

OREGON TRANSPORTATION COMMISSION

Minutes of the Regular Monthly Meeting January 20, 2005 Salem

On Thursday, January 20, the Oregon Transportation Commission (OTC) and Oregon Department of Transportation (ODOT) staff held an agenda briefing session in room 135 of the Transportation Building, 355 Capitol Street NE, Salem. The regular monthly meeting was held in conference room 122.

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

Chair Stuart Foster	Executive Officer for Highways John Jackley
Commissioner Gail Achterman	Rail Division Administrator Kelly Taylor
Commissioner Mike Nelson	Motor Carrier Trans. Admin. Gregg Dal Ponte
Commissioner Randy Papé	Public Transit Administrator Martin Loring
Commissioner Janice Wilson	Transportation Safety Admin. Troy Costales
Director Bruce Warner	Region 1 Manager Matthew Garrett
Deputy Director Central Services Mike Marsh	Region 2 Manager Jeff Scheick
Deputy Director Highway Doug Tindall	Region 3 Manager Paul Mather
Communications Admin. Patrick Cooney	Region 4 Manager Bob Bryant
Trans. Development Admin. Craig Greenleaf	Region 5 Manager Monte Grove
Chief of Staff Lori Sundstrom	Chief Engineer/Tech. Serv. Mgr. Cathy Nelson
DMV Administrator Lorna Youngs	Commission Secretary Jill Pearson

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Chair Foster called the meeting to order at 9:40 a.m.

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Director's report highlights:

- Congress is back in session. Republicans picked up seats in the November elections and will continue to control the White House, House and Senate.

Oregon's Congressional Delegation returns with greater seniority and new committee assignments. Representative Peter DeFazio rises to the ranking Democrat position on the House Highway and Transit Subcommittee.

Senator Ron Wyden landed a seat on the Senate Finance Committee – where all tax changes are made and Social Security and health care issues are hashed out – but had to give up his seat on the Transportation Committee.

AASHTO and other transportation industry groups are calling on Congress to "Get It Done!" – introduce new authorization bills in January, pass them by February and get them to the President by April.

Many expect that completing reauthorization will be extremely difficult again this year:

- The big question remains: where to find the additional \$50 billion-plus needed to pass a bill? The Highway Trust Fund will not support a bill over about \$250 billion. Many in Congress want a bill funded at \$318 billion. The deal that fell apart last year was \$299 billion. A federal gas tax increase is again off the table.
- The federal budget deficit makes financial maneuvering more complex.
- The Legislative Session has started up and we are already busy with committee appearances. This week Governor Kulongoski's Legislative Director, Chris Warner, and Director Warner testified in front of the House and Senate Transportation Committees on *ConnectOregon*. The committees had some good questions, and we were well received.

On January 19, Director Warner appeared in the House Transportation Committee and presented an overview of the department.

On January 6, before session, we successfully appeared before the E-Board to request an increase in the Bridge expenditure limitation and reduction in Local Government and Preservation limitations and approval to apply for Federal Highway Administration 2004 and 2005 Scenic Byways grants.

We also presented reports on the projects funded by the reallocation of \$16 million to the Maintenance Program and an update on implementation of the Oregon Innovative Partnerships Program.

- On January 3rd, Chief of Staff Lori Sundstrom and Director Warner met with Hillsboro Mayor Tom Hughes, who is the new Chair of the League of Oregon Cities Transportation Committee.

Director Warner has known Mr. Hughes many years, since he was on the Hillsboro Planning Commission.

Tom is very knowledgeable on many of our issues and told us that he is eager to work collaboratively with us and AOC on a whole host of things.

Mr. Warner intends to start meeting more regularly with the AOC and LOC leadership on transportation issues and appreciates Tom's willingness to be proactive in this area.

- Director Warner visited with the Bend Chamber of Commerce on January 12th to talk about the OTIA III State Bridge Delivery Program.

He also met with Bend city officials. He met new City Manager Andy Anderson and talked about Highway 20.

The city also gave a status update of the city's street designs to match up with ODOT's South Highway 97 improvements.

