

OREGON TRANSPORTATION COMMISSION

Minutes of the Regular Monthly Meeting January 18, 2006 Salem

On Wednesday, January 18, 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	Joan Plank, Chief of Staff
Commissioner Gail Achterman	Motor Carrier Trans. Admin. Gregg Dal Ponte
Commissioner Mike Nelson	Rail Division Administrator Kelly Taylor
Commissioner Janice Wilson	Public Transit Administrator Martin Loring
Acting Director Matthew Garrett	Interim Region 1 Manager Cathy Nelson
Deputy Director for Central Services Mike Marsh	Region 2 Manager Jeff Scheick
Deputy Director for Highways Doug Tindall	Interim Region 4 Manager Mark Usselman
Communications Administrator Patrick Cooney	Region 5 Manager Monte Grove
Trans. Development Administrator Craig Greenleaf	Interim Chief Engr./Tech. Serv. Mgr. Tom Lauer
Executive Officer for Highways John Jackley	Commission Secretary Kim Jordan

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

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Commission member reports:

Commissioner Achterman will present Oregon Transportation Plan revisions, along with Commissioner Wilson, at the Joint Policy Advisory Committee on Transportation (JPACT) meeting on January 20. She and Chair Foster also had dinner with Yamhill County area individuals to talk about the Newberg-Dundee project.

Commissioner Nelson had no report.

Commissioner Wilson, along with Jeff Scheick, attended the recent Northwest Advisory Committee on Transportation (NWACT) meeting. She said it was an excellent meeting, a great educational experience and looked forward to attending more.

Chair Foster and Commissioner Achterman met with City of Portland transportation individuals on December 22. Chair Foster also had an interesting tour of the Damascus area with Clackamas County Commissioner Bill Kennemer, John Rist and others, as well as meetings with Congressman Blumenauer and Rex Burkholder of Metro. Chair Foster commented on the Damascus tour, the development issues, lack of infrastructure planning, and the need to have a process in place that covers infrastructure investment.

The Commission agreed that value capture was a critical concept regarding transportation funding and agreed with the need to look at how that can be accomplished.



James Whitty briefed the Commission on the Pre-Development Agreements with the Oregon Transportation Improvement Group (OTIG) through the Oregon Innovative Partnerships Program to advance the Sunrise, South I-205, and Newberg-Dundee projects toward implementation. (*Background material in General Files, Salem.*)

Mr. Whitty was accompanied by Nicholas Hann of Macquarie Infrastructure Group, Inc.; Bob Shulock of Hatch Mott MacDonald; Pamela Bailey Campbell of Carter and Burgess, Inc.; Ted Falk of the Oregon Department of Justice; and Art James, ODOT Office of Innovative Partnerships.

Mr. Whitty described progress made to-date in finalizing the agreements. The three projects are in varying stages of readiness; negotiations focused on steps necessary to define each project and establish financial and technical feasibility. The pre-development work will proceed by defined milestones at which the parties will regularly evaluate the costs and benefits of moving forward or taking an “off-ramp.”

Pamela Bailey Campbell went through the project scopes, specifically Attachments 6, 7 and 8 (Sunrise, Newberg-Dundee and I-205 projects respectively) of the background material. As the work plans are executed, they will be driven by eight different working groups made up of Macquarie and its OTIG partners, ODOT, and appropriate local and other constituents. Macquarie will be responsible for taking the lead on all technical analysis; ODOT will be responsible for maintaining environmental work and developing tolling policy guidelines. Further roles are outlined and assigned in the work plans. Ms. Bailey Campbell explained how the \$20 million investment by ODOT will be managed so its commitment will not exceed that amount.

Ted Falk explained some of the high-level, legal attributes of the agreements, including the role of the Oregon Transportation Commission, process from signing to implementation, nature of the exclusive rights granted to Macquarie, key-persons provision, and risks and remedies if the agreements are terminated.

Jeff Yarema, provided fundamental public-private partnership information and advised that if or when progress results in an implementation agreement coming before the OTC, it will contain important policy decisions. The team commits that those policy decisions will also come forward to the communities, taxpayers and traveling public so everyone has an opportunity to help decide the outcomes. Mr. Yarema commented on the success so far with ODOT's open, transparent process and that the same type of structure will be recommended to other states around the country.

Discussion focused on the philosophy of certain states supporting tolling vs. a gas tax. Basically it was presented that funding for transportation projects is getting tougher, the next federal reauthorization bill will be difficult as far as what gas tax will be available, and states that have never used tolling before are beginning to see tolling as an available option. Also, as interaction occurs with the public who see the need for transportation improvements, more positive responses are seen for a user-based fee.

