



STATE OF OKLAHOMA
OKLAHOMA SCENIC RIVERS COMMISSION

MEETING DATE: Tuesday, December 15, 2015
MEETING TIME: 5:30 p.m.
MEETING PLACE: Tahlequah Armory Municipal Center
100 North Water Street
(Located across the street on the Northeast corner of the Old Cherokee
Capitol Square located in downtown Tahlequah)
Tahlequah, Oklahoma 74464

OKLAHOMA SCENIC RIVERS COMMISSION
REGULAR BUSINESS MEETING
MINUTES

**There was not a quorum at 5:30 p.m., therefore Chairman Hilsher informally opened the meeting introducing guests and visitors followed by discussion of "non-action items" listed within the agenda while awaiting a quorum of Commissioners to assemble. The Minutes are recorded in the order as discussed.*

04. Introduction of guests and visitors.

L.D. Stephens, War Eagle Resort; Matt and Amy Grogan, Peyton's Place; Bob Gibbins, Tahlequah Daily Press; Matt Meredith, Candidate for State Representative #4; Melissa Harris, Tour Tahlequah; Jack Spears, Arrowhead Resort; Barbara Kelley, Diamondhead Resort; Denise Deason-Toyne, Save the Illinois River (STIR); Jill Herrlein, STIR; Chance Imhoff, War Eagle Resort; Howard Tate, Illinois River Ranch; Robert and Cathy Frank, Riverbend Resort; Ed Brocksmith, STIR; Jerry E. and Susan P. Hammons, Landowners; Dewayne Smoot, Muskogee Phoenix; Nancy Garber, STIR; Cheryl Allen, Oklahoma Scenic Rivers Commission (OSRC); Captain Bill James and Ranger Bobby Robertson, OSRC.

05. Comments from guests and visitors.

This item is included within the agenda to allow time for public comment to the OSRC Board of Commissioners. Comments are limited to three minutes per speaker. This agenda item allows NO ACTION may be taken by Commissioners.

Chairman Hilsher welcomed and opened the podium for comments from the guests and visitors. There were no comments voiced from the public present.

08. Administrator Report.

- Administrator Fite summarized the December 1, 2015 OSRC County Representatives Election and reported that Rick Stubblefield was elected as the Adair County Representative; Kathy L. Ryals as the Cherokee County Representative; and, Steve Randall as the Delaware County Representative.
- He made mention of the minor flooding event that occurred on December 13th.

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- Cheryl Allen shared information on the budget, and referred to page 24 of the meeting packet where she discussed the Allotment Budget and Available Cash. She emphasized that the specific report is a good way to track the OSRC Budget on a daily basis. She said OSRC receives a monthly allocation of \$22,000.00 from appropriations. She explained all funds accounts and provided a summary of each along with the process that funds are encumbered.
- Administrator Fite said he's anticipating state agencies will experience additional budget cuts in FY-2017.
- As of November 18th, the OSRC has sold \$3,192 in \$1.00 privately-owned non-commercial user fees and \$5,170 from the sale of 517 of the \$10.00 annual privately-owned non-commercial user fee decals. All totaled the OSRC sold \$8,362 in privately-owned non-commercial user fees.
- 2016 Commercial Flotation Device Licenses (CFD Licenses) are projected at 2,987 renewals;
- Chairman Hilsher asked when the license renewals fees are due and Administrator Fite responded 12:00 noon December 31, 2015.
- Administrator Fite then shifted attention referring to a letter on pages 29-31 in the meeting packet from the Oklahoma Department of Wildlife Conservation (ODWC) regarding the Sager Creek fish kill that occurred on September 29, 2015. The fish kill was caused by the discharge of untreated waste water from the Siloam Springs, AR Waste Water Treatment Plant (WWTP). The investigation determined that a vegetable processing company located east of Siloam Springs introduced an enormous amount of Biological Oxygen Demand loadings from processing sweet potatoes into the waste water treatment plant collection system. He said when that slug of BOD loadings overwhelmed the plant killing the internal biological treatment process making the plant go off-line. He said the WWTP was basically discharging untreated waste water into the Sager Creek. The volume and composition of waste water that entered Sager Creek killed the vast-majority of fish and aquatic community within 1.65 mile stream reach downstream located in Oklahoma. He said Oklahoma is seeking \$14,034.13 in fisheries damages and \$1,843.10 for the investigative costs;
- He then summarized the proposed agenda item that would amend the FY-2016 OSRC-USGS Illinois River Basin Water Quality Monitoring and Stream Gaging Network Contract that if approved would reduce the OSRC cost-share match by \$7,000.00; and,
- He also summarized the proposed agenda item to approve an OSRC-ODEQ services contract that would fund the 3rd-quarter (January 1, 2015 – March 31, 2016) OSRC \$19,938 cost-share match for the FY-2016 OSRC-USGS Water Quality Monitoring and Stream Gaging Network Contract.

