

WILLAMETTE FALLS LOCKS COMMISSION

Commission Meeting #7 January 30, 2019, 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 [*West Linn*], Joe Bernert [*Wilsonville Concrete*], Kevin Brice [*USACE Portland District, ex officio*], Brooke Brownlee [*PGE, ex officio*], Gary Burke [*CTUIR*], Sandy Carter [*Clackamas County*], Danielle Cowan [*Clackamas County Tourism*], M.G. Devereux [*Oregon Parks and Recreation*], Jack Giffen, Jr. [*Confederated Tribes of Grand Ronde*], Dan Holladay [*Oregon City*], Karen Homolac [*Business Oregon*], Bill Ryan [*Department of State Lands, ex officio*], Martha Schrader [*Clackamas County*], Stan Watters [*Port of Portland*].

Facilitation and Project Team:

Ayreann Columbo [*John Southgate LLC*], Andy Cotugno [*Metro*], Kristine Evertz [*Summit Strategies*], Michelle Giguere [*Summit Strategies*], Lance Heisler [*Coates Kokes*], Caroline Mellor [*Oregon Solutions*], Lisa Naito [*Naito Public Affairs*], Turner Odell [*Oregon Solutions*], John Southgate [*John Southgate LLC*], Sue Van Brocklin [*Coates Kokes*], Pat Vivian [*Wordsmith*], John Williams [*West Linn*], Trent Wilson [*Clackamas County*].

Other Attendees:

Raihana Ansary [*Governor's Office/Metro Regional Solutions*], Jacob Bell [*Office of Rep. Salinas*], Kevin Brice [*USACE Portland District*], Stacia Hernandez [*CTGR*], Jeff Hicks [*USACE Portland District*], Audie Huber [*CTUIR*], Christine Lewis [*Metro*], Megan McKibben [*Congressman Schrader's Office*], Brian Moore [*Metro*], Mark Ottenad [*Wilsonville*], Valerie Ringold [*USACE Portland District*], Laura Terway [*Oregon City*].

1. Welcome, Agenda Overview and Business Items

Turner Odell, Oregon Solutions, introduced today's agenda and noted there was a quorum for voting purposes. Today was one of two meetings during the first year (12 months) since the Commission was first convened at which the Commission included an opportunity for public testimony. However, no members of the public signed up to speak. It was noted that written testimony is encouraged at any time (<https://orsolutions.org/osproject/WFLC>).

The minutes for October 17, 2018, were adopted as final with a spelling correction in the list of attendees (Grand Ronde).

Today's agenda included an introduction of new Commission members and several project team reports. These included updates on state legislative and federal processes; a report on capital costs and how they might be financed; an update on state legislative activity; and a report on estimated costs for governance, operations and maintenance of the Locks.

There have been two developments since the last Commission meeting: (1) Gov. Kate Brown's request to the Oregon Legislature for \$7.5 million in her 2019 recommended budget to fund restoration and reopening of the Locks; and (2) replacement of several Commission members due to recent election results or retirement. While the new Commissioners have yet to be formally appointed by Gov. Kate Brown, some have already been nominated for their seats:

- Christine Lewis, Metro (for Betty Dominguez)
- Ben West, city of Wilsonville (for Scott Starr)

Three more Commissioners have left and their replacements have yet to be identified:

- Commissioner Stan Primozych, Yamhill County
- Rep. Bill Kennemer – R, non-voting advisory
- Rep. Julie Parrish – R, non-voting advisory

Because of the way majority/minority legislative membership on the Commission is structured, Rep. Prusak who now represents District 37 (including West Linn) would not be eligible for appointment to the Commission unless she replaces a current member.

A motion was made that the Commission invite Rep. Prusak to participate in an ex officio capacity; the motion was seconded and unanimously approved. Turner Odell suggested the Commission send Rep. Prusak a letter expressing this consensus.

During the short legislative session of 2019, it might make sense to hold one of the next two meetings (April 10 and July 10) in Salem (possibly in Marion County's commission room) in order to encourage participation by elected Commission members, Turner Odell said. Stan Watters, Port of Portland, asked that staff try to make sure that elected members could actually attend before asking other meeting participants to commit to driving from Portland.

Copies of five documents were distributed today:

1. Draft minutes for October 17, 2018, approved today as final.
2. A meeting summary memo prepared by the project team.
3. A description of Willamette Falls Locks and canal capital cost estimates prepared by Andy Cotugno, Metro.
4. A plan and funding options for operations and maintenance of the Locks prepared by John Southgate, John Southgate LLC.

