

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting
September 13, 2006
Freeland, Washington

Present at the meeting were:

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

Jeff Van Derford, South Whidbey Record
Jim Recupero, Langley City Council
Jason Henry, The Berger Partnership
Mathew Swett, Taproot Design
Elizabeth Guss, Comp Plan Facilitator Candidate
Dennis Gregoire, Comp Plan Facilitator Candidate
Susan Crowell, Comp Plan Facilitator Candidate
Ron Norman, Freeland Resident
Ken Carpenter

Absent: None

1. MEETING CALL TO ORDER:

Following a Workshop session from 7:00 to 7:30 pm, the regular meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on September 13, 2006, at the community meeting room at Trinity Lutheran Church, on Woodard and Hwy 525, 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: Draft Minutes from the Regular Meeting of August 9, 2006 and the Special meeting of July 26, 2006.
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 Voucher Listing **(EXHIBIT A)**.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Seitle to accept the Consent Agenda, including approval of the Minutes and authorization of Vouchers #2779 - #2810 for a total amount of \$35,413.26. The Motion passed unanimously.

3. ACCOUNTANT REPORT:

A. Financial Statements: None.

B. 2007 Preliminary Budget: Port Accountant Chuck Edwards said that Port Manager Ed Field had taken over the preparation of the preliminary budget for 2007. Ed reviewed the draft Preliminary Budget with the Commissioners. **(EXHIBIT B)** He had highlighted the items on the budget for which he specifically requested Commissioner input. Ed said that had checked with the Island County Assessor regarding increasing the levy rate, and he was advised that while a lower Court has thrown out the old Eyman Initiative limiting tax increases to 1%, the State Supreme Court has issued a temporary injunction against any such larger increases until they have heard the pending appeal. Ed therefore used a 1% increase over the \$425,000 levy last year, plus \$6,000 in taxes on new construction, to come up with \$435,000 as the beginning tax revenue for the 2007 preliminary budget. Ed said that he had not included any income from grant funding, since it does not seem likely that there will be any actual grant monies received even if the Port may decide to pursue grants in 2007. Ed said that he would like input from the Commission on how much to include in the Trade Fair and Sponsorship columns in the budget. He noted that most of the administrative expenses had been adjusted based on 2006 budget activity. The Capital expenditure amounts were basically carried over from 2006. Ed added a \$20,000 capital expense budget line item for Possession Point in anticipation that repairs to the roof of the Possession Pt. Residence will need to take place in 2007. The rest of the expenses were projected figures based on the past seven months of financial data. Chuck Edwards said that the preliminary budget must be approved by September 15, 2006. He recommended that the Commission adopt the preliminary budget tonight and then advertise in the paper that the preliminary budget has been adopted and is available at the Port office. Then the Commissioners must schedule a public hearing for the public to comment on the preliminary budget. In the past the Port has held the hearing the first half hour of their regular meeting. The Port's next regular meeting of October 11, 2006 would be adequate. The final budget can then be adopted in November, which is what the Port has done historically.

Commissioner Slinden asked if, given that the previous levy rate of 0.17 is dropping down to about 0.15, the Port is going to continue to see a decrease percentage wise as we have more population and we cannot go more than 1% over the previous levy rate? Chuck said that the rate is not driven by population but rather by land values. The percentages will continue to drop as the assessed values in the district increase. Commissioner Seitle said that if the assessed valuation continues to go up with a 1% limitation, the Ports' percentage decreases, noting that the only people that benefit from the increased assessed valuation are the school districts and the state. Chuck said that the levy rates are based on a calculation where you divide the levy amount by your assessed valuation to come up with a levy rate. As valuations go up, it doesn't impact the district one way or another, since the levy amount is determined by the approved Budget not the levy rate. Commissioner Seitle said that the assessed valuation does increase the tax burden on property taxes so the additional funds must go to someone and his understanding was that they went to the school districts and the state. Chuck said that on Whidbey Island, the waterfront property rates go up faster than the farmland in Eastern Washington and there is a shifting of burden to the higher assessed rates but there is no more money, it is just how you divide the pie and who is getting taxed for it. The increase in the amount of money that you are raising is limited by 1%. Commissioner Seitle asked if the state was limited to 1%. Chuck said that he believed that to be true. Commissioner Seitle asked if that meant that taxes are going to continue to drop every year. Chuck said that the rate is dropping every year but the total taxes are probably going up by 1%, which is less than inflation. Commissioner Slinden said that is why all of the public agencies are hurting for providing services because they are losing money in relation to their needs. The Port does have the option to levy for up to three times the current amount for a major project. Chuck said that the Port's levy limit by statute is .45 cents per 1000. If the

