

PORT DISTRICT OF SOUTH WHIDBEY ISLAND
Minutes of the Public Hearing on Amendment of the Comp Scheme
October 20, 2010
Clinton, Washington

Commissioners Present: Geoff Tapert (Freeland), Chris Jerome (Langley) and Curt Gordon

Others Present:

Port Staff: Ed Field (Port Manager), Dane Anderson (Port Finance Manager), and Molly MacLeod-Roberts (Port Clerk); **Hardie White** (Whidbey Examiner), **Clinton Residents:** Doug Struthers, Eric Wiechmann, Michico Struthers, Vivian Smith, Mikkel Hustad, Marcia Monma, Clyde Monma, Gene Moulic and Bob Kuehn; and **Langley Resident:** Zoe Tapert

MEETING CALL TO ORDER: The Public Hearing on Amendment of the Port District of South Whidbey Island's Six-Year Comprehensive Scheme 2007-2013 was convened by the Board of Commissioners on October 20, 2010, in the Meeting Room at St. Peter's Lutheran Church located at 6309 Wilson Place in Clinton, WA. Commissioner Geoff Tapert (President) called the Hearing to order at 7:04 p.m., followed by the Pledge of Allegiance.

PUBLIC HEARING ON AMENDMENT: As announced, amendment of the Comprehensive Scheme was proposed by the Commission to delete the following Potential Project Initiative from the Marine Access and Recreation List:

- *Enhance access to the upper trailhead of the Dorothy Cleveland Trail; include provisions for parking and/or water for hikers.*

If approved, amendment of the Comprehensive Scheme is to be adopted by the Commission at the close of the Public Hearing. (The current Comprehensive Scheme is on file at the Port Office (1804 Scott Rd., Suite 104, Freeland, WA) and local libraries, and is also available on the Port's website at <http://www.portofsouthwhidbey.com>.) Commissioner Taper opened the Hearing by requesting comments from the attendees.

Doug Struthers said he lived in the neighborhood near the upper trailhead. He described it as a very small neighborhood away from the busy roads and said, "*As you all know, our neighborhood has always objected to having too much traffic in there and the cell tower issue. I don't really have anything to add other than: if they were doing this in your yard – I think it would bother you and you would do what you could to keep the tower out and prevent the creation of a major parking lot on your doorstep.*"

Eric Wiechmann said he lived next door to Struthers at the end of the road and his property abuts the Port's property. He came to this meeting to get some information since he's been out of town a lot. He said, "*I'm in the same situation as the neighborhood – we don't want to turn this into a big parking lot or restrooms or whatever you have planned there.*"

Michico Struthers asked, "*This public hearing is to delete the language about developing parking and providing water for hikers from the Comp Scheme – does that mean the Port no longer wants to do that?*" Tapert explained that the previous Commission (which included him), had developed the Comp Scheme. During that process, enhancing access to the upper trailhead (including parking and/or water for hikers) was

identified as an important goal or objective. Subsequently, the Possession Shores water association requested an easement from the Port to put a water tower on the Port's property. As part of that easement agreement, the water association agreed to put in a drinking fountain, but association-member residents firmly rejected the inclusion of any parking area. Therefore the question now is whether the Port wants to continue to have the goal of improving access and providing parking, or if that goal should be deleted. Struthers asked, *"By deleting it, what are you going to get out of it?"* Tapert explained that if the goal is deleted, the property would no longer be encumbered by the Comp Scheme and could then be surplus. He said, *"Essentially this issue is: Do you or do you not want to see that portion of the trail improved or enhanced and parking provided at the top?"*

Bob Koehn said, *"I think it would be handy if you would preface all of this discussion by the intent for which not to sell the property, because you're leaving out an important fact here."*

