



# ENERGY FACILITY SITING COUNCIL

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

## Energy Facility Siting Council Meeting Minutes

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

Friday, September 19, 2025 8:30 AM

- A. Consent Calendar (Action & Information Item)<sup>1</sup> – Approval of July 18, 2025 Meeting Minutes; Council Secretary Report; and other routine Council business.
- B. ORESA Mapping Tool Tutorial Presentation (Information Item)<sup>2</sup>
- C. Review of Council’s Delegation Authority Under ORS 469.402 (Information Item)<sup>3</sup>
- D. Oregon Department of Energy Update (Information Item)<sup>4</sup>
- E. Public Comment Period<sup>5</sup>
- F. Government Ethics, Public Meetings Law, and Ex Parte Contact Overview (Information Item)<sup>6</sup>
- G. Modernization Rulemaking Notice of Proposed Rulemaking Consideration (Action Item)<sup>7</sup>
- H. Amendment Rulemaking Final Consideration (Action Item)<sup>8</sup>

<sup>1</sup> Audio/Video for Agenda Item A = 00:02:39 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>2</sup> Audio/Video for Agenda Item B = 00:37:58 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>3</sup> Audio/Video for Agenda Item C = 01:19:15 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>4</sup> Audio/Video for Agenda Item D = 01:39:12 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>5</sup> Audio/Video for Agenda Item E = 02:30:08 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>6</sup> Audio/Video for Agenda Item F = 02:39:51 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>7</sup> Audio/Video for Agenda Item G = 03:16:44 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>8</sup> Audio/Video for Agenda Item H = 03:51:35 – 2025-09-19-EFSC-Meeting-Audio/Video

I. Council Appointment to the Oregon Climate Trust Offset Committee (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 Howe called the meeting to order on September 19, 2025, at 8:33 a.m.

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

Oregon Department of Energy representatives present were: Agency Director Janine Benner, Senior Policy Advisor and Acting Council Secretary Sarah Esterson, Rules Coordinator Tom Jackman, Operations and Policy Analyst Bibi Bartley, and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

**Agenda Modification:** There were no agenda modifications.

A. **Consent Calendar (Action & Information Item)**<sup>10</sup> – Approval of July 18, 2025 Meeting Minutes; Council Secretary Report; and other routine Council business.

- Approval of July 18, 2025 Meeting Minutes

Council Member Devlin motioned that the Council approve the minutes of the July 18, 2025 meeting as presented and recommended by Staff.

Vice Chair Condon seconded the motion.

The motion was carried unanimously.

- Council Secretary Report

Secretary Esterson offered the following comments during her report to the Council:

Council Updates

The Senate Rules Committee will be meeting on September 29th to evaluate Governor appointments to Boards and Committees. This includes:

Ann Beier Reappointment to EFSC: The reappointment of Council Member Beier for a second term that would be November 19, 2025 to June 30, 2029.

Patricia Perry Appointment to EFSC: Ms. Perry has been appointed to replace Perry Chocktoot who resigned in August 2024 due to health reasons. Ms. Perry has been a land use planner for over 30 years. She is currently the Planning Director for the Confederated Tribes of the Umatilla

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<sup>9</sup> Audio/Video for Agenda Item I = 05:11:15 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>10</sup> Audio/Video for Agenda Item A = 00:02:39 - 2025-09-19-EFSC-Meeting-Audio/Video

Indian Reservation. She previously worked for Umatilla County and the Federal Emergency Management Agency National Flood Insurance Program. Her first term would be October 1, 2025 to June 30, 2029

### Staff Updates

UEA 2 Recruitment 1: Brett Farman has been hired as our new Compliance Officer to replace Duane Kilsdonk. Brett brings over 20 years of experience in environmental biology and natural resource management. He most recently served with the National Marine Fisheries Service as a fishery biologist. He was responsible for ensuring hatchery and fishery activities throughout the Upper Columbia and Snake River Basin were compliant with national regulations. He also previously worked at the Oregon Department of Fish and Wildlife.

UEA 2 Recruitment 2: Interviews are on Monday for the newly approved third Compliance Officer position. An update on the position will be provided at the next Council meeting.