Port wanted to go to the public for a vote and the public approved that vote, the Port could increase the levy limit up to .45/1000.

Jeff VanderFord of the South Whidbey Record asked why the 2007 Port Budget shows a deficit of \$296,000 for the coming year. Chuck said that the Port expects to have an estimated \$1.1 million dollars in the bank to start 2007, and if everything goes according to budget, the Port should end up with approximately \$800,000 at the end of the year. There is cash in the reserves that the Port can use if needed to fund the deficit. Commissioner Seitle said that the Port's administrative expenses are \$165,687 and the Port's operating costs are \$105,100, so if no investments were made, the Port would spend \$276,087, and if the Port ran a balanced budget, the remaining money would be available for capital projects. It was noted that the Port Budget has been in deficit for the past three years but still has reserves because we have been very frugal. Commissioner Seitle stated that this obviously cannot continue indefinitely and the Port Commissioners should make a decision to start reserving some money for real opportunities that might present themselves to the Port. He said that the Port Commission should recognize that they are in deficit financing every year. Commissioner Tapert pointed out that Port is budgeting \$200,000 for the Langley Harbor Boat Launch, and \$250,000 for land acquisition and other projects, either of which may or may not be done in 2007. He said that if the Port does not purchase any land in 2007, it will be running a balanced budget. Commissioner Slinden said that if you look back a few years to when she became a Port Commissioner, the Port had approximately \$1 million dollars in the bank. Since that time the Port has purchased and developed a park and still has approximately \$1 million dollars. In her estimation, the Port has done very well with how they have handled the money. Commissioner Seitle questioned why the Port has been running in deficit for the past few years. Commissioner Tapert said that is because the Port has not spent everything that has been budgeted. Commissioner Slinden added that the Port has also received grant money. Commissioner Seitle was concerned that if the Port continues to run on an unbalanced budget, the reserves would be reduced to zero. Elizabeth Guss said that it seems to her that this is theoretically true, and yet Ed said that he had not included grants that the Port may go after, and there are some uncertainties associated with the budget. She noted that the Port cannot anticipate in advance where generosity or successful grant application will come from. Commissioner Seitle asked if Ed was aware of any grant opportunities in 2007. Ed said that he was not aware of any grant opportunities at this time, and the Port does not have any projects currently on the table that could be quickly developed to the extent that the Port could apply for grant funding (beyond the Langley ramp and park project). Chuck said that most of the time, you do not get grant money until after you spend money on a project.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Slinden to adopt the 2007 Preliminary Budget as presented. The Motion passed on a 2-0 vote, with Commissioner Seitle abstaining.

The Commission scheduled a Public Hearing on the 2007 Preliminary Budget for Wednesday October 11, 2006 at 7:00 pm at the community meeting room at Trinity Lutheran Church, on Woodard and Hwy 525, Freeland, WA. The Port Clerk was directed to issue to proper legal notices. The regular Port meeting will follow the Public Budget Hearing.

4. NON-AGENDA ITEMS / PUBLIC PRESENTATIONS:

Ron Norman said that he would like to hear a brief progress report on Bush Point.
Commissioner Slinden said that she would add the Bush Point progress report to the agenda.

