

WILLAMETTE FALLS LOCKS COMMISSION

Commission Meeting #6 October 17, 2018, 1:00 – 4:30 PM

*West Linn City Hall Council Chambers
22500 Salamo Road, West Linn, Oregon 97068*

Meeting Minutes (Minutes: Pat Vivian)

Commission Members Present:

Russ Axelrod [*City of West Linn*], Sam Brentano [*Marion County*], Gary Burke [*CTUIR*], Sandy Carter [*Willamette Falls Heritage Foundation*], Betty Dominguez [*Metro*], Jack Giffen [*Confederated Tribes of Grand Ronde*], Karen Homolac [*Business Oregon*], Rep. Bill Kennemer, Penny Machinski [*PGE, ex officio*], Rep. Mark Meek, Rep. Julie Parrish, Bill Ryan [*Department of State Lands, ex officio*], Rep. Andrea Salinas, Paul Scarlett [*ODOT*], Martha Schrader [*Clackamas County*], Scott Starr [*City of Wilsonville*], Stan Watters [*Port of Portland, ex officio*].

Facilitation and Project Team:

Ayreann Columbo, Andy Contugno [*Metro*], Kristine Evertz [*Summit Strategies*], Michelle Giguere [*Summit Strategies*], Dan Hartford [*KPFF*], Caroline Mellor [*Oregon Solutions intern*], Lisa Naito [*Naito Public Affairs*], Turner Odell [*Oregon Solutions*], Bob Riley [*KPFF*], John Southgate [*John Southgate LLC*], Pat Vivian [*Wordsmith*], John Williams [*West Linn*].

Other Attendees:

Raihana Ansary [*Regional Solutions*], Jeff Boehler [*ODFW*], Christina Calzada [*Sen. Wagner's office*], Marcus Cis [*Rep. Meek's office*], Michael Crane [*Crane Associates*], Kathleen George [*CTGR*], Rob Greene [*CTGR*], Audie Huber [*CTUIR*], John Leitz [*staff*], Brian Moore [*Metro*], Scott Nebeker [*OPRD*], Mark Ottenad [*City of Wilsonville*], Ramona Perrault [*Metro*], Samara Phelps [*Clackamas County Tourism and Cultural Affairs Office*], Valerie Ringold [*USACE*], Christina Robertson-Gardiner [*Oregon City*], Travis Williams [*Willamette Riverkeeper*],

1. Welcome, Agenda Overview and Business Items

Turner Odell, Oregon Solutions, introduced the agenda and objectives for today's meeting. The two main items for the Commission to consider today were (1) a presentation by Dan Hartford and Bob Riley, KPFF Engineering of their findings regarding the current status of the Willamette Falls Locks, and (2) a discussion of governance and finance options presented by John Southgate, with the goal of identifying today the preferred governance option(s) for further development. The project team also gave updates on state and federal legislative efforts to raise the necessary funding. Finally, Tamara Phelps gave an informational presentation on water tourism in Clackamas County.

Copies of the agenda and six documents were distributed:

1. A copy of KPFF Engineering's PowerPoint presentation on the status of the Locks.
2. A matrix summarizing the governance and finance options for the Locks.
3. A summary table showing how various Oregon governance structures (intergovernmental agencies, special districts, and public corporations) operate and are funded.
4. A breakdown of operation and maintenance funding options.
5. A color brochure, "Finding the Water Tourism Opportunities in Clackamas County."
6. Minutes for the 9/5/18 Locks Commission meeting, which were unanimously finalized today.

2. KPFF Engineering Report on Locks Status

Dan Hartford and Bob Riley, KPFF Engineering, gave a slideshow presenting the conclusions of their 62-page Conditions Assessment Report dated 10/10/18, which describes the current technical status of the Locks. Copies of the report were not distributed at the meeting due to its length, but the full report is available on the Oregon Solutions website.

Working on a contract with Summit Strategies, the engineers investigated what is needed to make the Locks infrastructure safe and operational again. Their findings are based on an initial three-hour site visit with the Corps of Engineers, followed by a second site visit a few weeks ago, plus four previous Corps reports and historic drawings.

