

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting

January 11, 2006

Freeland, Washington

Present at the meeting were:

Commissioner Lynae Slinden, Clinton
Commissioner Rolf Seitle, Langley
Commissioner Geoff Tapert, Freeland
Chuck Edwards, Port Accountant
Ed Field, Port Manager
Art Pratt, Possession Park Manager
Amber O'Brien, Port Clerk

Jeff Van Derford, South Whidbey Record
Larry Webster, Scenic Byway Organization
Susan Bennett, League of Women Voters
Phil Simon, Phil Simon Park
Kristen Kuykendall, Washington Department
of Fish & Wildlife
Faith Bushby, Langley City Council
Russell Harvey, Freeland Resident
Larry Dobrin, Freeland Resident

Absent: None

1. MEETING CALL TO ORDER:

Following a Workshop session from 7:15 to 7:30, the regular meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on January 11, 2005, at the Freeland Library conference room, 5495 S. Harbor Avenue, Freeland, WA. Commissioner Slinden, President, called the meeting to order at 7:30 pm., followed by the Pledge of Allegiance.

2. BUSINESS MEETING – THE CONSENT AGENDA:

A. Consent Agenda -

1. Minutes: Minutes from the regular meeting of December 14, 2005.
2. Vouchers: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the Board, and have been presented to the Board for review. The vouchers so listed and presented are summarized on the attached **(EXHIBIT A.)**

ACTION: A Motion was made by Commissioner Seitle and seconded by Commissioner Tapert to accept the Consent Agenda, including authorization of voucher numbers #2519 - #2546 for a total amount of \$27,367.40. The motion passed unanimously.

3. ACCOUNTANT REPORT:

A. Financial Statements: There was no financial report.

B. Audit: Port Accountant Chuck Edwards reported that the Accountability Audit had gone very well. The audit was a three-year audit for the years 2002-2004. The Auditor had no findings to report in his preliminary Audit report. The audit took much less time than anticipated and the Auditors said they would reduce the budget for the next audit. Ed

mentioned that although the audit was for the years 2002–2004, the auditor had time to complete most of the audit for 2005 including the bidding for both the Demolition and Improvements contracts for Clinton Beach, with no findings or exceptions noted. The Commission complimented the staff on their hard work resulting in an audit with no findings to report.

4. NON-AGENDA ITEMS / PUBLIC PRESENTATIONS:

A. Phil Simon Park – Langley: Philip Simon was on hand to discuss the Phil Simon Memorial Park in Langley. As grandson of the Park’s donor and namesake, Simon said that he was concerned with some of the information he had read in the press regarding the Park, and made the comment that it had been his experience that the press that is rarely correct. Simon noted his background in failure analysis for pipeline and litigation work. He had worked on jobs such as the Olympic Pipeline Failure and the recent Puget Sound fire, and said “I can absolutely guarantee that what was written in the press was not what happened.” With that being said, he stated that he might be completely off base with what is going on with the Langley Park but would like to present the perspective of the Simon family with respect to why the Park was first formed and what the families’ motivation is for the Park. Simon had some old pictures of the Park that he showed to the Commission. Simon said his family had been waiting for thirty years for the City of Langley to make good on its original plan for the Park. Now that funding has become available, he was fearful that the “turf war” between the Port and the City of Langley would result in the loss of the funding. He said that the bottom line is that the citizens of South Whidbey, not individual agencies, own the Park. Simon had a map of the Park, showing the portion of land that had been originally turned over by his Grandfather to the City of Langley to be used as a park. The original objective of the land transfer was to provide public access to the sound and the waterfront at no charge to the public, and to build an attractive multi use park to memorialize his Grandfather. It also allowed for continued unrestricted use of the launching ramp by the Simon family. Overall, he and his family remain optimistic and are pleased with the plan that was developed for improvements and upgrades to Simon Park. He said would be willing to do anything he could to support either side or work out a compromise so that the Park could be completed without further delays. Commissioner Slinden said that the Port had been working with the City of Langley on the project, and is planning to have a meeting in the near future to discuss the issues with Langley. She also mentioned that the meeting would be open to the public and invited Simon to attend. Commissioner Seitle said that the boat harbor, boat ramp and park improvements projects were completely separate issues. The Port had done everything they could to assist the City of Langley with the boat ramp and harbor projects including providing 52% matching funds to the InterAgency Committee (IAC) grant and assisting the City during the IAC grant application process. Commissioner Seitle expressed his concern with the City’s decision to nullify the original Park design. He said that they had done this in order to maximize the grant opportunity and meet specific grant criteria, but said it would have a negative impact on the project. The Commissioners thanked Simon for his presentation.