5. A one-pager, “Willamette Falls Locks: Funding Options for the Oregon Legislature,” that explains what HB 2304, HB 2305, and HB 5030 would do and why.

2. Project Team Updates

Commission Leadership and Project Support Team Meetings

Turner Odell reported that the project team and leadership has met several times in recent months. There was a tour of the Locks in December. Corps of Engineers staff provided detailed information and operated the Locks so people on the tour could see how they function.

State Process Updates

Governor’s office meeting: Russ Axelrod, West Linn, reported that Commission leaders met on January 25 with Gov. Brown and her staff. At the meeting, Commission leaders expressed gratitude to the Governor for including a \$7.5 million line item in the Governor’s recommended budget for repair and restoration of the Locks. The meeting went very well, with the Governor expressing enthusiasm for the project. It will be important to explore all governance options including the public corporation model and the “190” agency approach in order to address the Governor’s broad vision for the future of the Locks.

Since that meeting, the Commission’s leadership team has been in touch with key legislators in Salem who want the details of Locks governance, including which agency will assume responsibility. The governor strongly supports public ownership and encouraged the Commission leaders to work directly with legislators, Michelle Giguere (Summit Strategies) said. She suggested the Commission ask for funding from the legislature that reflects the actual needs of the project, although it may be more than \$7.5 million.

Marine Board meeting: Project Team and staff met with the state Marine Board earlier in January to educate them on the Locks, Turner Odell reported. Andy Cotugno presented a slide show to introduce them to the Locks acquisition process. The slide show will be posted on the Oregon Solutions website.

Federal Process Update

Kevin Brice, USACE Portland District, said the Director’s Report on the disposition study is being finalized at the Division office. He reminded everyone that the Locks have been selected as a pilot for analyzing how the Corps disposes of projects that no longer meet federal needs. Work is underway now at the Division level to certify the costs detailed in the report. A memo has already been drafted approving the District’s recommendation to transfer ownership of the Locks to a local entity. Brice estimated the Director’s Report will be completed by late February, allowing the Commission process to move forward.

The Portland District will work with the Commission and state legislators to refine cost estimates for state budgeting purposes. There's \$500,000 in the Corps' FY 2019 budget to initiate design work needed to prepare the Locks for transfer of ownership; the FY 2020 budget will include funds to issue a construction contract. The Corps will work on linking federal and state construction processes as restoration proceeds. Legislation might be needed to facilitate transfer of ownership of the federal property to a local entity.

3. Capital Costs

Andy Cotugno, Metro, distributed copies of a memo that outlines the capital costs and scope of Locks restoration.

Recommended repairs to restore the facility to safe operating condition include replacement of gudgeon anchors, a seismic upgrade, and addressing water seepage and erosion. This category of work amounts to \$10.81 million. The next category of work needed is upgrades to make the Locks more efficient and cost effective (\$2.61million). The combined total for repairs and upgrades is then \$13.42 million.

A third category is maintenance needed every five years (\$0.54 million). Finally, there is a sinking fund for major capital repairs needed every 50 years—\$50,000 a year for removal, inspection and repair of all gates, and \$25,000 a year to repair flood damage that statistically occurs on a 30-year basis, such as the flood of 1996.

The total for all four categories over the next five years is \$15.535 million, excluding inflation over 5% per year and other unknowns. These estimates include a 30% contingency fund for seepage and a 20% engineering contingency for the seismic work. Seepage is one of the biggest unknowns, so KPPF recommends a contingency fund of \$1.3-\$2.3 million. It's also unclear which costs the Corps and the state will absorb; more detail on that is needed. The capital cost estimates just cover getting the Locks up and running, not redevelopment of the site for public access.

The project support team suggested that, with the strong support expressed at the January 25 Governor's meeting, the Commission should consider asking for \$12.5-\$15.535 million, based on the Corps disposition study and the KPPF Engineering report.

- Q. Russ Axelrod, West Linn – How do we reach consensus on how to characterize costs? The Corps' obligation is to address seismic stability at the upper end of the Locks near the PGE power plant and along the headwall. A big selling point for restoring the Locks is seismic resiliency. Do these estimates include sufficient funding for that? Do we need an escrow account for seismic work? It is crucial that the Locks meet public expectations for seismic resiliency.
- Karen Homolac, Business Oregon – The cost of selling bonds needs to be part of the legislative ask.

