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OREGON TRANSPORTATION COMMISSION

Minutes of the Regular Monthly Meeting
March 24, 2004
Salem

On Wednesday, March 24, at 8:00 a.m., the Oregon Transportation Commission (OTC) and ODOT staff held a briefing session and reviewed the OTC agenda. The regular monthly meeting began at 9:48 a.m.

Notice of these meetings had been made by press release of local and statewide media circulation throughout the state. Those attending part or all of the regular meeting included:

Chair Stuart Foster	Interim Chief of Staff Lori Sundstrom
Commissioner John Russell	Public Transit Manager Martin Loring
Commissioner Gail Achterman	Transportation Dev. Admin., Craig Greenleaf
Commissioner Randy Papé	Region 1 Manager Matthew Garrett
Commissioner Mike Nelson	Region 2 Manager Jeff Scheick
Director Bruce Warner	Region 3 Manager Paul Mather
Communications Administrator Patrick Cooney	Region 4 Manager Bob Bryant
Trans. Safety Administrator Troy Costales	Region 5 Manager Tom Schuft
Interim Rail Administrator Lorna Youngs	Commission Secretary Jill Pearson



Director's report highlights:

- ODOT continues to watch U.S. highway bill reauthorization activities. Representatives DeFazio and Blumenauer are on the House committee that is reviewing the bill. The U.S. House is trying to bring the bill in at \$275 billion, down from the original level of \$375 billion. The administration continues to say they won't go any higher than \$259 billion.

Another area of interest is the formula for how the new money will be distributed. Oregon's share of funding went down in the U.S. Senate bill and the House bill funding level is uncertain.

Still to be decided is how to include a "re-opener" provision that would allow Congress to return to the legislation in a year or two to raise funding levels. It could take the form of a one or two-year authorization for the entire highway program, forcing an opportunity

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to revisit Highway Trust Fund revenues. Director Warner advised he would keep commissioners posted on the reauthorization bill status.

- On March 10 Director Warner and ODOT staff presented several topics at the Joint Legislative Interim Committee on Transportation and Economic Development in Fairview. He and Matt Garrett discussed the importance to the state of the I-5 trade corridor and the ongoing coordination between ODOT and the Washington Department of Transportation on the Columbia River crossing. John Rosenberger provided an update on the selection of HDR Engineering and Flour Enterprises as ODOT's OTIA III Bridge Replacement Program Manager. Matt Garrett provided information on Statewide Transportation Improvement Program (STIP) projects in the eastern portion of Region 1. Jim Whitty, Manager of ODOT's Office of Innovative Partnerships and Alternative Financing, updated the committee on the Road User Fee Task Force and a panel that included ODOT's Statewide Maintenance Engineer, Doug Tindall, talked about studded tire damage and options.
- In response to a January request from the Commission, the Transportation Development Division put together a work plan and schedule to review freight system needs that should result in a report with recommendations to the Commission at its August 2004 meeting. Director Warner asked the Commission to direct comments or questions to him or Craig Greenleaf.
- ODOT's Motor Carrier staff worked with the Oregon Farm Bureau, Oregon Wheat Growers and individual hay haulers, the Oregon Department of Agriculture and the local federal Motor Carrier Safety Administration staff to arrive at an interpretation of a new federal rule requiring interstate and intrastate operators to secure hay loads. This interpretation has been forwarded to the national Motor Carrier Safety Administration for concurrence.
- Matthew Garrett was selected as the Region 1 manager for the Portland Metro Area after a lengthy and competitive recruitment process. He has been the Acting Region 1 manager since last June and is doing a great job building relationships and improving communication with stakeholders and local government partners.
- Tom Wildish of Wildish Construction invited Director Warner to talk to business owners in the Eugene area. Director Warner updated the group on the current state of ODOT and some of the changes the department is making. He also had the opportunity to tour the detour bridge work that the firm is doing on the McKenzie and Willamette Rivers. Wildish is doing amazing things to minimize truck traffic on I-5 by building a new aggregate bridge over the McKenzie River to connect the land holdings on the north and south sides so they don't have to relocate their facilities or have so many trucks hauling rock on I-5.



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Commission member reports included the following information:

Commissioner Russell went to Washington, D.C., with Commissioner Achterman and others from the Joint Policy Advisory Committee on Transportation (JPACT) to meet with members of Oregon's Congressional delegation. While in D.C., the Portland Business Alliance also met with the delegation. He met with Martin Loring after volunteering to chair a committee that will look at the allocation of the last half of public transit monies. Commissioner Russell offered to produce, at his cost, a video that will focus on transit providers and what they do for the elderly and disabled, especially in rural areas. Commissioner Russell also serves on a steering committee that is looking at the final light rail alignment on the Portland Transit Mall. Lastly, he serves as an ODOT representative on the committee looking at the I-5/I-405 loop in downtown Portland.

