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OREGON TRANSPORTATION COMMISSION

Minutes of the Regular Monthly Meeting
May 19, 2004
Salem

On Wednesday, May 19, at 8:00 a.m., the Oregon Transportation Commission (OTC), and Oregon Department of Transportation (ODOT) staff held a briefing session and reviewed the OTC agenda. The regular monthly meeting began at 9:30 a.m.

Notice of this meeting was made by press release of local and statewide media circulation throughout the state. Those attending part or all of the meeting included:

Chair Stuart Foster	Motor Carrier Trans. Admin. Gregg Dal Ponte
Commissioner Gail Achterman	Public Transit Manager Martin Loring
Commissioner Randy Papé	Interim Region 1 Manager Matthew Garrett
Commissioner Mike Nelson	Region 2 Manager Jeff Scheick
Director Bruce Warner	Region 3 Manager Paul Mather
Deputy Director for Highways John Rosenberger	Region 4 Manager Bob Bryant
Deputy Director for Central Services Mike Marsh	Region 5 Manager Tom Schuft
Communications Administrator Patrick Cooney	Chief Engineer/Tech. Serv. Mgr. Cathy Nelson
Trans. Development Admin. Craig Greenleaf	Commission Secretary Jill Pearson

Chair Foster called the meeting to order at 9:38 a.m.



Director's report highlights:

- Earlier this year, the House and Senate adopted separate legislation to reauthorize TEA-21, but the differences have yet to be reconciled in a conference committee. Congress and the President have until June 30 to enact a new authorization bill or another extension of TEA-21. Little progress has been made to reconcile the two bills. The main difficulty has been reaching agreement on an overall funding level. The White House has threatened to veto any bill authorizing more than \$256 billion, the size of the Administration's reauthorization proposal. The House bill (TEA-LU) would authorize a total of \$275 billion and the Senate bill (SAFETEA) would authorize a total of \$318 billion over six years. In comparison, TEA-21 authorized \$218 billion over six years.

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Republican leaders in the House and Senate had hoped to agree on an overall funding level before appointing a conference committee but negotiations broke down when the White House refused to budge from its \$256 billion position. Republican leaders then announced they wanted to proceed to conference without an agreement on the overall funding level but Senate Democrats balked. Democrats feel they have been shut out of prior conferences and want a “pre-conference” agreement with assurances that they will have a seat at the table.

The Commission wrote the Oregon Congressional Delegation last month outlining the state’s priorities for conference. Jason Tell, ODOT Government Relations, will be heading back to Washington, D.C. soon to follow up with the Congressional Delegation.

- The recently passed 2004 Omnibus Appropriations Bill includes language (Sec. 115, "Surface Transportation Projects Program") that earmarks a number of projects nationwide. States must pay for these projects from their federal formula funds. This is a new approach to earmarking. Usually when Congress earmarks projects in the annual appropriations bill, states receive added dollars to pay for them. It is unclear if the Appropriations Committee meant to draft the language this way or if it was a mistake.
 - There are eight Oregon projects earmarked (see below) totaling \$6.65 million: three are state projects and five are local projects.
 - We have contacted the Congressional Delegation and are working with them to find out more information.
 - We have begun notifying local project sponsors of the issue.
 - ODOT will pay for state projects; local governments will pay for local projects. More specifically:
 - The projects identified under the Transportation Metropolitan Area (TMA) categories will be funded out of the STP Urban funds provided to these TMAs by FHWA.
 - The other two local projects do not have a dedicated fund source so they must be paid from ODOT’s Federal share. However, ODOT, through our agreement with AOC and LOC that stipulates the sharing of STP funds, will seek reimbursement from AOC/LOC.
 - Although the action stated was created by Congress, ODOT recognizes this action will create undue hardships for those local entities. As such, ODOT

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wants to make available funding from the Oregon Transportation Infrastructure Bank (OTIB) to local entities.

- What came out of the Appropriations Bill was from the direction of Congress. Neither FHWA nor ODOT was aware of the requirement Congress placed on the funding of these projects. And because these projects are part of law, we are required to fund them.

