

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting

January 9, 2008

Freeland, Washington

Present at the meeting were:

Commissioner Lynae Slinden, Clinton
Commissioner Rolf Seitle, Langley
Commissioner Geoff Tapert, Freeland
Ed Field, Port Manager
Dane Anderson, Port Financial Coordinator
Molly MacLeod-Roberts, Port Clerk
Wayne Nance, Possession Pt. Caretaker
Mike McCarthy, Bush Pt./Clinton Caretaker

Aundrea McBride, Skagit River System Co-op
Don McArthur, South Whidbey Yacht Club
Marty Behr, Langley Resident
Ken Urstad, Greenbank Resident
Jeff VanDerford, South Whidbey Record
Carl Magnusson, Langley Resident
Dennis Gregoire, Freeland Resident

Absent: None

1. MEETING CALL TO ORDER:

The regular meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on January 9, 2008, at the Freeland Library Conference Room in Freeland, WA. Commissioner Seitle, President, called the meeting to order at 7:30 p.m., followed by the Pledge of Allegiance.

2. BUSINESS MEETING – THE CONSENT AGENDA:

A. Consent Agenda:

1. Minutes: Minutes from the Preliminary Budget Hearing and Regular Meeting of October 10, Special Meeting of October 29, and Regular Meeting of November 14, 2007.
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 Slinden to accept the Consent Agenda, including authorization of Vouchers #3293 - #3314 for a total amount of \$15,780.00. The Motion passed unanimously.

3. PUBLIC COMMENT – Including Items not on Agenda:

There was no public comment other than as noted below on Agenda issues.

4. ACCOUNTANT REPORT:

A. Financial Statement: The Commissioners accepted the November 2007 Financial Statement which had been mailed to them previously (**EXHIBIT B**).

5. PROJECT ACTION ISSUES:

A. Possession Beach Waterfront Park:

1. **Estuary Restoration Feasibility Update:** Aundrea McBride of Skagit River System Cooperative (SRSC) was on hand to discuss the feasibility assessment. The feasibility study is not complete, so she said she would simply provide an interim report. She explained that it was part of a project started by the Swinomish and Lummi Tribes for restoration of near-shore habitat. Her presentation included photos and figures from the assessment to date as she discussed the science background and the project objectives. McBride explained that the objectives include those of the Port and those of the Tribes. A CD of the presentation is attached to these Minutes (**EXHIBIT C**).

McBride explained that Possession Park was once a pocket estuary: a small, partially enclosed marsh in the salt water. SRSC research has indicated that threatened wild Chinook salmon tend to “hang out” in pocket estuaries when they are very small, using the space as a habitat for growing bigger and stronger before they go out to sea. Pocket estuaries are unique habitats with few predators so the fish are able to thrive in them.

She said the specific issues at Possession Park are 1) the marsh is disconnected from the tides, so fish can’t use it, 2) the footing for the dock interrupts sediment transport from the south to the north, and the sediment going along the east shore of Whidbey Island is important for many, many habitats for miles and miles up the shoreline, and 3) the boat ramp and maintenance of the boat ramp can interfere with sediment transport. McBride said that the Tribes want to make sure that habitat restoration is not just “a cosmetic fix” but is sustainable over the long term.

The objective is to restore the marsh to tidal inundation by breaching the beach berm, and SRSC is looking at two ways of doing that. One would be to do it only within Port property boundaries and the other would be to restore the entire footprint of the historic marsh that is left over and has not already been developed. McBride said working only within Port property would require putting a dike in place, noting that the natural breach was way at the north end of the marsh, which is on private property.

The Port had asked SRSC to answer the following questions:

- How would the existing ecology change at the Park?
- Will restoration impact fishing?
- What will be the impact on the rest of the Park’s facilities and operations, and on the enjoyment of visitors to the Park?

McBride said marsh restoration would revert the existing freshwater and brackish water habitat back to salt marsh, so the vegetation would change (the non-saltwater tolerant cattails would all die off). There would also be fish in there. Breaching the spit wouldn't impact fishing activities – the beach would remain intact and it wouldn't impact the dock at all. SRSC is concerned that if there is not enough tidal power in the marsh after opening it, the breach might not maintain itself. If it's not maintainable, there would be a definite impact on the workload of park maintenance personnel. McBride said the beach and wetland would still be a great place to visit, and the marsh would be even more interesting after restoration.