### Project Updates

#### Sunset Solar Project

This is an approved, not yet constructed 103 MW solar facility in Wasco County. In April the Department received a preliminary amendment request from the certificate holder which is a subsidiary of Avangrid Renewables. The amendment request was for an extension of their construction commencement and completion deadline by three years. The certificate holder requested this amendment be reviewed under the type B review process. The Department determined the type B review process was justified for this amendment. The Draft Proposed Order was issued on September 9, 2025. Comments are being accepted on the Amendment Request and Draft Proposed Order through October 10, 2025. The Amendment Request, the Draft Proposed Order, the Public Notice and information about the comment period are all available on the project website. The Department expects Council will review the Proposed Order and make their potential final decision on this amendment request at the October meeting. This Amendment Determination Request would represent a six-month total process for the type B process.

#### Yellow Rosebush Energy Center

The Yellow Rosebush Energy Center is an 800 MW Solar PV and battery storage project on up to 12.6 sq. miles located in Wasco County, near the City of Maupin. The Application for Site Certificate (ASC) has been deemed complete. The Department issued a Public Notice on the complete ASC and Public Informational Meeting, which will be held in person and virtually on Webex on Thursday, September 25th at the Maupin Civic Center in Maupin, OR starting at 5:00 PM. The Department anticipates issuance of the Draft Proposed Order in early October and holding the public hearing in front of Council, in Maupin the evening of October 23<sup>rd</sup> as part of the October Council Meeting.

*Vice Chair Condon questioned if there was a reason provided for the request for additional time to begin construction.*

*Ms. Esterson stated her belief is the extension request is to secure a power purchase agreement.*

#### Compliance and Inspections Updates

Biglow Canyon Wind Farm: This is a 450 MW project in Sherman County owned by Portland General Electric. It consists of 217 turbines. There were two incidents:

- Blade Stud was found on the ground – On August 12<sup>th</sup>, a PGE technician found a blade stud near the base of a turbine. There are 54 blade studs for each blade.
- Hub Hatch – On August 19<sup>th</sup>, a contractor found a hub hatch near the base of a turbine.

Pachwaywit Fields Solar: This is a 162 MW solar project in Gilliam County on 1,189 acres owned by Avangrid.

- On August 27<sup>th</sup>, while conducting a scheduled visual inspection, the Site Supervisor observed evidence of a historic fire event. The vegetation in the immediate area was visibly burned and inactive. The preliminary assessment suggests the likely cause may be related to MC4 connector.

Daybreak Solar Project: This is a 140 MW solar project in Wasco County on 1,817 acres owned by Avangrid.

- On August 30, a neighboring landowner spotted a fire. This resulted in local firefighters responding, who decided to allow the fire to burn out. The fire was approximately 20 acres. Some of the solar modules burned. The incident is currently under review to make sure that their response was adequate and whether there are any long-term additional actions required.

*Vice Chair Condon inquired if the fire was contained within the site boundary.*

*Secretary Esterson confirmed that was correct.*

The Oregon Trail Solar Project: This is an approved energy generation facility to include any combination of wind and solar facility components not to exceed 41 MW in Gilliam County owned by Avangrid.

- Within the first days of construction, there was an inadvertent discovery reported. Following all the appropriate communication protocols and work with the State Historic Preservation Office and tribes, the resource identified was determined not to be significant and work was resumed.

Boardman to Hemingway Transmission Line: This project commenced construction last month.

- There was an inadvertent discharge to an intermittent stream that was reported to DEQ. The stream did not have water in it at the time. The erosion sediment control plan was modified to include additional BMPs to protect the location.
- A construction vehicle broke through a fence line that was protecting the buffer of a cultural resource. The issue has been resolved.