ODOT

I-205, Oregon (adding a lane between the Safford Interchange & I-5)	1,000,000
Bridge repair between Bend and Ontario	<u>250,000</u>
Sub-Total	\$1,250,000

PORTLAND TMA

Sunrise Corridor (Complete EIS for Unit 1)	500,000
Sub-Total	\$500,000

SALEM TMA

EIS Salem Bridge	400,000
Salem Area Transit-South Salem Transit Center	<u>750,000</u>
Sub-Total	\$1,150,000

EUGENE TMA

Lane Transit District Bus Facilities	<u>750,000</u>
Sub-Total	\$750,000

AOC/LOC

Bear Creek Greenway (Medford/Jackson County)	2,000,000
Umatilla Intermodal Facility	<u>1,000,000</u>
Sub-Total	\$3,000,000

TOTAL **\$6,650,000**

- ODOT, through the Transportation Safety Division, has sponsored multiple training events over the last 60 days.

In April, more than 60 judges attended a two-and-a-half day Oregon Judicial Workshop on Highway Safety in Hood River. Training sessions included DMV issues, aggressive driving, safety belts, speed, and driving under the influence of intoxicants.

A highway safety update for school resource officers drew over 100 school resource officers in an inaugural training in Tigard, also in April. The one-day

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training covered teen programs on minor-in-possession, graduated licensing, school attendance and suspensions, and school zone law changes.

Over 150 law enforcement officers attended a two-day Three Flags workshop in Bend this April. This was the largest ever in 10 years. Attendees received safety belt training. The workshop was also a rally for the May "Click it or Ticket" campaign.

The largest attendance in six years, over 310, attended the DUII workshop in Tigard. Judges, prosecutors, Oregon Liquor Control Commission, DMV, treatment evaluators, probation officers, and national officials attended the two-day event.

Training sessions for law enforcement traffic supervisors are scheduled between January and June. Training sessions were already held in Astoria and Ashland. More classes are scheduled for central and eastern Oregon. All classes for 2004 have full registration. Training topics include recent legislative requirements, scheduling for enforcement coverage, reasons for crash investigations, how to work with the media, officer safety on the road during traffic stops and working with roadway construction and maintenance staff.

With over 100 traffic law changes in the past three sessions, recent court cases, and the large staff turnover, these training opportunities are well-attended and found to be very educational for the attendees.

- The Vista House is a contributing feature of the Columbia River Highway National Historic Landmark District. The exterior restoration of Vista House was funded in part by Transportation Enhancement funds and Forest Highway Program funds. This work included restoring the tile roof and the stone masonry of Vista House. On January 22 the Masonry and Ceramic Tile Institute of Oregon presented a 2003 Hammurabi Award to the Oregon Department of Transportation for the use of masonry and tile at Vista House.
- Monte Grove has been selected as the new Region 5 manager. Monte has been working as the North East Area Manager in Region 5 since 2002. Prior to that, he was the Rogue Valley Area Manager in Region 3 from 1996 to 2002 and the District 8 Manager from 1994 to 1996. From 1985 to 1994 he worked as a Location Project Manager or held other engineering positions in Region 5.

John Jackley was selected as the new Highway Division Executive Officer. He will assist John Rosenberger in managing the internal operations of the Highway Division and will work on a wide range of projects and policies for Transportation Commission Members, ODOT's Director, Bruce Warner, and Chief of Staff, Lori Sundstrom.

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Commission member reports included the following information:

Commissioner Russell was unable to attend the meeting.

Commissioner Achterman attended the second meeting of the steering committee for the Oregon Transportation Plan (OTP) update. The OTC will receive formal briefings on the OTP update.

Commissioner Papé spent time working through an issue in Junction City with ODOT and Lane County (Agenda Item J). He attended a groundbreaking ceremony at the Albany train station. Congressman DeFazio was on hand to make a few remarks. Commissioner Papé attended meetings of the Lane Metropolitan Policy Committee and Central Oregon Area Commission on Transportation (ACT). The ACTs are somewhat confused about which pool of funds they are working with through the Oregon Transportation Investment Act funding process. The Central Oregon ACT meeting included a panel discussion on Oregon land use laws, regulation policies and how these relate to regional transportation issues. Craig Greenleaf and John Jackley did an outstanding job of introducing the issues from the transportation standpoint. Lane Shetterly, the Department of Land Conservation and Development director, also attended along with members of the Governor's Office. The Land Conservation and Development Commission recently appointed a three member subcommittee to handle transportation issues. The subcommittee members are Hanley Jenkins, Marilyn Dell Worrix, and Ron Henri.