Generally, they found the facility to be in good condition except for seismic issues and some loss of backfill. The Locks are not in a condition to be operated by any entity with less skill and experience than the Corps. An important detail is that four valves on the gudgeon gates must open to let water pass from one lock to another. The main conclusions of the engineering study were:

- Design and construction details are outdated but well maintained.
- All critical systems are operable and the facility can be reopened with minimal refurbishment.
- Walls, monoliths and gudgeon anchors need structural upgrades for stability.
- Seepage problems need to be addressed.
- Operational elements should be upgraded.

The report identifies costs for critical [\$8,610,000], moderate [\$2,940,000], and long term [\$240,000] maintenance. Operation of the gates is estimated to cost \$50,000 a year, with contingencies for flood repair and rotten timber. All funds are in 2018 dollars. The engineers recommend setting up a \$450,000 fund for annual maintenance and a contingency fund for flood repairs. Erosion repair is needed at gates 3 and 4, and infrastructure needs to be built for control of the system. Seismic retrofitting is needed at locks 4 and 7. These seismic findings are consistent with the Corps 2011 seismic evaluation.

Discussion and Feedback on Engineering Report:

- Q: Rep. Julie Parrish – Will the timber facing be replaced with new timber or different material? A: Some gates will be refurbished with plastic timber.
 - Q: Penny Machinski, PGE – Have you looked at preventive measures for similar erosion problems on the mill side? What is causing erosion there? A: Not aware of erosion on the mill side; that area was not inspected. We did observe seepage in that area.
 - Q: Sandy Carter – What is the standard for seismic soundness? Do you have information on the actual excavation? A: The Corps standard has two levels, a 144-year return, and a 50% chance in 100 years of a minor earthquake. There is a lot of bedrock in the area.
 - Q: Russ Axelrod, West Linn – Do you have any data along this reach based on an understanding of real geology? A: The engineers did not assume what the composition of bedrock is for seismic design.
- Action: The KPFF engineers will check the Corps reports for information on bedrock in the area.

According to the Corps 2017 disposition report, the preferred alternative involves \$2 million in improvements; \$1.8 million of that is for a seismic retrofit of the guard lock and gates 6 and 7. The engineers haven't looked at whether the shared wall with PGE needs a retrofit. Because the gudgeon anchors are in unknown condition below grade and could break at any time, they recommend replacement at all 14 individual gates. There are gudgeon anchors running both parallel and perpendicular to the Locks.

- Q: Turner Odell – Did the Corps break out the costs of replacing the gudgeon anchors? A: No it's not possible to do an exact comparison.
- Q: Sandy Carter – Has there been analysis of noninvasive ways to replace the gudgeon anchors? A: No, but the cost should be low enough to be considered a form of affordable insurance.
- Q: Russ Axelrod, West Linn – Agrees they should all be replaced. What about access in future for maintenance and safety? A: Yes, the new anchors will be fully encased in concrete. The only part susceptible to erosion will be exposed on top.

The last major priority before reopening the Locks is the ability to fight fires. The KPFF engineers agree with the Corps recommendation to install a 6 inch fire line throughout the system above grade.

Operational needs include mechanical, electrical, and water management upgrades for opening the miter gates between locks. Water management is key to a successful interface between the locks. With a skilled operator, they could be reopened soon. Skilled operation is critical for the Locks to be operated safely. There is no independent control of the miter gates, for example. Levels of automation can probably be set up for less cost than the Corps originally estimated. Key mechanical, electrical and control elements should be upgraded before a less skilled operator takes over, including the control system, power units, and lighting system. Future options to consider include new networked control wiring and a new human/machine interface.

It appears there is little interest at present in remote operation of the Locks, based on recent conversations. A key assumption is that the operator will be on site, with a diversity of operating staff for safety. KPFF proposes installing a new, extensive computer-controlled network, interconnecting 14 new hydraulic power units to operate the 7 gate sets.

