



ENERGY FACILITY SITING COUNCIL

Marcia Grail, Chair ■ Kent Howe, Vice-Chair ■ Hanley Jenkins ■ Mary Winters ■ Jordan Truitt ■ Cynthia Condon ■ Perry Chocktoot

Energy Facility Siting Council Meeting Minutes Friday, September 24, 2021 8:30 a.m. WebEx Teleconference

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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: The meeting was called to order at 8:30 a.m. on September 24, 2021 by Chair Grail.

Roll Call: Chair Marcia Grail, Vice-Chair Kent Howe, Council Members Jordan Truitt, Cynthia Condon and Perry Chocktoot were present. Council Members Hanley Jenkins and Mary Winters were absent.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary, Todd Cornett; Senior Policy Advisor, Sarah Esterson; Senior Siting Analyst, Chase McVeigh-Walker; and Operations Analyst, Wally Adams. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe, counsel to EFSC was also present.

Chair Grail confirmed that agenda modifications were not proposed.

- A. **Consent Calendar (Action Item)** – Approval of minutes, Council Secretary Report, and other routine Council business.

Consideration of the August 27, 2021 Meeting Minutes

Vice-Chair Howe motioned Council to approve the minutes of the August 27, 2021 meeting as presented.

Council Member Truitt seconded the motion.

Motion carried unanimously.

Council Secretary Report

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

¹ Audio for Agenda Item B=00:11:14 - 2021-09-24-EFSC-Meeting-Audio

² Audio for Agenda Item C=01:20:15 - 2021-09-24-EFSC-Meeting-Audio

³ Audio for Agenda Item D=01:24:13 - 2021-09-24-EFSC-Meeting-Audio

Staffing Updates

- Administrative Specialist, Dawnita Bruce has left the agency and recruitment to fill the position is underway.
- Governor Brown appointed Phil Stenbeck, Jefferson County Planning Director to replace Council Member Mary Winters, however the Senate confirmation hearing schedule for September 22, 2021 has been delayed until November. Council Member Winters will continue to serve in the interim.

Project Updates

- Golden Hills Wind Project
A request for inspection was received from adjacent farmers concerned that construction is occurring in violation of several site certificate conditions. Two Inspections were conducted; one by Compliance Officer, Duane Kilsdonk, and one by Senior Policy Analyst, Sarah Esterson. Additional information has been received from the concerned farmers, and the Oregon State Extension office. Coordination is underway with the Oregon Department of Environmental Quality, the Department of Agriculture and Avangrid, the site certificate holder, has been responsive to the concerns conveyed to them. The evaluation is ongoing, and a more detailed response will be provided to Council at the October meeting.

Future Meetings

- All Council Members present confirmed their availability for the next Council meeting to be held virtually Friday, October 22, 2021.

Chari Grail appreciated Ms. Esterson and Mr. Kilsdonk for their efforts in responding to the request for inspection at the Golden Hills facility in a timely fashion.

- B. Boardman Solar Energy Facility, Proposed Order on Request for Amendment 1 of the Site Certificate (Action Item)⁴** – Chase McVeigh-Walker, Senior Siting Analyst. Council reviewed the Proposed Order on Request for Amendment 1 (RFA1) of the Boardman Solar Energy Facility Site Certificate and will either adopt, modify, or reject the Proposed Order as the Final Order. RFA1 seeks Council approval for a three-year extension to both the construction commencement and completion deadlines.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Condon asked for clarification of the comments provided by the Oregon Department of Aviation and if they were questioning the sufficiency of the antiglare coating.

Mr. McVeigh Walker stated that the Department of Aviation did not previously comment on the issue during the Application for Site certificate phase and ultimately wanted to state their interest in the issue on the record.

Council Member Condon, referencing the heading of 345-027-0385 on line 33, page 12 of the Draft Proposed Order requested the following statement be struck “The Department acknowledges that it is not possible to commence construction without contracts to deliver the energy generated by a constructed facility and financing for which to hire qualified contractors to complete facility construction” because this statement is not accurate. It is certainly possible to commence construction without a power purchase agreement.