5. PROJECT ACTION ISSUES:

A. Clinton Beach:

1. Additional Designer Fee Request: Jason Henry of the Berger Partnership and Mathew Swett of Taproot Design were on hand to discuss their additional fee request with the Port. **(EXHIBIT C)** The total additional amount requested was \$22,573.52. Commissioner Seitle said that the design costs to date based on Ed's numbers are \$78,288 and the actual construction costs that are related to that design are \$673,895. He said that the fee earned to date before the last request from the designers was approximately 12% of the construction costs, and what the designers are now asking in additional fees increases the percentage to approximately 15% of the total construction cost. He continued that architectural services can be negotiated in several ways and the Port negotiated on the basis of time and material, but the Port could have negotiated a contract based on a percentage of the construction costs. He said that the problem with the last request from the designers for \$22k is that it came so late and is such a big surprise to the Port. Furthermore, Commissioner Seitle said he believed that the letter from the designers attempting to justify the additional costs was not very solid. **(EXHIBIT D)** He said that while the designers may have some justification, he was concerned that they did not notify the Port sooner. "The ink was not dry on the last request for payment before we received the new one and I am concerned about that" he said. Commissioner Seitle said he would like to see this project end in the same good spirit that it started on, but based on the letter, the additional fee is not justifiable. Depending on what the other Commissioners think, he recommended that the Port come to agreement on an adjustment to the amount requested by the designers. Commissioner Tapert said that he was also concerned with the late arrival of the additional fee request without very clear communication ahead of time. He said that if those types of overages were communicated while they were being incurred, it would have allowed the Port to budget for the additional fee and it would not come as such a surprise. "I would prefer not to go into a long drawn out process of researching every receipt but it is a big pill to swallow" he said. Commissioner Slinden echoed her fellow Commissioners comments. "Perhaps a percentage of the total fee could be negotiated," she said. Commissioner Slinden expressed her appreciation to the designers and congratulated them for the effort that they put into the Clinton Beach Park. She said that because the invoice for additional design fee was a little excessive, it seems fair for the Port to pay about half of the requested amount. Commissioner Seitle said that the Port is prohibited from giving away public money but could give the designers a performance bonus based on the end result and public response to the project. Jason Henry apologized for the late bill and said that he understood the Commission's concern over receiving the bill so late in the process. He said that there were a lot of things "out of the norm" with the Clinton Beach project, such as the green roof workshop and the Seattle Central Community College involvement. He said he also understood the Commissioners' need for additional accounting, but pointed out that the amount billed to the Port was less than half of the total amount of time they spent working on the project. He said the designers knew going into the project that it would likely require extra effort on their part due to some of the unusual aspects of the project. Jason said he would like to come to an agreeable arrangement with the Port, and Matthew Swett echoed Henry's comments. He said he

had approached the project knowing that part of it would be paid and a large amount of it would be volunteer work. He said that the bill shows true numbers, but Swett was also willing to compromise with the Port to determine an agreeable amount. Commissioner Slinden suggested that the Port pay \$12,000 to the design team. Port Accountant Chuck Edwards said that he was uncomfortable with the term “performance bonus” because it was not included in the contract with the designers and it could be viewed as favoritism. Since the design team is trying to recoup some of the extra time that they spent on the project, both Chuck and Ed stated that any payment should be designated as a “negotiated settlement” rather than a “performance bonus.” Commissioner Seitle said that the bill is undocumented at this time and he was concerned that approving it would be considered a gift of public money. Chuck said that it appeared that the design team spent additional hours on the project that they had not budgeted for. He asked the designers if the invoice was billed at their standard billing rate. Swett replied that the bill to the Port was calculated at half of their normal billing rate. Edwards suggested that the designers write a letter to the Port explaining that the bill reflects additional time spent on the Clinton Beach project and points out that they had invoiced the Port at half of the standard billing rate, which is why they are requesting a negotiated settlement from the Port. Commissioner Seitle said that the contract was a “time and materials” contract. Since the Port has paid the designers based on documented hours submitted on a monthly basis, he said he did not want to pay the designers based on an unsubstantiated bill.

