

Oregon State Aviation Board  
Approved Meeting Minutes

August 16, 2002

Hillsboro, Oregon

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Pursuant to notice made by press release to newspapers of general and local circulation throughout the state and mailed to persons on the mailing list of the Board, a meeting of the Oregon State Aviation Board was held at the Hillsboro Airport Operations & Maintenance Facility in Hillsboro, Oregon, on August 16, 2002.

Board members present included Bill Wilkins (Chair), Mike Burrill, Jack Loacker, Steve Schreiber and Joe Smith. Carrie Novick was present by teleconference. Also present were Oregon Department of Aviation staff members Ann Crook, Daren Griffin, Rebecca Jasso, Carolyn Bolton and Carma Gale. Lynn Rosik, Assistant Attorney General, attended by invitation. The attendance list signed by members of the public present at the meeting is on file at the Department of Aviation office.

Chair Wilkins called the meeting to order at 9:00 a.m. Introductions followed.

### **Agenda Adjustments**

The following adjustments were made to the agenda:

- An update on the current status of the '03-'05 Agency Request Budget by Crook was added to the Project Updates at 1:15 p.m.
- Schreiber noted that Bill Wyatt, Executive Director of the Port of Portland, would be joining the meeting between 1:30 p.m. and 2:00 p.m. to meet the Board and answer questions.
- Presentation of proposals by Smith for cooperative efforts between the Department and the Oregon Pilots Association (OPA) were added following Bill Wyatt.

The agenda was adopted as amended.

### **Consent Calendar**

The following changes were made to the July 29, 2002 meeting minutes:

- The word "creases" was changed to "increases" on page 2, last paragraph, line 6.
- "...be willing..." was changed to "...would choose..." on page 2, last paragraph, line 2.
- "...which included..." was changed to "...which does not include..." on page 2, last paragraph, line 4.

Burrill moved that the minutes be approved as amended. Loacker seconded. The motion carried unanimously.

### **Consider Approval of OAR 738-005 (General Definitions)**

Griffin requested adoption of OAR 738-005 "General Definitions." A public hearing was held in Redmond, Oregon, on June 17, 2002. No public testimony was offered on the Definitions rule at the public hearing, and the Department received no written comment.

Wilkins stated that copies of all public testimony received since the public hearing on OAR 738-015 "Leasing for Aeronautical Activity at State-Owned Airports" had been provided, transmitted, unfiltered and unedited, to each member of the Board in sufficient time for consideration by the Board. A verbatim transcript of the June public hearing was also transmitted to the Board.

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Wilkins noted the Board meeting was being video taped by Wayne Nutsch, a member of the public.

Bolton reviewed questions regarding OAR 738-005 presented by Board members in advance of the meeting:

- Definition #63. Does government aircraft fall under military aircraft? No. Bolton indicated that her inquiries found that government aircraft fall under general aviation.
- Definition #101. Should be amended to read "...horizontal and vertical..."
- Definition #87. Does the definition need to designate "straight-in" as the descriptor for a "nonprecision instrument approach"? Wilkins noted several Board members had questions on this specific definition and deferred discussion on this point to later in the meeting.

The Board debated whether to proceed with a decision on 738-005 or to postpone a decision until duplications, corrections in numbering and improvements to definitions were made. Smith called on Chair Wilkins to appoint a subcommittee to work with staff on OAR 738-005 within the next two weeks. Smith and Loacker volunteered to serve on the Definitions Subcommittee.

Bolton noted that statute requires periodic review of all the Department's administrative rules every three years, and that amendment of long-standing definitions that have become outdated or were no longer fully accurate will be addressed at this time. She encouraged the Board to bear in mind that, due to manner of rule construction adopted by the Aeronautics Section when still part of ODOT, extensive revisions to definitions now without concurrent amendment of the related rule text could inadvertently create conflict of language within Chapter 738. Periodic review is slated in approximately 12 months.

Discussion followed, during which Smith and Loacker voiced concerns over the definitions document. Smith stated he could not vote for the document in its present form and was concerned over the legal ramifications if the document became part of a lawsuit. Wilkins asked Rosik for comment. Rosik stated that most of the definitions were standard definitions and that adopting the rule as is would not increase legal risk for the Board or the Department. She added that the majority of definitions were simply lifted verbatim from previous locations within Chapter 738, or from the definitions section within Board-approved policy language, and then synthesized into a central definitions section. She noted that the current version of 738-005 was not substantially different from the document presented at the June Board meeting. Rosik reiterated that most of the definitions were already in the Department's adopted administrative rules and have been in law for some time. There are some definitions that are unique to the leasing policy and other Board-approved policies now being written into rule. She stressed that OAR 738-015 regarding leasing, and any other proposed new rules, could not be adopted until OAR 738-005 definition language was adopted to support it.