Vivian Smith said, *"I would like to keep the Park intact. I don't see why the Port wants to sell half the Park anyway. Are you going to be selling other properties that you have? Are you going to sell the little park by the ferry dock? Other things? My deal with this thing is that it is a park, it has always been a park, why do you suddenly feel that you need to sell half of it?"* Regarding how many properties the Port actually owns, Tapert said, *"You might be surprised to learn that it's very little."* The Port has 25% partial ownership with Island County in several properties, and the only properties that the Port owns outright are Possession Beach Waterfront Park, Bush Pt., Clinton Beach and the South Whidbey Harbor. The current Commission agrees the Port *"is bit too heavy on the parks side and not enough on other aspects of our Comp Scheme."* The Commission has previously discussed that it might be appropriate for the Port to divest itself of properties that may not be within its mission statement. Smith said, *"It seems to me then that the appropriate thing to do would be to make a plan to transfer those properties to the Parks Department."* Tapert explained, *"That's open – that's a possibility."* Jerome noted, *"That cannot happen unless the reference to this property is first removed from our Comp Scheme., and that's the reason for this hearing tonight."* Smith asked, *"Are you interested in maintaining this property as green open space and facilitating the transfer to the Parks Department?"*

Jerome provided the following explanation as to "how we got here": The Port received a request from AT&T to put a cell tower on the property, and the Commission subsequently received very mixed opinions on that from the community. Part of the community thinks it should remain a park and that a cell tower is inconsistent with a park. The idea to divest the uplands portion of the park from the Port's properties arose because, *"Okay, if you want it to remain a park, then let's make it possible for it to be transferred to the Parks Department or someone who wishes to maintain it as a park, but that cannot happen unless the Comp Scheme is amended to delete the reference to that portion in the Comp Scheme."*

Smith asked, *"I understand that, but then why don't you divest yourselves of the entire Park?"* Tapert said, *"I personally would love to have that happen."* Smith reiterated, *"Why don't you just have the whole of Possession Beach Waterfront Park go to the Parks Department? I understand that the Port is about to work on a commercial kitchen at the fairgrounds or other things that will economically enhance the district, so it seems to me that you should be divesting yourselves of all these park things unless you're making money off them."* Tapert said, *"You're preaching to the choir here."*

Gordon said when the Possession property was acquired, the acquisition included funds from the Washington State Recreation & Conservation Office (then known as the Inter-Agency Committee for Outdoor Recreation), which encumbered the lower segment of the Park. Those encumbrances make it difficult for the Port to divest itself of the lower park, but RCO has made it clear that the upper portion is not encumbered. He read aloud the following from RCW 53.08.260: *A port district may construct, improve, maintain, and operate public park and recreation facilities when such facilities are necessary to more fully utilize boat landings, harbors, wharves and piers, air, land, and water passenger and transfer terminals,*

waterways, and other port facilities authorized by law pursuant to the port's comprehensive plan of harbor improvements and industrial development. Gordon said, "Port districts are not supposed to be in the parks business." To take it even further, he referred to RCW 53.08.270 that says before a port can even undertake planning for an acquisition of a park, the local parks department must be notified and must approve the acquisition. He said, "The only reason you should have built it in the first place is if in fact it was necessary for the operation of that boat launch, which I don't believe it is." He said to Smith, "I'm with you – we should be divesting ourselves. Gordon added, "I feel like we put this program into stall mode, we put the cell tower on the back burner, and we were hoping some kind of alternative might arise during the specified 90-day delay in action." He explained that whether the property goes to the Parks Dept. or is sold or whatever, the first required step is to amend the Comp Scheme as proposed. Once that is done, the next step would be to have another public hearing to declare the upper property surplus.

Smith said, "I am getting the feeling from the Board that you would like to see the Park remain a park." Tapert said, "No objection here. It's just that we don't want to be the ones running a park." Gordon differed, saying, "It doesn't matter to me. I think parks should exist if they have solid stewards." He explained that he served on the Parks board for 19 years and the Conservation Futures board for 13 years, and the pre-requisite for any acquisition is solid stewardship. Personally, he has no affinity for a park that has no parking available except down below unless there is going to be great local involvement with the stewardship of it. He concluded, "It shouldn't be etching away at taxpayer dollars – our tax dollars are not supposed to go for clearing trails."

