

WILLAMETTE FALLS LOCKS AUTHORITY

Authority Meeting
December 13, 2023 – 2:00-3:30 PM
DRAFT Meeting Minutes
(Minutes: Pat Vivian and Sandy Carter)

Authority Board Members Present:

Russ Axelrod
Mary Baumgardner [*West Linn council president*]
Sandy Carter [*Willamette Falls Heritage Foundation*]
Robert Kentta [*Confederated Tribes of Siletz*]
Christine Lewis [*Metro Council*]
Denyse McGriff [*Mayor, Oregon City*]
Chris Mercier [*Confederated Tribes of Grande Ronde*]
Tootie Smith [*Chair, Clackamas County Board of Commissioners*]
Rep. James Heib

Staff:

Reed Wagner [*WFLA Executive Director*]
Georgia Langer [*Metro*]

Others Present:

Clark Balfour [*Cable Huston*]
Laura Hicks [*USACE chief of planning*]
Amy Redmond [*USACE title acquisition*]
Tracy Schwartz [*USACE cultural resource specialist*]

1. Welcome, Agenda Review, Minutes Approval and Treasurer's Report

Chair Christine Lewis called the meeting to order and reviewed the agenda. A quorum was present. Because multiple versions of the October meeting minutes were distributed, Russ Axelrod made a motion to postpone approval until January so an updated draft can be sent out. Sandy seconded the motion.

2. WFLA Director's Report

Accounting and Treasurer's Report. Executive Director Reed Wagner presented a treasurer's report in QuickBooks format, which will be used from now on. October expenses were \$14,363.59 with a deposit of \$30,000.00. The next step in financial management will be to

identify an auditor and develop financial policies, such as whether to invest the Authority's assets in a local government investment program (LGIP).

Website and Ownership Research. Reed has been working on launching the Authority's new website by February. Working with attorney Clark Balfour, who has been retained to advise the Authority on Section 106, Reed did extensive legislative and legal research to clarify ownership as a prerequisite to selecting an approach. The board can be confident that USACE owns most of the property associated with the Locks. Clark said the deed is complicated, with many old easements attached. He will give a visual presentation to make it easier to understand.

Board Election Process. Having decided to hold officer elections on a calendar-year basis instead of in September, the board will vote on officers at the January meeting. Any voting board member can nominate themselves or another member, Chair Lewis said. Nominations should be emailed to Reed by January 16.

3. Army Corps of Engineers Presentation

Update on Seismic Improvements. USACE Project Manager Laura Hicks said construction for the seismic upgrade might be finished by February. Robert Kentta asked whether the SHPO has been consulted regarding this work. USACE has consulted with both SHPO and the Tribes, Tracy Schwartz replied. Sandy Carter asked about photo documentation. Tracy shared a photo of the dewatered area and said construction photos will be available soon.

Section 106 of the National Historic Preservation Act: Closure and Transfer MOAs. The SHPO has already agreed that the seismic improvements will have no adverse effects, Tracy reported. The Authority and SHPO will work together on Section 106. USACE will provide a property management manual regardless of which approach is chosen.

Russ Axelrod asked how soon USACE expects to have a scope of work and schedule for the environmental assessment. The scope of work will be finalized over the next week, Amy Redmond said, then the search for a contractor will begin.

4. Section 106 Discussion Led by Clark Balfour of Cable Huston

Clark Balfour confirmed the Authority will get a deed to the property. It will be complex with many encumbrances. Having an actual deed is good because it allows the Authority to accept Section 106 responsibilities if the deed has a covenant. However, a covenant would become a permanent part of the deed, which could be problematic with so many old easements attached. The more specific the covenant, the harder it will be to make modifications later.

Clark recommended the Authority negotiate carefully with USACE on a covenant, perhaps a programmatic agreement to preserve the historic features of the site.

Questions and answers followed:

Q: What about the easements?

A: Easements will remain in effect because they're perpetual in nature. The board will accept ownership of an easement unless the holder wants to change it. The most concerning ones are those that are part of the deed itself. If the board wants to modify an easement, they should talk to the easement holder.

Q: As holder of the deed, will the Authority have the ability to create future easements for special use, such as for people getting out of boats onto real property?

A: The Authority will get title to the canal, but the land on either side will have different owners. The Authority will need to negotiate with these partners.

Q: We should look more closely at the April 18, 1907, agreement between the paper mill and PGE. Could it possibly interfere with Locks operation?

A: PGE has agreed to talk in depth about those agreements.

Comments: We need to address which easements are still active and ask the holders if they still want them. The Authority shouldn't accept liability for actions over which it has no control. We also need to address liability if people are going to get off the boats. The Tribes should be consulted re: Section 106 since they are the interested party. USACE has a robust process for Tribal consultation; the Authority needs a consultation process as well.

Today's agenda included a vote on the legal recommendation from Cable Huston. However, Russ Axelrod suggested postponing the decision until January to allow an opportunity for public comment. There was general consensus on this step.

There was discussion of what to include in the public comment session. Should it just address the MOU and transfer of ownership, or should it address historic preservation? Section 106 has a built-in public process of its own, Tracy Schwartz said. USACE can handle postponing a decision until January, but beyond that could put their schedule at risk. Tracy will work with her legal counsel and SHPO on a rough draft of a covenant to present at the January WFLA meeting.

5. Wrap Up and Adjourn

The next WFLA meeting on January 24 will be held at the Oregon City Library with a zoom option. A Doodle poll will go out soon re: meeting dates in November and December 2024.