The Board discussed whether it should approve the rule as a temporary rule while a subcommittee formally reviewed the existing definitions. Bolton clarified that since the notices regarding this rule were published as permanent rulemaking, she was unsure the process could now be changed based on only a Board motion to transition to temporary rulemaking.

Wilkins asked for a motion to refer OAR 738-005 General Definition to a subcommittee. Loacker asked if it was proper to refer the rule to a subcommittee for edits and yet approve the rule in advance, even though the full Board would not see the final language. Wilkins clarified that approval of the final rule language would be deferred and referred to the subcommittee for

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consideration with time certain. The subcommittee would report back to the Board, and the time certain would be the next Board meeting.

Loacker moved that a decision on OAR 738-005 be deferred until the September Board meeting. The document would be referred to a subcommittee for research and edits, and the subcommittee would report to the full Board at the September meeting. There being no second, the motion failed.

Wilkins asked Rosik's opinion on whether the Board should approve OAR 738-005 as a temporary rule. Rosik questioned the justification of approving the rule on a temporary basis when the legal process has been completed to approve a permanent rule. She indicated temporary adoption may be possible in the event of an emergency, but did not see that this situation would qualify.

Novick moved that OAR 738-005 be adopted and reviewed within 12 months as part of the Periodic Rule Review process. Burrill seconded.

Smith again urged that the document be reviewed and brought back to the Board in September.

The Board proceeded with the following amendments to Novick's motion:

- Burrill moved that a definition for "Department" be added. Smith seconded. The motion carried unanimously.
- Smith moved to strike #87, keep #85 and renumber. Loacker seconded. The motion carried unanimously.
- Smith moved that #40 be moved to follow #43. Burrill seconded.

After discussion, Smith rephrased his motion. He moved that the document be correctly alphabetized and numbered, and suggested that amendments be incorporated. Burrill seconded. The motion carried unanimously.

*(Note: At this point in the meeting, the facility experienced a power surge and the telephone connection with Novick was temporarily lost. A quorum of the Board remained present even with the disconnection.)*

Burrill moved to call the previous question, thereby calling an end to the debate on the main motion. There being no second, the motion failed.

Debate on the main motion continued. Smith stated he felt uncomfortable waiting 12 months for the rule to be revised.

Wilkins called for a vote on Novick's motion to adopt OAR 738-005 as amended. *(Note: At this point Novick rejoined the meeting by telephone)*. Wilkins called for a roll call vote on the main motion. The Chair commissioned a Definitions Subcommittee to work with staff to bring an amended rule to the Board as soon as possible, possibly to the September meeting. The results of the vote are as follows:

Burrill	Aye
Smith	Aye
Loacker	Aye
Schreiber	Aye

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Novick           Aye  
Wilkins          Aye

The motion carried unanimously. Wilkins appointed Smith and Loacker to the OAR 738-005 Definitions Subcommittee, with Smith serving as Chair. Wilkins stated that he would sit in on the meeting of that subcommittee if possible and invited the other Board members to communicate with the subcommittee members.

**Presentation on Portland Rose Festival Air Show**

Dick Clark, Executive Director of the Portland Rose Festival Air Show, gave a presentation on the 2002 Air Show, scheduled for August 17-18. He noted the following:

- This is the 15<sup>th</sup> edition of the Air Show. This year the Air Show is hosting the Thunderbirds. In past years, they have hosted the Blue Angels and the Snowbirds.
- The Rose Festival Air Show has historically been very safe, with no accidents in 15 years. Air shows in general are highly regulated, and the Rose Festival Air Show staff works closely with the FAA and Portland International Airport to increase safety.
- Attendance at this annual show has varied from a total of 50,000 to 100,000 over two days. Performance by a jet team increases attendance.
- Last year, they started a “night” show that began at dusk and included fireworks.
- Proceeds from the Air Show are split between the Hillsboro Chamber of Commerce and the Portland Rose Festival Air Show.
- Ground activities and vendors also help support the show.
- Corporate sponsors cover approximately 1/3 of the costs of the show; ticket sales cover another 45-50% of the costs. Exhibitor fees and concessions cover the remainder of the costs.
- Approximately 50% of the tickets are purchased at the door.
- Central administration costs for the Portland Rose Festival Air Show are not reimbursed from proceeds.