*****At 6:00 p.m. the meeting was called to order as a quorum of Commissioners had been seated.***

01. Meeting called to order.

02. Welcome and administer Loyalty Oath of Office to newly elected OSRC Commissioners:

- **George "Rick" Stubblefield as the Adair County Representative;**
- **Kathy L. Ryals as the Cherokee County Representative; and,**
- **Steven Randall as the Delaware County Representative.**

Chairman Hilsher welcomed and administered the Loyalty Oath of Office to the newly elected OSRC Commissioners.

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03. Roll Call.

MEMBERS PRESENT

Monte Bradford
Gerald Hilsher
Trey Peyton
David Pickle
Steve Randall
Kathy Ryals
Rick Stubblefield

MEMBERS ABSENT

Jeff Bashaw
Randy Corp
Michael Fuhr
Riley Needham
David Spears

12. Rulemaking 2015: Consideration, vote to approve, amend or take other action related to proposed amendments to Chapter 10, specific to sections 10-1-5(h)(8) and 10-1-7(h) of Oklahoma Scenic Rivers Commission (OSRC) Rules, as codified in Oklahoma Administrative Code 630:Scenic Rivers Commission. This agenda item is to allow OSRC Commissioners to consider the below listed proposed rulemaking amendments tabled during the November 17, 2015 OSRC Rulemaking Public Hearing and Special Business Meeting.

Permanent Amendments to Chapter 10 – Licensing and Use Permits, specific to:

A. 630:10-1-5. Commercial licensing procedures, requirements, and annual use fees

(h) (8) The OSRC can better protect the river and deploy its resources with knowledge of how many people and watercraft are floating the river during various times. The commercial float operators also wish to protect their proprietary business information. Accordingly, each operator shall track and annually report to the Administrator the number of their customers per type of flotation device and per commercial float area for weekdays, weekends and holidays from May through September. These reports are due by December 31 each year on forms provided by the OSRC. The OSRC shall provide a form for the anonymous reporting of this data, which is to be used only for statistical and management purposes. The envelope that identifies the operator is to be discarded after the receipt of the form is noted for the operator, so that the operator cannot be identified as being associated with any particular portion of the statistical data.

- Chairman Hilsher opened the discussion calling attention to the underlined wording. He said he had discussed the proposed wording with Oklahoma Attorney General's Office and was concerned the proposed amendment could violate provisions of the Oklahoma Open Records Act. To abate the possibility, he motioned an alternative amendment **(8) The OSRC can better protect the river and deploy its resources with knowledge of how many people are floating the river during various times. Accordingly, each operator shall track and annually report to the Administrator on a per month basis the number of their customers per commercial float area from May through September. These reports are due by December 31 each year on the forms provided by the OSRC.** Commissioner Pickle seconded the motion.

Following the placement of the motion Chairman Hilsher opened the floor discussion:

- Commissioner Ryals asked a question concerning how the difference of the numbers of commercial users compares for one year to the next. Jack Spears, owner – Arrowhead Resort seated in the audience spoke up stating they stay fairly consistent, yet he said there is an increase from year to year or his business wouldn't still be in business;
- Commissioner Ryals' concerns were that reports, which will be due by December 31st each year, would disclose proprietary information. She also suggested the commission spend the next few months looking at other ways to get more complete numbers.

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- Jack Spears, owner of Arrowhead Resort, said he has concerns the reports will disclose financial information of the various operators.
- Chairman Hilsher said the alternative motion would only require CFD Operators to file reports on a monthly basis, May-September rather than reporting the number of their customers per type of flotation device and per commercial float area for weekdays, weekends and holidays from May through September. Hilsher said the float operators would file the report by December 31st and the report would be open to the public review. He said it would allow the OSRC to compare numbers from the past to the present; and,
- Commissioner Stubblefield said he attended a Joint House-Senate Appropriations Committee Meeting at the state capitol last week with Administrator Fite. He reported the Administrator and he presented an overview of the OSRC's responsibility and mission. He said the Administrator focused on those provisions within the Oklahoma Scenic Rivers Act while he limited his comments on the tourism aspects.