B. Scenic Byway Signage: Larry Webster was on hand to request Port funding for signage included in their Whidbey Scenic Isle Gateway and Way-Finding Signage Project. He had submitted an application for funding to the Port for review (**EXHIBIT B**). Webster explained that in the Fall of 2002, a number of citizens from Whidbey Island and members of various County and State Department of Transportation organizations had come together and formed a steering committee to develop a corridor management plan. This was necessary in order to go outside of the normal taxing jurisdictions to obtain funding for projects that preserve and enhance the byways along Whidbey Island. This resulted in a

Corridor Management Plan that in turn resulted in a presentation to the RTPPO that became one of the sponsors behind the initiative that was approved in February 2005. He mentioned that this signage project was highlighted as one of the most important priorities listed in the Whidbey Scenic Isle Corridor Management Plan. Webster said that Island County would be the lead agency for the project and their Public Works Department would submit the National Scenic Byways Grant application to WSDOT by end of January. The grant application required matching support from various organizations that have an interest in supporting the initiative on Whidbey Island. The result of the project would be the creation of three scenic byway signs and eight way finding signs for the Whidbey Scenic Isle Way. The gateway signs would be located in Clinton, Keystone and Deception Pass. The program would help recognize and promote Clinton as the southern portal and gateway to Whidbey Island. Webster requested the Port consider the 'Welcome to Clinton' gateway sign project as an alternative way to fulfill their prior commitment for a Clinton sign. He said it also represents an opportunity to enhance the Port's involvement in the Clinton gateway, as does the Port's Clinton Beach project. The estimated total cost for the three proposed signs was \$110-\$112,000. Webster requested a contribution from the Port in the amount of \$12,000 to be used for the construction of the sign. The estimated cost was \$25-\$35,000 per gateway sign. Commissioner Slinden agreed that the Clinton signage proposal would be a good opportunity for the Port to take the funds that would have gone towards a single sign in Clinton and apply it to the Scenic Byway sign project.

ACTION: A Motion was made by Commissioner Slinden to approve a \$12,000.00 contribution requested by Island County for matching funds for the Whidbey Scenic Isle Gateway and Way-Finding Signage Project. There was no second heard. Commissioner Slinden withdrew her motion.

ACTION: A Motion was made by Commissioner Seitle and seconded by Commissioner Tapert that the Port of South Whidbey participate in and contribute to some extent to the Whidbey Scenic Isle Gateway and Way-Finding Signage Project.

Commissioner Seitle questioned why the Port's contribution was higher than any of the other agencies' contributions, including Island County who is the lead agency of the project. Commissioner Slinden said that the signage program had originally asked for \$1,000, but because the Port had put funds aside in the budget for Clinton signage, she suggested that they ask for that amount which was \$11,000 plus an additional \$1,000. She pointed out that the Port paid \$12,000 to the Freeland Chamber of Commerce for the "Welcome to Freeland" sign. Commissioner Seitle asked if Webster was a representative of the County. Webster said that he was not but had worked with Mike Morton at the County on the project. Commissioner Tapert expressed concern with the amount requested for the sign but said he was more concerned with the overall cost of the sign at \$25-\$30,000 per sign, which seemed high. Commissioner Slinden said that South Whidbey would benefit from the Clinton sign and the signs at the other locations as well. The Port would be helping to contribute for the overall South Whidbey element as well as for the Clinton sign. Commissioner Seitle questioned whether the Port had actually committed funds in their budget for a Clinton sign and asked to be shown a motion or decision in the Port Minutes where the Port had agreed to provide funding for the Clinton sign equivalent to the funds spent on the Freeland sign. Port Accountant Chuck Edwards volunteered to go to the Port office and look for a copy of the Minutes regarding funding for a sign in Clinton. Commissioner Tapert asked Webster how many of the agencies on the list of contributors had actually committed funds at this time. Webster said that all agencies except WSDOT had committed funds. Webster mentioned that only three major sponsors would be listed on the application and they must show that they have sponsors for 20% of the total projected cost of \$110,000-\$112,000.