*Council Member Beier noted her concern that there have been several compliance issues for the Biglow Wind Farm.*

*Secretary Esterson agreed with the concern. She stated the Department has implemented monthly meetings with their team that is monitoring site certificate compliance. She noted that the Boardman to Hemingway project has weekly meetings with Staff to review applicable conditions and any issues.*

*Chair Howe asked about the construction locations of the Boardman to Hemingway Project.*

*Secretary Esterson provided that the construction work on the project is currently in Malheur and Baker Counties. Construction in Umatilla County will begin soon.*

*She further noted the Biglow Canyon Wind project is considered one of the top priority compliance projects. As mentioned, Staff meets with them monthly and are tracking all the incidents at the site. There are currently multiple corrective actions in play, including equipment repair and capital improvement projects. PGE does provide good communication with Staff on the plans to address the issues.*

*Chair Howe asks about the age of the Biglow Canyon facility.*

*Secretary Esterson stated the project began in 2010.*

*Council Member Imes questioned whether Biglow Canyon has gone through a repower process.*

*Ms. Bartley stated the project has not gone through a repower, though there is discussion regarding such after the project has reached the initial full life cycle. The capital improvements project from PGE is to address the current issues. The initial turbines used at the site were developed early in the life cycle of wind turbines and are not necessarily up to current standards. PGE's current plan is to address the components of the turbines and push the facility to its full life cycle of the turbines and then go to a repower in about ten years.*

*Vice Chair Condon questioned if there was an enhanced inspection program given the repeated issues at the facility.*

*Ms. Bartley provided that there is a documented monthly inspection of each turbine which allows the facility to address any high-priority issues quickly. In addition, Staff meets with PGE monthly for a better understanding of issues happening on the ground at the facility.*

#### House Bill 3681

As Secretary Cornett had stated during the July Council Secretary Report, following the June Council meeting, Ms. Irene Gilbert provided a comment letter regarding changes made in HB 3681 and requested that it be forwarded to Council Members, which it was on June 23<sup>rd</sup>. The letter included two issues. The first was related to site certificate amendments, which Ms. Gilbert had the opportunity to comment on during the July Amendment Rulemaking public hearing. The second was related to the changes to statutes pertaining to condemnation proceedings and Certificates of Public Convenience and Necessity (CPCN). At the July Council meeting, the Department was not prepared to respond and needed additional time to evaluate the changes. We have since completed an evaluation.

Mr. Rowe provided a brief presentation regarding HB 3681 and condemnation of land.

*Vice Chair Condon questioned the process sequence for an applicant to request a CPCN.*

*Mr. Rowe provided that, while it is not in statute, according to PUC rules, the PUC will not issue the CPCN until a site certificate has been approved. The applicant can apply for a CPCN to PUC while their application is pending.*

*Vice Chair Condon, noting the removal of safety within the criteria for a CPCN, stated Council will continue to consider public health and safety as part of its review of applications and Council standards. Later in the presentation, Vice Chair Condon reminded Council is tasked with the job of understanding the safety requirements for a site certificate and with writing conditions consistent with its standards.*

*Mr. Rowe confirmed safety is not a criterion reviewed as part of the CPCN proceedings, but the required site certificate would not be approved unless it satisfies Council Standards, which include consideration of public health and safety.*

*Council Member Imes confirmed her understanding that the changes for the CPCN only apply to energy projects that include transmission.*

*Mr. Rowe confirmed that was correct. It only applies in the context of high voltage overhead transmission line projects.*

*Council Member Beier confirmed her understanding that the new statute applies directly and there are no changes necessary to Council's Administrative Rules. She added Council will need to include the language in its decisions related to this type of transmission facility.*

*Mr. Rowe confirmed that he recommends including language about the use of an EFSC site certificate in a condemnation proceeding in notices pertaining to transmission line projects, though it is not a requirement of the Legislature.*

*Council Member Imes inquired when the changes would become effective.*

*Mr. Rowe stated January 1, 2026.*

#### Upcoming Meeting Dates

October 23-24, 2025 to be held in Maupin, Oregon

November 20-21, 2025

**B. ORESA Mapping Tool Tutorial Presentation (Information Item)<sup>11</sup>** – Bibi Bartley, Operations and Policy Analyst. Council received a new tutorial for the ORESA Mapping tool which provides a vast amount of information regarding the location of projects, transmission lines, and resources throughout the state.

**C. Review of Council's Delegation Authority Under ORS 469.402 (Information Item)<sup>12</sup>** – Sarah Esterson, Senior Policy and Operations Advisor.