Commissioner Achterman went to Washington, D.C., the first week in March with JPACT. Additionally, she is working with ODOT's planning and development staff to update the Oregon Transportation Plan (OTP). The second meeting of the OTP Steering Committee will be held April 2, and she promised the Commission will hear regular updates on that planning process. The integrated transportation and land use model will be used, which should result in a more robust and understandable plan.

Commissioner Papé met with the Cascades West Area Commission on Transportation. He heard a presentation on how the ACT interacts with the new Corvallis Metropolitan Planning Organization. He also met with the Lane Metropolitan Planning Committee. Both committees are focusing on Oregon Transportation Investment Act projects. Commissioner Papé attended the Eugene/Springfield area community leaders meeting that Director Warner spoke at and toured the I-5 McKenzie River and Willamette River Bridge projects. Both projects have regular tours each month.

Commissioner Nelson acknowledged the Freight Advisory Committee, Highway Bridge Replacement and Rehabilitation Committee, and ODOT staff for the work that went into the local bridge project selection process, which was very well received. He has been working with state agencies and the Governor's Office on better communications with ODOT with economic development in mind as the priority. He also reported that severe winter weather conditions have finally subsided in Eastern Oregon, making roads much safer.

Chair Foster also recently went to Washington, D.C., with Jason Tell, ODOT Government Relations, and Chris Warner, the Governor's Transportation Policy Advisor, and met with members of the Oregon Congressional delegation. He found the trip to be very educational and positive.

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Public comments were received from the following individual:

Jim Just, Executive Director of Goal One Coalition, discussed the proposed Lebanon Bypass (Reeves Parkway). He made the Commission aware that the City of Lebanon proposes to include the bypass in its draft transportation system plan, scheduled for adoption later this year, without going through the process of determining whether a bypass solution is appropriate and identifying the mobility and safety problems that must be addressed long term, as required by the Oregon Highway Plan Bypass Policy 1H. He said that ODOT is aware of and seems to agree with the city's strategy. As a result, no viable alternatives to a bypass are being studied. (Written comments in General Files, Salem.)

The Commission asked ODOT staff to follow-up on this issue.



Chair Foster opened the public hearing on the amendment of the Oregon Administrative Rule 734-020-0010, relating to the process for setting speed limits on interstate highways. He read a summary of the notice that was published in the Secretary of State's *Oregon Bulletin* on March 1, 2004. The notice was entered in the record as Exhibit 1. (Background material as well as Exhibit 1 in General Files, Salem.)

Ed Fischer, State Traffic Engineer, briefed the Commission on the rule. He said House Bill 2661 allows ODOT to raise speeds on interstate highways if it is determined that it is reasonable and safe to do so. The Governor's letter of direction to the Commission and department required an administrative rule revision and to consider certain specific factors. The department determined early on that a two-step process was necessary. The first is the OAR that will define the procedures for determining and establishing interstate speeds, and the second step is the OAR that establishes or documents what those speeds would be. Today's public hearing is one of the final steps before completion and adoption of the procedural administrative rule.

He explained the draft first phase rule was mailed to small business groups and interested parties in late November 2003. The Commission was briefed on the planned approach in December. ODOT received approval from the Commission to proceed. A technical advisory committee was formed, and the Speed Zone Review Panel held its first meeting in January. Committee members include Lt. Gary Miller, Assistant Director of Patrol Services at Oregon State Police; Cynthia Schmidt, Marion County Traffic Engineer; Dr. John Tongue, Oregon Transportation Safety Committee Chairman; Dorothy Upton, from ODOT's Transportation Planning and Analysis Unit; and Brant Williams, Portland City Engineer. Mr. Fischer acknowledged the Committee members

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attendance at today's meeting (with the exception of Brant Williams who was unable to attend) and the valuable assistance they provide.

In February, five public meetings were held in La Grande, The Dalles, Grants Pass, Eugene and Portland. Today is the last day public comments will be taken on the procedural administrative rule. After today's meeting, given the direction from the Commission, ODOT will finalize the rule and bring it back for formal adoption at the April Commission meeting.