Smith said, "But you (the Board) would want to aid the process of getting it to the right owner (like the Whidbey Camano Land Trust) – you would want to facilitate that, right?" Tapert said, "That's part of this process, but first the line must be deleted from the Comp Scheme." Smith asked, "If the property is transferred to the Parks Department, would there have to be a financial transaction there?" Port Finance Manager Dane Anderson explained, "The Revised Code of Washington requires public agencies who want to divest themselves of assets must have some sort of consideration given to them by whoever acquires that asset." For example, when the Port took over the ownership and operation of the Langley Marina from the City of Langley, an InterLocal Agreement (ILA) was put in place that spells out the requirements of the both the Port and the City. The Port has significant requirements that were reviewed by the State Auditor and subsequently deemed appropriate consideration for that transfer of ownership. If the Port were to transfer the upper portion of Possession Park to the Parks Department, then the Parks Department would have to come up with some sort of consideration for review and approval of the State Auditor. Smith asked, "What kind of consideration? Do you mean a financial consideration?" Anderson explained it could be a market value price, it could be some service or commitment by the Parks Department to the Port District that would reduce the Port's expense load, etc. Smith asked what the consideration was for the Langley Marina. Anderson said that ILA is quite extensive and she is welcome to review it, but to summarize it he said the Port made a commitment to expand the marina and renovate the uplands.

Mikkel Hustad said he was a member of the Advisory Committee for the current Comp Scheme, and directed everyone to the following excerpt from the Comp Scheme's Goals and Objectives: *The Port District of South Whidbey Island will concentrate its efforts over the next six years in the areas of economic development, environmental stewardship, marine access and recreation and to seek opportunities to reduce dependence on property taxes by earning revenue from operations.* Hustad said, "Clearly, the Advisory Committee had an awareness that environmental stewardship was in the purview of the Port Commission. Because of the Port can generate resources and work with intergovernmental agencies, the Port has an ability that other elected and volunteer groups don't have. We appreciate the ability of the Commissioners to be stewards of the environment; however at the same time, I was one of those on the Committee who was also an advocate of the economic development aspect. We are also aware that in providing good environmental stewardship, the Port is also able to enhance quality of life and encourage economic development. For example, working with the eel grass and the salmon estuary in Clinton and being able to

trade mitigation credits with the Tribes across the water is a phenomenal opportunity. As I reflect on the work that we did, dividing the trailhead from the rest of the Possession property and maintaining the waterfront property makes perfect sense. Making the upper portion available to the Parks or other entity also makes sense. He concluded, *"Hang onto the waterfront and divest yourself of the upper portion."*

Marcia Monma noted that the language proposed for deletion says "parking and/OR water for hikers." She said, *"There is a fountain – it's already there, so we've already done this. So what happens to the Comp Scheme when you've already done something?"* Gordon said, "It no longer has the intention to deal with the Dorothy Cleveland Trail," and Tapert said, "It's no longer a goal." Monma said, *"But you're not going back through and deleting other things out of your Comp Scheme once you complete them."* Gordon said, "Actually we're going to do that. I asked my fellow Commissioners a year ago if we could work on that, but we agreed to wait until 2013 when the current Scheme expires and is up for review." He went on to say, "There are many things in this Comp Scheme that I don't agree with, and there are many things I'm not sure are even within our legal purview that are in this Comp Scheme. I personally think it could use a rewrite now, but there is some expense involved and we decided to wait."

Regarding stewardship of the Dorothy Cleveland Trail, Monma said, *"Our neighborhood regularly clears the Trail (at least twice a year) and has been doing so for at least 7 years that I know of. We are already stewards of the Trail – we are more stewards of the Trail than the Port's manager at Possession.* She concluded, *"I think you should preserve the Trail – it should not be divided in half with the Port owning half of it and someone else owning the other half. If it's going to be sold, all 28 acres should be sold and the Port should be given an easement for whatever little of that you need, but we think the Trail should be kept intact as a park."*