*Vice Chair Condon questioned the level of Council's delegation regarding Organizational Expertise.*

*Secretary Esterson clarified that the delegation is only for one fact, which is the review of a contractor or a compliance manager's qualification.*

*Vice Chair Condon suggested providing Council with the process of the review for qualifications for a contractor or compliance manager would be beneficial.*

*Council Member Beier added that there have been provisions and clear guidance given to Staff from Council for the qualifications reviewed for contractors.*

*Secretary Esterson stated the condition language needs to be clear about what criteria needs to be evaluated. The Department is learning over time what specific questions need to be addressed, such as compliance history and relevant experience in energy utility in Oregon. If the condition language is unclear, the review of qualifications will not be consistent.*

*Council Member Beier expressed her appreciation for the template language, as the specific language provides clarity on Council expectations for the Certificate Holder and members of the*

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<sup>11</sup> Audio/Video for Agenda Item B = 00:37:58 – 2025-09-19-EFSC-Meeting-Audio/Video

<sup>12</sup> Audio/Video for Agenda Item C = 01:19:15 – 2025-09-19-EFSC-Meeting-Audio/Video

*public. The language shows that Council has made a conscious decision to delegate specific issues and the reasons for the delegation. She noted there are specific cases where Council should never delegate as some issues require public review in addition to a review by Council. She questioned whether the new language will be utilized in upcoming project applications.*

*Secretary Esterson provided Staff's plan to incorporate the language for the Yellow Rosebush Draft Proposed Order. She also provided examples of when delegation to Staff is appropriate or is not appropriate.*

**D. Oregon Department of Energy Update (Information Item)<sup>13</sup> – Janine Benner, Director.**

*Vice Chair Condon, referring to a graph of Oregon's Energy Flow, questioned if energy waste could be exported energy.*

*Director Benner explained that the energy waste indicated on the graph represents a very broad definition of energy waste. There is information explaining energy waste included in the Energy Strategy.*

*Council Member Devlin added energy waste represents the use of energy not being a fully efficient method, and the full value of the energy is not being utilized.*

*Vice Chair Condon questioned if the energy waste calculation included opportunities not being utilized to their fullest potential, such as roof top solar energy.*

*Director Benner stated that it was not included in the calculation.*

*Council Member Beier questioned if there is a downward trend in energy waste as there are more efficient appliances and there are more electric cars.*

*Director Benner stated in the Energy Strategy modeling, the modeled pathways show increasing electricity use but decreasing energy use as the overall system becomes more efficient.*

*Council Member Devlin gave his evaluation of the current status of federal actions on clean energy, electric transportation, and Oregon's actions for clean energy.*

*Director Benner encouraged a review of the biennial zero-emission vehicle report that was recently released.*

*Council Member Beier, referring to the site certificate permitting process and the process timeline for facilities to become operational, questioned if the state has any actions that can help with the delay of power purchase agreements and interconnect queues.*

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<sup>13</sup> Audio/Video for Agenda Item D = 01:39:12 – 2025-09-19-EFSC-Meeting-Audio/Video



*Director Benner provided that in the long term, ODOE is hoping to ask and answer that question within the Energy Strategy. In the short term, ODOE and the Siting Division will continue looking for additional ways to make the process as efficient as possible while maintaining transparency and public engagement. With continued communication, people are starting to acknowledge that the actual timeline issues are not due to the state siting process.*

*Vice Chair Condon expressed her concern regarding previously approved site certificates that may not begin construction as the federal and state incentives have changed or been eliminated, and the impact of such on the state.*

*Director Benner noted the site certificate can be purchased if a developer decides not to move forward on a project. Additionally, even with the clean energy tax credits phasing out, wind and solar energy are still the least cost energy resources and will continue to be.*

*Vice Chair Condon questioned as there is much conversation about energy efficiency, where would the public find information on energy conservation.*

*Director Benner provided within ODOE, there is a subsection of the planning and innovation division called energy efficiency and conservation which develops programs to help reduce energy use at large industrial facilities and help schools become more efficient in their energy usage, as an example.*

*Council Member Devlin noted the expectation for energy efficiency largely relies on more efficient innovations that the public can utilize. He believes that there are limited significant innovations on the horizon that will affect energy efficiency. He also stated one of the biggest issues of getting investments that are necessary, particularly in transmission, is the ability to locate the people who are willing to share the risks.*

*Director Benner stated while data centers are a huge source of energy demand, she believes they could also be a huge source of energy efficiency. There is research currently being done at the national labs into finding efficiencies and conservation for data centers. With the finalized Energy Strategy, ODOE and the State are recognizing how important energy efficiency is to meeting our goals and maintaining affordability and reliability. This allows ODOE to participate in discussions with the Northwest Power and Conservation Council to help bolster the energy efficient goal.*

- E. Public Comment Period (Information Item)<sup>14</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.