The department will then begin phase two, completing the compilation of information and data being collected for the interstates. Mr. Fischer advised that the Speed Zone Review Panel plans five more public meetings in May at the same locations mentioned above to get the public's input on what they believe speeds should be.

Later in the summer, staff will bring the interstate speed recommendations to the Commission at a public hearing and formal adoption at the August or September meeting.

Public comments were received from the following individuals:

- Mike Lavery, Depoe Bay businessman, owner of Fuddy Duddy Fudge and Board President of Alliance for Community Traffic Safety known as (ACTS Oregon). Mr. Lavery voiced concerns about the proposed rule. He proposed several changes and additions.
- Jim Anderson, Oregon Chapter of the American College of Emergency Physicians. Mr. Anderson testified at the public hearing in Portland on February 27. He thanked ODOT staff for including a great deal of his comments in the proposed rule and he outlined the areas for which he still had concerns. (Exhibit 2 in General Files, Salem.)
- Dr. John Tongue, orthopedic surgeon practicing in Tualatin and speaking as Chair of the Oregon Transportation Safety Committee. He thanked ODOT staff for recently responding to his January 11 letter. Dr. Tongue discussed his concerns and suggested changes to the proposed rule. (Handout material marked Exhibit 3 in General Files, Salem.)

In regard to comments made by Dr. Tongue about a report titled "Interstate Rural Speed Limits, The Effect of Speed Limit Changes on Fatal Crashes", prepared by the Oregon Transportation Institute, the Commission asked ODOT to locate the qualifications for the author, Melvin Y. Zucker, and follow up with the Commission at a later date. (Note: Copy of report included in Exhibit 3, in General Files, Salem.)

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The Commission asked whether it might be appropriate to change speed limits for time of year or time of day and if there are data to support this type of change in speed limits.

Dr. Tongue responded that there are data that show seasonal variations. In most western states the highest risk months are July and August, not the winter months. The data also indicate that the great majority of fatalities occur during daytime. However, per vehicle mile, it is much more dangerous at night. There are many more drunk drivers at night. There are state data on time of day of fatalities and national data regarding seasonal variations. There are also data about stopping distances on different surfaces and different surface conditions.

The Commission asked if data were available for two-lane highways that have many curves and no passing zones. Under winter conditions, the snow melts during the day and then freezes quickly in the evening. It is all too common for trucks to hit the median while trying to pass another truck. The geometry is tighter in the number-one-lane than it is in the number-two-lane.

Dr. Tongue advised that Lt. Gary Miller, Oregon State Police, conducted a study comparing 26 miles of road on either side of the Oregon/Idaho border and what the impact of the speed increase in Idaho has meant to them compared to Oregon roads, which are actually more adverse than those in Idaho. He suggested the Commission contact Lt. Miller. He also commented that when posted speeds are increased the variance also increases. When trucks are going up hill, they slow down much more than do passenger vehicles. If the trucks do not maintain right-lane discipline the risks increase.

The Commission asked whether electronic signage that can easily be changed would be practical for Oregon. Dr. Tongue said that some experts think that in 5 to 10 years the United States will be using electronic signage extensively, as is currently done on the Autobahn in Germany.

- Chuck Gilles, farmer/businessman and former volunteer fire fighter from Donald. Mr. Gilles' concerns mirrored many of those expressed by the other speakers. He told the Commission about an almost fatal crash in which he was involved on Ellen Road. Another driver traveling at 70 miles per hour hit his vehicle from behind as he was stopped to make a left-hand turn. He noted that speeds seem to have increased after stop signs were removed from Ellen Road.

In response to the Commission's inquiry on how best to proceed, Ed Fischer requested a meeting transcript so he and his staff could review the suggestions with the technical advisory committee before responding to the Commission. He asked the Commission to let him know which suggestions were important to the Commission. ODOT would then modify the OAR accordingly and have it ready for adoption at the April Commission meeting and proceed with the scheduled public meetings in May.

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In response to the Commission asking if adoption could be held off to May instead of April, Dale Hormann, Assistant Attorney General, Department of Justice, voiced concern that, without the process rule having been adopted before the May public meetings, the process rule would be adopted after the meetings, which could trigger the need for additional meetings. He advised that any meetings held before the rule is in place probably will not be as responsive to the process rule and that subsequent meetings after the adoption of the rule would still be needed.

The Commission agreed with legal counsel's interpretation and will proceed toward adoption in April, but asked whether significant revisions to the proposed rule could be made without renoticing the rules. Dale Hormann advised the notice that was provided is broad enough and substantive changes to the rule can be made without further notices.