She said that the boat ramp maintenance and the dock footing are impacting sediment transport, and suggested that when the ramp is cleaned, the Port should make sure that the "spoils" from clearing the ramp are put on the north side rather than the south side, so they can continue up the drift cell.

Commissioner Seitle asked if the breach would be large enough for the fish to find their way into the estuary and she said it definitely would be. Commissioner Slinden asked McBride what would be the next step in the process and if there is a timeline. McBride said that SRSC needed to take the sediment data and plug it into the tidal flux model and figure out if the shear stress is low enough or high enough that all the sediment would keep on moving down the beach past the opening and keep the opening clear. She said more research needs to be done on different design alternatives. SRSC also needs to come up with some rough estimates of how much design and restoration would cost for the Port to consider. McBride said they hope to have the feasibility assessment done by summer, and noted that she is working on a different project until March so there won't be any additional results until after that time.

Commissioner Slinden asked if there would be any money left by then to help with funding any kind of construction. McBride said that the Port of Everett (PoE) project has money set aside for design and for holding aside as matching funds for restoration. It's unlikely that any restoration alternative will be affordable with the small amount of money leftover from the Port of Everett project, but it will help as seed money for applying for restoration funds. There are also grants available that would be a good fit for this project. There is a lot of money for near-shore habitat restoration in particular. McBride said it is pretty easy to get "dirt-turning money," but it's very difficult to get money to do feasibility. That's why the Tribes decided to funnel their monies into doing feasibilities.

Commissioner Seitle asked if this was supposed to be a mitigation effort to benefit the project that the Port of Everett was doing. McBride said no, and Port Manager Ed Field explained what the money was – provision of funding for feasibility studies was the PoE's mitigation. Commissioner Seitle said he thought the Port Commission's impression was that the Port was basically enabling SRSC to do the study on Port property but the Port was not thinking they would have to find their own grant money to implement it. Ed said the funding was to get the project through design and seed money for construction, but there was no real expectation that it would pay for the actual project and Commissioner Slinden agreed with Ed and said that was her understanding as well.

Commissioner Seitle asked for clarification as to whether a bridge structure would be required where the existing boat ramp is, and McBride said no, not necessarily. She said there are 3 options for the boat ramp: 1) a low profile boat ramp, which is what exists now except for the dock footing, 2) a bridging boat ramp (very few examples of that), and 3)

engineer the interplay of tidal and wave energy to keep the boat ramp clear and maintain the tidal channel.

Commissioner Slinden asked if SRSC would return with some recommendations regarding priority, what the Tribes would like to see, etc. McBride said they would and SRSC would also provide some guesses at costs and permitting process. That would hopefully provide the Port with enough information to make a decision whether to move forward. The Tribes are willing to help the Port look for funding. Commissioner Slinden said it is in the Port's Comprehensive Scheme to do this type of project. She said she is very excited about the possibility and she is looking forward to hearing the results of the study.

Commissioner Seitle said he was still under the impression that the mitigation would include construction; that the Tribes would fund the construction necessary to create the estuary. McBride and Commissioner Slinden said that was incorrect.

The Board thanked McBride for her presentation, and McBride said she would keep the Port posted.

B. South Whidbey Marina:

1. **Design & Master Plan Issues:** Ed reported they had not heard much from the City, but there has been a lot of feedback from the public (a dozen or so emails or letters) which he is forwarding to the Commissioners separately. Ed referred the Board to their copy of the letter written by Paul Schell's attorney dated January 3, 2008 (**EXHIBIT D**). Ed explained that today he had received a partial copy of the City Submittal for the Schell House (**EXHIBIT E**), and noted that it appears to include a terrace that would be on the Port's property. Ed had prepared a suggested response to Mr. Kelly's letter. Commissioner Slinden said it appeared that the Schell plan indicated building on the property line and using Port property for access in spite of there being no easement in place for them to do so. She recommended holding off on responding to the letter until Ed could communicate with the engineer for the City of Langley who can communicate the permit process to Mr. Schell, and then maybe come up with a plan for an entrance on that side. She said, "I really don't see giving up public property to someone for their private access." Commissioner Tapert said he understands that residential construction is typically exempt from shoreline permit process, but he also understands that Schell intends to use at least a portion of the building for commercial use. Ed said there would be commercial use, which is why Schell is able to built on the 0 lot line. Commissioner Tapert asked if Schell had submitted for a shoreline permit with the City of Langley, and Ed said he wasn't aware of and hadn't seen any documentation for the Schell House project.

