

**INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION
SUMMARY MINUTES - SPECIAL MEETING**

DATE: May 14, 1996
TIME: 6:30 p.m..

PLACE: SeaTac Airport, Small Auditorium
SeaTac, Washington

- Contents -

MEETING CALLED TO ORDER 1

STAFF PRESENTATION, EMERGENCY RULE, WAC 286-13-085(2) 1

OPTIONS FOR COMMITTEE CONSIDERATION2

PUBLIC TESTIMONY3

COMMITTEE DISCUSSION AND ACTION.....4

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INTERAGENCY COMMITTEE MEMBERS PRESENT:

Donna Mason, Chair	Vancouver
Ralph Mackey	Everett
Robert Parlette	Wenatchee
Stan Biles	Designee, Department of Natural Resources
Gene Tillett	Alternate Designee, Department of Fish and Wildlife
Cleve Pinnix	Director, Parks and Recreation Commission

IT IS INTENDED THAT THIS SUMMARY BE USED IN CONJUNCTION WITH THE INFORMATION PACKET PROVIDED AT THE MEETING.
A VERBATIM RECORDED TAPE OF THE MEETING'S PROCEEDINGS IS RETAINED BY IAC AS THE FORMAL RECORD OF MEETING.

MEETING CALLED TO ORDER

Donna Mason, Chair, called the May 14 Special Meeting to order at 6:35 p.m.. She welcomed attendees, determined a quorum was present and asked members, staff and audience participants to introduce themselves.

IAC Director Laura Johnson presented the planned agenda for the meeting. She explained that under state law, a special meeting is limited to discussion and decision only on those items that public notice was provided for, namely the options before the Committee with respect to the lack of legislative approval for the FY 97 Washington Wildlife and Recreation Program (WWRP) projects. The staff will present options and recommendations for action. In addition, members will be asked to adopt a related emergency rule to the Washington Administrative Code (WAC).

EMERGENCY RULE, WAC 286-13-085(2) - WAIVER OF RETROACTIVITY FOR DEVELOPMENT COSTS

Chair Mason announced that this portion of the meeting would be a public hearing followed by public testimony and later committee consideration of possible adoption of changes to Washington Administrative Code (WAC) rules and delegated Director Johnson to preside as the official hearings officer in the matter. The hearing is held to consider testimony and take action solely on an emergency amendment to an existing rule. Under state law, emergency laws don't have the formal, procedural adoption guidelines that regular rules do. But to the extent possible, we want to provide the opportunity for public comment.

Committee members were directed to a staff memo entitled, "May 14 Special Meeting Staff Recommendation - Amend WAC". As staff addressed the issues before the Committee and lack of legislative approval of FY 97 WWRP list, it became apparent that, if members support the staff recommendation to be discussed later in the meeting, 16 local and state parks projects and alternates will not receive funding. Some of the local governments have development projects on which they wish to proceed; their portion of the local match is already assembled. IAC's current WAC does not permit retroactive reimbursement for development costs that are incurred before a formal project agreement.

Assuming legislative approval of the FY97 projects, this amendment would allow later reimbursement of developments costs by IAC. In addition, donations of cash, materials and volunteer labor for development would be eligible retroactively for matching funds.

Emergency rule adoption is needed for an early effective date because the effective date of a permanent WAC change would miss most of the summer's construction and fund raising season. Since emergency rules last for only 120 days, the Committee may be asked to extend the waiver authority in the form of a permanent rule at the July 1996 meeting.

There being no questions from the Committee and no public testimony, Director Johnson explained that action on the recommendation would occur later in the meeting.

OPTIONS FOR COMMITTEE CONSIDATION

Jim Fox directed the Committee to information entitled "Handout for Special Meeting." He reminded members that \$45 million was appropriated to the WWRP for the 1995-97 biennium: \$36.8 for FY 96 (as shown in LEAP Capital Document 4) and \$8.2 million for FY 97 (as shown in LEAP Capital Document 5). Of the 26 projects on the FY 97 list, 10 had received legislative approval for funding as alternates on the FY 96 list.