Clyde Monma read aloud the Mission Statement of the Port as follows: *"To enhance the economic well-being of the community and increase public access to marine areas while respecting the unique rural character and environment of South Whidbey Island."* He stated, *"I think what you're doing is being totally disrespectful to the environment of South Whidbey by saying: We're going to sell this land – we'll sell it to whoever wants to buy it and we don't care if they shut down the trail or not."* Monma said that was almost word for word what Jerome said at a previous meeting. He said to the Commission, *"So you have no regard whatsoever for the environment of South Whidbey or for this particular park."*

He referred to page 13 of the Comp Scheme [Current State of Port Facilities, 5) Possession Beach Waterfront Park] and read the following aloud: *"The uplands portion of the park contains the Dorothy Cleveland Trail which starts near the boat ramp and extends uphill across Franklin Road, and continues up the hill to a trailhead near the ridgeline at the south end of Lupine Lane. The total trail length is approximately 3600 feet."* Monma said, *"So your document says what the uplands portion is – it's the whole 27 acres. If you want to divest it – divest the whole 27 acres. If not, don't divest any of it. It's ridiculous to divide it in half. The only motivation you have is that this started with AT&T wanting to put up a cell tower. You didn't want to face up to the decision of saying whether there would be a tower or not, because there was too much opposition. So now you want to sell only the uplands property so it's somebody else's problem, and you don't care who owns the property, you don't care what they do with it, you don't care if they build a cell tower. They could shut down the Trail and put a highway in there – you could care less. You're not stewards of it – you're not living up to what the uplands land is and you're just saying to hell with it. You don't want to make the decision, so you're just going to sell it to someone else and let them make the decision and let them catch the flak for it because you're not willing to bite the bullet and say yes or no, which I think is a cowardly act. We want to keep the park as a park. You said clearly that you don't care if it's a park or not. If you care about the park and you care about the Dorothy Cleveland Trail – put an easement on the whole Trail, top to bottom. Then you can do with it whatever you want – the Trail is protected. If you look back to previous Port Commissioners – they have specifically said they wanted to protect areas like this. You guys are doing a complete 180 degree turnaround here, and the point is: Two*

people, two commissioners, think it's a good idea to just chuck it and sell it despite what other Port Commissions have said, and you can just do it. Well, you're just two people, and you're not taking into account the history of this and what other Port Commissions have wanted. You're also not taking into account what is best for the community by splitting this land, which is ridiculous. You're saying Parks & Rec. could make a park out of it but you don't care, you don't really think that's going to happen, and you don't want that to happen. If you want that to happen, then talk to them first. If they're interested, then divest yourself of the property, but it's ridiculous to divest ahead of time. Bottom line is that you're not interested in the park or the Trail; you're not interested in transferring it to Parks & Rec. You're just interested in getting rid of it because it's easy and it solves your problem. You don't care what happens to the Trail and I think that's just terrible, so shame on you.

Gene Monlic said, "I'm simply a user of the Trail. It fits in extremely well with people that want to go down and walk on the shore and walk up the Trail. If there were parking lots or anything else up that Trail it would ruin a lot of the environment up there for it. It should be left essentially the way it is.

Bob Kuehn said, "I guess my biggest concern is it appears that what drove this whole thing was AT&T wanting to build a cell tower up there. Is that pretty much what precipitated this whole thing?" Tapert said, "I think that started the process. We recognized that we had property that wasn't really within our Mission, and so that's what started it. Kuehn said, "So the fact that AT&T was pretty much a precipitator of this whole process leads me to believe that that is what will happen if you divest yourselves of the property. The community on Whidbey Island has generally really gone the other way to do just the opposite – to keep land in public ownership. The Trillium Forest was a huge project that an immense of people worked to try to keep the land in its natural state. You've got a nice hill there (at Possession) that's a beautiful place for the Trail, and I'd hate to see that change. If you were really concerned about the property, then maybe you should make advance arrangements to transfer it to Parks before deciding to just leave it out there to be bought by AT&T. It's kind of a backwards thing to even think of selling the property off to a private buyer."

Tapert asked if anyone else wished to speak, and no one did.

ACTION: A Motion was made by Tapert and seconded by Gordon to close the Public Hearing. The Motion passed unanimously.