The Commission requested ODOT staff prepare and circulate as soon as possible to each Commission member a revised draft rule, showing where ODOT is responsive to the public and Commission comments and to identify out-standing issues. Each Commission member agreed to send Mr. Fischer a list of their key issues, after which staff will revise the draft rule accordingly.

The Commission shared their comments not raised during the public hearing:

- In the reporting section of the OAR, the department should consider analysis for the particular speed request being considered, and in federal National Environmental Protection Agency (NEPA) language, the programmatic analysis, which in many cases would be the same no matter which segment is being reviewed, the department should differentiate between what it is going to report in every case that comes before the Commission and what kind of report it is going to prepare on the overall health, economic, environmental impacts.
- A legal standard definition is needed that the department will apply when making decisions based on report information. The statement *greater or less than is reasonable or safe* in subsection 2, d, could be an acceptable  standard.
- The Commission would rather not accept applications to conduct investigations. However, if applications to conduct investigations are submitted, all the studies should be done ahead of time by the applicant, at the applicant's expense, and not using the department's limited manpower or revenue.
- Include a provision for automatic revocation. If investigations indicate an increase in crash rates - without any more studies or without any more proceedings - the Commission needs the ability to revoke the increased speed.
- The Commission asked Ed Fischer if ODOT could consider the possibility of using electronic signs to indicate speed limits which could be changed as

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needed. Mr. Fischer said it is technically feasible, but impractical from a cost standpoint. He offered to prepare an assessment addressing the possibilities of variable speed signs.



Chair Foster presented a 15-year service pin to Dr. John Tongue for his significant service to the citizens of Oregon, acknowledging that:

Dr. Tongue has been a member of the Oregon Traffic Safety Committee since 1989 and has served as Chair since 1992. He also is a Speed Zone Review Panel member and has been active in traffic safety policy and political arenas since 1983.

Dr. Tongue's work in traffic safety has been nationally recognized. In February 2003, he received the American Academy of Orthopedic Surgeons Annual Humanitarian Award. His contributions to improving the safety of the traveling public are numerous and significant.

Highlights include sponsoring a ballot measure in 1990 that established Oregon's Safety Belt Law. In 1983, Oregon's seat belt usage rate was 19%. Today our seat belt usage rate is 91%, one of the top four in the country and in the world. The OTC and ODOT believe this law is responsible for saving more than 1,000 lives and protected more than 70,000 citizens from injury since its enactment.

Dr. Tongue founded Pledge America, a nonprofit organization committed to education of civic organizations on the dangers of drunk driving and is a past member of the Governor's Advisory Committee on Driving Under the Influence of Intoxicants, as well as serving a key role in the development of Oregon's graduated driver's license program.

Chair Foster commented he was pleased to recognize Dr. Tongue's contributions and that Oregon has benefited greatly from his unstinting investment of time, energy and expertise to the cause of traffic safety.



The Commission moved to Agenda Item G. Jessica Harris-Adamson, Oregon Highway Users Alliance President, provided information regarding the Alliance and introduced several of its members. The Alliance is an organization of about 30 different associations connected to transportation in Oregon in one way or another. Its goal is to promote safety and mobility on Oregon's transportation system. The Alliance's primary function is to educate legislative candidates and legislators about transportation system issues and provide an environment for legislators to express and receive feedback on different transportation initiatives from different association perspectives. Ms. Harris-

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Adamson acknowledged ODOT and the Commission for helping deliver transportation initiatives, especially the OTIA packages.



The Commission considered approval of the Annual Evaluation of the 2003 Transportation Safety Performance plan. The annual report summarizes the major safety issues and goals and how those goals were approached, as well as what funds were spent. Areas analyzed include bicycle safety, community traffic safety programs, employer safety, impaired driving, motorcycle safety, occupant protection, pedestrian safety, police traffic services, roadway safety, work zone safety, driver education, speed and youthful drivers. (Background information in General Files, Salem.)

Troy Costales reported the Plan represents approximately \$24.8 million (including ODOT Safety Division, federal and state funding, and match money) and accomplishes more than 500 statewide projects. He also explained current reporting on impaired driving covers drug and alcohol impairment. The Commission asked how future reporting on impaired driving could be expanded to include other types of impairment such as cell phone use, reading, and playing digital video discs while driving and how these issues compare to drug and alcohol related impairment issues. The Commission did not request an immediate response to this question.

Commissioner Achterman moved to approve the 2003 Oregon Traffic Safety Performance Plan and except the Annual Report. The motion passed unanimously.