Clark noted the following challenges facing the Air Show:

- Development has increased in the area, moving into the “sterile corridor.” Further development may preclude hosting jet teams after this year. It will be critical to take a new approach to marketing if jet teams are lost as an attraction.
- Security planning has increased due to 9/11.
- Activities of Hillsboro Airport and FBOs must be taken into consideration when planning the Air Show.
- Timing of the show depends on availability of the Hillsboro Airport as well as performing teams.

John Newell, General Aviation Manager, stated having the air show in June works better for the Hillsboro Airport due to construction considerations. He noted that the prime reason for the success of the air show has been excellent planning and preparation.

**Consider Approval of OAR 738-015**

The Board considered adoption of OAR 738-015 Leasing for Aeronautical Activities at State-Owned Airports.

Smith moved for adoption of OAR 738-015. Novick seconded. Wilkins called for discussion.

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An amendment was offered clarifying lease termination language in Section 738-015-0030, paragraph (7) and adding a new paragraph (8). Copies of the proposed new language were distributed to the Board, Department staff and the public. Smith moved the amendment be adopted. Burrill seconded. Wilkins read the amendment and called for discussion.

Novick asked for comments from Department staff. Griffin noted that careful review of all public comments pointed to a need for clarification on Section 738-015-0030, paragraph (7), to remove the misconception that the rule constituted a transfer in ownership of improvements on the lease hold.

Wilkins asked for comment by Rosik. She stated that the public comments consistently misinterpreted Subsection 7 of OAR 738-015. She reiterated that the hangar is the property of a lessee, and there was never an intention to “take” or to purchase those improvements at the end of a lease.

The motion to adopt the amendment passed unanimously.

Loacker thanked Wayne Nutsch for his presentation at the Board meeting in June and for making hangar owners and lessees aware of the proposed rule. Loacker noted that many of the public comments were form letters and that some people added written comments at the bottom of the form. He commented that there were also some very good individually-written letters. He stated he was moved by the concerns, but stressed that many had misinterpreted the leasing rule. He made comments on three specific letters.

- Mr. Sparkes, Chiloquin, referred to “takings” by government. Loacker commented that the rule had never constituted a “taking,” but that the amendment approved by the Board today should make that clear.
- Mr. Dalton, Dallas, mentioned the Department had become bureaucratized and politicized, and no longer concerned with the preservation of general aviation pilots. Loacker pointed out that four of the seven members of the State Aviation Board were general aviation pilots and stressed that the Board does understand the concerns of general aviation pilots and is here to help them. The Board does not intend to take their hangars.
- Mr. Plymate, Independence, noted that there had never been a case where a hangar situated on a State-owned airport had to be removed.

Loacker added that he hoped Oregon pilots would not see the Board as adversaries.

Smith commended staff for the summary documenting chronological excerpts of the Board’s discussions on the approved leasing policies and pending leasing rule. He noted that the Board’s business is to protect people as a whole.

Wilkins reported that Griffin would communicate with all hangar tenants by letter to explain and clarify the rule.

Burrill questioned whether “State-owned” meant any use, whether it is a State-owned use or private use, on a State-owned airport paragraph (5) (b) at the bottom of page 4. Wilkins clarified that previous discussions had determined it meant “State-owned airport.”

Burrill also questioned 738-015-0055 that states “the Department shall not issue any new access permits until all State-owned airport property has been developed.” Did that statement

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tie the Department's hands if it was made into rule? Griffin stated he believed "where they do not already exist" had been part of the statement at one time. He noted the FAA would not allow the Department to stop granting access agreements at airports where they already exist. He added that it might involve future rulemaking. Griffin recommended that the following be added to the sentence "...except at those airports where access permits already exist." Burrill moved that the language be added. Novick seconded. The motion carried unanimously.