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<sup>14</sup> Audio/Video for Agenda Item E = 02:30:08 – 2025-09-19-EFSC-Meeting-Audio/Video

Ms. Wendy King

Ms. King expressed her appreciation for the conversation about conservation. She expressed her concern regarding a change to the Wildfire Prevention and Suppression Plan for the Boardman to Hemingway (B2H) project. Part of her concern is that she was unable to comment about the changes even though they will directly impact her land. She believes that ODOE should be more stringent about fire protection.

*Vice Chair Condon asked how will the changes directly impact her land.*

*Ms. King stated the B2H transmission line divides her property, which is a dry land wheat farm. It is very concerning to her to have these big pieces of equipment not carry the fire suppression supplies that the original mitigation plan required.*

*Mr. Rowe noted that he was just made aware that Ms. King had filed an appeal in Circuit Court of the recent change to the Boardman to Hemingway Fire Prevention and Suppression Plan and recommended there be no further discussion of the matter.*

**F. Government Ethics, Public Meetings Law, and Ex Parte Contact Overview (Information Item)<sup>15</sup> – Patrick Rowe, Senior Assistant Attorney General.**

*Council Member Imes questioned whether ethics laws could affect a Supreme Court affirmation of an EFSC decision for a site certificate.*

*Mr. Rowe stated that an ethical obligation issue would likely be a separate issue from a Supreme Court affirmation of a Council decision.*

*Council Member Beier confirmed her understanding that the Council cannot make any decisions during an executive session.*

*Mr. Rowe confirmed that Rule states Council cannot make any type of decision in an executive session.*

*Council Member Devlin confirmed his understanding that any decision on how to proceed with litigation would be made administratively, not by Council.*

*Mr. Rowe confirmed that was correct. Council may meet in an executive session to discuss issues regarding litigation. Decisions involving litigation strategy are made by the Department of Justice.*

*Vice Chair Condon questioned if the ex parte communication rule ended once a decision has been finalized.*

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<sup>15</sup> Audio/Video for Agenda Item F = 02:39:51 – 2025-09-19-EFSC-Meeting-Audio/Video

*Mr. Rowe confirmed that was correct. Once Council has decided on a final order, Council's process is completed.*

*Chair Howe summarized the presentation stating that if any Council Member learns of something involving any application for a site certificate from anyone that the rest of Council did not learn, the information must be provided to the rest of Council.*

*Council Member Imes questioned whether there is insurance provided to Council Members if there is a litigation issue.*

*Mr. Rowe was unsure and suggested that the question be addressed with the Ethics Commission.*

*Council Member Devlin stated it is his belief that normally the public body, the Council, would not defend an individual member.*

*Mr. Rowe stated he is not aware of any time there have been allegations of ethical violations by Council members. The lawsuits that have been filed, regarding issuance of site certificates, all named the Department of Energy and/or EFSC as a body.*

**G. Modernization Rulemaking Notice of Proposed Rulemaking Consideration (Action Item)<sup>16</sup>**

Tom Jackman, Siting Policy Analyst & Rules Coordinator, presented Staff's draft Modernization Rules for Council's review and potential initiation of formal rulemaking.