A principal concern voiced by the Commission was to clarify there would be an informed, public conversation on the tolling strategy before it approves any implementation plan. Specifically, the tolling strategy document would need to be developed, followed by public education and acceptance protocols, and by a community outreach program. That way, the foundation would be in place for having the local and statewide conversation about what the tolling approach looks like, and how much the gas tax would have to be raised to provide the equivalent amount of funding to finance the project. Staff agreed that was its precise strategy.

The following request for action was read into the record:

1. Approve ODOT to enter into Pre-Development Agreements (PDAs) with the Oregon Transportation Improvement Group (OTIG) to advance the Sunrise Project, the South I-205 Corridor Project, and the Newberg-Dundee Project toward implementation.
2. Approve the ODOT Director to have authority to sign the PDAs and any amendments, except that OTC approval is required to grant rights to a project extension, increase the not-to-exceed amounts of the agreements, approve the term sheet for implementation of the projects, or to approve the final Implementation Agreement.
3. The \$20 million previously dedicated to projects of statewide significance be entirely dedicated to these three projects, with the ODOT Director being authorized and directed to manage the pre-development phase of these projects within that \$20 million budget.

Commissioner Wilson moved to approve the above read action. The motion passed unanimously.

The Commission thanked everyone for their hard work resulting in a superb document, and excellent working partnership for the State of Oregon. The OTC expressed its

enthusiasm and commitment to explore the feasibility – the financial, environmental, technical and operational elements – of these projects.

Mr. Whitty noted that with the above Commission approval, the next step is for the Federal Highway Administration (FHWA) to consider concurrence with the OTC action. Chair Foster urged FHWA Administrator David Cox to determine its position as swiftly as possible.

Mr. Hann added his thanks for the team effort, recognized the intense, open negotiations, and committed to being a good partner and exploring the viability of the projects. At the same time, he recognized financial viability itself is worth nothing unless the community understands and accepts the approach taken.



Acting Director Matthew Garrett announced that he was deeply honored to have the Commission's confidence in filling the Director's position. He looked forward to the privilege of working with the men and women of ODOT, knowing first-hand about their dedication and commitment.

Acting Director's report highlights:

- Winter weather has dealt out real challenges up and down the I-5 Corridor due to a month of rain and snow. A powerpoint presentation provided a glimpse of the damage maintenance crews and the motoring public dealt with. Acting Director Garrett accompanied Governor Kulongoski to northwest Oregon, viewing damaged roads and dikes in Clatsop County. Governor Kulongoski declared a state of emergency that allows the department to apply for federal emergency relief funds. Repair estimates now exceed \$7 million for state highways. Acting Director Garrett thanked the maintenance crews, region and communication staffs for their dedication and hard work throughout the month.
- The Oregon Supreme Court rejected a constitutional challenge to provisions of Oregon's truck tax system that allows motor carriers hauling certain commodities to pay weight-mile taxes by a flat fee rather than by miles traveled. The court issued a unanimous opinion on December 15, 2005, finding there is no evidence this payment option puts interstate carriers at a competitive disadvantage. The case, brought forth by the American Trucking Associations and other plaintiffs, dates back to July 2000.
- ODOT continues its success with the Oregon Green Light Program. Truckers traveling in Oregon saved an estimated 115,000 hours of travel time, \$8.6 million in fuel, wear and tear, and other operating costs last year as they took advantage of the Green Light pre-clearance system to bypass weigh stations approximately 1.4 million times. The Green Light program has pre-cleared trucks a total of about 6.3 million times in the past seven years, saving trucking companies 524,000 hours of travel time and \$39 million in operating costs. The Woodburn Port of Entry on

southbound Interstate 5 continues to be the busiest Green Light site. Well over half of all trucks approaching that site are transponder-equipped and 54% get a green light to proceed.

- The House Interim Committee on Transportation met on January 10. ODOT staff delivered about four hours of testimony. Issues touched on included the Oregon Transportation Investment Acts (OTIAs), OTIA family programs, and project delivery; *ConnectOregon* and Innovative Partnerships Programs; SAFETEA-LU; and the Federal Driver License Real ID Act and State Biometric Requirements. All-in-all, it went very well. In addition, Jon Oshel of the Association of Oregon Counties, Jessica Harris Adamson of the Associated General Contractors of Oregon, and Dwight Hardin from the American Council of Engineering Companies, testified as to the strong, healthy relationship they have with ODOT.
- Mike Wolfe and Acting Director Garrett attended an ACEC (American Council of Engineering Companies) awards dinner on January 11. ODOT and its consultant, KPFF Consulting Engineers, received recognition for the Cape Creek Tunnel Restoration project on Highway 101 near Florence. KPFF restored the tunnel under the difficult challenge of keeping it open to traffic.
- Joan Plank was named ODOT Chief of Staff. Ms. Plank has been with ODOT for 30 years and highly regarded for her integrity and character. She will do a great job in the Chief of Staff position.