ACTION: A Motion was made by Commissioner Seitle to pay Berger and Taproot \$10,000 and call the payment a “performance bonus.” The Motion failed due to lack of a second.

ACTION: A Motion was made by Commissioner Slinden that, according to terminology as recommended by Port Accountant Chuck Edwards, the Port pay \$12,000 to Berger and Taproot as a negotiated settlement for services rendered in addition to their original proposal. The Motion failed due to lack of a second.

Commissioner Tapert said that he did not feel comfortable paying the additional fee request without first obtaining additional information from the designers to justify the request. He was also concerned with the precedence that would be set by paying the additional fee request. He suggested that the topic be tabled until the next Port meeting to allow the designers time to provide additional documentation to the Port before a decision is made. Commissioner Seitle wanted to try and avoid having everyone go through a documentation effort. Swett said that it would be easy to pull accounting records and would be more than happy to supply the Commission with the additional information. Commissioner Seitle asked what percentage of the bill went to each design firm? Swett said that although their extra hours were comparable, approximately 60% would go to The Berger Partnership and the remaining 40% would go to Taproot Design due to their respective billing rates. After further discussion, the Commission agreed to table the discussion until the next regular Port meeting.

2. Proposed Park Rules Resolution #06-05: Ed had prepared draft Resolution #06-05 relating to proposed park rules for Possession Beach Waterfront Park, Clinton Beach and Bush Point. **(EXHIBIT E)** Commissioner Seitle said that the Resolution should stand as written, noting it to be a good piece of work. Commissioner Tapert said that the Resolution Item #16 should be changed to allow leashes longer than 10’ in length, since many people use “stretch leashes” that easily extend more than 10’ in length. Also, he recommended that the wording “Trapping and Capturing of Animals is Prohibited “ in

Item #19 be amended because it could potentially eliminate crabbing or fishing at the park. He proposed that the wording “*On-Shore Trapping and Capturing of Animals Prohibited*” should be used instead. The other Commissioners agreed with Commissioner Tapert’s suggested revisions, and Ed changed the Resolution accordingly.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Slinden to approve Resolution #06-05 as revised. The Motion passed unanimously.

The Commissioners signed the revised Resolution #06-05. Commissioner Tapert also suggested that the Port have “pet stations” installed at all of the Port’s parks. Ed said that Clinton Beach already had a “pet station,” and he would order an additional station for Possession Point Park and will consider whether a pet station is really needed at Bush Pt when finally completed.

B. Freeland:

1. Dock Condition Update: Ed said that he inspected the Freeland dock at low tide last Friday. Four of the flotation sections are missing and a fifth is about to go. After completing a detailed inspection, Ed will order five replacement modules from Small-works Roster contractor ACC Hurlen Construction, who prepared the design and installed the first replacement modules last year. Also, the piling hoop at the end of the dock looks as though it will need repair sooner vs. later. He noted that the dock in general seems to be in reasonable condition. The Port should anticipate the need to replace all of the flotation modules within the next few years. Commissioner Tapert shared his concerns about the safety of boaters loading and unloading their boats at the Port’s boat ramps. He said that the Port should consider having volunteers posted at each of the Port’s boat ramps during the peak boating seasons. Ed said that the Port’s caretakers offer their help to distressed boaters even though it is not in their job description. Commissioner Slinden suggested that the Port draft a letter to various organizations, such as the Fishing Club and Yacht Club, to ask if they would be willing to coordinate a volunteer group that would help with distressed boaters. The Commission agreed that since the boating season is almost over, they would table the discussion until next season.