Brooke Brownlee (PGE) said that their Engineering analysis (also by KPFF) shows it will cost about \$4 million to repair the drawbridge and roadway. This is different from what was in the Commission's report. Staff and PGE will work to resolve the difference.

Kevin Brice (USACE Portland District) said that while the Corps will perform part of the work identified in the KPFF report, that doesn't mean it will cost less than \$15.5 million. Construction might happen at different times, so there won't be a 1-to-1 comparison of federal and state dollars. Lisa Naito urged the Commission to ask the Oregon legislature for \$15.5 million so that the support team can work on facilitating passage of HB 2304, the lottery appropriation bill.

- Q: Russ Axelrod – Does the Corps have an obligation to transfer ownership of a facility that meets current safety and environmental engineering standards? A: Probably not; the disposition study was designed to identify a minimum cost from a federal perspective. The \$3 million the Corps plans to spend includes \$2 million for a seismic retrofit and \$1 million to make that work possible. It took a push to get \$2 million for the seismic work.
- Russ Axelrod – The Commission should ask Oregon's congressional delegation to request a set-aside of \$4-5 million in the federal budget to meet seismic resiliency goals, with the understanding that it might not be needed.
- Stan Watters (Port of Portland) – Project staff and consultants could address the unknowns by identifying any expenses that are not part of the capital cost estimate or the 20% and 30% contingencies for seepage and seismic work. The Commission should be thinking about other funding opportunities in case the Oregon legislature provides less than \$15.5 million. One potential source is Connect Oregon, which funds transportation projects. In addition to capital costs, there will be transaction costs for the title transfer and other legal work. Turner Odell said the Commission support budget includes funding to allow the Oregon attorney general (DOJ) to spend some attorney time in support of the Commission's work.
- Q: Some of the process costs could be handled separately from the legislative ask. Would the Corps operate the Locks on behalf of the state if repairs are completed before ownership is transferred?
- Q: Jack Giffen, Grand Ronde – Will the Corps have liability for the seismic work? A: When it's time to transfer ownership, the risks will clearly be identified.
- Q: Danielle Cowan, Clackamas County Tourism – Would a concrete bulkhead make the Locks seismically sound? A: It would protect the dams upriver, but not necessarily locations below the Locks.

Metro approved a two-year budget to pay for the consultant team, Andy Cotugno pointed out. That includes some funds for transaction costs, John Southgate added. Russ Axelrod expressed

confidence that sufficient funding will be provided, given strong bipartisan support for Locks restoration.

Dan Holladay, Oregon City, made a motion to ask the Oregon legislature for \$15.535 as a placeholder, which was seconded. The Commission unanimously approved a formal recommendation to ask the Oregon legislature for \$15.535 million in FY 2019 for restoration of the Willamette Falls Locks.

4. Update on State Legislative Activity

Lisa Naito reported. The Governor's inclusion of Locks funding in her recommended budget is found in the lottery bonding bill, **HB 5030**. Other bills relating to the Locks are:

- **HB 2304** – This is a placeholder with a blank for lottery funding.
- **HB 2305** – Will transfer ownership of the Locks from the Corps to the state of Oregon.

Both bills have been referred to the Joint Transportation Committee. The next step is to work on the lottery appropriation bill

Naito invited Commissioners to get in touch with her if they hear any rumors about the Locks so the project team can work to ensure that legislators are getting accurate information. She plans to meet soon with Rep. Rachel Prusak, who won the seat formerly held by Rep. Julie Parrish and will be invited to serve on the Commission in an ex officio capacity. The state legislative process can move quickly—much more quickly than federal legislation—so there's a need to respond to rumors without delay.

Axelrod suggested the Commission prepare a formal funding request on letterhead to be shared with the congressional delegation and the Governor's office. He offered to work with other Commissioners on this between now and the next Commission meeting on April 10.

Naito suggested the Commission prepare an official statement of today's recommendation that the Oregon legislature approve \$15.535 million for Locks restoration in FY 2019. She will let the Commissioners know as soon as there is a date for the Transportation Committee meeting in Salem.