The Commission pointed out that damage to Interstate 5 at the Siskiyou Pass was not caused by slides but by debris flows that came down the canyon. In addition to the debris damage, there was several million dollars of damage done to the drainage system that is still an issue.

Acting Director Garrett agreed and advised that weather forecasts are troublesome at this point. He recognized maintenance forces have worked long hours for almost a month and the need to make sure crews remember safety comes first.

Commission members expressed their appreciation also to the employees who are putting in long hours to address the weather-related problems and asked that message be communicated to them.



Craig Greenleaf provided information on the amendment of the Oregon Highway Plan, Actions 2A.4 and 2A.7 regarding contributions to major highway improvements. (*Background material in General Files, Salem.*)

As a result of testimony received in December, plan language was revised to:

- More clearly separate the relationships between private and public interests.
- Separate the public-private interests in recognizing the partnership and consultation relationship with local government.
- Recognize financial capacity amongst local governments varies across the state.
- Choosing simpler but more explicit language that clarifies when comprehensive plans, interchange management plans or zoning changes are made that intensify use, that is the activation point for this policy implication.
- Language on the private side was edited to indicate broader applicability, beyond interchanges to major highway projects.

The revised language is reflected in the following proposed action:

PROPOSED ACTION 2A.6
<p>ACTION 2A.4 <i>(requires the renumbering of Actions 2A.4 to 2A.5 and 2A.5 to 2A.6)</i></p> <p>Consult with local and regional government(s) regarding the potential for local participation on major modernization projects considered for inclusion in the STIP. Local participation shall consider the size and financial capabilities of the jurisdiction(s). Participation may include but is not limited to contributions to funding, in-kind services and materials, improvements to local street circulation that support the state highway, benefits to non-auto modes, land use actions and other enhancements.</p> <p>When major improvements to or replacement of an interchange are necessary, work in partnership with local and regional government(s) regarding financial participation, right-of-way contributions, and other enhancements. These partnerships are of particular importance when amendments are proposed to acknowledged comprehensive plans, interchange management plans are adopted or changes in zoning increase the intensity of development.</p> <p>ACTION 2A.7</p> <p>Negotiate with the private sector to leverage funds, right-of-way contributions, or off-system improvements when major highway improvements benefit specific properties planned for development, where changes are proposed or have occurred to the relevant comprehensive plan or where development has occurred or will occur that necessitate major highway improvements.</p>

Mr. Greenleaf advised that letters of support have been received from the City of Springfield and the Association of Oregon Counties, reflecting their support for the revised language. He stated the proposed language remains consistent with the approved STIP criteria, which speaks to the issue of leverage and how that leverage should work, and it is consistent with language contained in the Oregon Transportation Plan.

Art Schlack stated for the record the Association of Oregon Counties (AOC) appreciation of staff's work to develop language that met AOC's needs as well as ODOT's and the OTC's regarding cost-sharing infrastructure.

Commissioner Achterman moved to approve the Oregon Highway Plan amendment as set forth above. The motion passed unanimously.

The Commission thanked staff for their efforts resulting in an excellent product and a policy in place to implement these partnering discussions.



Jay Waldron, Port of Portland Commission President; David Bragdon, Metro Council President; and Steve Clark of the Portland Business Alliance, provided a briefing on the "*Cost of Congestion to the Economy of the Portland Region.*" The report was prepared for the Portland Business Alliance, Metro, the Port of Portland, and the Oregon Department of Transportation by the Economic Development Research Group of Boston, Massachusetts. (*Background material and powerpoint presentation in General Files, Salem.*)

The study shows that failure to invest in the Portland region's transportation system will cost the region 6,500 jobs and \$844 million annually by 2025. The report suggests these impacts can be avoided through strategic transportation investments, which could return more than twice their value to the regional economy. (This report is available on-line at the Metro website: <http://www.metro-region.org/>.)

Mr. Waldron commented on the importance of the report findings and the need for a statewide discussion. He urged the Oregon Transportation Commission to support a statewide public-private partnership that would involve the business community that would demonstrate how the information contained in the study affects cities throughout Oregon.