Commissioner Nelson was a member of the interview panel for the Region 5 Manager position. He was the keynote speaker for a Knights of Columbus convention in Baker City.

Chair Foster attended a groundbreaking ceremony in downtown Gold Hill. The main street project there will include a new sidewalk. The fourth grade class from a local elementary school helped turn the first shovels of dirt on the project. Chair Foster, Director Warner, Paul Mather and others participated in the dedications for the Grave Creek Bridge and the Fords Bridge. The Grave Creek Bridge was the first bridge delivered under OTIA III, less than a year after the Legislature passed the bill. Representative Susan Morgan and Representative Gordon Anderson also attended the dedications. The Fords Bridge was funded through OTIA I. Chair Foster said that Monte Grove is an excellent choice for Region 5 Manager. He met informally with DLCD Director Lane Shetterly. Chair Foster is impressed with his ability to work collaboratively with ODOT. Chair Foster suggested to Mr. Shetterly that ODOT and DLCD hold a joint commission meeting. He also invited Mr. Shetterly to the OTC workshop this fall.



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Public comments were received from:

- Elizabeth Sundeen, spouse of Don Sundeen, Dundee citizen – Mrs. Sundeen conveyed some interim project needs and proposed projects which Mr. Sundeen feels would improve tourism and alleviate congestion in the Newberg-Dundee bypass area in the immediate term. (Written comments in General Files, Salem.)

The Commission agreed that an interim solution is critical to the Newberg-Dundee area and asked Mr. Sundeen to provide a map of his proposed project locations and outlines for the suggested projects.

The Commission asked ODOT staff to prepare a list of potential interim projects and costs associated with those projects.

- Sid Friedman, 1000 Friends of Oregon; Marilyn Reeves, Friends of Yamhill County; and Donn Alexander, Newberg area resident – This group raised concerns about the Newberg-Dundee transportation improvement project. They do not support a segmented construction approach if it is to be constructed in phases scheduled many years apart. They would support a phased approach if the segments are built within a year or two of each phase. They support the construction of new road capacity on a new route around the two communities. However, they do not support a high speed expressway through the lower income side of Newberg. Mr. Friedman submitted written comments from Jack Kriz, citizen of Newberg (Written comments in General Files, Salem.)
- Rob Zako, 1000 Friends of Oregon – Mr. Zako thanked Chair Foster, the Commission and the Statewide Transportation Improvement Program (STIP) Stakeholder Committee for updating the STIP eligibility criteria and prioritization factors. He commended ODOT's Region 2 staff and Region Manager Jeff Scheick for working through an issue with him last week. He received a copy of the final 2004-2007 STIP document. He requested that in future STIP documents, ODOT provide more detail on OTIA III and STIP funding sources and how those funds are expended, i.e., safety improvements, enhanced economic development, etc.

Director Warner agreed with Mr. Zako and noted that ODOT distributes a quarterly Report to Stockholders that attempts to provide the detail Mr. Zako requested.



Mike Marsh, Central Services Division Executive Deputy Director, requested approval to appear at the June 2004 meeting of the Joint Legislative Committee on Information Management and Technology to present an update on ODOT's investigation into implementing an integrated financial management, reporting and control system. (Background material in General Files, Salem.)

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The 1999 Legislature directed ODOT, through Senate Bill 614, to review different options, including Enterprise Resource Planning (ERP). After doing that review, ERP meets the department's requirements in the least risk manner. Mr. Marsh described how an ERP system works. He also provided background information, business case, reviewed risks and lessons learned, work in progress issues, an implementation timeline and next steps for the department.

The Commission asked Mr. Marsh to provide anticipated and final costs of the DMV project from 10 years ago that was never implemented.

The Commission wants to make sure that the investment ODOT is making in the Oregon Transportation Investment Act (OTIA) of 2003 ends up with the systems architecture to do geospatially referenced, environmental and natural resource information for future planning.

Commissioner Nelson moved to authorize the department to appear before the June 2004 meeting of the Joint Committee on Information Management and Technology to present this information. The motion passed unanimously.



Dave Tyler, Chief Financial Officer, requested approval of the issuance of Highway User Tax Revenue Bonds, authorizing the department to proceed with the issuance of the first series (Series 2004A) of OTIA III bonds for local bridge projects in an aggregate principal amount sufficient to produce net proceeds of not more than \$300,000,000; and the issuance of Highway User Tax Revenue Refunding Bonds Series 2004B. (Background material in General Files, Salem.)