Commissioner Tapert asked Webster if the application could be submitted if they were short \$6,000. Webster said that it is a dynamic target so it would be difficult to give an absolute answer at this time.

ACTION: Commissioner Seittle amended his previous motion and made a new motion that was seconded by Commissioner Tapert that the Port of South Whidbey approve the commitment funds to the Whidbey Scenic Isle Gateway and Way-Finding Signage Project in the amount of \$7,000, which was equal to the amount being contributed by Island County.

The discussion was tabled until Edwards returned with the Minutes.

5. PROJECT ACTION ISSUES:

A. Bush Point: Kristen Kuykendall, project engineer for the Washington Department of Fish & Wildlife (WDFW), was on hand to request additional funding from the Port for the Bush Point project. Referring to her December 22, 2005, letter (**EXHIBIT C**), she said the project had been broken onto two phases, Phase 1 and Phase 2. She said that the pilings for Phase 1 had been cast in Tacoma and would be delivered to the site the following week and then be driven late in the day on Jan. 25-27 (due to tides). She said the floats should also be installed by the end of the month. She reported that the single bid for Phase 1 of the project had come in approximately \$100,000 above the engineer's estimate. She had copies of the site plans available for the Commission to review. Bids on Phase 2 of the project were received on December 15, 2005. The bid for Phase 2 included all finish grading, construction of the restrooms, paving, construction of the septic system, landscaping, fencing, electrical and mechanical work. The engineer's estimate for Phase 2 of the project was \$220,000. She reported that these bids also came in much higher than expected, all above approximately \$290,000 plus tax. After paying for Phase 1 and completing the contract for Phase 2, she said that WDFW would have a \$150-160,000 deficit from what the InterAgency Committee (IAC) had granted for the project. She reported that WDFW's budget does not have any funding available to contribute towards the Bush Point project. She stated that the final construction phase could therefore not proceed without further assistance from the Port. Kuykendall raised the possibility of substantially reducing the scope of the project by breaking out one or more bid items, which she reported as:

- \$110,000 for site work that included the storm water drainage, landscaping, and fencing and other peripheral items
- \$ 60,000 for the building
- \$ 30,000 for the septic system
- \$ 60,000 for the paving
- \$ 30,000 for the electrical

To issue the contract, Kuykendall said she would have to break out complete bid items, and at this time, the contract would be issued without the pavement and other major portions of the project. Kuykendall said her first step was asking the Port for \$115,000 for the project, but she also plans to request an additional \$60,000 from IAC in February. She said she could not proceed to award the project without an additional financial commitment from the Port, and had only thirty days from bid date in which to accept or reject bids. Commissioner Tapert asked what funding the Port had provided in the past toward the project. Kuykendall said that the Port had spent \$21,000 toward the initial purchase of the properties in 1999, and had pitched in for some of the initial developing and planning work during the IAC application process. She mentioned that WDFW had received a \$750,000 grant from IAC

towards the purchase of the three Bush Point properties. Commissioner Tapert asked about the possibility of WDFW quit-claiming the deed for the properties to the Port in exchange for the increase in funding. Kuykendall said that would be a real estate question and would require a very lengthy process to be approved by WDFW. She did mention that WDFW had quit-claimed deeds in the past, but did not recall if it had ever been done in exchange for funding. The Commission asked Kuykendall if she had reviewed the Port's proposed Resolution, #06-02, requiring WDFW to amend the existing Land Use Agreement to extend the term by eight years in consideration of additional funding from the Port (**EXHIBIT D**). Kuykendall said that she did not see a problem with the content of the Port's proposed Resolution #06-02, but would need to check with her agency.

ACTION: A motion was made by Commissioner Tapert and seconded by Commissioner Seittle to provide funding as requested by the Department of Fish & Wildlife on the condition that they are willing to relinquish its ownership of the Bush Point properties to the Port of South Whidbey.

