

DRAFT Board of Forestry Meeting Minutes

Oregon Department of Forestry - **State Forester’s Headquarters**
2600 State Street
Tuesday, November 29, 2016

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Items listed in order heard.

In accordance with the provisions of ORS 526.016, a meeting of the Oregon Board of Forestry was held on November 29, 2016 at the Oregon Department of Forestry, State Forester's Headquarters Office, 2600 State Street, Salem, Oregon 97310.

1. Executive Session (closed to public except Media)

Board Members Present (via phone):

Nils Christoffersen
Tom Insko
Mike Rose
Tom Imeson (Chair)

Not Present

Cindy Deacon Williams
Sybil Ackerman-Munson

Chair Imeson called the meeting to order at 3:15 p.m. and proceeded with the formal Executive Session announcement.

The Board of Forestry entered into Executive Session for the purpose of consulting with legal counsel regarding the Board's legal rights and duties in regards to current litigation or litigation likely to be filed [ORS 192.6600(2)(h)].

No decisions were made during Executive Session.

Moved from Clatsop room to Tillamook Room for Public Session:

Chair Imeson called the public meeting to order at 4:00pm.

Board Members Present (via phone):

Nils Christoffersen
Sybil Ackerman-Munson
Tom Imeson (Chair)

Tom Insko
Mike Rose

Not Present

Cindy Deacon Williams

ACTION AND INFORMATION:

Started public meeting at 4:09pm

2. Review of Board's Final Order Regarding Petition for Rulemaking on Marbled Murrelet Sites

The Board of Forestry may discuss their previous decision to deny the Petition to Initiate Rulemaking under specified resource sites for the Marbled Murrelet, received on Tuesday June 21, 2016.

[Listen to audio](#) MP3 – (14 minutes –6.6 MB)

Chair Imeson: This meeting is a public session following an executive session. The only item we are looking at today is to review the Board's final order regarding the petition for Rulemaking on the Marbled Murrelet.

Role call:

Sybil Ackerman Munson

Nils

Tom Insko

Mike rose

Cindy deacon Williams (not here)

Tom Imeson

Lena Tucker, the Private Forest Division Chief for the Oregon Department of Forestry gave a summary of the subject. The Board's Private Forests division and work plan identifies priority issues for 2016-17, which includes specified resource sites policy review under the Forest Practices Act. The June 26 petition specific to Marbled Murrelet asked that the Board of Forestry:

1. Collect and analyze the best available information,
2. Conduct a resource site inventory, and
3. Adopt rules to protect resource sites and develop a process to identify new sites.

At the July Board of Forestry meeting, the Board considered the petition for rulemaking, reviewed a report, a presentation, and comments from both agency staff and the public. After careful consideration and acting within their authority under the Administrative Procedures Act, the Board voted to deny the petition for rulemaking. Going forward the Board may wish to discuss their previous decision to deny the petition to initiate rulemaking under specified resources sites for the Marbled Murrelet, which was received on June 21st 2016.

No questions

Public Comment

Heath Curtiss with the Oregon Forest Industries council made public comment. He was delighted to see that everyone was able to join by teleconference. Mentioned how it was a remarkable example of efficiency that the Board was able to put so many people together on such short notice. Unfortunately for the public there is not a great deal of knowledge about why this meeting had to be put together on short notice. He wants to bring to attention that the Board has large statutory mandates and there are many including this one. He suggested the idea that if outside parties can drive priorities of the Board by submitting petitions that will only serve to prompt more petitions. He thinks the Board's legal argument is strong and encouraged them to stand behind their original decision if only for good governance of the Board. More than that, to the degree that the Board decides to deviate from its decision in July, he notes that out of all the endangered species on forest lands on Oregon, the Marbled Murrelet is one that seems to be doing fine. In Oregon and Washington in zones three and four, the populations are trending upward. Were one to choose a priority in doing resource inventories, he suggested that the Marbled Murrelet may not be the highest on the list. He also suggested that a better path may be to analyze Board policy with respect to resource sites and choose those which merit the most attention now. He is sure that other disagree, but it is impossible for him to know what happened in executive session, but he hopes that the Board conducts its business as it has before and sticks with their decision.

Bill Kluting, with Carpenters Industrial Council, urged the board to continue to fight these appeals, and indicated that this is something that the state of Oregon cannot afford to lose. He strongly encourages the Board and the State of Oregon to fight these appeals.

No questions.