Commissioner Achterman moved to approve Miscellaneous Resolution No. 303, to authorize the sale, issuance and delivery of Series 2004A bonds in an aggregate principal amount necessary to produce net proceeds of not more than \$300,000,000, and authorizing the sale, issuance and delivery of Series 2004B bonds in an aggregate principal amount not to exceed the amount necessary to refund all or a portion of the outstanding Highway User Tax Revenue Bonds from 2000, and to approve the second supplemental Highway User Tax Revenue Bond Declaration as distributed on May 18, 2004, the Orrick, Herrington & Sutcliffe LLP (OHS) fifth draft, recognizing that there may be non substantive modifications to the declaration before issuance of bonds. The motion passed unanimously.



Matthew Garrett, Region 1 Manager, requested approval of an increase in project authorization of \$4,577,041.46 or 11.89% on the St. Johns Bridge Rehabilitation construction project. The project authorization will change from \$38,479,705.27 to \$43,056,746.73. (Background material in General Files, Salem.)

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Commissioner Papé moved to approve this increase in project authorization. The motion passed unanimously.



Jim Whitty, Manager of the Office of Innovative Partnerships and Alternative Funding (OIPAF), discussed with the Commission the proposed Oregon Administrative Rules (OAR) 731-070-0010 to 731-070-0330 implementing the Oregon Innovative Partnerships Program (OIPP). Bill Nessly, Department of Justice, and Art James, ODOT OIPAF, were on hand to assist in answering the Commission's questions. (Background material and PowerPoint presentation in General Files, Salem.)

Mr. Whitty discussed the proposed process for review and approval of unsolicited proposals, fees for unsolicited proposals and agreements necessary for unsolicited proposals. He also reviewed solicitations of proposals, requests for public records, program administration, and process flexibility.

In response to the Commission's concern about the potential for members being subject to lobbying by the private sector which could create conflicts of interest, Director Warner obtained a copy of the Oregon Government Standards and Practices Commission's Guide for Public Officials for the Commission.

The Commission would like the Attorney General's office to brief them on conflict of interest issues and the Commission's responsibilities. Whatever the statutory requirements are, the Commission needs to have a conversation about how to handle this issue.

The Commission would like to build some flexibility into the rule that would give the department and the Commission the ability to flex timelines for proposals.

The Commission asked how to avoid projects that would "jump the queue;" projects that are included in the STIP or otherwise already funded for the future. They want to know how the rules address balancing the objective methodology used for identifying and prioritizing STIP projects, with an unsolicited proposal. Self-funding projects would not be an issue, but most of the projects would require significant state or local contribution. A STIP amendment would be required in many cases.

The Commission felt that the language for OAR 731-070-0060 (1)(b)(F) was not workable. At the conceptual stage, it may not be possible for a proposal to demonstrate the ability to acquire applicable regional and local approvals. This language seems to be in conflict with 731-070-0140 (5)(e)(E).

The Commission asked Mr. Whitty to review this process with the OTIA III program management firm selection team.

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Under the provision that proposals provide financial information regarding the private entity or consortium and each major partner, the Commission said that “financial information” should be changed to “current audited financial statements.”

Director Warner noted that the Commission has raised two issues. One issue is around consistency with and whether a project is included in a local Transportation System Plan; and the second issue is with funding priority.

The Commission wants the ability to recover the department’s cost from unsolicited proposals. They would also like to retain the authority to waive the fee for unsolicited proposals for which the agency wants to obtain competing proposals. Mr. Whitty said that the proposed fee rule is temporary at this stage and there will also be opportunities to refine the language before a final rule is adopted.

The Commission wants to retain the ability to place a moratorium on unsolicited proposals. The Commission wants ODOT to gain experience in identifying projects that can be implemented through this process with the private sector before accepting unsolicited proposals. The Commission wants to see some proposed language that will give the Commission the ability to do that if it so chooses. Its concern is that if ODOT receives a flood of proposals, it will be difficult to manage them. There will also be priority issues. If we can develop some proposals that we can turn into “wins” in partnership with the private sector, it will benefit the department. Another option the Commission suggested is to limit the types of unsolicited proposals that the department will accept.