- Mr. Warner updated the Commission on where the agency is in the ongoing contract negotiations with Oregon Bridge Delivery Partners (OBDP) for management of the OTIA III Bridge Program.

ODOT entered into an Agreement to Agree (ATA) in April 2004. We negotiated detailed work orders for specific services and products. The duration of work orders ranges from 10 months to two years with negotiated profit and markups for subcontractors.

OBDP's work is broken into the categories of:

- Overall program management
- Preliminary engineering
- Construction engineering and inspection
- Information technology
- Design-Build contract procurement support

This month, we executed a work order authorizing OBDP to subcontract for engineering and design services for approximately \$500 million worth of bridges scheduled to begin construction within the next two years.

We expect to find that our cost containment measures will result in design fees as a percentage of construction cost being less. Factors influencing this outcome include basing overhead costs on externally audited overhead rates and a lower negotiated profit rate.

Some private sector engineering firms have raised some concerns that we aren't getting the OTIA III Bridge design contracts out fast enough. We are where we need to be, and it is important for the Commission to understand that OBDP had to first update and refine the initial repair/replace decisions we made.

OBDP also had to organize all the bridges into bundles or packages for scheduling construction in such a way that the bundles are sized so that Oregon firms can maximize their opportunities to successfully bid on the work. This information is all

kept current on our website, and we are trying to err on the side of over-communicating our plans.

- In 2004, 114 construction projects were completed. In keeping with the Commission's desire to have work done on time and under budget, Director Warner reported that the total cost of those projects was \$355.7 million, \$3.4 million (one percent) less than the original authorization. The volume of work continues to grow and contract lettings and work under contract is near double where it was two years ago.
- The Director closed his report with the news that Oregon is continuing its trend of reduced traffic deaths for the sixth year in a row.

While 443 people lost their lives on Oregon's roads last year, and that is still 443 too many, the last time Oregon experienced fewer than 500 traffic deaths was the 6-year period from 1957 to 1962 when there were far fewer cars on the road.

Our 2004 number is more than a 13 percent decline from 2003.

We are committed to work hard in the new year to bring that toll even lower. Final details on the causes and driver errors will be completed in April.

Looking at the latest trends and the first half of 2004, speed will likely show up as a driver error in 50% of the crashes; alcohol or other drugs will contribute to 40%.

We are also seeing a slight increase in motorcycle fatalities, and must report that we already have had more than 40 pedestrian fatalities.

The 2004 Transportation Safety Plan the Commission approved in August has been designed and built to work on these issues this year, and we will make a full report to the Commission later in the year.



Commission member reports:

Commissioner Achterman met with the OTP Steering Committee on January 14. Staff is now ready to begin modeling the scenarios against the criteria and goals that were reviewed with the Commission in September.

Commissioner Papé spent time working out a memorandum of understanding for the I-5/Beltline interchange in Eugene related to the Peace Health development that is proposed for the Gateway area on the northern end of Springfield. He is pleased with the support received from ODOT and Dale Hormann from the Department of Justice. Meetings are scheduled next month with local officials to talk about additional funding. On January 19, he met with legislators regarding the Oregon Business Plan. The

legislators are very interested in the transportation portion of the plan. Commissioner Papé met with Region 4 Manager Bob Bryant regarding a Klamath Falls project and funding opportunities in changing some of the project work in that area. Commissioner Papé also attended a Lane County Metropolitan Policy Committee meeting to hear issues developing in that county. One big issue is the freight route issue now that Highway 126 east of Springfield is no longer under consideration. Director Warner's explanation on freight routes was well received.

Commissioner Nelson met with Chair Foster, the Department of Land Conservation and Development (DLCD) staff and members of the Land Conservation and Development Commission (LCDC) on Transportation Planning Rule (TPR) issues critical to both agencies. He applauded Chair Foster for his outstanding leadership. He has met with Transportation Enhancement Program Coordinator Pat Fischer about his role on the Transportation Enhancement Advisory Committee.

Commissioner Wilson spent time over the last month educating herself on transportation related topics. She met with staff and community members to learn more.