- Q: Rep. Mark Meek – Are there other examples of this technology? A: Research would be needed to find comparable systems, but the technology is very common.
- Q: Sandy Carter – What about a big seismic event? A: KPFF didn't look at the seismic safety of the control shacks. They didn't see any issues with the miter gates, which are small and robust. The control system needs to be able to be manually overridden by a skilled operator.
- Q: Karen Homolac – What if the operator can't physically get to the Locks? A: The proposed digital control system could have remote capability added. The Locks should only be operated remotely by skilled operators.
- Q: Karen Homolac – What about operation during a seismic event? A: Seismic upgrades will retain the upper chamber. As long as the upper chamber is retained, the rest of the Locks should be operable. Impacts of a major upstream dam breach are unknown.
- Q: Russ Axelrod – In terms of design, wouldn't it behoove us to fill the gaps around the walls and build a more robust system? What is behind these walls, and how could we strengthen that structure? Let's look at modernizing and retrofitting the whole system. A: The report says that needs to be investigated further. KPFF presented a solution that's feasible and cost effective, although the feasibility and cost of waterproofing hasn't been investigated.
- Q: Russ Axelrod – This is our due diligence phase. The design incorporates 20-30% cost contingencies, but what if it costs more than \$12 million? We've addressed the contingencies in known elements, but some contingencies could be as much as 30-50% of the estimated cost. Recommends adding a 50% contingency fund, which would raise the overall cost of the restoration by \$4-6 million. Suggests adding a scope contingency and diagram. The due diligence items we want to explore technically should be documented in the report. Maybe the Corps would set up an escrow account to be used if additional costs emerge. A: Previous

Corps reports in 2011 and 2013 deleted items no longer considered relevant, such as remote lock operation. The KPFF report includes an additional 30% contingency for unknown costs plus a 20% design and permitting contingency, with an overall 56% increase in the estimates originally presented. KPFF recommends setting aside funds to address unknown costs that are likely to arise with a facility this age.

- Q: Rep. Mark Meek – Potential repairs of the concrete wall shared with PGE are not included in the cost. Should that be evaluated instead of putting it in the report as a scope contingency? A: That level of diligence could get redefined as we transfer the Locks to the next owner. The cost is not in the report now because the need for repair wasn't identified until the last site visit.

Rep, Julie Parrish said an estimate of \$15 million in bonding authority was being discussed in the Legislature. If that turns out to be the case, the Commission could go back to the emergency board and ask for additional funding capacity. We haven't seen enough detail from the Corps yet to evaluate the true cost, Rep. Bill Kennemer noted. The Commission can decide how to address this as the scoping process moves along – our job is to track it, Russ Axelrod said.

3. Project Team Updates

Federal Legislative Update:

Michele Giguere, Summit Strategies, and Valerie Ringold, USACE, reported on recent federal actions. The Corps Division Headquarters has commented on the draft disposition report, and the Portland District team is revising accordingly. Michelle said it's critical to get the report approved in time for inclusion in the FY 2019 work plan, which the Commission and state legislators need soon. Valerie said things are on track to complete the director's report soon, which will recommend special legislation.

State Legislative Update:

Lisa Naito, Naito Public Relations, and Rep. Julie Parrish reported. Two bills need to be drafted for the Oregon Legislature to consider, one proposing a plan to keep the Locks open and another to provide authorization and funding. A \$50 million bond from Connect Oregon dollars could be applied incrementally along with Corps dollars.

If reconstruction is not completed within four years, the Locks Commission will report to the Legislature annually by December 15 the status of the Locks until ownership is transferred. The governance agreement is set to expire in 2023. The Commission will seek approval at the 2020 Oregon legislative session for a plan to transfer operation of the Locks.

Rep. Mark Meek, who is a member of the Legislature's transportation and economic development subcommittee, said he submitted a funding request for repairs to the legislative fiscal office. No special legislation is needed for lottery-funded projects. Lottery funding capacity is anticipated to be

\$280-293 million in the current session, but competition was steep for lottery funds in the last session. The bill will have to go through Ways and Means to get a legislative committee hearing.

Rep. Andrea Salinas suggested forming a public corporation. Lisa Naito said it will be important for the timeline in the Corps 2019 work plan to schedule repairs in step with legislative activity. Knowing how much the Corps intends to invest in the Locks will help the Legislature move it to the top of their list of funding priorities. The Corps is requesting FY 2019 federal funds for design and seismic stability, as well as funding for design in 2020 and construction in 2021, Valerie Ringold said.

Clackamas County Office of Tourism and Cultural Affairs - Water Tourism Report:

Tamara Phelps, Clackamas County Tourism and Cultural Affairs Office, distributed copies of a brochure on Clackamas County's 2018 Water Tourism Strategic Plan Study. This 160 page report on water tourism includes findings that are relevant to the Locks. It looks at recreation from an economic perspective for the entire county. Part of the study was a survey of water recreation in Oregon that identified an estimated 15,000 trips through the Locks for noncommercial recreation – a significantly higher number than expected, although the estimate is conservative. The study included current recreationists and did not estimate future trips when the Locks return to regular operation.