Matthew Garrett, Region 1 Manager, requested approval of an increase in project authorization of \$1,963,000 or 10.79% on the Columbia River (NB) Bridge for a construction claims settlement (Contract # 12186, Fed Aid # BRF-S001-69). This will change the project authorization from \$18,189,800 to \$20,152,800. The work is complete at this time. In January 2000, the Commission approved an increase in authorization in the amount of \$712,800. (Background material in General Files, Salem.)

Commissioner Nelson moved to approve this request. The motion passed unanimously.



John Rosenberger, Highway Division Deputy Director, requested adoption of focus areas for Transportation Enhancement (TE) expenditures in the FY 2006-2009 funding cycle. (Background material in General Files, Salem.)

Commissioner Achterman moved to adopt the focus areas for TE expenditures. The motion passed unanimously.

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Jeff Scheick, Region 2 Manager, requested approval of an Immediate Opportunity Fund (IOF) increase of \$252,500 to fund transportation improvements to OR 99W at 1st Street (River Road)/Hi Pass Road (Junction City) in Lane County. With the addition of these roadway improvements, Country Coach will be able to expand its operation and create 450 new jobs. (Background material in General Files, Salem.)

Commissioner Nelson moved to approve the increase in IOF funds for the project in Junction City. The motion passed unanimously.

The Commission asked Mr. Scheick to thank the Lane County Commissioners for its contribution. The Commission appreciates its vote to match these funds.

Mr. Scheick acknowledged Lane County Commissioner Bobby Green for his leadership. He also acknowledged Commissioner Papé for his involvement and support.



The Commission approved the next two meeting dates as:

- Tuesday and Wednesday, June 22 & 23, in The Dalles.
- Wednesday, July 14, in Portland.



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

1. Approve the minutes of the April 29, 2004, Commission meeting in Coos Bay.
2. Adopt a resolution for authority to acquire real property by purchase, condemnation, agreement or donation.
3. Approve the following Oregon Administrative Rule (OAR) actions:

a.	Amendment of OAR 734-071-0010 and 0050 relating to overall length on designated highways.
b.	Amendment of OAR 735-020-0000 and 0020 relating to security interest perfection.
c.	Adoption of OAR 735-020-0070 and amendment of OAR 735-024-0010 relating to junk titles.
d.	Amendment of OAR 735-032-0010 relating to registration plate fees.

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e.	Adoption of OAR 735-150-0250 and 0260 relating to lien claimants.
f.	Adoption of OAR 735-154-0005 and amendment of OAR 735-034-0010, 735-150-0040 and 0070 relating to 10-day trip permits.
g.	Temporary adoption of OAR 735-090-0130 relating to implied consent hearings- error of the Department.
h.	Adoption of OAR 741-020-0010 through 0080 relating to the industrial spur track program.
i.	Adoption of OAR 741-025-0010 through 0080 relating to short line credit assistance.

4. Approve an amendment to the 2004-2007 Statewide Transportation Improvement Program (STIP) by canceling I-5: Saginaw Overheight Warning System project because the existing bridge will be replaced in the OTIA III Bridge Program.
5. Approve the addition of an alternate Oregon Coast Bike Route through Lincoln City.
6. Approval to appear at the June 2004 meeting of the legislative Emergency Board to report on implementation of the Oregon Transportation Investment Act of 2003 (OTIA III) Bridge Delivery Program budget note and the program management firm.

Commissioner Achterman moved to approve the consent agenda except for the portion of the resolution of authority to acquire property covering the Colver Road/Rapp Road project in Jackson County. The motion passed unanimously.

Commissioner Achterman moved to approve the resolution of authority to acquire property on the Colver Road/Rapp Road project. Chair Foster declared a conflict of interest and abstained from voting on this one item. The motion passed.



Chair Foster announced the Commission would go into Executive Session to discuss pending litigation or litigation likely to be filed with legal counsel in accordance with ORS 192.660(1)(h).



Chair Foster concluded the Executive Session and adjourned the formal meeting at 1:24 p.m.



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<hr/> <p style="text-align: center;">Stuart Foster, Chairman</p>	<p style="text-align: center;">(Absent)</p> <hr/> <p style="text-align: center;">John Russell, Member</p>
<hr/> <p style="text-align: center;">Gail Achterman, Member</p>	<hr/> <p style="text-align: center;">Randy Papé, Member</p>
<hr/> <p style="text-align: center;">Mike Nelson, Member</p>	<hr/> <p style="text-align: center;">Jill Pearson, Commission Secretary</p>