Chair Foster met with DLCD staff, LCDC members and Commissioner Nelson on January 19 to refine the Transportation Planning Rule. The group has made a lot of progress. The rule will be clearer and easier to apply. He anticipates that LCDC will hold a hearing in February on section 060 of the TPR and will adopt it at a joint meeting with the OTC in March. The work on the TPR should be concluded by late summer or early fall of this year. He appreciates the support of staff and Dale Hormann in regard to this TPR process.



Public comments were received from:

- Rob Zako, 1000 Friends of Oregon, who said that Newberg is looking to expand its urban growth boundary and opportunities for more residential and commercial development. He stressed the need for a bypass and protecting the function and capacity of the bypass. Interchange management plans will make sure that the interchanges are protected. Building regional centers next to the interchanges is inconsistent with the idea of a bypass. He expressed concern about this and urged ODOT staff to work with the City of Newberg to find more appropriate areas for commercial development. (Written comments in General Files, Salem.)

The Commission was concerned about the possibility of locating regional or commercial centers near interchanges.



The Commission considered the adoption of a minor amendment to the Oregon Highway Plan that designates a Special Transportation Area (STA) in each of the following cities: Carlton, Brookings and Lexington. The Commission also considered

extending the completion date for the Milwaukie management plan from June 30, 2004 to June 30, 2005. (Background material in General Files, Salem.)

Jerri Bohard, Planning Section Manager, provided background information.

Chair Foster opened the public hearing. He asked if anyone wanted to testify in regard to this matter. No testimony was received. Chair Foster closed the public hearing.

Commissioner Achterman moved to adopt the designation of the STA's in Carlton, Brookings and Lexington and extend the completion date for Milwaukie management plan to June 30, 2005. The motion passed unanimously.



Region 2 Manager Jeff Scheick requested approval of the renewal of the Northwest Area Commission on Transportation's (NWACT) Charter replacing the Provisional Charter approved by the OTC November 9, 1999. (Background material in General Files, Salem.)

Lylla Gaebel, NWACT Chair, provided information about the NWACT boundaries and membership. She and the other members of the NWACT would welcome attendance by any OTC member. Chair Gaebel acknowledged Carole Richardson, ODOT Northwest Area Manager, for her public outreach efforts and her ability to work with the communities.

Commissioner Wilson is the OTC member assigned to the NWACT. She committed to attending Area Commission meetings.

The Commission congratulated the NWACT for its excellent public involvement plan and sponsorship of a grant writing workshop. The Commission appreciates the time the NWACT spends in working to resolve issues on a local and regional basis.

Commissioner Wilson moved to approve the renewal of the NWACT Charter. The motion passed unanimously.



Martin Loring, Public Transit Division Administrator, requested approval of staff and Public Transportation Advisory Committee (PTAC) recommendations for the transit project selection decision process for the 2005-2007 biennium. (Background material in General Files, Salem.)

Approval includes decisions in the following three areas:

- "Rural and Small Urban" funds: Continue formula distribution with the minimum of \$20,000 for each eligible rural general public entity and a set aside fund of \$150,000 for "new starts," distributing approximately \$5.3 million in federal funds.

- “Special Transportation Fund” formula program: Continue the current minimum allocation of \$38,000, distributing an estimated \$14.5 million in state funds to counties, districts and Indian tribes.
- Mass Transit, Intercity, Rural and Special Transportation discretionary programs: Approve funding priorities and continue the process developed in 2004, distributing approximately \$21.5 million in state and federal funds to various projects.

It is recommended that:

- By integrating the programs, communities and the Commission have a better opportunity to review the entire set of investment strategies against the Commission's mission, vision, values and the goals of the Public Transit Division.
- The process is based on the Governor's recommended budget level. After the Legislature completes its work and the Governor signs the budget bill, a final screen will be done using the actual budget level, enabling draft contracts and grant agreements to be started much sooner.
- All the applications for an individual transportation provider go through a local review process before a state review is conducted.
- A project selection committee chaired by an OTC member will again be used. The Commission will delegate approval authority to the selection committee. Commissioner Janice Wilson will serve as the chair of this year's project selection committee.