The Board reviewed language changes:

- Smith moved that a comma be placed after Lessee and omitting "(if different)" on page 1, paragraph (2)(a). Loacker seconded. The motion carried unanimously.
- Smith moved that on page 1, paragraph (2) (b), the name of the primary contact "individual" replace "person." Loacker seconded. The motion carried unanimously.
- Burrill moved that on page 1, paragraph (2) (i) after commercial aeronautical activities, insert ", and as soon as known, the make ...". Smith seconded. The motion carried unanimously.
- Smith moved that "sole discretion" be replaced by "at the discretion". Loacker seconded. The motion carried unanimously.

Wilkins called for a roll call vote on the main motion to adopt OAR 738-015 as amended. The results of the vote were as follows:

Novick	Aye
Schreiber	Aye
Loacker	Aye
Smith	Aye
Burrill	Aye
Wilkins	Aye

The motion carried unanimously. Wilkins thanked staff and the public for their work over the past two years.

Novick asked to be excused from the meeting at 11:05. She stated she would rejoin the meeting at 1:00 p.m. A quorum still being present the meeting continued.

### **FY 2002 Budget Report**

Jasso reviewed the 4<sup>th</sup> Quarter Budget Report, showing current expenditures at 17% of budget. She noted that GA Entitlement invoices have not been received as yet. Crook reported that the Department has been working on making the budget report clearer and more descriptive of the work the Department does. Smith complimented the Department on staying under budget.

### **Public Comment**

Wilkins opened the meeting to public comment. Wayne Nutsch commented that he wished the Department had tried to "sell" or explain the leasing rule before the Board adopted the rule.

Wilkins thanked him for his comment.

The Board recessed at 11:15 a.m. for lunch.

The Board reconvened at 1:00 p.m.

### **Consider Approval of Standards, Criteria and Policy Directives**

The Board considered the standards, criteria and policy directives to be used in evaluating the Director of the Department. Crook explained that these standards needed to be adopted at a public meeting in order to give later discretion to choose an open hearing or executive session format for the Director's review. Statute dictates that director evaluations are held in executive session unless the Director requests an open hearing, and that if the review is conducted during open hearing, the standards had to have been adopted in a public meeting. Crook noted that she requested her evaluation be held in open hearing.

Wilkins clarified that the evaluation period currently under examination is July 1, 2000 to June 30, 2002. He expressed hope that the same or very similar criteria would be used for future evaluations of the Director. Burrill recommended that Item #1.3 be changed to read "Develop ways to support the economic development of Oregon's aerospace industry." Loacker recommended that the general performance plan be approved, with the specific dates for the evaluation period left blank and then filled in when the evaluation actually takes place.

Loacker moved that the criteria be approved as amended. Schreiber seconded. The motion carried unanimously.

The Board discussed procedures for the Director's evaluation. It was agreed that each Board member will score the evaluation, make comments in the appropriate sections and submit their completed evaluation form to Chair Wilkins. The Board also requested that Crook critique her own performance in a 1 to 1-1/2 page summary report to be submitted to the Board before the September Board meeting. Chair Wilkins and Vice-Chair Nelson will make themselves available to Department staff for comment in September. The formal evaluation itself will take place at the October Board meeting in Baker City.

### **Project Updates:**

Regional Air Service Conference Planning: Burrill, Crook and Schreiber would meet after the Board meeting to discuss the next steps. They have acquired some partners in the community who are willing to help. Some recent events indicate the conference should be held sooner rather than later.

Preliminary Plans for 2004 Statewide Conference: Bolton reported that the planning committee would be meeting on Monday, August 19, 2002. Site research for the conference in 2004 has begun, with the possibility of holding the meeting on the coast in conjunction with the Oregon Airport Management Association Annual Conference. The conference theme and related presentation topics have not yet been discussed.

### **Informal Discussion with Bill Wyatt**

The Board welcomed Bill Wyatt, Executive Director of the Port of Portland. During an informal presentation, he noted that he started with the Port on September 4, 2001, and was out of the country on September 11, 2001. He reported that the Port is now being run in ways never imagined before 9/11. He noted the following:

- The Port just concluded a five-year major capital construction period. They will be taking a hard look at future construction projects, as construction costs directly increase airport costs.
- Airlines consider airport costs very carefully in the present market. Marketing has become more important. Airlines are no longer willing to take a loss in one market area, hoping to make up the loss in another market.

