

Oklahoma Scenic Rivers Commission

Regular Business Meeting

February 18th 2014, 5:30 p.m.

Tahlequah Armory Municipal Center, 100 North Water St., Tahlequah, OK 74464

MINUTES

Agenda Items are listed in the order of action by Commissioners.

01. Meeting called to order.

Chairman Needham called the meeting to order.

02. Roll Call

MEMBERS PRESENT

Jeff Bashaw
Randy Corp
Gerald Hilsher
John Larson
Riley Needham
Trey Peyton
David Pickle
Steve Randall
David Spears
Rick Stubblefield

MEMBERS ABSENT

Monte Bradford
Michael Fuhr

03. Welcome and recognition of newly elected and reappointed Commission Members:

- 1. Archie R. (Trey) Peyton, III (elected "At-Large" position);**
- 2. David Pickle (elected "At-Large" position); and,**
- 3. Monte Bradford (re-appointed by Speak T.W. Shannon, OK House of Reps).**

Chairman Needham and Administrator Fite welcomed the newly elected/reappointed Commissioners.

04. Introduction of guests and visitors.

Rod Foster, Elephant Rock Nature Park; Shane & Tamie Ellis, Sparrow Hawk Camp; Dustin Ellis, Sparrow Hawk Camp; Joel Lamb; Matt & Amy Grogan, Peyton's Place; Archie Peyton, Sr., Peyton's Place; Austin Spears, Arrowhead Resort; Jack Spears, Arrowhead Resort; Steve Patterson, bioXdesign; Donna Pickle; Barb Daily, STIR; Kathy Turner; Brandon Brown, ODWC; Marcus Olive, Hanging Rock Camp; Teddye Snell, Tahlequah Daily Press; Bill James, OSRC; Cheryl Allen, OSRC.

05. Comments from guests and visitors.

There were no comments.

06. Consideration and discussion, vote to approve, amend, or take other action approving minutes from December 10, 2013 OSRC Regular Business Meeting.

Commissioner Bashaw made a motion to approve the minutes from the December 10, 2013, OSRC Regular Business Meeting. Commissioner Larson seconded the motion.

The vote follows:

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

Motion passes.

07. Ranger Department Report

Captain Bill James reported to the Commission that Ranger Dustin Davis was the recipient of the Don Breyerly Memorial Award at the Buckle Down Awards sponsored by Safe Communities of Oklahoma, State Farm Insurance, Oklahoma Highway Safety Office and St Francis Children's Hospital.

There were no drownings on the Scenic Rivers during 2013 and no fatal traffic collisions on SH-10 or surrounding roadways for past 24 months.

Due to budget restraints rangers will no longer take calls on private property, including camp areas of the commercial operators. Rangers will be tasked with working on the river by boat and vehicle patrol as well as the public use areas of OSRC.

08. Education Outreach Report

Cassandra Carter, OSRC Education Outreach Coordinator, was absent due to illness so Administrator Fite presented her report. (Attached)

09. Administrator's Report

Administrator Fite reported on recent OSRC activities. Fite then introduced Steve Patterson, Ph.D., with bioXdesign Environmental Consulting.

10. Presentation related to Ecological Design in the Ozarks – Workshop and Lake Frances Charrette. Presented by Steve Patterson, Ph.D., bioXdesign Environmental Consulting.

Steve Patterson of bioXdesign Environmental Consulting reported on Ecological Design in the Ozarks – A Workshop and Charrette that was held May 15 – 17, 2013, in Fayetteville, Arkansas. Students, landscape architects, engineers, water quality specialists, ecologists, kayakers, and other interested individuals spent three days learning, brainstorming, and designing. The participants collaborated in small, multidisciplinary groups, who then presented their work to the full group to generate further discussion and innovation.

Commissioners Bashaw and Randall left the meeting at 7:00 p.m.

11. “Consideration and discussion, vote to approve, amend or take other action regarding the elimination of CFAs (630:10-1-7(G)). This agenda item requested by Jack Spears, Owner – Arrowhead Resort in letter received on February 5, 2014.

Jack Spears, owner of Arrowhead Resort, asked Commissioners to consider eliminating the commercial float areas and told commissioners Tuesday night the regulation is outdated and should be eliminated.

“This rule was made to keep one operator from moving permits into another area,” said Spears. “That operator is no longer a threat.”

Spears contends doing away with the rule will help the OSRC, which has faced steady budget cuts over the past decade. In a letter to Commissioners, Spears said the total number of permits not granted since 2009 – the year the flat \$35 fee per license was introduced – totals 1,188. Many smaller operators in Zones 1 and 3 are requesting fewer permits, as the cost increase went into effect.

“Had all of those permits been granted, it would total \$41,580,” wrote Spears. “Apply this revenue to the total loss in appropriations for the same period, \$74,007, and it would leave a deficit of \$32,427, or \$6,485 each year. This is certainly a more manageable number when utilizing conservative and creative budgeting.”