⁴ Audio for Agenda Item B=00:11:14 - 2021-09-24-EFSC-Meeting-Audio

Ms. Esterson explained that the reasons provided by the applicant to substantiate the need to delay construction were lack of an executed Power Purchase Agreement (PPA), lack of financing, and the need to secure a PPA. This statement intends to acknowledge those reasons are currently applicable at this facility, not every facility.

Council Member Condon expressed further concern because these reasons are all under the control of the site certificate holder.

Ms. Esterson referenced the rule language which simply requires the preliminary request for amendment to include a need for the exception.

Secretary Cornett agreed with Ms. Esterson and acknowledged Council Member Condon's concerns as well offering that alternate language could be used instead of "not possible".

Mr. Rowe reiterated the rule requirements of 345-027-0385 which doesn't specify the types of reasons Council may or may not accept.

Council Member Condon explained that she still felt the statement should be struck and that it wouldn't change the overall analysis provided in the paragraph.

Secretary Cornett noted the citation for changes if needed for the motion for this item. He went on to remind Council Members that amendment rules will be evaluated again in 2022 and this particular issue could be reviewed for change at that time.

Council Member Condon asked whether additional proof of the ability to secure financial assurance is required with a request for amendment.

Mr. McVeigh-Walker stated that it is a requirement of the amendment, and an updated letter was received from Wells Fargo.

Council Member Condon questioned the difference in removal on non-combustible materials.

Ms. Esterson explained that the original estimate included larger gravel pads, based on fire code, upon further verification smaller gravel bases will be needed eliminating the need to remove them.

Vice-Chair Howe motioned Council to approve Proposed Order as the Final Order with modifications staff recommended, to include the revised language on the narrative of the public service condition, and the language modifications offered by Council Member Condon.

Chair Grail confirmed with Secretary Cornett and fellow Council Members that the motion offered by Vice-Chair Howe captured the changes discussed and affirmed Council's agreement that more specific motion language was not needed.

Council Member Truitt seconded the motion.

Motion carried unanimously.

Chair Grail thanked Mr. McVeigh Walker for his presentation.

The specific changes from the Proposed Order to the Final Order referenced in Vice-Chair Howe's motion included:

1. Strike the sentence on Page 12 lines 31 – 34 of Proposed Order under the General Standard of Review. The sentence to be stricken reads:

The Department acknowledges that it is not possible to commence construction without contracts to deliver the energy generated by a constructed facility and financing for which to hire qualified contractors to complete facility construction.

2. Relocation of Footnote on Page 18 of the Proposed Order containing the Department’s evaluation of Morrow County DPO comment relating to Conditional Use Permits and zoning permits. Footnote in its entirety to be relocated to Page 32 of the Proposed Order, at the end of Line 33.
3. Inclusion of Department’s explanation for recommended amended change to Public Services Condition 1 on Page 63 lines 15-33 of the Proposed Order. The amended condition was provided in the draft Site Certificate, but the recommended amended changes were not evaluated in the Proposed Order. The intent of the condition has not changed, and the Department believes that the change is solely for clarification.

- C. Public Comment Period⁵** – This time is reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

No Public Comments were offered.

- D. Retirement and Financial Assurance Standard Overview (Information Item)⁶** – Sarah Esterson, ODOE Senior Policy Advisor provided part 2 of the Retirement and Financial Assurance Standard overview.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Condon asked whether there is a comparison between current data and previous data for the facilities.

Ms. Esterson explained that analysis and comparison is completed by facility types to identify average costs.

Council Member Condon confirmed that while the analysis occurs, the Department doesn’t have experience in decommissioning a facility.

Ms. Esterson explained that aside from Boardman Coal, she is unaware of a facility being decommissioned to compare the accuracy, but some facilities have decommissioned facility components.

Chair Grail asked whether comments are received from the developers regarding the formulas or process for collecting this data.

⁵ Audio for Agenda Item C=01:20:15 - 2021-09-24-EFSC-Meeting-Audio

⁶ Audio for Agenda Item D=01:24:13 - 2021-09-24-EFSC-Meeting-Audio

Ms. Esterson explained that there is resistance at times to requests for more specific information, since we do not have a prescriptive method, and frustration over the unknowns thirty years into the future.

Chair Grail reiterated the importance of the information and appreciated Ms. Esterson for her presentation.

Adjournment

Chair Grail adjourned the meeting at 10:33 am.