Commissioner Seitle said it was always the intent that all the owners by the marina who have a stake in this would get together and find an optimum solution that would satisfy everyone through negotiation. He said he was disappointed by the letter because it abandons that spirit that existed before. He added that there is still the issue of coordination of utilities, and Ed said his understanding is that the Schell/Puma project favors charging ahead because their timeline is faster than the Port's. Commissioner Slinden said that's fine if it matches with what the projected expectations will be everyone, but there is also a potential for an Improvement District for Wharf Street or for utilities. There's a lot of potential for mutually shared items that need to be paid for down there. Ed suggested this might be a good topic for Monday's discussion with the City. Commissioner Seitle noted that the Port had not heard from the City since Ed made the presentation of the Master Plan Update. He would like to have the City's concurrence for the concept prior to the public

meeting on January 23rd. Commissioner Slinden said that would be appropriate and she'd like to go into the public meeting with a second draft of any City input into the Plan, so they would have a collaborative Plan to take to the public. Ed said he didn't think they would have a full second version, and that wasn't necessarily expected.

ACTION: A Motion was made by Commissioner Slinden and seconded by Commissioner Seitle to hold responding to the letter until Port Manager Ed Field has a chance to work with the City of Langley's engineer and planning staff to resolve the conflicts in the Port's proposed plan and the Schell House City Submittal.

After brief discussion, Commissioner Slinden modified the Motion as follows:

ACTION: A Motion was made by Commissioner Slinden and seconded by Commissioner Seitle to write a letter to Schell's attorney notifying him that the Port intends to work with the City of Langley to resolve the differences.

Commissioner Seitle said he would prefer to tell the attorney the Port would like to meet with him to better understand his plan, and have Greg York of Art Anderson Associates available for the meeting. Commissioner Slinden said the City of Langley needs to be involved because they are the permitting agency and they will have to perform any orchestrating of agreements regarding other utilities, etc. Commissioner Tapert said the letter needs a response, but the Port should respond in the same manner that any other public agency would respond: through the State Environmental Policy Act (SEPA) process, assuming that Schell has to go through SEPA. If Schell has to go through SEPA and Shoreline Management Plan (SMP), then the Port has a very significant say in the permitting process about how it is consistent with our plans, etc. Commissioner Tapert said Schell shouldn't be allowed to say to the Port, "Do you like it or not, and if we don't hear from you, we're moving forward anyway." The Commissioners agreed that the Port needs to go through the public process where everyone gets the opportunity to comment, and it needs to go through the City of Langley as the permitting agency. Commissioner Tapert said the Port should verify that with Larry Cort, Langley's Director of Community Planning, that Schell's proposal is subject to a public comment process through SEPA. If so, then the Port should notify the attorney that the Port will evaluate the proposal once a complete application has been submitted to the City and made available for public review. Ed wondered if it would be better to sit down with Schell and hammer out a mutually beneficial agreement before either party gets to SEPA and before it gets too far down the road, with the City on board. Commissioner Slinden said the Port cannot respond to the letter until they have an agreement with the City about what the Port's concept is for the area. Commissioner Tapert suggested the response should be, "We respectfully request a three-way meeting between the Port, the City and the parties involved in that application prior to any response." The Commissioners agreed and Ed said he would prepare that response.

The Motion was withdrawn.