Commissioner Gerald Hilsher clarified Spears' request by asking if Spears wanted the Commission to eliminate commercial float areas.

“I'm asking you to begin the procedure,” said Spears. “It's a rule that needs to be

eliminated. I think it will help the OSRC financially. You're not selling permits because they're allocated to the lower end of the river."

Hilsher pointed out the extensive process involved in changing the rules – including public hearings, extra meetings, a vote by the Commission, and ultimately, a vote by the Legislature.

"Jack, you brought this up in December and last spring," said Hilsher. "I suggested last spring you report back to us if any other commercial operators believe like you do that we should eliminate the CFAs. We may have our own views, but it's always good to have input coming in before beginning a lengthy process, especially considering budgetary considerations. We all understand your sentiment, but what do the other operators think?"

Spears said he has six of the eleven float operators on board to sign a petition indicating they are not opposed to nixing the rule, but added that he is not at liberty to divulge names.

"Not having opposition is different than being adamantly in favor of something," said Hilsher. "I'd be more impressed with someone telling me why they think it's a good idea. Your argument is that we're leaving money on the table; this would be more quickly addressed by reinstating user fees. Part of the negative effect on the river is people and density. This raft explosion puts more people in a boat that pays the same amount for a license as a canoe. It doesn't make sense to me in the overall scheme of things. If truly the concern is getting our law enforcement money to make it the river enjoyable, selling a few more permits to put people on the river on rafts is problematic."

A number of Commissioners suggested Spears' provide more information, and to ask his fellow operators to attend the next meeting.

Rod Foster, owner of Elephant Rock Nature Park, spoke following Mr. Spears' presentation and reminded the Commissioners that the agency is in the business of protecting the environment.

Commissioner John Larson moved the commission take no action, which was seconded by Hilsher.

The vote follows:

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

12. Discussion and consideration, vote to approve, amend or take other action on policy

interpretation of whether OSRC Commercial Flotation Device License is granted either (i) as a specific type of flotation device (e.g., canoe or raft) and not transferable by the operator to a different type of flotation device depending on river conditions or customer demand or (ii) the operator's entire inventory and subject only to the maximum limitation of total permitted flotation devices and thus transferable between types of devices based on river conditions or customer demand. And as a corollary, what constitutes a "properly displayed (affixed)" OSRC Commercial Flotation Device License to flotation devices. See 630:10-1-5(e) ("License's shall be issues in such form as is prescribed by the Administrator, and shall be displayed on the right front (starboard bow) of flotation devices that have bows, or conspicuously on the outside surface area above the water line of flotation devices without a discernible bow.")

Administrator Fite stated that he interpreted 630:10-1-5(e) as meaning licenses were *not* flotation device specific (decals for devices with bows, zip ties for devices without) and therefore transferrable between devices. After discussing the policy with other sources, however, Fite felt the policy could be open to different interpretation, and sought feedback from Commissioners.

Vice-Chairman Hilsher discussed the affect river levels has on the popularity of flotation device: at higher levels, rafts are more popular, and at lower levels, kayaks and canoes are more popular. If CFDL's are transferrable, commercial float outfitters may come to the OSRC to exchange license type depending on anticipate device popularity. Exchanging license types could present a burden to OSRC staff.

Commission Larson discussed the difference in carrying capacity between rafts, kayaks and canoes. Larson's concern was that transferring licenses between kayaks and canoes, which carry 1-2 persons, and rafts, which carry between 4-8, increases river traffic, could result in river traffic exceeding carry capacity.

Administrator Fite noted that in the past, the OSRC considered affixing the vinyl decals made specifically for canoes and kayaks to an aluminum plate that could also be affixed to D-rings on rafts, thus eliminating the need for two separate licenses for specific devices. Commercial float outfitters expressed concern that would damage rafts and the consideration was dropped.

Commissioner Corp addressed the commercial flotation outfitters present, asking how the non-transference policy affected business.

Rod Foster, owner of Elephant Rock, stated that small operations with limited devices cannot switch between devices as easily as larger operations, which is difficult when river levels change rapidly.

Administrator Fite shared previous instances where he had acted with the interpretation that licenses were transferrable. In the 2013 season, Jack Spears, owner of Arrowhead, exchanged 40 decals for 40 zip ties. Fite advised outfitters that didn't have enough

licenses to cover all the devices they floated, outfitters could affix decals to an aluminum tag that could be switched between devices.

Vice-Chairman Hilsher moved to make a policy determination that CFDL's are transferrable between devices within the commercial float operation. Commissioner – seconded the motion.

The vote follows:

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

13. Consideration, vote to approve, amend or take other action on New First Time and Temporary 2014 Commercial Flotation Device Licenses (CFDL) applications:

New First Time CFDL Applications

- A. All American Floats 160 CFDL (25 canoes or kayaks and 85 rafts) CFA 3;**
- B. Arrowhead Resort 59 CFDL (20 kayaks and 39 rafts) CFA 2;**
- C. Diamondhead 50 CFDL (40 kayaks and 10 rats) CFA 3;**
- D. Hanging Rock Camp 100 CFDL (50 canoes or kayaks and 50 rafts) CFA 2; and,**

Temporary CFDL Applications

Temporary licenses are granted for a stated period of time, generally expiring on December 31st of the year granted, and shall not be renewed during the annual licensing process.