COMMISSIONERS' AND PUBLIC COMMENTS ON THE AMENDMENT: Tapert read aloud the proposed deletion to the Comp Scheme. He said he personally agreed with the idea that the Trail as it exists up into and around the loop should be preserved, but based on past testimony from neighbors the idea of providing parking or any other enhancements at the top of the Trail off of Lupine Lane is not necessarily not the best route to take. He therefore has no objection to deleting the line as proposed.

Gordon asked for clarification of the verbiage in the Comp Scheme that Clyde Monma had referenced. Port Finance Manager Dane Anderson explained that section was simply a description of the properties owned by the Port and is not related to specific projects to be undertaken. The only references that must be deleted in order to surplus the property are those related to project initiatives.

Gordon agreed with Tapert's comments. He explained that he has worked for many years building parks and he has worked hard to retain property for the public use in perpetuity. He said, "If you're going to have an accessible park, I believe it's only fair if you make it accessible to everybody. I think there's a conflict with this as a park in terms of its usability. The fact that the RCWs specifically require that port districts don't get involved in parks is weighing on me." Gordon wouldn't mind if the South Whidbey Parks & Rec. District wanted to step up, but he noted that none of the Park Commissioners have approached him with any serious discussion about the issue during his conversations with a couple of them. He also agreed with Monma's point that this Board is going 180 degrees from previous Boards. He explained, "Because I think the

previous Boards were building parks, and I think your port district needs to be about economic development. It has to be about moving goods and services in & out of this community and doing the things that it was set up to do.” He said port districts are not like preservation districts – they need to use the assets they have to move forward and create a better economically developed situation on South Whidbey. Gordon said to Monma, “You can read from the Comp Scheme, Clyde, and I can’t disagree with you because I had the same thoughts when I read when I ran for Port Commissioner. I believe they were not all accurate. I would like to invite you back when we rewrite this Comp Scheme because I think it needs rewriting.” In conclusion, Gordon said he was in favor of removing the language from the Comp Scheme as proposed.

Jerome said he also looked at the RCWs while considering this issue, and explained, “Basically the port district should not be in the business of uplands parks – period. When I look at this piece of property, the only way I can shoehorn it into the RCWs that govern what ports do is under the phrase *...port district may potentially operate parks when such facilities are necessary to more fully utilize boat landings*. The wording in the Comp Scheme was to make a better trailhead at the top of the Trail, so you could argue then if that were to do that there would then be pedestrian access through the park to the boat landing, but I cannot make it fit into the RCW definition when the only access to the Trail is from the bottom going up. This is just not within the purview of the Port. The second way the uplands park can fit into the RCWs for ports is defined in RCW 53.08.370 which says a rural port district “*...may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district’s limits...*” He explained that AT&T had approached the Port about that use of the Port’s property, and that is an entirely appropriate use of Port facilities, not only for the purpose of telecommunications facilities, but also from the economic development perspective. Jerome said, “We’ve heard a lot from the citizens of our District that they want the cell tower, they want improved communications, they want the benefits of broadband communication in the broader South Whidbey Community that the proposed cell tower would enhance.”

Jerome said the reason we are here is because there was significant opposition to a cell tower, so the Board said, “Okay, if there’s enough sentiment to preserve this as a park, and this cannot be part of the Port’s mission, then let’s see if we can find a way for someone else can take it on as a park. And that’s why we’re here today.” In his view, the sale of this property is the only way that it can be preserved as a park.

ACTION: A Motion was made by Gordon and seconded by Jerome to delete the following Potential Project Initiative from the Marine Access and Recreation List of the Port’s Comprehensive Scheme:

- *Enhance access to the upper trailhead of the Dorothy Cleveland Trail; include provisions for parking and/or water for hikers.*

The Motion passed unanimously.

ADJOURNMENT: The meeting was adjourned at 7:45 p.m.

Approved:



Commissioner Geoff Tapert, Freeland


Minutes prepared by:



Edwin S. Field, Port Manager



Commissioner Chris Jerome, Langley



Commissioner Curt Gordon, Clinton