The discretionary program priorities included in the background material are not in rank order (Attachment B, Process for 2005-2007 Biennium Public Transportation Discretionary Grant Program). The Commission wants a note to this effect added.

Commissioner Wilson moved to approve this item. The motion passed unanimously.



Office of Innovative Partnerships Manager Jim Whitty and Innovative Partnerships Project Director Art James requested Commission concurrence that five transportation projects have potential to accelerate cost-effective delivery or promote innovative approaches through public-private partnerships. (Background material in General Files, Salem.)

The five transportation projects are:

1. Sunrise Project – To alleviate traffic congestion in the Sunrise corridor, the proposed project entails construction of a new four-lane, limited access facility.
2. South I-205 Corridor Improvements – Metro's 2000 Transportation Plan identified the need for an additional through lane in each direction on this section of I-205. Preliminary ODOT assessment has determined that widening the South I-205 corridor to three lanes in each direction is feasible without undue adverse impacts.

3. Newberg-Dundee – To alleviate congestion through Newberg, Dundee and surrounding areas the project proposes a bypass approximately 11 miles long, starting at the east end of Newberg and ending near Dayton, at the junction with OR 18.
4. Maintenance Facilities (Statewide) – Many ODOT-owned maintenance facilities were established many years ago outside developed areas, but are now in the middle of prime, developed urban areas. Opportunities exist to use the Oregon Innovative Partnerships Program to exchange for some alternative “turn-key” facilities that will better meet ODOT’s needs, community desires and provide private development opportunities on state-owned property. ODOT will introduce a statutory change which will allow exchange of real property for development services to implement this program.
5. Rivergate Railroad Bottleneck – Bottlenecks were identified by the I-5 Rail Capacity Study that focused on the Portland-area rail system. Projects include improving running times in selected corridors, increasing capacity at chokepoints, adding yard tracks and installing grade separations that reduce vehicular delay at key locations.

Geoffrey Yarema, with Nossaman Guthner Knox and Elliott LLP, reviewed the characteristics of a pre-development agreement. Phase one of this form of agreement integrates the private partner into the existing project team.

- Selection is based on qualifications, project understanding and approach
- Private partners are brought in to support National Environmental Protection Act process and undertake activities to speed up delivery
- Financial resources are contributed from both sides
- Allows for concurrent rather than sequential work tasks
 - Funding and financing plans
 - Public and political consensus building
 - Design innovation and project staging
 - Optimizing transportation solutions
 - Formation of necessary districts or authorities
- If phase one is successful, ODOT and the private partner would enter into negotiations for subsequent agreement(s) (phase two).

The Commission asked for more in-depth information about the characteristics of pre-development agreements. An outline that includes major key elements and standard pre-development pitfalls would be helpful.

Mr. Whitty noted that application has been submitted for funding from the Federal Highway Administration Special Experimental Project 15 program. ODOT must receive approval to be accepted from the federal design-build rules. ODOT must wait for approval to occur before soliciting on the three highway projects (Sunrise Project, South I-205 Corridor Improvements, and Newberg-Dundee).

The Commission expects to partner with firms that are willing to make quality, meaningful commitments to this program. Firms must be willing to be competitive on

price and innovative on design and delivery issues. The pre-development agreement would allocate all the responsibilities both financially and in terms of staff commitments.

Public comment was received from the following individuals. All commented regarding the need for a bypass through the Newberg-Dundee area and why they feel it is a good candidate for a public-private partnership. All of the jurisdictions are committed to protecting the function of the interchanges.

- Oregon State Representative Kim Thatcher
- Commissioner Leslie Lewis, Yamhill County
- Mayor Diane Ragsdale, City of Dundee
- David Haugeberg, Chair of the Yamhill County Parkway Committee (Written comment in General Files, Salem.)

Commissioner Papé moved to approve the requested action, under the authority of OAR 731-070-0240, that the five transportation projects previously discussed have the potential to accelerate cost-effective delivery or promote innovative approaches to carrying out the projects. The motion passed unanimously.