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- The Port is pursuing Lufthansa.
- The Port has instigated a travel bank, asking business to make advance purchases to show PDX can fill the front end of the airplane.
- It is difficult to give general aviation airports the attention and services they need. He believes that commercial air service is very unlikely at Hillsboro.
- He feels the Port is about a year away from feeling the full effects of 9/11. The Port is working closely with the Transportation Security Administration.
- Screening lines are getting shorter at the PDX. Screeners are more efficient, technology is improving, and passenger behavior is changing.
- While the changing deadlines related to air travel and security offered by Congress affect the Port decisions, he does not want Congress to hurry. The Port is spending as little as possible on reconstruction to accommodate screening equipment until technology becomes more state of the art.

Schreiber commented that Horizon and Alaska Airlines are looking at reducing the number of seats coming and going out of Portland. Novick noted that would have a definite ripple effect on the smaller markets.

Wyatt noted that there was interest in building a high tech industrial/higher education park around the Troutdale Airport. Smith asked Wyatt to consider the possibility of potential development of Troutdale as reliever airport for Portland International's corporate aircraft, and urged support for and IFR approach to at least six hundred and one.

Wilkins thanked Wyatt and commented that the Board is anxious to expand its working relationship with the Port in hopes of effectively advancing aviation in Oregon.

The meeting recessed at 2:10 p.m. due to noise from the rehearsal of the Thunderbirds jet team.

The meeting reconvened at 2:40 p.m. Although Novick was not available for the remainder of the meeting, a quorum was present and the meeting continued.

**Project updates (continued)**

Status of Air Service Action Plan: Crook reported that she is working with the consultants to refine the plan. She is also in discussions with Big Sky, with plans to create a proposal to bring service (19-seat aircraft) to some Oregon communities. A meeting has been scheduled with Big Sky and six Oregon communities in Pendleton on August 28, 2002; as a result, the action plan is on hold pending results of that meeting. Crook will present a summary of the Air Service Action Plan to the Board within the next several months.

Status of '03-'05 Agency Budget Request: Crook reported that the Department's budget request is still in the pre-audit stage. She reminded the Board that they directed her to add a cover memo regarding capital construction costs of the new building. She proposed instead to write a new, shorter justification to be completed next week. She also noted she is revising the Department's performance measures to better align with the State's format and guidelines. The revised section on capital construction costs for the new building, approved performance measures, and the audited budget will be included in the information packet for the next Board meeting.

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Joint Programs with Oregon Pilots Association (OPA): Smith brought two proposals for partnership efforts between OPA and ODA.

(1) Smith proposed that members of OPA site test the new airport directory by flying into each airport, verifying the information, and adding comments where appropriate. The Department could review the pilot comments and choose whether each change would be made in the directory. Smith acknowledged that publication of the directory would be delayed as a result of this partnership, but advocated that it would give the Department a positive chance to partner with OPA and would certainly result in a better directory. Crook explained that the directory was originally scheduled for Spring 2002 publication, but the timeline has faced unexpected delays. It was agreed to postpone the publication of the directory until Spring 2003 to take advantage of this partnering opportunity with OPA.

(2) Smith proposed that OPA volunteers contact motels and establishments within predetermined miles of each Oregon airport (except PDX) and distribute general information at those facilities about their local airport. He suggested that the Department provide the information packets. Crook noted that this proposal presented a staff workload issue at the present time. Smith agreed that this could be targeted as a future project. Burrill encouraged local OPA Chapters to work with their chambers of commerce. Crook pointed out this approach could present a potential conflict with on-site airport managers, who have the primary responsibility of promoting their airports. Further discussion of this project was postponed until a later date.

**Set Agenda for September Board Meeting**

The Board set the agenda for the September 18, 2002 meeting to be held at U.P.S Aviation Technologies in Salem.

- Public Hearing on Proposed Administrative Rule OAR 738-010 Rates & Charges
- Project Updates
  - Economic development partnership – Burrill
  - Definitions Subcommittee – Smith
  - Status of State-owned airports/Criteria for Acquisition and Divestiture – Loacker

Futures agenda items include:

- Evaluation of Director (October meeting)
- Burrill suggested a presentation by American Heart Association on automatic electronic defibrillators at commercial service airports. Burrill will follow-up.

There being no further business, the meeting was adjourned at 3:07 p.m.

Respectfully submitted,  
Carma Gale, Office Manager

*Copies of meeting materials and written public comments are on file at the Department of Aviation in Salem, Oregon.*