Ed reported that the Port had received several emails from Kathleen Waters-Riehl after she attended the Master Plan Update briefing Ed presented at the City Council meeting in December. Waters-Riehl wrote to the Port regarding the way the existing easements are depicted on the across the southern end of what will be the Port's property. The diagram showed only one road going through with two-way traffic. Ed said the Port is admittedly projecting something that does not exist yet, and stated that the existing condition is that

there are two easements provided for the two properties to the south. Commissioner Seitle said this is just conceptual – it is not a legal document and does not show meets and bounds. Ed said he would make the point at the public meeting that the diagram does not show the two easements and that they do exist. Ed said it was his understanding that they would not be making changes to the draft based on one issue prior to the public meeting. Commissioner Slinden suggested they should change the drawing to show the existing easements and also eliminate the stars designating possible building locations. Commissioner Tapert said he would prefer not to respond to one letter and make a lot of revisions. He would like to wait and do it all at one time – after the public meeting and after the city’s input. Then the Port can consider all the input and revise it as a final draft, rather than revising it every time they get a letter. Commissioner Seitle agreed and added that it is only a conceptual drawing and it is nothing more than a concept at this point. He said Ed could re-emphasize at the public meeting that this is just a concept of how the uplands could be handled.

Ed said a lot of input had been received from divers. He suggested rather than working around them, the Port should work with them such as by looking for a dive shop as a key tenant in the commercial building.

2. Design Contract Status: Greg York of Art Anderson Associates (AAA) updated Ed today that AAA still has approximately \$18,000 left in their budget for Task 2.3, so they will be able to work with the Port through the Master Plan Update review process, including the community meeting and the next few weeks, before reaching the budget limit. The only part that is a little tight is the amount of time GeoEngineers is still putting into the breakwater. They are now having to develop a mitigation plan try to get the Washington State Department of Fish and Wildlife (WDFW) to approve the temporary parking of the breakwater, and whether an individual fish flow study is required to see if the fish are disturbed by the presence of the breakwater. So other than GeoEngineers, the Port’s budget is good with AAA and there is no need to authorize additional funds at this time. Commissioner Seitle asked if the Port would be authorizing AAA to go to 25% design at least for the marine portion, and Ed said if the Commission wanted to, but he thought they wanted to hold off until the Port got farther along with the City of Langley before charging ahead with the marine design. Commissioner Slinden and Commissioner Tapert agreed they wait until they hear from the City. Commissioner Tapert added that once the City is on board, one of the first things the Port will need to do is proceed with the Department of Natural Resources (DNR) lease expansion. The Port has to do a lease extension for the breakwater, so the conversations with DNR have begun.
3. Business Plan: At last week’s meeting, the Department of Community, Trade & Economic Development (CTED) had strongly suggested that the Port develop a business plan, and address jobs and economic issues. Ed suggested that would be a good thing for Port Financial Coordinator Dane Anderson to dig into, using his own expertise and working with BST Associates. Commissioner Seitle asked if he would be working on a plan for the marina or for the Port District. Ed said it would be for the water portion of the marina only. Commissioner Slinden said the Port shouldn’t do anything at all until they get the City’s buy in. Commissioner Seitle and Commissioner Tapert disagreed and Anderson was given approval to “do some homework” on a financial analysis of the marina.
4. Format for Public Meeting on January 23, 2008: Commissioner Seitle asked Ed if the Port had enough material to present at the meeting, and Ed said yes. His idea is for him to do a 20-30 minute presentation with York of AAA there similar to the one presented to the City

Council in December, with the focus on the marine and general aspects and concerns about the upland development. Then the meeting would be opened up for questions before breaking off toward 3 or 4 different focus stations with comment sheets provided at each. The focus is a meeting and not a hearing and the purpose is to gather information. By having the meeting in Freeland, Ed said he anticipates seeing a different group than if it were in Langley, with a wider area of voters attending. This first meeting will help spread the word to the rest of the community and to the entire Port District.