C. Possession Beach Park:

1. Estuary Restoration Request: Ed said that he had spoken with Kim Bredensteiner at Island County, who is responsible for coordination with the Skagit River System Cooperative group. (SRSC) She said that based on their recent experience with Greenbank residents, and given that the Port’s situation at Possession Point is significantly different than Greenbank because the Port owns the underlying property, the Port should go ahead with a feasibility study and then hold a community meeting. The feasibility study is at no cost to the Port, so Ed recommended that the Commission authorize them to proceed. Commissioner Seitle asked if the Port owned all of the estuary property. Ed said that the bulk of the estuary is on Port property, however it appears that there might be partial extension onto private property. However, the Port could “dike” it off at its property line and maintain the impact entirely on Port property. Ed said that the SRSC could have a proposal to the Port by the October Port meeting for final action, and he noted that the opportunity to have mitigation on Port property is unique and the Port should not pass that up. Ed was authorized to notify the SRSC that the Port was in favor of looking at a detailed proposal for review and possible approval at the next Port meeting.

D. Bush Point:

1. **Construction Update:** Ed said that the primary electric power has been run into the site by PSE/Potelco, and the electrical contractor finished the connection into the bathroom building. The State L&I electrical inspection is scheduled for Thursday (9/14/2006). The primary power for the parking lot has not yet been finished. The final septic system testing should take place as soon as the invoice from Bush Point Water has been settled. The floats were tentatively scheduled for delivery and installation the second week of September, but that has not yet been confirmed. Ed said he had scheduled a surveyor for the boat ramp this Tuesday (9/19/2006) to shoot representative elevations across the ramp. In the last six months, the beach elevations have fluctuated approximately 3ft., and the ramp is now almost level with the beach. It is a very dynamic situation, which makes it important to obtain a good baseline survey. The warranty is not yet in affect because the project is incomplete, so the Port will continue to monitor the ramp. Ron Norman asked why a grid type ramp was chosen rather than a regular concrete ramp. He said that the grid ramp is going to be very difficult to keep clean. Ed noted that he also had concerns with the cleaning of the ramp due to the accumulation of sand. Norman asked if the Port could fix the ramp after they take over the operation of the Park. Ed said that type of grid ramp was apparently chosen due to biological conditions, so the Port would most likely not be allowed to change it in the future. However, after the Port takes over the operation of the park, they might consider modifications to the ramp. Dennis Gregoire was also surprised that a grid ramp was chosen and said that out of 150 boat ramps in the Puget Sound area, he has never seen that type of ramp used. Norman asked if there was a project completion date at this time. Ed said that a completion date has not yet been determined.

6. COMPREHENSIVE PLAN ISSUES:

- A. **Facilitator/Editor: Proposal Review and Selection:** Commissioner Slinden said that a total of five proposals have been received for the position of Comprehensive Plan Facilitator/Editor position. **(EXHIBIT F)** Three of the five teams were present at the Port meeting: Elizabeth Guss, Susan Crowell and Dennis Gregoire. Commissioner Slinden suggested that each Commissioner select two or three candidates out of the five to have interviews with. Commissioner Seitle said based on the material that was submitted, he had ranked each of the candidates. He also ranked the proposals based on direct experience with the Port's issues and their ability to function in a facilitator role. Based on that criteria he selected three candidates in the following order #3) BigMind Group, LLC #2) Elizabeth Guss and #1) Dennis Gregoire. Commissioner Tapert said that his focus was on the candidates' experience with Ports, land use and knowledge of local community. Based on that criteria; he favored two of the candidates over the other three. Commissioner Slinden said that the Port has a budget amount of \$20,000 for the Comprehensive Plan, which she said she had taken that in consideration when selecting candidates. She asked Gregoire for an hourly rate, and Gregoire gave the Commission a print out listing his rate. **(EXHIBIT G)** Commissioner Slinden said that she considers the facilitator role to be a more critical issue than familiarity with ports. This is because the Port has an existing plan that will be updated as well as specific guidelines available from the Washington Public Ports Association (WPPA), which will help with the planning process and legal aspects of writing a Comprehensive Plan. She said that the strongest characteristic for a candidate should be someone who can pull all the players together, obtain public input and take guidance from Commissioners to complete a plan that the Port can present to the public. Commissioner Slinden again recommended that