There was a public comment made by Larry Dobrin who said that he was tired of looking at the crane that is sitting unused at Bush Point. He also asked if the contract included a penalty clause. Kuykendall said that the contract did include a penalty clause and that they would retain the contractor's bond, plus 5% retainage for damages if the project was not completed according to specifications. Dobrin asked when the project would be complete. Kuykendall said the projected completion date was May 15, 2006. Commissioner Slinden questioned why the Port got involved in the project since WDFW is building and owns the project. Chuck Edwards said that when the property was for sale, the Port tried to obtain IAC funding to purchase the property but only qualified for a 50% matching grant. The Department of Fish & Wildlife qualified for 100% funding from the IAC so they became the owners. Since the Port did not have ownership, it was decided that the Port would agree to run the facility, and that is how the land use agreement between the two agencies came about. Ed said that one possibility the Port Commission could consider would be to approve Resolution #06-02 based on the term extension, and also ask WDFW to work toward transfer of the property. Kuykendall said that she could not approve the extension without taking it back to her agency. Commissioner Slinden said that the Port could not give funds to another organization without any type of consideration. Commissioner Seittle expressed his concern with other provisions of the original Land Use Agreement. Kuykendall said that an extension of a lease is fairly uncomplicated and typically processed quickly (by WDFW staff), but that any revision to the original Agreement text would require substantially more time, including full WDFW Commission review. Commissioner Tapert withdrew his prior motion.

ACTION: A motion was made by Commissioner Slinden and seconded by Commissioner Seittle to approve Resolution #06-02 predicated on WDFW extending the current lease by eight years in consideration of the Port's commitment of funds for the project.

Commissioner Seittle asked what would happen if cost over-runs occur during Phase 2 of the project. Kuykendall said she hoped to have enough IAC funding to cover any cost over-runs. After further discussion, the Board of Commissioners voted on the motion, which did not pass. The Commissioners thanked Kuykendall for her time, and she said that she would continue to investigate possibilities for extending or modifying the agreement in consideration of the additional Port funding.

4. B. Scenic Byway Signage (Continued):

Chuck Edwards returned with copies of the Minutes he found pertaining to decisions made on signage in past Port meetings (**EXHIBIT E**), and provided the following recap. On May 12, 2004, Chet Ross of the Freeland Chamber of Commerce requested funding for the Freeland sign, which the Port approved. Edwards said he remembered that Commissioner Slinden had mentioned in that meeting that the Port should also consider funding for a sign in Clinton. On March 9, 2005, Terry Clark & Pat McVay had given a presentation on proposed signage for Clinton. During that discussion, Commissioner Seitle stated that he was in favor of assisting Clinton but was not in favor of the specific artwork chosen by the Association. Commissioner Sears was also less-than-supportive of the project and its urgency, commenting that the Port had already contributed to the town of Clinton through its efforts in improving the local Clinton Beach park. The Clinton sign project was turned down at that time. Commissioner Slinden said the current motion was to commit \$7,000 to the Whidbey Scenic Isle Gateway and Way-Finding Signage Project, and asked if there was any other discussion. Commissioner Seitle pointed out that according to the Minutes Edwards referenced, the Port had said they were in favor of a Clinton sign but had not made any financial commitments. Commissioner Tapert said his reasons for trying to help the proposal move forward while limiting funding was because in case of overages on the project, the Port could have room to increase their contribution.

ACTION: Commissioner Slinden called for vote on the motion to approve \$7,000 for the Whidbey Scenic Isle Gateway and Way-Finding Signage project. The motion passed unanimously.

Webster asked that the Commission have the form signed confirming the Port's \$7,000 contribution and return to him as soon as possible. Should there be any other consideration for funding, he asked that the Port provide that in correspondence to Island County or in discussion when the RTPO meets.