Chairman Hilsher then summarized the discussion and asked if there were any further comments:

- Jack Spears inquired how this information will help the legislature. Chairman Hilsher answered the information wasn't intended to help with legislation, but it would help the OSRC; and,
- Commissioner Randall asked if the event a CFD Operator provides erroneous information will there be a penalty assessed. Chairman Hilsher responded it would constitute a violation of OSRC Rules.

At the conclusion of discussion the Chairman's motion was approved.

The Vote Follows:

Bashaw	Absent	Peyton	Abstain
Bradford	Aye	Pickle	Aye
Corp	Absent	Randall	Aye
Fuhr	Absent	Ryals	No
Hilsher	Aye	Spears	Absent
Needham	Absent	Stubblefield	Aye

Motion approved by 5-Aye, 1-No, 1-Abstain and 5 Absent vote.

B. 630:10-1-7. Limitation on licensing of flotation devices

(h) To reduce congestion in CFA Two, raft licenses shall not exceed the number of licenses issued in 2015.¹ Footnote Reads: ¹ 1,520 raft licenses were issued in CFA Two in 2015.

1. Presentation – Ed Fite, Administrator
2. Possible Accommodation of Additional Comments and Discussion – Received from the Public
3. Additional comments and discussion – OSRC Board of Commissioners
4. Discussion and possible action by the OSRC Board of Commissioners, which may include revisions and a roll call, vote on the permanent adoption.

¹ 1,520 raft licenses were issued in CFA Two in 2015.

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Notice of rulemaking was published in the Oklahoma Register on October 1, 2015. Those notices were also posted along with the text of the proposed rules and the rule impact statements on the OSRC website and emailed to interested persons on the OSRC email list on October 15, 2015.

Notice of action undertaken by OSRC Commissioners at the November 17, 2015 Rulemaking Public Hearing and Special Business Meeting was posted to the OSRC Website on November 24, 2015.

Additional notice for specific consideration of proposed amendments to Chapter 10, Sections 10-1-5(8)(h) and 10-1-7(h), was posted to OSRC website and emailed to interested persons on the OSRC email list on December 8, 2015. The OSRC has not conducted a subsequent public comment period or public hearing since the November 17, 2015 OSRC Rulemaking Public Hearing and Special Business Meeting.

Chairman Hilsher opened the floor to discussion. He said that he had read the draft minutes from the November Special Business Meeting noting the particular section proposed as a rules amendment had been tabled. He offered a motion to bring from the table and adopt the proposed rules amendment. Consideration to adopt failed due as his motion did not receive a second.

09. Consideration, vote to approve, amend or take other action approving amendment to U.S. Geological Survey Joint Funding Agreement 15C4SH002200028 for the continuation of the Project Surface-Water Monitoring and Water-Sampling in the Illinois River Basin for the period July 01, 2015 through June 30, 2016. Contract amendment reduces OSRC cost-share match from \$79,750 to \$72,750 and total contract not to exceed \$197,400.

Federal funds contributed to match OSRC cost-share: USGS Cooperative Water Matching Funds \$62,250; USGS Stream flow Information Program Funds \$42,800; and, U.S. Army Corps of Engineers \$19,600.

Chairman Hilsher opened discussion saying that item #9 is related to the proposed \$7,000 contract cost reduction the Administrator presented during informal discussion before the meeting was called to order. Chairman Hilsher motioned to approve and Commissioner Bradford seconded the motion. There were no comments voiced from Commissioners or the public present.

The Vote Follows:

Bashaw	Absent	Peyton	Aye
Bradford	Aye	Pickle	Aye
Corp	Absent	Randall	Aye
Fuhr	Absent	Ryals	Aye
Hilsher	Aye	Spears	Absent
Needham	Absent	Stubblefield	Aye

Motion approved by 7-Aye and 5 Absent vote.

10. Consideration, vote to approve, amend or take other action related to Oklahoma Department of Wildlife Conservation and Oklahoma Scenic Rivers Commission FY-2016 Water Quality Support Contract. Contract will provide \$19,938 to fund OSRC cost-share match for 2nd Quarter (October 1 – December 31, 2015) of the USGS-OSRC FY-2016 Project Surface-Water Monitoring and Water-Sampling in the Illinois River Basin.

Chairman Hilsher explained the proposed agenda item is to approve an OSRC-ODWC services contract that would fund the 2nd-quarter (October 31, 2015 – December 31, 2015) OSRC \$19,938 cost-share match for the FY-2016 OSRC-USGS Water Quality Monitoring and Stream Gaging Network Contract. Chairman Hilsher made the motion to approve and Commissioner Bradford seconded the motion. There were no comments voiced from Commissioners or the public present.