4. Governance and Finance Options and Scenarios

The second major topic to be addressed today was narrowing down the governance and finance options for operation of the Locks. Chair Russ Axelrod noted that the time for a decision on this is fast approaching, with the Locks well positioned for support in the 2019 Legislature and a strong partnership with the Corps to facilitate the transfer. The Commission has expressed an overall preference for a public-private partnership of this public resource. The goal is to nail down a transferee as soon as possible.

John Southgate distributed copies of an updated report on six governance and finance options, color-coded to indicate the likelihood of the scenarios with green as the most viable, followed by yellow and pink:

- Option A. Single public agency owner/single agency operator [green]
- Option B. Single public agency owner/multi-agency “190” operator [green]
- Option C. Single public agency owner/public corporation operator [yellow]
- Option D. Single public agency owner/special district operator [pink]
- Option E. Private owner/operator – major repair of Locks [pink]
- Option F. Private owner/operator – minimal repair of Locks [pink]

All four public sector Options A-D would require legislative action. Option B would require additional coordination to establish a “190” entity as operator. Some public agencies have indicated

willingness to take on ownership subject to funding. Legislative passage of a bond measure would be required. The biggest distinction among the first four scenarios is who oversees repair of the Locks.

Initial transfer of ownership to a state agency, such as the Department of State Lands or Parks and Recreation, doesn't preclude eventual transfer to another entity such as a public corporation. OHSU, SAIF and the Oregon state fairgrounds are all public corporations that have more flexibility in their ability to generate funding than government agencies have. A private entity would face liability issues and difficulties covering debt service for capital funding. Due to the lack of flexibility involved in private ownership, Southgate characterized Options E and F as the options of last resort if needed to keep the Locks from being closed permanently.

Discussion of Governance and Finance Options:

- Rep. Julie Parrish – Strongly favors Option C. It might be harder to form a public corporation in the short term, with a lot of due diligence around repairs and operation, but a public corporation would have more autonomy and flexibility in deciding who has a seat at the table. It could be difficult to identify a single state agency that has the latitude to perform the due diligence needed and build infrastructure around tourism. It will be important to get the ask of the Legislature right at the outset because every time you submit a new bill, it's a harder sell. Players change, historical awareness is lost, and interest in the project diminishes.
- Karen Homolac – Agrees with Rep. Parrish on Option C. Single agencies have the capacity to assume ownership but lack the flexibility to innovate.
- Russ Axelrod – In the first year we could take a simple approach and develop a public corporation later.
- Rep. Bill Kennemer – There are advantages to established leadership by one agency. Favors a simple approach.
- Betty Dominguez – Supports a shared agency responsibility that could develop into a public corporation. There isn't much difference between Options B and C. Prefers B over A.
- Sam Brentano – Transferring ownership to a single agency would hopefully lead to long term stability and knowledge.
- Sandy Carter – Prefers Option A for the initial transfer of ownership, but envisions Options B or C as being more successful over the long term.
- Rep. Andrea Salinas – Favors Option A in coordination with other state agencies. We need that assurance, while recognizing that other agencies can contribute to the conversation.

- Penny Machinski – PGE’s biggest concern is that the renovation be done right. For that reason, PGE doesn’t favor any single approach among Options A-D.
- Scott Starr – Has greater trust in private rather than public entities, but there has to be a public aspect to Locks ownership. While state involvement is vital, the state may tire of the responsibility over time. Doesn’t want to preclude private ownership for this reason. Favors Option C, while keeping the door open for private investment.
- Martha Schrader – Favors Options A-C. Agrees with Rep. Kennemer that a simple approach is best. Likes the idea of a public corporation, but worries about the complexity of pulling it together in the current timeframe.
- Jack Giffen – Agrees with Rep. Parrish on Option C as long as the door is open for private involvement. Concerned about mitigation of risk.
- Bill Ryan – Options A-C are all doable. A single agency owner would be preferable at first because it would be simpler, but a public corporation makes sense in the long term.
- Rep. Mark Meek – Prefers Option C; dislikes Option B because it could get political. Option A is his second choice.
- Stan Watters – Prefers Option A, possibly Option C in future. Money is too tight to implement Option C right now. Is concerned about the business aspects of setting up a public corporation. What would it cost? Shares Rep. Meek’s concern about Option B because it could involve “too many fingers in the pie.”
- Paul Scarlett – Ownership by a single agency makes sense, as long as it’s not ODOT. The combination of a single agency and a public corporation (Option C) has potential.
- Valerie Ringold – A meeting with Corps District and Headquarters real estate management staff will be an important step in this process. They might have insight into Option E from a process perspective. The meeting should be scheduled sooner rather than later so their input can help shape the legislation.
- Gary Burke – Has no distinct preference for Option A, B or C except to ensure that treaty statutes are protected and preserved.
- Russ Axelrod – Agrees with others’ comments that the simpler the transfer of ownership, the better. Favors a private sector owner/operator, but the asset belongs in the public sector. OHSU is complex, with nuanced directions and roles. Favors Option A with restricted components of B to avoid the political aspect, followed by Option C. West Linn does not have discretionary funds to contribute to a “190” intergovernmental approach.