5. PROJECT ACTION ISSUES (Continued):

B. Clinton Beach, Pier & Dock, and Parking Lot:

1. **Construction Update:** Ed reported that the contractor had been much slower to mobilize and start major work than hoped or expected, and it is becoming a concern. They had not yet submitted a payment request for the month of December, which was apparently due to slow paperwork and limited progress on their part. Ed had been advised that they would have the required submittals ready on Monday Jan. 9, and planned to meet with them that afternoon. Ed mentioned that the approval for him to address urgent issues that come up during the project had already paid off. This week, the contractor uncovered an undocumented septic tank under the northwest corner of the new bathroom building, and an unexpected 4' wide x 8' deep wet well while digging for the columns of the picnic shelter. Also, the conditions of the soil under the new bathroom were not as dense and compact as expected, requiring re-compaction. With designer and geotechnical input, Ed directed that the contractor excavate the first 1' of soil from the building pad, remove any significant chunks of wood and debris, re-compact the exposed surface, and then refill and recompact the upper 1', resulting in a 2' layer of soil at 95% compaction to uniformly support the new footings. Ed said that he had given the contractor approval to proceed (at not-to-exceed eight hours for labor and equipment, plus materials) to complete the necessary work.

6. COMMITTEE ASSIGNMENTS: The following Committee assignments were established:

A. Economic Development Council (EDC): Commissioner Tapert.

B. Council Of Governments (COG): Commissioner Slinden, with Commissioner Seitle as Alternate.

C. Regional Transportation Planning Organization (RTPO): Commissioner Slinden, with Commissioner Seitle as Alternate.

D. Marine Resources Committee (MRC): Commissioner Seitle, with Commissioner Tapert as Alternate.

E. Washington Public Ports Association (WPPA): Commissioner Seitle, with Commissioner Tapert as Alternate.

There were no Committee reports, and Commissioner Slinden indicated that she would transfer her EDC file to Commissioner Tapert.

7. OLD BUSINESS:

A. Employee and Commissioner Benefits, and 2006 Port Manager Contract: Ed stated that he had submitted a request to the Commissioners in his 12/2/05 Port Manager Report that benefits be included in his 2006 PM Contract. Ed noted that his request included eight (8) paid holidays per year, up to twelve (12) paid sick days per year, ten (10) paid vacation days per year (increasing to 15 days after five years of service), and health benefit coverage. He stated that the leave days were all based on a 6-hour work day. Although he noted that he was still covered under the URS health plan, he expects that to convert shortly to COBRA coverage, which has been previously quoted at a cost of about \$400.00 per month. Commissioner Seitle said that he had done some research on other Ports that offer medical plans for their employees and found out that most Ports pay for 100% of their employees' benefits. Commissioner Seitle said he was in favor of offering Ed one of the three State plans available to Port Districts and their employees. Ed said that his understanding of the State programs was that when an agency decided on a program, the employee is allowed to choose which of the three plans they want, following a policy decision by the Commissioners to determine what portion of the plan costs will be paid by the agency. Commissioner Slinden questioned if the State plans would be made available to Port Commissioners, which Ed said would also be a policy decision by the Commissioners. After further discussion, the Commissioners agreed that the Port would need to plan a workshop at a later date to discuss State Health Insurance Plans. Commissioner Slinden said that having a State Health Plan in place would be a valuable asset to both Commissioners and future Port employees. Commissioner Tapert agreed and said that having good benefits for employees would help the Port attract and retain good employees. However, he felt that there was not enough information to make a decision on a State Health Insurance Plan at this time.

ACTION: A motion was made by Commissioner Tapert and seconded by Commissioner Seitle that the Port adopt the policy of 10 paid vacation days, 12 paid sick days and 8 paid holidays per year, along with a \$400.00 allowance each month to Ed for his Health insurance coverage, proposed for a three months period.

Commissioner Slinden pointed out that the Commission had already extended Ed's contract twice by six months, and felt that it was inappropriate to request an additional short extension. Chuck Edwards said that the Commissioners could approve Ed's proposed benefit package as stated for a year, and if they decide to adopt a State Plan at a later date, his contract could be modified, which Ed agreed to. Ed also requested that his hire date (12/1/03) be recognized as the start of his service with respect to vacation days per year.