Steve Clark emphasized that it is the right time to invest in strategic communications and public-business involvement strategies that link transportation systems and improvements, programs, investments, structures, economy and communities. He advised the business community is committed to help educate, to lead, to partner and to invest.

David Bragdon commented that participating in this study was a good experience. Obstacles the study helps overcome are: the inter-dependence that exists in the commercial world; the lack of orientation in the decision-making process; and what revenue might be. Next steps include an update of the regional transportation plan, and realistically budgeting for outcomes.

The Commission requested that as Metro, the business community, and Port of Portland submit comments on the Oregon Transportation Plan (OTP) revision, the

information from its study gets built into the final version of the OTP. Also, the Portland group was asked to work with ODOT planning staff on the criteria for strategic investment.

In response to the Commission's inquiry, the Portland group advised what it saw as next steps:

- To work with the Commission and ODOT staff immediately to integrate the study information into the OTP as it moves forward.
- To work with the Commission to get a cost congestion study done statewide with the business community helping to fund it.
- The progressive involvement of business associations statewide is needed. ODOT staff was asked to communicate that need through the ACTs.
- Need to develop an economic filter.
- Need to link strategic outcomes to investments and programs.
- Need to develop scenario planning that will allow the Commission and ODOT to moderate what it says it is going to do ten years from now, because the goals and the outcomes desired are still good.
- Need to put heads together to develop methodology around how to assess economic/community development impacts of transportation investments. Commission and ODOT participation would be very helpful.

Key Commission comments:

- ODOT Transportation Development staff put together an interesting notebook regarding the price-of-government approach and on how it could use that methodology in the OTP update. The Commission wanted to make sure ODOT staff provided the Portland group with that information.
- Stressed the need to do a better job educating citizens outside the Portland area because it is tough for rural area residents in other parts of the state to see the dynamic importance of Portland to their local economy.
- It was strongly recommended that Metro engage further with the business community and that the business community be made a voting member of JPACT.

The Commission believes it needs to move ahead swiftly on these issues, it needs to radically change the way it runs its system, and it needs to engage the whole state.



Mr. Jackley provided an update of the *ConnectOregon* Administrative Rule and requested Commission approval. (*Background material in General Files, Salem.*)

The rule and process has broad support throughout the transportation and stakeholder community. A hearing was held on November 15, 2005, on the permanent rule; comments received were favorable, with constructive suggestions. Changes made

since the hearing improved the rule and has overall approval by stakeholders. Upon adoption of the rule, the next steps would be:

- Establish a formal role for application review by the Area Commissions on Transportation to achieve regional prioritization and consensus, and create a region review committee for the purposes of *ConnectOregon* that encompasses the counties of Columbia, Multnomah, Clackamas, Washington and Hood River.
- Instruct the region and modal advisory groups to evaluate project applications on a strategic basis.
- Establish a Consensus Committee with balanced representatives between modes and regions to take the regional and modal priorities and develop a consensus list of projects for Commission approval by July 2006.

Another area of critical detail is that staff is developing:

- An intergovernmental agreement with the Department of Aviation;
- Loan documents and modal agreements for grants and loans;
- A three-year cash requirement forecast for the program; and
- A technical committee is creating a financial procedures manual.

Commissioner Achterman moved to approve the *ConnectOregon* permanent rule. The motion passed unanimously.



Mr. Jeff Scheick provided information on the Interstate 5/Beltline Interchange Area Management Plan (IAMP) as a Facility Plan for the I-5/Beltline Interchange. The I-5/Beltline Interchange is scheduled for a major upgrade beginning with Phase One construction in 2006. The amount of \$72.5 million has been programmed in the 2006 – 2009 Statewide Transportation Improvement Program for this first phase of interchange upgrade. (*Background material in General Files, Salem.*)

The Commission received a copy of a January 6 letter from Robert Cortright, Transportation Planning Coordinator, Oregon Department of Land Conservation and Development, recommending the following actions be taken: 1) The current IAMP should be revised to clearly express support for implementation of nodal development and bus rapid transit (BRT) within the interchange area; and 2) ODOT should schedule work to refine the adopted plan to more clearly specify the required elements of an IAMP as called for in Division 51.

Mr. Scheick advised ODOT has responded to the above concerns and requested Commission approval to adopt the I-5/Beltline Interchange Area Management Plan as a Facility Plan for the I-5/Beltline Interchange.

Commissioner Wilson moved to approve. The motion was unanimously approved.