The Commission considered approval of a proposed proclamation for the Governor's signature designating May 2004 as Transportation Safety Awareness Month. (Background information in General Files, Salem.)

Troy Costales provided information on this longstanding annual effort, noting that Oregon celebrates the importance of transportation and transportation safety each year during the month of May. Popular activities typically include National Safe Kids Week, Buckle Up America Week, Bicycle Safety Month, "Sober Grad" events and other transportation safety related activities.

Commissioner Russell moved to approve the proclamation for the Governor's signature designating May 2004 as Transportation Safety Awareness Month. The motion passed unanimously.



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The Commission considered approval to submit 26 legislative concepts for the 2005 legislative session. (Background information in General Files, Salem.)

Joan Plank, ODOT Government Relations Manager, stated ODOT divisions have proposed changes to statute that will improve efficiencies, program effectiveness and correct some inconsistencies in the laws. The next step is to submit the concepts to the Department of Administrative Services. During the summer months, staff will work with Legislative Council to get the bills drafted and filed before the 2005 Legislative Session.

Commissioner Russell moved to approve the filing of legislative concepts with the following two placeholders: 1) a statutory change that might be recommended by the review of the Rail Division's programs; and 2) potential legislative initiatives that may result from conversations about a multimodal agenda that may include freight, rail, marine and aviation components to improve Oregon's economy. The motion passed unanimously.



The Commission considered approving revisions to the Immediate Opportunity Fund Policy Guidelines. Craig Greenleaf explained the revisions include minor housekeeping adjustments, clarification of current practices, and increases the maximum amount available for a single Type A project from \$500,000 to \$1,000,000. Type A projects are those that include specific economic development components that affirm job retention and job creation opportunities. The new budget level is \$7,000,000 for the 2003-05 biennium. (Background information in General Files, Salem.)

Commissioner Papé moved to approve the revisions to the Immediate Opportunity Fund Policy Guidelines. The motion passed unanimously.



The Commission approved the next two meeting dates as:

- Wednesday and Thursday, April 28 and 29, in Coos Bay.
- Wednesday, May 19, in Salem.



The Commission considered approval of the following Consent Calendar items:
(Background material in General Files, Salem.)

1. Minutes of the February 19, 2004, Commission meeting in Bend.
2. Resolution for authority to acquire real property by purchase, condemnation, agreement or donation.

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3. The following Oregon Administrative Rule (OAR) actions:

a.	Amendment of OAR 735-062-0020 and 0030 relating to proof of age, identity and residence address.
b.	Amendment of OAR 740-110-0080 and 0090 relating to inspection of radioactive material shipments.
c.	Repeal of OAR 741-050-0010 through 0270 and 741-055-0010 relating to regulation of Intrastate Rail Rates.
d.	Amendment of OAR 741-520-0010 relating to re-adoption of federal rail statutes.

4. Amendment to the 2004-2007 Statewide Transportation Improvement Program (STIP) by canceling the OR 233: Johnson Creek culvert project from the STIP and adding back in \$568,000 to the Culvert Program. This project is located in Yamhill County on the Amity-Dayton Highway.

5. Addition of FY2004 Omnibus Appropriation Bill projects to the 2004-2007 STIP (Environmental Impact Study for OR 22 at the Cordon Road Interchange, \$500,000; and Environmental Impact Study for the Salem Bridge, \$400,000.)

6. Amendment to the 2004-2007 STIP by canceling the Frankport Slide Repair project on US 101 between Gold Beach and Port Orford in Curry County, and transferring the funding to the Truax Slide Repair project on OR 38 between Elkton and Drain in Douglas County, adding the Truax Slide Repair project to the STIP in program year 2006.

7. Oregon Transportation Investment Act 1 (OTIA I) project scope change to restore rather than replace the historic Beaver Creek Bridge on the Columbia River Highway in Multnomah County. No impacts to the proposed cost and schedule result from this request, which was reviewed and approved by the Highway Bridge Replacement and Rehabilitation Committee and the OTIA Steering Group.

Commissioner Russell moved to approve the consent calendar items, deleting Item # 1, the February 19 Commission meeting minutes, so that revisions can be made. Approval of those minutes will be considered at the April meeting. The motion passed unanimously.



Chair Foster adjourned the formal meeting at 12.30 p.m.

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Stuart Foster, Chairman

John Russell, Member

Gail Achterman, Member

Randy Papé, Member

Mike Nelson, Member

Jill Pearson, Commission Secretary