*Vice Chair Condon questioned whether the formalization of the process for providing the Department of Defense (DOD) notice of new energy facility applications included in the rulemaking is the result of a request from DOD for flyover paths as was the case for the ORESA mapping tool.*

*Mr. Jackman stated the ORESA tool was created to allow for proper analysis of the impact of proposed projects on Department of Defense assets, right-of-ways, and training areas. This request is an effort for DOD to become aware of projects as early as possible for the same reason.*

*Vice Chair Condon questioned what the alternative ways are for public notices if newspaper circulation public notices are removed from the siting process.*

*Mr. Jackman provided there are the Click Dimension email notifications, notice paper mailings, and notices posted in a common community resource area in the community.*

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<sup>16</sup> Audio/Video for Agenda Item G = 03:16:44 – 2025-09-19-EFSC-Meeting-Audio/Video

*Secretary Esterson noted public notices for projects are always sent to property owners within the site boundary and extending certain distances from the boundary. She added Staff is working with the communication team for additional suggestions to ensure there is no loss in communication.*

*Council Member Imes expressed her concern about the removal of newspaper circulation as it is her belief that there is still a demographic of people that do rely on paper publications, especially in rural areas. In her community, the paper is a major source for community connection. She acknowledged that notices posted in local activity areas are also very useful.*

*Council Member Beier stated her approval for allowing the proposal for the removal of newspaper notices to be included in the Modernization Rulemaking notice with an additional flag to the public that the Department requires their input.*

*Vice Chair Condon questioned whether there were electronic newspapers in rural areas that are utilized by the public. She expressed her concern for the removal of newspaper notices as she believes that the lack of information to the public could allow for public meetings with only opposing viewpoints to a project.*

*Mr. Jackman stated that the proposed change is based on the newspaper's reach and the rapid decline of newspapers and publications in the State. The question is whether to make the change now or in the next 5 years. He noted he will highlight the option of removal within the public notice and request additional suggestions.*

*Council Member Devlin, noting his agreement with Council Member Imes' concerns, stated that if there are not objections to having newspaper notices, there is no reason to cease them.*

*Chair Howe stated as long as the newspaper business in the area is operating, there should be a newspaper notice. If that is not an option, there needs to be additional ways to provide the information to the public.*

Council Member Imes motioned that the Council approve initiation of formal proceedings on the Modernization Rulemaking, with the scope and objectives recommended in the staff report; approve staff to file a notice of proposed rulemaking with the draft rules that are included in Attachment 1 to the staff report; and authorize staff to schedule a public hearing during the public comment period, but with the following changes from the recommendations in the staff report:

Not include removal of all newspaper circulation notification from the siting process

Council Member Devlin seconded the motion.

After further discussion, the motion was carried.

**H. Amendment Rulemaking Final Consideration (Action Item)** <sup>17</sup>— Tom Jackman, Siting Policy Analyst & Rules Coordinator, presented for consideration by Council permanent rules related to Amendments to better align amendments with Rules and Standards and improve the consistency of rules and the amendment process.

*Vice Chair Condon stated her approval, noting the proposed changes make the process easier to understand without adding additional limitations. Receiving comments early in the process is beneficial. She questioned the means in which the public can engage with Staff during the process.*

*Secretary Esterson stated the contact information for the lead analyst, as well as the comment portal information for any specific project is included in the notices. If someone is confused by the process, they can reach out to Staff.*

*Mr. Rowe stated under the proposed new process, if the public comment period is closed, any conversation Staff would possibly have with a member of the public would have to become part of the record in fairness to all parties. If the issue is the person doesn't understand the process, such a conversation would be fine, but it would still need to be reported. The public can contact Staff with questions at any time prior to the comment period closing.*

*Secretary Esterson added with the current process and proposed new process, notice must be issued within 14 days of receipt. Staff is working on a template that explains the process which shows the different resources individuals can utilize to better understand what this notification of the preliminary amendment means, and the same information is provided once the proposed order is issued.*

*Mr. Jackman stated the proposed changes do not change anything about public participation prior to the end of the public comment period. With the proposed changes, the public will receive a response to their comments from the Department and will be able to correct any issues with their comments.*

*Council Member Beier suggested adding columns under the process chevron that would give examples of good comments and responses. Also, presenting this rulemaking as focusing on newer opportunities for public input would be beneficial.*

*Council Member Devlin clarified his understanding that the mandatory response to a public comment allows Staff to communicate any issues with the comment and with the sufficient specificity required for comments to be considered.*

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<sup>17</sup> Audio/Video for Agenda Item H = 03:51:35 – 2025-09-19-EFSC-Meeting-Audio/Video