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The Vote Follows:

Bashaw	Absent	Peyton	Aye
Bradford	Aye	Pickle	Aye
Corp	Absent	Randall	Aye
Fuhr	Absent	Ryals	Aye
Hilsher	Aye	Spears	Absent
Needham	Absent	Stubblefield	Aye

Motion approved by 7-Aye and 5 Absent vote.

- 11. Consideration, vote to approve, amend or take other action related to Oklahoma Department of Environmental Quality and Oklahoma Scenic Rivers Commission FY-2016 Water Quality Support Contract. Contract will provide \$19,938 to fund OSRC cost-share match for 3rd Quarter (January 1 – March 31, 2016) of the USGS-OSRC FY-2016 Project Surface-Water Monitoring and Water-Sampling in the Illinois River Basin.**

Chairman Hilsher explained the proposed agenda item is to approve an OSRC-ODWC services contract that would fund the 3rd-quarter (January 1, 2016 – March 31, 2016) OSRC \$19,938 cost-share match for the FY-2016 OSRC-USGS Water Quality Monitoring and Stream Gaging Network Contract.

Chairman Hilsher made the motion to approve and Commissioner Bradford seconded the motion. There were no comments voiced from Commissioners or the public present.

The Vote Follows:

Bashaw	Absent	Peyton	Aye
Bradford	Aye	Pickle	Aye
Corp	Absent	Randall	Aye
Fuhr	Absent	Ryals	Aye
Hilsher	Aye	Spears	Absent
Needham	Absent	Stubblefield	Aye

Motion approved by 7-Aye and 5 Absent vote.

- 07. Consideration and discussion, vote to approve, amend or take other action approving minutes from October 20, 2015 OSRC Regular Business Meeting and November 17, 2015 Rulemaking Public Hearing and Special Business Meeting.**

Chairman Hilsher made the motion to table the minutes until the February 2016 OSRC Regular Business Meeting. Commissioner Stubblefield seconded the motion.

The Vote Follows:

Bashaw	Absent	Peyton	Aye
Bradford	Aye	Pickle	Aye
Corp	Absent	Randall	Aye
Fuhr	Absent	Ryals	Aye
Hilsher	Aye	Spears	Absent
Needham	Absent	Stubblefield	Aye

Motion approved 7-Aye and 5 Absent vote.

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06. Recognition of John L. Larson for 12 years of service as the Cherokee County Representative.

This item was informally tabled as Mr. Larson did not attend the meeting.

13. New Business.

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of the posting of the agenda or any revised agenda.

Chairman Hilsher asked if there was any new business. There were no further questions or comments voiced.

14. Adjournment.

Commissioner Hilsher motioned to adjourn the meeting and Commissioner Randall seconded the motion.

The Vote Follows:

Bashaw	Absent	Peyton	Aye
Bradford	Aye	Pickle	Aye
Corp	Absent	Randall	Aye
Fuhr	Absent	Ryals	Aye
Hilsher	Present	Spears	Absent
Needham	Absent	Stubblefield	Aye

Motion to adjourn approved by 7-Aye and 5 Absent vote.

Passed and approved this 26 day of February, 2016. David Pickle
David Pickle, Secretary

Subscribed and sworn to before me on this 26 day of February, 2016.



Bobby Robertson
Signature of notary officer
My Commission expires: April 10, 2016
Commission #12003526

**Approved Addendum to December 15, 2015 Oklahoma Scenic Rivers Commission
Regular Business Meeting Minutes**

This addendum is specific to Page 3 of 7 to accompany comments listed at the bottom of the page related to discussion of Agenda Item 12.

The addendum approved reads: "[Commissioner] Ryals' concerns were that reports, which will be due by December 31st each year, would disclose proprietary information. She also suggested the commission spend the next few months looking at other ways to get more complete numbers.

Jack Spears, owner of Arrowhead Resort, said he has concerns the reports will disclose financial information of the various operators."

The Vote at February 24, 2016 OSRC SBM to Approve the Proposed Amendment Follows:

Bashaw	Absent	Peyton	Aye
Bradford	Aye	Pickle	Aye
Corp	Abstain	Randall	Aye
Fuhr	Absent	Ryals	Aye
Hilsher	Aye	Spears	Abstain
Needham	Abstain	Stubblefield	Aye

Motion approved by 7-Aye, 3-Abstain and 2 Absent vote.

Passed and approved this 26 day of February, 2016. David Pickle
David Pickle, Secretary

Subscribed and sworn to before me on this 26 day of February, 2016.



Bobby Robertson
Signature of notary officer
My Commission expires: April 10, 2016
Commission #12003526