

## Oregon Parks and Recreation Commission

September 20, 2023

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Agenda Item: 3e **Action**

Public Comment Allowed: **Yes**

Topic: Delegated Authority

Presented by: Chris Havel

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ORS 390.117 authorizes the commission to delegate to the director the authority to exercise in the commission's name any power, duty or function vested in or imposed by law upon the commission with the exception of adopting most administrative rules and acquiring real property.

The purpose of the commission delegating authority to the director is to ensure timely operation of critical functions within the department while retaining the commission's role in focusing on higher level, strategic direction for the agency. Delegated authorities taken by the director are reported to the commission in each meeting packet.

Currently, the commission delegates obligation of funds up to \$750,000 to the Director. Interpretation of this delegation has created some confusion when a contract or agreement includes funding not coming to under the jurisdiction of the agency but is over the threshold due to the ambiguity of the text. The statement implies that it is OPRD funds, but is not explicit. Including "financial matters" at the beginning suggests it could be broader than just the OPRD portion of the funding.

For example, OPRD is one of the entities involved in a contract with a watershed council for over \$750,000. ***OPRD's portion*** of the funding is less than \$50,000. To clarify the intent of the commission that this type of contract is within the director's delegated authority staff propose clarification to remove the ambiguous language.

**Prior Action by Commission:** In June 2022, the Commission increased expenditure amount delegated to the Director from \$500,000 to \$750,000.

**Action Requested:** Approve removal of words "Financial Matters" to clarify delegation authority for Director.

**Attachments:** Attachment A: Commission Authorities Delegated and Retained

**Prepared by:** Katie Gauthier

## **Oregon Parks and Recreation Commission Authorities Delegated and Retained**

### **Authorities Delegated from Commission to Director**

1. Prepare minutes and maintain records of the Parks and Recreation Commission.
2. Establish and maintain procedures for certification of documents under direct control of the Department.
3. Pursuant to ORS 390.124, carry out the following duties in the preparation of rules and regulations to be adopted by the Parks and Recreation Commission:
  - a. Prepare the proposed rule.
  - b. Publish notices on the proposed rule.
  - c. Conduct hearings on the proposed rule as required.
  - d. Prepare a written summary of statements given, exhibits and other data received or observed, together with a recommendation for action, and presentation to the Commission for approval.
  - e. Submit a copy of adopted rule to the Legislative Counsel.
  - f. File rules adopted by the Commission and rules for park master plans once county approval has been granted.
4. **Financial Matters and** Obligation of Funds up to \$750,000. Execution of agreements, approval for payments, contracts, Intergovernmental Agreements (IGA's) and similar.
  - a. Execute leases, rental agreements, and contracts for buildings or spaces for Department use.
  - b. Leases and land-use agreements on state park property.
  - c. Contracts subject to the Contracting Code (ORS 279a, 279b, and 279c) and Intergovernmental Cooperation subject to ORS 190 except for Agreements with American Indian Tribes. Includes Proposal Requests and Contract Change Orders.
  - d. Approval of invoices and payments against an executed contract.
  - e. Approval of invoices and payments not part of an agreement or contract.
  - f. Other agreements and financial commitments.
  - g. Agreements with American Indian Tribes.
  - h. Park, District, or Region-specific agreements, Memorandums of Understanding that are non-monetary.
  - i. Park Specific Agreements that are land use related such as special use permits, building permits, utility company agreements, county permit applications, land use compatibility statements, (subject to consultation with property unit staff).
  - j. Friends Groups and Co-operative Association agreements.
  - k. Standard grant agreements and amendments for Local Government Grant Program (LGGP), All-Terrain Vehicle (ATV), County Opportunity Grants (COG), Land and

Water Conservation Fund (LWCF) Grants, and Recreational Trail Program (RTP) grants, after approval by Commission.