*Mr. Jackman confirmed that is correct. The next step is the optional reply in which the comments can be updated if the commentor provides revised comments. This provides the public with an opportunity to correct any issues.*

*Council Member Devlin stated many times with Amendment proceedings; it appears that people are trying to relitigate the original site approval which is contrary to what the process should be.*

*Mr. Jackman provided in the new process, if a public comment is an attempt to relitigate the original site certificate, the mandatory response would clarify that information. The new process allows for clarification and timeliness in communication from the public and from Staff.*

*Mr. Rowe clarified the way the rules are written, the mandatory response is only mandatory for the certificate holder, as they are the advocates for their project. The Department will respond at its discretion as Staff is only analyzing whether the project has met the Standards.*

*Council Member Beier noted it is important to make that point very clear to the public.*

*Vice Chair Condon, referring to the removal of the requirement to include an explanation of the need for an extension, expressed her concern as the information is important as it helps Council understand what issues drive the extensions. While it is not necessarily evidence for approval or denial, it is important information.*

*Secretary Esterson provided further explanation for the removal. There is no standard that the Council would use to evaluate the need for the extension. This causes confusion as attorney represented clients want to argue on those reasons, and then the Department is spending time and money to say this is not a substantive requirement.*

*Vice Chair Condon stated the Council approves a site certificate based on the information the applicant has provided. If there is a change to that information, Council should understand the reasons for the change. She stressed that it is not for the approval or denial of an Amendment Request but to utilize the information in future site certificate decisions.*

*Council Member Beier stated many of the amendment requests are asking for a time extension. The new construction timeline is now a statutory requirement. The need for the extension is not necessary.*

*Council Member Imes questioned whether site boundary changes and repowers are considered in the Amendment process.*

*Mr. Jackman stated a site boundary change request could trigger an amendment request, depending on the criteria. He added that a time extension is different than modifications.*

*Council Member Imes questioned the Department's role in determining interest in a project to determine whether a meeting should be held in the local community.*

*Mr. Jackman stated that in Rule, a meeting would be held in the local vicinity of the project unless Council made a determination that a change was warranted.*

*Secretary Esterson provided if a change of location is in question, it would be proposed to Council within the Council Secretary Report at a Council meeting.*

*Council Member Imes questioned if the Council makes its determination for an Amendment Request after the sur-reply in the comment process.*

*Mr. Jackman stated the comments would then go to Staff for evaluation. Staff will then make final recommendations to the Council before Council makes a decision.*

*Council Member Beier acknowledged there is a perception among the public that there is a loss due to the changes to contested cases. She reminded that there are 2 comment periods as well as a response to comments built into the process. The timeframe for comments has been extended to 7 days past the hearing to allow for additional comments and responses. Council can also extend the 7-day timeframe if it deems it necessary.*

*Secretary Esterson clarified there are limited reasons to extend the comment period. The Department has considered the complexity of the amendment process and has built in additional time on both the front and back end. Most of the need to extend the comment period past the hearing was to allow the certificate holder time to respond to comments. With the new process providing for earlier comments and responses, that should not be an issue.*

*Council Member Beier concluded that the changes provide more opportunities to participate in the process and that participation will be of additional value.*

Council Member Beier motioned that the Council adopt the proposed Amendment rules as presented in the Staff Report.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

- I. Council Appointment to the Oregon Climate Trust Offset Committee (Action Item)<sup>18</sup> –**  
Sarah Esterson, Senior Policy and Operations Advisor and Acting Council Secretary. The Council received a brief overview of The Climate Trust's Oregon Offset Committee, which

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<sup>18</sup> Audio/Video for Agenda Item I = 05:11:15 – 2025-09-19-EFSC-Meeting-Audio/Video

makes decisions regarding the use of carbon offset funds received as part of the Council's carbon standard. The Council then considered appointing a Council member to the Oregon Offset Committee.

Council Member Devlin motioned that the Council reappoint Vice-Chair Cindy Condon to the Oregon Offset Committee of The Climate Trust for a term starting on October 23, 2024 and concluding on October 22, 2028.

Council Member Beier seconded the motion.

The motion was carried unanimously.

**The meeting was adjourned at 2:15 pm**

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