ACTION: A motion was made to by Commissioner Slinden and seconded by Commissioner Tapert to amend the prior motion to say that the Port Commission approved Ed's proposed benefit package that includes: 8 paid holidays per year, up to 12 paid sick days per year, 10 days paid vacation per year (increasing to 15 days per year after five years from his hire date), and a \$400.00 allowance to be paid to Ed's Health insurance plan with documentation of costs. The motion passed unanimously.

Ed said he would work with Chuck to draft a final contract for signature.

8. NEW BUSINESS:

A. Port Accountant Contract: Port Accountant Chuck Edwards had submitted a proposal for renewal of his contract, including requested rate increases **(EXHIBIT F)**, noting that his rates had been constant for the previous few years.

ACTION: A motion was made to by Commissioner Seitle and seconded by Commissioner Slinden to approve Port Accountant Chuck Edwards' contract renewal proposal as submitted. The motion passed unanimously.

B. Amendment of Bylaws: Commissioner Slinden said it had come to the Port's attention at the last Special Meeting, while swearing in Port Commissioner Tapert, that there were some discrepancies with respect to the numerical identification of the three precincts in the Port Bylaws. The Island County Auditor has now confirmed that Freeland is position #1 and Clinton is position #3. The Commission agreed to amend the Bylaws to reflect that change.

ACTION: A motion was made to by Commissioner Tapert and seconded by Commissioner Seitle to amend the Bylaws to reflect that Freeland is position #1 and Clinton is position #3, to be consistent with the Island County Auditor. The motion passed unanimously.

C. Port Website: Commissioner Slinden said she was in favor of the Port having its own website. The Commission agreed that the Port should have a website and discussed the possibility of hiring someone at a reasonable price to create a website for the Port. Commissioner Tapert that the Port website could be a very simple format that is updated weekly and would offer a "web presence" to the public for information about the Port. He said that the Port could place an ad in the paper requesting for proposals to create a Port website. Jeff Vanderford suggested that the Commission hold off for about a week to see what kind of response they may get for a website designer. The Commissioners agreed to wait and see what interest develops and not take any further action at this point.

D. E-Waste Recycling Bill: Commissioner Slinden said that there had been a request from resident Segó Jackson regarding possible Port endorsement of proposed E-Waste Recycling Legislation. The proposed E-Waste Bill is for a no charge-recycling program for small

governments and businesses. Commissioner Slinden said that the letter received **(EXHIBIT G)** stated that the bill would provide for, at no charge, the proper recycling of computers, monitors and televisions to all special purpose districts including Ports. The letter noted that these electronic products contain hazardous components and are expensive and difficult to recycle under current conditions, which this Bill is intended to address. The no-charge service would also be made available to residents, farms, small businesses, small governments and charities. The program would be financed through electronic product manufacturers not tax payers. Jackson would like a letter from the Port endorsing this proposed E-Waste Bill. The Commission had no objection to Commissioner Slinden's request to submit a letter on behalf of the Port endorsing Jackson's proposed E-Waste Bill.

ACTION: A motion was made by Commissioner Tapert and seconded by Commissioner Seitle that staff prepare a letter of endorsement for the proposed E-Waste Recycling Bill, to be signed and submitted by Commissioner Slinden on behalf of the Port. The motion passed unanimously.

9. EXECUTIVE SESSION:

There was no Executive Session.

10. ADJOURNMENT:

ACTION: A motion was made to by Commissioner Tapert and seconded by Commissioner Seitle that the meeting be adjourned. The motion passed unanimously.

The meeting was adjourned at 9:26 p.m.

Approved:

Minutes prepared by:

Commissioner Rolf Seitle, Langley

Edwin S. Field, Port Manager

Commissioner Lynae Slinden, Clinton

Commissioner Geoff Tapert, Freeland

Exhibit A: Voucher Listing
Exhibit B: Appl. for Funds: Whidbey Scenic Isle Gateway and Way-Finding Signage (rec'd 1/9/06)
Exhibit C: "Bush Point Boating Access Development" ltr. from WDFW, dated 12/2/05
Exhibit D: Project Resolution #06-02
Exhibit E: 3/9/05 and 5/12/2004 Port Minutes
Exhibit F: Port Accountant proposal for 2006, dated 1/6/06
Exhibit G: Letter regarding the proposed E-Waste Bill