on a project area, Council must be sure that the area has not been identified by an archaeologist as having any cultural resources or cultural significance.*

*Vice Chair Howe asked if this was the first project involving sheep grazing in Oregon.*

*Ms. Esterson confirmed that is correct.*

*Vice Chair Howe asked if there are other sheep grazing projects in the United States.*

*Ms. Esterson stated she was not aware of any but was unsure.*

*Secretary Cornett noted his understanding that due to the eating habits of goats, it is not likely that goats will be used in grazing plans. He added that the grazing concept allows the sites to not use herbicides and pesticides in addition to helping minimize wildfire risk. The solar projects currently being proposed have bifacial panels which not only get direct sunlight but also get light bounce from below the panel. Maintaining the vegetation below*

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<sup>18</sup> Audio/Video for Agenda Item I = 03:40:12- 2024-02-23-EFSC-Meeting-Audio/Video

*allows for “good light bounce” which produces more power as an additional benefit to the grazing plan.*

*Ms. Esterson confirmed there were no cultural resources on the site and the site has not been designated as a historic property of religious or cultural significance.*

*Council Member Condon questioned her understanding that the sheep grazing was not for noxious weed control but for vegetation management.*

*Ms. Esterson stated that as sheep eat both weeds and vegetation, the grazing is for both purposes. The noxious weed plan includes herbicide treatments. Grazing allows for a reduction in that approach.*

Vice Chair Howe motioned the Council approve the proposed changes to the Montague Solar Facility Noxious Weed Plan and Fire Safety Plan to allow use of sheep at the facility for weed and vegetation management as presented and recommended by Staff.

Council Member Chocktoot seconded the motion.

The motion carried unanimously.

Vice Chair Howe and Council Members thanked Chair Grail for her hard work and dedication during her time as Chair.

**Adjournment at 1:16 p.m.**