each of the Commissioners select two or three candidates to have interviews with. The Commission concurred, but Commissioner Seitle said that it was his understanding based on the agenda that the Commission would make a selection the Port meeting tonight. Since that is not the case, he withdrew his comments regarding ranking the candidates pending interviews with each of them. The Commissioners then decided to have all candidates invited to attend an interview session with the Commission and Port Manager on Thursday September 21, 2006. The interviews will begin at 8:00 am (15 minutes per interview) and will be held at the Port office conference room located at 5492 Harbor Avenue in Freeland, WA. Ed asked if the Commissioners would prepare the interview questions. Commissioner Slinden said she would like a resume and cover letter from each of the candidates. Commissioner Seitle suggested the use of a rating system based on specific criteria in order to fairly rank the candidates. The Commissioners agreed that they would each formulate questions and send them to Ed via email. They also instructed Ed to mail each of the selected candidates a letter to confirm their interview times and also request that they each submit a resume/cover letter to the Port prior to the interviews.

7. ACTIVITIES/INVOLVEMENT REPORTS:

A. Economic Development Council (EDC): None.

B. Council Of Governments (COG): None.

C. Regional Transportation Planning Organization (RTPO): None.

D. Marine Resources Committee (MRC): Commissioner Seitle said that on the suggestion of Don Meehan, WSU Beach Watchers and also MRC liaison to the Island Co. Commissioners, he had drafted a letter for the Island County Commissioners to sign, asking Snohomish County PUD to keep the MRC informed of all developments with respect to the Snohomish County Public Utility District's recent application for preliminary study permits to investigate the environmental impacts of generating electrical power with underwater turbines at Deception Pass in Island County waters. Commissioner Seitle will keep the Board informed on the issue.

E. Washington Public Ports Association (WPPA): None

F. Seminars:

- 1. WPPA Small Ports Seminar:** The WPPA Small Ports Seminar has been scheduled for October 27, 2006 in Leavenworth, WA. Commissioner Slinden recommended that the Comprehensive Plan Facilitator/Editor that is hired consider attending the seminar, as there is a Comprehensive Plan session. Ed said the fee for attending the seminar is \$25.00 per Port. Commissioner Tapert also said that he was interested in attending.
- 2. WGEP Fall Membership Training:** Ed said that he was planning on attending this free seminar on November 7, as it is scheduled to address critical issues including "Civil Liability for Public Operations" and previous WGEP seminars have been excellent.

8. OLD BUSINESS:

None

9. NEW BUSINESS:

A. Mutiny Bay: (Re-ordered for clarity) Commissioner Tapert’s Aunt had informed him that the County owns an extensive amount of property at Mutiny Bay. According to his aunt’s map, the Port has more ownership than the public has been lead to believe. He said that the Port should consider Mutiny Bay as an opportunity for potential improvements and this topic should be included in the Comprehensive Plan. Commissioner Tapert would like to research the subject further. Ed said that the assessor’s reports and original Interlocal Agreement (ILA) are at the Port office and he would research those as well.

10. EXECUTIVE SESSION:

The Commission went into executive session at 9:00 pm to discuss property acquisition. The Commission came out of executive session at 9:15 pm.

11. ADJOURNMENT:

The meeting was adjourned at 9:25 pm.

Approved:

Minutes prepared by:

Commissioner Lynae Slinden, Clinton

Ed Field, Port Manager

Commissioner Rolf Seitle, Langley

Commissioner Geoff Tapert, Freeland

- Exhibit A: Voucher Listing
- Exhibit B: Preliminary Budget for 2007
- Exhibit C: Berger Taproot Invoice # 0019366, dated 8/9/06
- Exhibit D: “Clinton Beach Improvements – Additional Services” ltr, Berger, dated 8/8/06
- Exhibit E: Resolution #06-05: Facility Rules and Regulations
- Exhibit F: Facilitator/Editor proposals: Browne Tamler, Crowell, Gregoire, Guss, BigMind Group
- Exhibit G: Gregoire Service Fee sheet