An IGA [intergovernmental agency] could be large, or it could be a partnership of state agencies such as the Department of State Lands and Parks and Recreation, Turner Odell said. There could be two separate IGAs, one for interim funding and another for a formal entity to operate the Locks, John Southgate said. There are a lot of ways to set up a “190” agency, whereas special districts are more regulated.

Russ Axelrod did an informal poll and reported that Options A and C have the most support, with a slight preference for A. He recommended the project team explore A and C in more depth. The conversation continued:

- Stan Watters – Agrees that A and C have the most support. We need a better understanding of the costs associated with various governance structures. Funding uncertainty is critical, which is why state ownership might be best. Forming a public corporation would probably cost more initially, but it might be the way to go.
- Bill Ryan – Look at state agencies that have the resources and expertise to operate the Locks, with formation of a public corporation as a longer term option.
- Karen Homolac – We have state agency expertise already. It’s going to take a specific skill set and cooperation to find funding sources. Is a public corporation doable?
- Rep. Julie Parrish – Is the goal just to make the Locks operational, or to generate a collaboration of river partners? There would be more statutory limitations with a single agency as owner. ODOT, for example, would not be able to fundraise for restoration of the Locks. Who are our customers and how do we reach them? Does a single agency have that capability?
- Q. Sandy Carter – Does the Corps still own the locks in Ballard? Do they put any partnership or resources into that? A. Yes, the Corps looked at a major rehab of that facility, but its recreational uses put it at the bottom of the list for federal funding. In a couple of instances, a small private/public partnership has taken on restoration of a public asset, or another entity provided the funding.
- Q: Scott Starr – Is the Corps aware of similar situations around the country where public assets were sold to a local operator? A: Yes, the Corps has sold an asset to a private corporation.
- Q: Paul Scarlett – For how long will the Corps continue to own and operate the Locks? A: There could be procurement process advantages to having the Corps maintain ownership throughout the repair phase, John Southgate said.

Next Steps in Identifying a Governance Structure:

The conversation turned to crafting a mission statement for the Locks. The mission will drive the governance structure, Rep. Julie Parrish said. The Commission already represents stakeholders who could craft a mission statement, possibly with skilled assistance from the Corps before the transition of ownership, Russ Axelrod said. He asked legislators whether the type of governance structure might influence the success of the legislation. A strong, bold vision will help sell it to the Legislature, Parrish replied.

Turner Odell said the Commission has been tasked to make recommendations and negotiate the transfer of ownership. Valerie Ringold said the Corps as owner contracts out some aspects of operation such as fee collection; the owner of the Locks need not be expert in operating them. Martha Schrader said it's important the Corps be comfortable with the Commission's choices. Turner suggested forming a subcommittee to work on next steps.

At this point the focus shifted to picking a state agency per Options A and C. On October 15, the project team met with Oregon State Parks and Recreation, Lisa Naito reported. More needs to be done to define a public corporation and how it would function.

- Action: Between now and the next Commission meeting, the project team will continue to work with the chair and vice chair, Corps real estate staff, and appropriate state agency staff to clarify the mission statement and governance structure for the Locks.

5. Next Meeting

The next Willamette Falls Locks Commission meeting will be on December 5 and will include the second round of public comments for 2018. Turner asked Commission members to think about whether they want to propose a governance structure for public comment. Rep. Parrish said draft legislation could be made available for comment at the meeting.