At the March IAC meeting, members looked at three options:

1. Seek adoption of the second year list in 1997 legislative session
2. Fund the 10 second-year projects that were approved on the first year list as alternates. Seek legislative approval of the remaining new projects in 1997.
3. Use the entire \$8.2 million reserved by IAC for the second-year list to fund, instead, alternates on the first year list (funds approximately 21 projects, approximately 8 of which are also on the second year list.).

Staff recommends Option #2 which would involve a 4-step process:

1. Fund the 10 projects that were on the FY 96 list (\$3.9 million)
2. Seek early legislative approval of the remaining 16 projects and alternates in the supplemental capital budget or an "agency request" bill (1997 Session)
3. Extend application deadline to July 1, 1996 for FY 97 projects wishing to reapply for

FY 98 and amend WAC 286-085(2) to allow retroactive reimbursement for FY 97 development projects

4. If the legislature fails to approve the remainder of the FY 97 list of projects, staff recommends the FY97 list be merged with the new FY 98 list by a) using the old scores (or new scores if the project is recompeting) **OR** b) placing FY 97 projects first on the FY 98 list.

The remaining \$4.2 million would be applied to the FY96 alternates.

Staff recommends Committee approval of Steps 1-3 (see above) which would involve passing resolutions or motions to: (1) fund the 10 projects that we have authority to fund ; (2) change the administrative code as discussed; and, (3) authorize staff to draft legislation to gain approval for the remainder of the list in the 1997 Session.

Committee members expressed concern about the risk of losing funds in the next legislative session. Jim Fox explained there may be legislative temptation to roll the \$8.2 million and the list of projects into the next biennium and we will, effectively have lost that \$8.2 million for the 1995-97 biennium. Staff felt there was more risk with option 1 (seeking approval of the second-year list in the 1997 session) than with option 2, which also seems to be the most fair. Director Johnson explained that legislators who have been contacted have been sympathetic to the problem and have indicated support, as long as they are not being asked to appropriate "new" money.

Gene Tillett **moved** that the Committee approve Staff Recommendation 2, steps one through three. This includes the IAC adopting a resolution funding the ten FY97 projects that were previously approved as part of the FY96 list of projects, authorizing staff to begin drafting legislation for the 1997 session for approval of the remaining projects, extending the application deadline to July 1, 1996 for FY97 projects that wish to re compete for FY98 funds, and adopting an emergency WAC rule to allow retroactive reimbursement for FY97 development projects. Cleve Pinnix **seconded**.

PUBLIC TESTIMONY ON RECOMMENDATION AND OPTIONS

Chair Mason called for public testimony.

Harry Laban

Grant Manager, Seattle Parks Department
Supported the staff recommendation

Art Tackett

City Administrator, City of Connell
Thanked IAC for assistance and supported the staff recommendation. Urged Committee support for Step 4, Option B.

Helen Wickstrom

Director, City of Kent Parks & Recreation
Supported the staff recommendation and stated that other, WRPA members, not on the "lost list", felt the integrity of the process was protected with the recommendation.

Dave Battey	President, Snoqualmie Valley Historical Society Supported the staff recommendation
Doug Hagedorn	Clark County Parks Supported the staff recommendation
Russ Burtner	Director, City of Kennewick Parks & Recreation Supported the staff recommendation
Jim Ballew	Director, City of Marysville Parks & Recreation Encouraged the adoption of Step 4, Option B
Peter Scholes	Project Manager, Trust for Public Land Supported staff recommendation
Scott Brodhun	City of Port Angeles Thanked Committee and staff and urged adoption of the waiver of retroactivity on development projects and Step 4 Option B

COMMITTEE DISCUSSION & ACTION

Director Johnson explained the difference between Resolution #96-07 (see notebook) and the motion made by Gene Tillet: (1) The motion covers all issues and gives staff direction where no formal, legal action is required; and, (2) the Resolutions (96-07 and 96-08) are needed to give formal approval to the ten projects on the FY96 list and to adopt the emergency rules.

Jim Fox reminded members that action is being taken only on steps 1-3 and step 4 will require Committee action at a later date.