- l. State Historic Preservation Office (SHPO) Documents including, but not limited to, project notifications and reports, sub-grant agreements, Tax Act documents, National Register documents, Certified Local Government certifications, and Section 106 agreement documents.
  - m. OPRD as grantee for grant programs administered by OPRD.
  - n. Reimbursement of Grant Expenses.
5. Negotiate and authorize settlement for all cases in or pending litigation or in mediation involving the Department after consultation with and recommendation of Legal Counsel, and in consultation with Commission Chair for litigation.
  6. Sign all contracts or other documents relating to State Parks and Recreation Department activities that are approved by the State Parks and Recreation Commission or by the Chair or Vice Chair of the commission and report to the Commission.
  7. Determine that an emergency exists and approve expenditures for repairs and remediation of damages to property and facilities under the jurisdiction of the State Parks and Recreation Dept. when such are needed to make the property safe or to restore operations without calling for competitive bids. Actions taken under this authority will be reported to the Commission.
  8. Take steps necessary to obtain reimbursement or collection for damages to state park property. Authorize the abandonment of damage claims.
  9. Approve the sale, lease, exchange, other use, or disposal of property that is determined to be no longer required by the State Parks and Recreation Dept. and execute the necessary documents to complete the transaction. This does not apply to any real property rights. This does not apply to any property in excess of \$750,000 in value.
  10. Approve the sale of publications or other printed materials or items where a charge has been established to recover costs of preparation and distribution.
  11. Approve the sale of timber as a by- product of management activities where proceeds or value are less than \$750,000.
  12. Conduct negotiations to acquire real property for the Department and approve the payment for real estate options of \$10,000 or less.
  13. Approve scenic waterway notices, which meet the requirements of ORS 390.805 to ORS 390.925 and rules and regulations adopted pursuant thereto.
  14. Authorize the abandonment of miscellaneous uncollectible accounts.
  15. Approving fee reductions and waivers.

16. Administer and submit to the Land Conservation and Development Commission proposals or plans to alter the Department's Willamette River Greenway plan or any segment thereof as approved by the Commission.

17. Accept, expend, use, and acknowledge moneys and property from any public or private source made available to the Dept. in the form of grants, gifts, bequests, devices or endowments, except that gifts of over \$10,000 in value will be presented to the Commission for approval and acknowledgement.

18. Issue or deny permits for use of the ocean shore under ORS 390.750, 390.705 and 390.725.

19. Pursuant to ORS 358.617, complete all rulemaking activities necessary to change, adopt, and file rules related to responsibilities of the State Historic Preservation Officer.

20. Sub-delegate to subordinate staff authorities that have been granted to the Director consistent with their responsibilities.

21. Prepare and sign personnel documents and serve as Appointing Authority.

22. Sign legal documents not covered elsewhere.

23. Sign Archaeological Permits

24. Approving officer for SPOTS Card Program

25. Execute and Sign All-Terrain Vehicle (ATV) or Day Use Parking Permit Agent Agreements.

26. Execute and sign Heritage Maritime grant agreements and documents.

27. Section 6 Natural Heritage Grants.

28. Waive fees and costs for marketing and promotional purposes.

29. Signature of documents associated with property acquisition and/or disposal previously approved by the Commission.

### **Authorities Retained by Commission**

#### 1. Administrative Rulemaking

- a. Approve staff action for creation of new rules or revision of rules necessary for the administration of the agency's responsibilities and solicit public comment. (Except as may be delegated for rules under ORS 358.617)
- b. Approve or adopt administrative rules. (Except as may be delegated for rules under 358.617 and rules relating to filing of park master plans)

#### 2. Real Property Transactions

- a. Approve biennial acquisition plan as part of biennial budget.
  - b. Approve for sale or purchase or acceptance or placement of any easement relating to real property owned or managed by the department.
  - c. Accept donations of real property.
3. Budget and Legislature
  - a. Approve the biennial budget and associated policy option packages.
  - b. Approve requests to the legislature to re-balance the budget.
  - c. Approve agency legislative concepts.
4. Facility and Park Improvement Program
  - a. Approve the overall scope of the biennial facility and park improvement program.
  - b. Authorize significant changes to the program and budget as may be required.
5. Park Master Plans and Park Naming
  - a. Approve park master plans required to obtain land use decision.
  - b. Authorize filing of master plans with local jurisdictions for incorporation into local comprehensive plans.
  - c. Approve the naming of park properties.
6. State Scenic Waterways
  - a. Denial of requests for improvements or actions within State Scenic Waterways.
7. Grants
  - a. Approve staff recommendations for grants under the Local Government Grants, Recreation Trails, All Terrain Vehicle, County Opportunity, and Land and Water Conservation Fund grant programs.
8. Trails
  - a. Designation of Oregon Scenic Bikeways upon recommendation of the Oregon Scenic Bikeways Committee and Oregon Recreation Trails Advisory Council.
  - b. Designation of Oregon Scenic Trails upon recommendation of the Oregon Recreation Trails Advisory Council.
  - c. Designation of Oregon Regional Trails upon recommendation of the Oregon Recreation Trails Advisory Council.
9. Advisory Councils
  - a. Appoint members of the Oregon Recreational Trails Advisory Council and ATV Advisory Committee.
10. Reports
  - a. Receive reports on actions taken by the Director under authority delegated by the Commission.
  - b. Receive report on grants awarded under the Heritage, Preserving Oregon, Historic Cemeteries, and Museum Grant programs.
  - c. Receive reports on budget execution.