Doug Tindall provided a combined monthly status report on the Oregon Transportation Investment Act of 2003 (OTIA III) Bridge Program, OTIA I/II Programs and the STIP Program. The combined amount of work currently shown in construction amounts to more than \$1 billion in active contracts. This is a first for the Oregon Department of Transportation. (*Background material in General Files, Salem.*)



The Commission approved the next two meeting dates as:

- Tuesday and Wednesday, February 14 and 15, 2006, in Corvallis.
- Tuesday and Wednesday, March 14 and 15, 2006, in Eugene.



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

1. Minutes of the December 13, 2005, Commission meeting in Salem.
2. Resolution for authority to acquire real property by purchase, condemnation, agreement or donation.
3. Oregon Administrative Rule actions:

a.	Amendment of OAR 731-001-0025 relating to record fees.
b.	Amendment of OAR 734-030-0010 and 0025 relating to the “free coffee” program.
c.	Amendment of OAR 731-001-0005 relating to adoption of the 2006 Model Rules of Procedure.

4. Amendment to the 2006 – 2009 Statewide Transportation Improvement Program to add eight safety projects and change the scope of the U.S. 395: Starr Ridge – Cottonwood Creek project to include the Silvies Curve Realignment. Funding for these projects will come from Statewide Selection of Safety Projects Supporting the American Association of State Highway and Transportation Officials Strategic Highway Safety Plan. The total amount of this request is \$6,311,560:

- U.S. 26: Langensand Road – Cherryville Drive in Clackamas County
- U.S. 101 and U.S. 26 Durable Striping in Clatsop County
- Oregon 42: U.S. 101 to Coaledo Safety Improvements in Coos County
- U.S. 395: Starr Ridge – Cottonwood Creek in Grant County
- U.S. 199: Rogue Community College to Midway Avenue in Josephine County
- U.S. 26: Sunset Springs – Salmonberry Road Milepost 33.35 in Tillamook County

- Oregon 219: Bald Peak Road to Scholls in Washington County
 - Oregon 6: Timber Road – Gales Creek Road in Washington County
 - U.S. 26: Sunset Tunnel – Strassel Road in Washington County
5. Amendment to the 2006 – 2009 STIP to add the U.S. 95: Rome Hill Median project in Malheur County. The total amount of this request is \$75,000. Funding will come from Region 5's Financial Plan and project savings generated by the U.S. 26: Grant County Line – Malheur County Line project.
 6. Increase in project authorization of \$1,800,000 on the I-5 Overcrossing: South Umpqua River and Oregon 99 (Shady) Section construction project in Douglas County. This will change the project authorization from \$30,961,895 to \$32,761,895. The increase in authorization will be funded through the Oregon Transportation Investment Act of 2001.
 7. 2006 agreement between the Oregon Department of Transportation, the Association of Oregon Counties and the League of Oregon Cities for administering local government federal-aid projects in the Surface Transportation Program, the Highway Bridge Rehabilitation and Replacement Program, and the Transportation Enhancement Program, and authorize the ODOT Director to sign the agreement.
 8. Confirmation of focus areas and annual funding levels for Transportation Enhancement expenditures in the fiscal year 2006 – 2011 funding cycle.

The last bullet on Item 4 above was amended by replacing the Sunset Tunnel reference to Dennis Edwards so that it reads: U.S. 26: Dennis Edwards Tunnel – Strassel Road in Washington County instead of US 26: Sunset Tunnel – Strassel Road in Washington County.

Commissioner Nelson advised he had a conflict of interest on the property acquisition for OR 7: Campbell Avenue/I-84, Baker-Copperfield Highway, in Consent Calendar Item #2.

Commissioner Achterman moved to approve the OR 7: Campbell Avenue/I-84, Baker-Copperfield Highway, Parcel #7209 013, property acquisition contained in Item 2 above. The motion passed unanimously. Commissioner Nelson abstained from voting.

Commissioner Achterman moved to approve the remaining Consent Calendar items, including the amendment to the last bullet on Item 4 as stated above. The motion passed unanimously.



John Charles, President of Cascade Policy Institute, provided public comments about tolling. He advised he has been an out-spoken proponent of tolling for the last 15 years and was pleased ODOT is moving forward with tolling.



Chair Foster adjourned the meeting at 12:30 p.m.



Stuart Foster, Chairman

Gail Achterman, Member

Not present at the meeting.

Randy Papé, Member

Mike Nelson, Member

Janice Wilson, Member

Kim Jordan, Commission Secretary