C. Bush Point Boat Launch:

1. Ramp Grid Repair: Review of Contractor Proposal and WDFW Transfer Issues: Ed discussed the draft Proposal presented by Jesse Allen Excavating and Construction **(EXHIBIT F)**. Allen is a marine contractor in Stanwood who was heavily recommended by several people. Ed met with Allen at Bush Point to look at the conditions there including the settlement that is still occurring 10 to 15 feet off the end of the abutment structure. Allen's proposal involves picking up the ramp everywhere it's not at beach level, put down concrete and put the grid back down. The proposed cost for that is \$56,000+ and that is realistically not something the Port is ready to do. It is also not within the existing permit constraints. To do it that way would be a long term, challenging, expensive process. Ed explained that the Port has the existing Hydraulic Project Approval from last year's repairs that runs until March 14, 2008. Allen is booked until March 15th when the fish window shuts down. Ed and Allen will meet with WDFW Biologist Doug Thompson on Monday with the HPA in hand and try to come up with "a splint" – some sort of solution that will allow them to work inside the existing footprint, possibly with a two-week extension, to work at low tide only and see if the work can get done after the fish window closes and before the floats are launched. The splint's lifespan would be similar to the repairs done on the pile hoops which will last two, five or maybe ten years. That seems to be the most cost-effective approach. Because Allen is unaccustomed to working with public agencies, Ed said he has authorized initial compensation for Allen as a construction consultant to meet with the biologist and try to hammer out a legitimate approach for a short- to medium-term fix for the situation. Allen will then provide a firm proposal and firm schedule to proceed (if authorized) as a marine construction contractor off the Small Works Roster.

Ed also told the Commissioners that Kristen Kuykendall of WDFW had notified him that due to a new budgeting system, etc. the amount left in the pot is down to \$5,000, instead of the \$9-\$10,000 reported a month or two ago. Lands Agent Kye Iris worked with her supervisor and emailed Ed today with WDFW's commitment that they do have \$9,000 to put on the table as they had previously stated.

The Commissioners approved Ed's on site meeting with Allen and WDFW to discuss a possible "splint" solution.

D. Freeland Park:

1. Proposed County Sign Posting: A copy of the proposed sign is attached to these Minutes **(EXHIBIT G)**. Commissioner Slinden asked where? How big? How many? Ed said he didn't know where, but he did suggest the Port might want to put its new logo on the sign. Commissioner Seitle said the text was "all command language" and Commissioner Tapert said it didn't seem very "welcoming" for a welcome sign, with all the "don't do this, don't do that, etc." Ed said the size would be 2 ft. wide by 3 ft. tall. Ed said he would pass along their opinion that the sign was harsh and not welcoming to the County. Commissioner Slinden suggested taking the Port's name off the sign and it was agreed Ed would request

that the County do so.

6. ACTIVITIES/INVOLVEMENT REPORTS:

ACTION: A Motion was made by Commissioner Slinden and seconded by Commissioner Tapert to assign Commissioner Seitle as the Economic Development Council representative, Commissioner Tapert as the Council of Governments and Skagit-Island Regional Transportation Planning Organization representative and Commissioner Slinden as the Marine Resources Committee representative. The Motion passed unanimously.

Regarding the RTPO, Ed noted that the voting seat has rotated to the Port of Coupeville for this cycle.

Commissioner Slinden asked Ed to draft a letter to the different groups notifying them of the Port's designated representatives. Ed said he would do that.

A. Economic Development Council (EDC): Nothing new to report.

B. Council of Governments (COG): Nothing new to report.

C. Skagit-Island Regional Transportation Planning Organization (RTPO): Nothing new to report.

D. Marine Resources Committee (MRC): Nothing new to report.

E. Washington Public Ports Association (WPPA): Nothing new to report.

F. Community Trade & Economic Development (CTED): Nothing new to report.

7. OLD BUSINESS:

There were no Old Business items.

8. NEW BUSINESS:

There were no New Business items.

9. EXECUTIVE SESSION:

There was no Executive Session.

10. ADJOURNMENT:

The meeting was adjourned 9:07 p.m.

Approved:

Minutes prepared by:

Commissioner Geoff Tapert, Freeland

Edwin S. Field, Port Manager

Commissioner Rolf Seitle, Langley

Commissioner Lynae Slinden, Clinton

- Exhibit A: Voucher Listing
- Exhibit B: November 2007 Financial Statement
- Exhibit C: CD of Possession Park presentation from Aundrea McBride, SRSC
- Exhibit D: Letter from M. Douglas Kelly dated January 3, 2008, on behalf of his client, Paul Schell
- Exhibit E: City Submittal – Schell House dated September 26, 2007
- Exhibit F: Draft Proposal from Jesse Allen Excavating & Const. dated 12/28/07
- Exhibit G: Draft of proposed sign for Freeland Park