Chair Imeson posed the first motion, which is that the Board issue a written order that withdraws and reverses its August 1, 2016 order denying the Petition for Rulemaking, and will now accept the Petition for Rulemaking, and immediately commences the rulemaking process consistent with ORS 527.630-721 and OAR Chapter 629, Division 680.

Is there a second to that motion?

Nils Christoffersen seconded the motion.

Discussion:

Tom Insko mentioned the challenge in coming together on such short notice, there is a question that he had which would be more appropriate during executive session. So that is the only challenge for him. He requested to go into executive session.

Chair Imeson responded that they can go into executive session for the purpose of conferring with Legal Counsel.

Tom Insko asked if they could go into executive session again with a motion on the table.

State Forester Daugherty responded that they could go into executive session with a motion on the table.

Chair Imeson stated that: The Board will now meet in Executive session, pursuant to ORS192.660.2 (h) to confer with legal counsel regarding the Boards rights and duties related to current litigation. Representatives of news media shall be allowed to attend the executive session, all other members of the audience are asked to leave the room. News media is not to report on any of the deliberations or anything said in executive session except to state the general subject of the session as previously announced. No decision will be made in executive session, and after the session it will be opened back to public attendance.

Room Cleared for executive session.

Chair Imeson called the executive meeting to order at 4:24 p.m.

The Board of Forestry entered into Executive Session for the purpose of consulting with legal counsel regarding the Board's legal rights and duties in regards to current litigation or litigation likely to be filed [ORS 192.6600(2)(h)].

No decisions were made during Executive Session.

Chair Imeson reconvened the Board into public session at 4:34 p.m.

[Listen to audio](#) MP3 – (6 minutes –3.3 MB)

Chair Imeson mentioned there is a motion on the table. Is there any questions from Board members on this issue?

No questions.

Chair Imeson: takes the Vote on Motion 1:

Sybil: Yes

Nils: Yes

Tom Insko: Yes

Mike Rose: Yes

Tom Imeson: Yes

ACTION: Motion carries for the Board to: **issue a written order that withdraws and reverses its August 1, 2016 order denying the Petition for Rulemaking, and will now accept the Petition for Rulemaking, and immediately commences the rulemaking process consistent with ORS 527.630-721 and OAR Chapter 629, Division 680.**

Chair Imeson made the second motion to direct staff to commence the rulemaking process and report back to the board. The motion is that the Board direct the department to

1. Under ORS 527.710(3)(a), the board will collect and analyze the best available information using as a starting point the petition submitted by the petitioner, the department should determine whether the petition satisfies the requirements for a technical review paper and if it does commence a review of the paper pursuant to ORS 629.680.0100(1)(b),
2. Establish inventories of the resource sites relating to Marbled Murrelets, and
3. Use the procedures outlined in ORS 527.630-721 and OAR 629, Division 680 to evaluate the merits of the petition and report back on progress and near term plans at the March 8, 2017 meeting.

Mike Rose Seconded the motion.

Tom Insko commented that actions the Board is taking is with limited clarity to the general public. Will there be future opportunities for the public to be able to comment on this and provide insight? Or is commentary possible at this time?

Chair Imeson asked if there was any additional comments from the public?

No comments from the Public.

State Forester Daugherty mentioned that there is always room for additional comment at the start of every future board meeting where this topic can be addressed by the public at that time. This topic will be coming back onto the agenda at the March meeting depending on approval of the second motion and there would be opportunity for public comment during that time as well.

Tom Insko wanted to also address the priority of species and hopes that the department will work with staff to begin to identify a way to ensure that the Board does not find itself in this situation once again where prioritization is being based on legal action rather than need.

Chair Imeson suggested that the Private Forest department could get something back regarding that, at the same time that we get the report back as the result of this motion, in March. He mentioned that a recommendation at that meeting responding to prioritization would be very good.

Vote passed and carries.

ACTION: Passed the Motion to: 1. Under ORS 527.710(3)(a), the board will collect and analyze the best available information using as a starting point the petition submitted by the petitioner, the department should determine whether the petition satisfies the requirements for a technical review paper and if it does commence a review of the paper pursuant to ORS 629.680.0100(1)(b), 2. Establish inventories of the resource sites relating to Marbled Murrelets, and 3. Use the procedures outlined in ORS 527.630-721 and OAR 629, Division 680 to evaluate the merits of the petition and report back on progress and near term plans at the March 8, 2017 meeting.

Chair Imeson concludes the meeting and thanked everyone for coming.

With no further business before the Board, Chair Imeson adjourned the public meeting at 4:41pm.

Respectfully submitted,

/s/ Peter Daugherty



Peter Daugherty, State Forester and
Secretary to the Board

JN