5. Operations and Maintenance Plan and Funding Options

John Southgate, John Southgate LLC, gave a presentation and distributed copies of the support team's proposed plan for operating and maintaining the Locks, along with funding options. The Operations and Maintenance Plan breaks the responsibility down into three phases:

Phase 1. Getting the Locks Reopened (2020-2025)

During this five-year period, the Commission will continue to navigate funding issues and pursue other capital funding options. Two full time staff will take a long-term look at economic opportunities. They'll identify potential users of the Locks and handle the legal concerns regarding ownership transfer that were discussed earlier today. This phase will require an executive director and administrative staff, with consulting and contingency funds. Spending will be about \$500,000 a year before the Locks reopen. The costs will be borne by a number of agencies.

Phase 2. First Five Years after Reopening (2025-2030)

This phase will cover the ongoing costs of running the Locks. Administrative staff and a chief engineer will be needed to oversee Locks operation and functioning. Ballard Locks in Seattle can serve as a precedent for whether these costs are realistic. At least two full time people will be needed to run the Locks year-round, as well as seasonal workers. This assumes the Locks are open extensively in spring, summer and fall, and only in winter if funding is available.

Costs during this second phase are estimated at \$1.1 million a year, which includes the maintenance and sinking funds identified by KPFF Engineering. At this point, a number of agencies will be involved in paying costs, with more details to come on that. The state tourism office, the Marine Board, and Travel Oregon could possibly be involved.

- Danielle Cowan, Clackamas County Tourism – Our office doesn't normally provide ongoing funding, although there might be options for another grant to cover some aspects of Locks operation. Could a membership fee cover the operational costs? The Oregon Travel Commission board will meet on Feb. 4-5 and might address this.

There is legislation proposed to increase the Marine Board boat licensing fee, charging by the foot for boats over 10 ft long, John Southgate reported. Maybe another fee for the Locks could be added to that bill. The Marine Board had a presentation on the Locks at its recent meeting, but they didn't discuss the boat licensing fee, Lisa Naito cautioned.

- MG Devereux, Oregon Parks and Recreation – It's been a struggle to get the boat licensing fee increase on the table legislatively. It would be challenging to advocate for an additional statewide fee at the same time.

Phase 3. 2030 and Beyond

Total operations and maintenance will continue to cost \$1.1 million per year during this period, based on the KPFF estimate.

- Q: If we can't count on stable long-term funding, will the Commission's oversight extend beyond actual transfer of Locks ownership? We can't expect grants to be renewed. If the governance model ends up being a public corporation or a "190" multi-agency, perhaps the Commission won't have to manage the long-term funding issue. A: There might be a way to

create permanent funding for operation through the state Marine Board. There are opportunities to engage the state in water infrastructure management.

- Don Holladay, Oregon City – We might provide seed money for 2-3 years but not on a continuous basis. After the state has spent \$15.5 million to fix the Locks, who's going to own the facility and where will the operations money come from? We need to answer those questions as we move forward with restoration.

The operations and maintenance plan identifies potential funding sources, Michele Giguere said. The support team needs to know what to tell state legislators about the Commission's direction and progress. Are there ideas the support team should be investigating? Feedback on this is needed.

Danielle Cowan suggested designating the funding options identified in the Operations and Maintenance Funding Plan as a draft statement, which Karen Homolac seconded. Karen said she would like to see graphs and a long-term plan moving forward.

Instead of using Ballard Locks as a prototype for the Willamette Falls Locks ownership transfer, the Commission should study the Fox River Locks, which were transferred from USACE to local ownership in a similar process to the Willamette Falls Locks, Kevin Brice said.

The support team will continue to investigate the funding sources identified in the Operations and Maintenance Funding Plan, Turner Odell said.

6. Public Testimony

While today's meeting included a publicized opportunity for public testimony, no members of the public chose to testify. It was noted that, until today's formal recommendation that the Oregon legislature designate \$15.5 million in the Oregon FY 2019 budget for Locks restoration and transfer of ownership, the Commission has taken no formal steps that might elicit public response. As the Oregon Solutions website states, the Willamette Falls Locks Commission welcomes public testimony at any time (<https://orsolutions.org/osproject/WFLC>).

7. Next Steps and Meetings

The Willamette Falls Locks Commission will meet again on April 10 and July 10, possibly in Salem to encourage attendance by Commission members who are serving in the Oregon legislature.

There was discussion of what needs to be accomplished in the interim. The big focus now is on the Oregon legislative session, then the federal delegation. More clarity is needed on short-, mid- and long-term funding, as well as contingency planning in case the legislative effort doesn't go as well as anticipated. The support team will schedule a tour of the Locks for the new Commission members.