- E. Arrowhead Resort 100 CFDL (20 canoes or kayaks and 80 rafts) CFA 2.**

CFA = Commercial Float Area. The Illinois River is divided into three sections for commercial flotation operation and licensing purposes for weekends and holidays in May through September:

- CFA 1 begins at Arkansas-Oklahoma state line extending downstream to Round Hollow Public Access area (27.7 mile reach of river);
- CFA 2 begins at Round Hollow Public Access Area extending downstream to Combs Bridge (7.4 mile reach of river); and,
- CFA 3 Begins at Combs Bridge extending downstream to the river's confluence with the Barren Fork Creek (26.4 mile reach of the river).

Chairman Needham moved to vote on item A and C. Vice-Chairman Hilsher motioned to approve both items. Commissioner Stubblefield seconded the motion.

The vote follows:

Bashaw	Absent	Needham	Aye
Bradford	Absent	Peyton	Abstain
Corp	Aye	Pickle	Aye
Fuhr	Absent	Randall	Absent

Hilsher	Aye	Spears	Aye
Larson	Aye	Stubblefield	Aye

Chairman Needham moved to consider item B and D. Vice-Chairman Hilsher addressed Jack Spears, owner of Arrowhead, request, which specifically requested 59 additional licenses as long as they were in CFA 2 and that the CFA's were eliminated. As the CFA's were not eliminated, granting this request would reduce the CFDL's requested by Hanging Rock Camp from 100 to 41.

Commissioner Corp addressed Hanging Rock owner Marcus Olive, confirming the missed deadline was an oversight and not a sign that Olive no longer wanted the licenses, which Hanging Rock had requested four years in a row. Corp also asked if the Commission had made exceptions for late applications in the past. Administrator Fite said the Commission had previously granted Arrowhead Resort's late CFDL request.

Arrowhead withdrew the request for 59 additional licenses.

Vice-Chairman Hilsher moved to approve item D. Commissioner Corp seconded the motion.

The vote follows:

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

Chairman Needham moved to consider item E.

Administrator Fite explained OSRC rules permit distribution of temporary CFDL's if there are still unclaimed CFDL's within a specified CFA.

Commission Larson pointed out that Spears' request for 100 temporary licenses in CFA 2 would put the number of CFDL's for that area *above* the limit of licenses for that area.

Jack Spears argued Arrowhead floated only the upper area of CFA 2 and was not adding to the congestion of the river. Commissioner Larson responded that the river did seem to be congested, and that there is no way of tracking which area of CFA 2 Arrowhead floated costumers, leaving the Commission with no way to prove Spears' claims.

Fite advised to deny Arrowhead temporary license, suggesting Arrowhead arrange to exchange licenses with Riverside Resort, which is in possession of approximately 150 CFA 2 licenses they do not consistently use. This would be a private exchange arranged and carried out through Arrowhead and Riverside.

Vice-Chairman Hilsher moved to deny temporary permits to Arrowhead. Hilsher reasoned that permits should be denied because 1) Arrowhead's request was made with the same contingency in item B; this contingency was not met, which led Spears to withdraw his request for New/First Time licenses; and 2) because he interpreted rule 10-1-7 to mean temporary licenses could only be granted if it did not push distributed CFDL's in CFA 2 over the CFA 2 license limit. Commissioner Corp seconded the motion.

The vote follows:

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

14. Election of 2014 OSRC Officers

- **Chairman**
- **Vice-Chairman**
- **Secretary/Treasurer**

Chairman Needham nominated Vice-Chairman Hilsher for position of 2014 Chairman. Commissioner Larson seconded the nomination.

The vote follows:

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

Commissioner Larson nominated Commissioner Corp for the position of Vice-Chairman. Commissioner Corp stated that while he appreciated the nomination and served the Commission with passion, his location in Oklahoma City would make it difficult to serve as Vice-Chair. Commissioner Larson revoked his nomination.

Commissioner Hilsher nominated Commissioner Needham for the 2014 Vice-Chair position. Commissioner Corp seconded the nomination.

The vote follows:

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

Vice-Chairman Hilsher nominated Commissioner Larson to continue as Secretary/Treasurer. Commissioner Corp seconded the nomination.

The vote follows:

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

15. New Business

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

No new business was brought forward.

16. Adjournment

Commissioner Hilsher moved to adjourn. Commissioner Larson seconded the motion.

The vote follows:

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

Passed and approved this 20th day of May, 2014. Riley B. Needham
Secretary/Treasurer Vice-Chair

Subscribed and sworn to before me on this 20 day of May, 2014.



Cheryl Myerley Allen
Signature of notary officer
My Commission expires: December 11, 2017
Commission #01019412