Chair Mason called for a vote on the motion (see above). **MOTION CARRIED.**

In response to a question regarding action on Step 4 (option A or B) Mr. Fox explained that discussions with legislative staff and committee leadership would need to take place before IAC staff can recommend an acceptable course for Committee action. Director Johnson continued by saying that a way to treat the alternates on the FY97 list has not yet been determined. Ralph Mackey indicated support for Step 4, Option B. Cleve Pinnix suggested that action not be taken because Step 4 will only be considered if Steps 1-3 fail to meet legislative approval. Committee, staff and project sponsors should be directing their efforts towards getting the FY97 list passed early in the 1997 session so that Step 4 never needs to be considered. Bob Parlette also favored Option B but agreed that all parties should work together to assure passage of the FY97 list.

Ralph Mackey moved approval of Resolution #96-07 which would authorize funding of 10 projects totaling \$3,911,425 million through the Outdoor Recreation Account and

Habitat Conservation Account. Bob Parlette **seconded**. **MOTION CARRIED**
(Resolution #96-07).

Ralph Mackey **moved** approval of Resolution #96-08 which would authorize the amendment of WACs for a waiver of retroactivity for development costs. Stan Biles **seconded**. The recommended effective date of June 1, 1996 should be inserted in the final paragraph of the resolution. Bob Parlette asked for an explanation of the term "waiver of retroactivity". No persons testified in the matter. There were, therefore, no additional comments for Committee consideration. **MOTION CARRIED**. (Resolution #96-08)

OTHER BUSINESS

Chair Mason directed members to the substantial number of letters received prior to the meeting regarding the FY97 funding (see yellow pages in packet). She also thanked IAC staff for clarifying a difficult issue

Director Johnson reminded Committee members of the next regular meeting scheduled in Vancouver, July 11-12, 1996. She explained that the meeting would convene at 1:00 p.m. on Thursday (7/11) with a short off-site tour in the late afternoon and evening, followed by a picnic dinner. A full day of business meetings has been scheduled on Friday (7/12). Notices will be out very soon.

Director Johnson informed the Committee that 171 applications have been received for the next cycle of WWRP with a total request of \$131 million. Applications are also pending in the NOVA program and the Boating Facilities Program bringing the total number of project applications to 238.

There being no further business, Chair Mason adjourned the meeting at 7:46 p.m.

IAC APPROVAL CERTIFIED BY



Donna Mason, Chair

9/23/96

Date

Next Meeting: July 11-12, 1996
Water Resources Education Facility
Vancouver, Washington

RESOLUTION #96-07

Final Approval of WWRP Projects

WHEREAS, in 1995 the Legislature appropriated \$45,000,000 to the Washington Wildlife and Recreation Program (WWRP) for the 1995-1997 biennium (1995 2nd sp.s. c 16 s 327); and

WHEREAS, on September 26 and 27, 1994 the Interagency Committee for Outdoor Recreation (IAC) decided to apply \$36,843,750 of this appropriation to projects approved for the first year (FY96) of the biennium and the remaining \$8,156,250 to projects approved for the second year (FY97) of the biennium; and

WHEREAS, RCW 43.98A.080 requires that the legislature approve a specific list of WWRP projects; and

WHEREAS, the 1995 Legislature approved the first year (FY96) list of WWRP projects, referred to as LEAP Capital Document No. 4, in the 1995-97 Capital Budget (1995 2nd sp.s. c 16 s 327); and

WHEREAS, on September 25 and 26, 1995 the IAC approved the second year (FY97) list of 26 projects and 31 alternates to be recommended to the Governor; and

WHEREAS, the Governor recommended that this list of 26 projects and 31 alternates be approved by the 1996 Legislature; and

WHEREAS, the 1996 Supplemental Capital Budget would have amended the 1995-97 Capital Budget to included this list of projects and alternates, referred to LEAP Capital Document No. 5; and

WHEREAS, the Supplemental Capital Budget was not passed by the 1996 Legislature; and

WHEREAS, ten of the 26 recommended projects had previously been approved by the Legislature as alternates in LEAP Capital Document No. 4 and were resubmitted to compete for second year (FY97) funds; and

WHEREAS, without legislative approval of LEAP Capital Document No. 5, IAC only has the authority to sign contracts or otherwise financially obligate funds for these ten projects that were previously approved as part of LEAP Capital Document No. 4;

NOW, THEREFORE BE IT RESOLVED, that \$3,911,425 of Outdoor Recreation Account and Habitat Conservation Account second year funds be distributed as follows:

IAC Number	Project Name	Sponsor	Category	Amount
97-121A/W	MEADOWBROOK FARM	NORTH BEND	Local Parks	\$ 500,000
97-117D/W	HORSE HEAVEN HILLS PARK	KENNEWICK	Local Parks	60,000
97-143A/W	CAMA BEACH PHASE 2	PARKS	State Parks	360,000
97-151C/W	WOODARD BAY TRAIL PHASE 2	DNR	Trails	867,000
97-152D/W	HOPE ISLAND	PARKS	Water Access	250,000
97-162A/W	UNION RIVER WETLANDS	F&W	Critical Habitat	245,000
97-161A/W	DUCKABUSH WETLANDS	F&W	Critical Habitat	67,000
97-168A/W	PUGET TROUGH NAPS	DNR	Natural Areas	800,000
97-167A/W	CATTLE POINT	DNR	Natural Areas	62,425
97-155A/W	CENTRAL KITSAP RIPARIAN	F&W	Urban Wildlife	700,000

RALPH MACKEY

Moved

BOB PARLETTE

Seconded

MOTION CARRIED / FAILED

May 14, 1996



STATE OF WASHINGTON

INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

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RESOLUTION 98-08

Emergency Adoption, Amendments to WAC 286-13-085[2]

WHEREAS, all in regard to WWRP projects on LEAP Capital Document No. 5, the IAC hereby recites and finds:

1. The Committee incorporates by reference the chronology of events set forth in its Resolution #96-07;
2. There are sixteen remaining projects, plus alternates, which cannot receive formal IAC Project Agreements until and unless further action is taken by the 1997 session of the legislature;
3. Some of the proposed development projects had been prepared to proceed at any time after March, 1996, including having necessary permits, labor, equipment and/or their non-IAC portion of funds assembled, all intended to serve as matching funds for the IAC grant;
4. IAC's existing rule prohibits eligibility for reimbursement of many development costs incurred before entering into a Project Agreement for an IAC grant;
5. Application of the existing rule could cause significant adverse consequences for some projects. A grantee's share of the project cost may increase; in some cases, such increase may render a project financially impossible. Likewise, inability to use elements of the local match during 1996's summer-fall construction season may impact certain projects adversely through permit expirations, loss of in-kind contributions or loss of a construction season. IAC finds these impacts which discourage or prohibit local government participation in the development of these needed recreation facilities are contrary to the welfare of the affected communities and the effective administration of public funds.
6. At least one jurisdiction has requested that IAC consider offering waiver-of-retroactivity authority as relief for the 1996-97 construction season; and
7. There are few if any disadvantages to program administration or to other grantees if such relief is granted.

NOW THEREFORE BE IT RESOLVED, that IAC finds it is appropriate to offer rapid administrative relief from the unintended and inadvertent consequences of its existing rule as applied to the circumstances of LEAP Document No. 5's remaining unfunded projects, and that time delays associated with adoption of a permanent rule would be contrary to the public interest in assuring timely relief;

BE IT FURTHER RESOLVED that administrative code WAC 286-13-085[2] should be amended, to enable a waiver of retroactivity for development costs in respect to projects on LEAP Capital Document No. 5;

BE IT FURTHER RESOLVED that any expenditures under a Waiver so issued shall be at the option and risk of the requesting jurisdiction, and cannot assure subsequent approval of the LEAP Capital Document No. 5 projects; and

BE IT FURTHER RESOLVED that the Director shall be authorized to file with the Code Revisor such documents as may be necessary for adoption of an emergency rule amending WAC 286-13-085[2] in the manner shown on Attachment 1 hereto, with an effective date of June 1, 1996, or earlier; and, that an equivalent permanent rule, if necessary, is commenced for possible adoption at the July 1996 IAC meeting.

Moved RALPH MACKEY

Seconded STAN BILES

MOTION CARRIED

May 14, 1996

Attachment 1, Resolution 96 - 08

WAC 286-13-085 [2]: *Retroactive development costs.*

The only retroactive development costs eligible for reimbursement consideration are preliminary expenses [e.g., engineering costs]. However, solely in respect to WWRP projects on LEAP Capital Document No. 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.