Director Warner issued a suspension order on the three highway projects for unsolicited proposals. The issuance of the suspension order means ODOT will control the partner selection process on these three highway projects.



The Commission approved the next two meeting dates as:

- Wednesday, February 16, 2005, in Salem.
- Wednesday, March 16, 2005, in Salem.



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

1. Approve the minutes of the December 14, 2004, Commission meeting in Portland.
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.	Adoption of OAR 731-070-0055 relating to fees for review of unsolicited proposals received by the Oregon Innovative Partnerships Program.
b.	Amendment of OAR 735-062-0000, 0085, 00090, 0110, 0150, 0160, 0200 and 0045 relating to commercial driver licensing.

c.	Amendment of OAR 735-074-0140, 0150, 0170 and 0180 and repeal of 735-074-0260 relating to mandatory reporting to DMV of medical issues.
d.	Adoption of OAR 735-062-0190 and amendment of 735-070-0020 relating to a hazardous materials endorsement for a commercial driver license.

4. Approve the Governor's Office and Transportation Safety Division recommendation for filling the current vacancy on the Oregon Transportation Safety Committee (OTSC) nomination.
5. Approval to transfer up to \$30 million cash from the State Highway Fund to the Oregon Transportation Infrastructure Fund (OTIF) to provide sufficient lending capital for the Oregon Transportation Infrastructure Bank (OTIB).
7. Approve an amendment to the 2004-2007 STIP to add the following:

Section	Key No.	Safety Funds (Sec. 164 Penalty)	Total Project Cost	Year
I-84: Burnt River Canyon ITS	TBD	\$3,500,000	\$3,500,000	2008

8. Approval to advance US 101: Gold Beach Turn Lane project (Key # 13779) to the 2004-2007 STIP for FFY 2005. This project will be combined with US 101: Moore Street – Panorama Drive (Key # 09849) scheduled for FFY 2005.

Item number 6 was pulled from the Consent Calendar and will be considered by the Commission separately.

Commissioner Achterman moved to approve the remaining items on the Consent Calendar excluding that portion of item number 2, specifically the authority to acquire real property by purchase, condemnation, agreement or donation covering the property at I-5 north, Santiam-Kuebler, Phase 3. The motion passed unanimously.

Commissioner Achterman moved to approve the authority to acquire real property by purchase, condemnation, agreement or donation covering the property at I-5 north, Santiam-Kuebler, Phase 3. Due to a conflict of interest, Commissioner Papé abstained from the vote on this item. The motion passed.



The Commission discussed Item 6 from the Consent Calendar, which was placed on the regular agenda.

Bob Bryant, Region 4 Manager, requested Commission concurrence of scope change for two OTIA projects and approval for cancellation of an existing Statewide Transportation Improvement Program (STIP) project in order to construct intersection access management improvements on S. 6th and Washburn Way in Klamath Falls.

Proposed funding for this project totals \$8,039,000. (Background material in General Files, Salem.)

The Commission discussed the possibility that sections of S. 6th should be considered for jurisdictional transfer to the city or county.

The Commission congratulated the city and county for the redesign of the OTIA project. The new approach looks much more feasible than the original approach.

The Commission also applauded the city and county for finding ways to raise funds within the transportation dollars allocated to the local area. The Commission is concerned about the increase in funds needed for this project and asked ODOT to contribute engineering talent to confirm that the numbers are defensible. The Commission wants to see ways in which costs can be reduced so funding can be put toward the safety and other road improvements needed on the STIP project that is being reprogrammed.

Commissioner Achterman moved to approve this request with understanding that Chair Foster and Mr. Bryant have further conversations with the city and county to maximize jurisdictional transfer to try to reduce the cost in order to preserve some of the STIP project. The motion passed unanimously.



Chair Foster adjourned the meeting at 12:40 p.m.

Stuart Foster, Chairman

Gail Achterman, Member

Randy Papé, Member

Mike Nelson, Member

Janice Wilson, Member

Jill Pearson, Commission Secretary