

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Special Meeting

May 5, 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
Chuck Edwards, Port Accountant
Molly MacLeod-Roberts, Port Clerk

Jeff VanDerford, South Whidbey Record
David Powers, Clinton Resident
Jim Recupero, Langley City Council
Christina Drake, Langley Resident

Absent: None

1. MEETING CALL TO ORDER:

The Special Meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on May 5, 2008, at the Port office in Freeland, WA. As announced, the purpose of the Special Meeting was to conduct a financial workshop. Commissioner Seitle, President, called the meeting to order at 9:05 a.m., followed by the Pledge of Allegiance.

2. EXECUTIVE SESSION:

The Board of Commissioners went into Executive Session to discuss possible property acquisition opportunities at 9:06 a.m. The Executive Session concluded at 9:14 a.m.

3. PUBLIC COMMENT – Including Items not on Agenda:

There was no public comment.

4. PROJECT ACTION ISSUES – Staff Report, Public Comment, Commissioners' Discussion:

A. South Whidbey Marina Project:

1. Financing Issues: Port Financial Coordinator Dane Anderson was on hand to discuss the Funding Strategies he had prepared and submitted to the Commissioners prior to the meeting (**EXHIBIT A**). Commissioner Slinden asked who would give the Port an interest rate of 5%, and Dane said that the interest estimates he has received have mostly been lower than that, and Whidbey Island Bank is very interested. Commissioner Seitle said he

was surprised that banks would be interested, and Dane explained it is due to the fact that the Port's tax revenue is consistent and secure.

Commissioner Slinden asked about the possibility of the Port using a mixture of the funding strategies, i.e. funding Phase 1 one way and funding Phase 2 with a different method. Dane said, "Sure." Port Manager Ed Field said Phase 1 as presently configured is not a "money maker", and Phase 2 will include both the major construction costs and the resultant major revenue. He stated that his assumption is that whatever funding scenario is used for Phase 1 will need to be absorbed into the larger Phase 2 funding structure. Commissioner Slinden said Phase 1 seems to be more time-driven so the most expeditious type of funding will be needed, whereas for Phase 2 the Port will need to get the best rate, etc. and come up with the best mechanism to make it work as a commercial venture. She thinks the Board needs to look at the time element as their priority for Phase 1.

Commissioner Seitle said the Port would need a short-term loan for interim financing even if they went for a levy lift, bond issue or an Industrial Development District (IDD). Dane said the Port could do "councilmatic" bonds without a vote as long as it has the voted levy lift to cover it. He also noted that bank financing on Phase I could be done with the Port's existing tax revenue stream.

Dane added that increases in revenue are associated with a public vote, and there is the issue of the 40% participation requirement. He explained that if the Port put a measure on the ballot for November 2009, a very large turnout would be required because November 2008 is the presidential election. Commissioner Slinden asked if they could still make it on this year's election ballot, and Dane said that one challenge is that Whidbey General Hospital's big bond will be reportedly on the ballot in November. Dane said that bond counselors feel strongly that the Port would lose if it went head-to-head with the hospital on the ballot. Dane said the Port could be on the August ballot for the primary, but the deadline to get the information to and apply to the County is May 27th. Dane further explained that the turnout requirement was based on the last preceding election, and Ed said it sounded like 2009 would be tough, but 2010 should be easier as far as turnout numbers.

Commissioner Seitle said that South Whidbey folks have been pretty generous when they see a purpose and a need. The Port believes the South Whidbey Marina is a good thing and it will contribute to the economic development of South Whidbey, but the Port needs a public relations campaign to explain it. Commissioner Slinden said they also need the City of Langley to get behind it and help promote it.

Commissioner Seitle said he doesn't like the first funding strategy of taking out a bank loan at all. He said making interest payments with the taxpayers' money is an unproductive use of money. Commissioner Seitle thought the Port should have a Phase 1-A instead of a Phase 1. He said another finger pier with 20 additional slips could be added and a floating dock, providing substantial revenue to help with the funding. The new additional slips could be for transients and the permanent slips would be behind the bulkhead. Commissioner Slinden said that would require a very substantial pier, involving major construction details. Ed said redesignating the slips is a promising idea. Commissioner Seitle said he would like to explore the issue of a Phase 1-A with Art Anderson Associates, only to the extent of estimating what it would cost to add permanent slips to Phase 1. Commissioner Slinden said they should stay really focused on getting Phase 1 up and going, and then get Phase 2 started as soon as possible and get the money coming.

Commissioner Seitle said, “we can go to the well only once” within a reasonable period of time and Phase 2 is disappearing over the horizon with respect to time. Commissioner Slinden thought the Port could fund Phase 1 with some type of loan and come back quickly with Phase 2 and start adding in slips, and then that revenue could be used to pay off the loan early. Commissioner Tapert said there is also an economy of scale of being able to do as much as possible in Phase 1 as opposed to doing a little bit now and a little bit later. Commissioner Slinden said the Board has obligated themselves to put the breakwater in place and to try to get something done as soon as possible, and anything they do to complicate that will add to cost and time. Commissioner Seitle said he is opposed to the loan option, because he feels a short-term loan would become a long-term loan. He wants to do something earlier to get some revenue from Phase 1, and suggested asking for a minimum addition of slips and making that a bid option in Phase 1. Ed said then it would have to be permitted. Commissioner Seitle asked if the Port would not be going to the full non-project SEPA for Phase 2, and Ed explained there is no need to do that because they can go with the SEPA that was done for the Master Plan. Commissioner Slinden pointed out that at the joint meeting with the City of Langley, the Port had agreed that Phase 2 would be a holding pattern without a specific design in place. Commissioner Tapert felt by the time the Port is permitting Phase 1, they will have answered how Phase 2 will be funded (IDD, levy lid lift or whatever), and then there will then be money coming in, so as soon as Phase 1 ends they can move right into Phase 2, and it could be a seamless project.

Commissioner Seitle recapped the funding strategies. Commissioner Tapert said he liked the idea of attempting a levy lid lift of an additional \$0.20 per thousand and “have in the wording of the ballot, ‘in lieu of an IDD’. In other words, give the people a choice: would they rather pay less money over a longer period of time, or more money over 6 years, being up front that if the levy lift fails, we will do the IDD.” Commissioner Slinden asked for his opinion on funding Phase 1 with the bank loan, and he said he didn’t think it was necessary because if they put something on the August election, they might not need the loan. Commissioner Slinden asked if they could be ready to go out in August. Dane said yes, for a levy lid lift, but they would have to get on it. Ed pointed out that the Port cannot advocate for a levy lift – that would have to be done by a separate organization such as a “Friends of the Port” group. Commissioners can do it on their personal time, but staff basically cannot. Commissioner Tapert said all that is needed is a resolution submitted to the Auditor’s Office by May 27th indicating the wording of the ballot. Commissioner Seitle said he is uncomfortable with going to an IDD after a failed levy lid lift. Commissioner Tapert felt it was all right as long as they told the public their choice was one or the other. Commissioner Slinden felt it was “strong arming” and disagreed with Commissioner Tapert. Commissioner Seitle doesn’t want to see the Port do Phase 1 and then go into hiatus for a long time because they can’t afford to do anything, and in the meantime the Port would be making payments of \$200,000 per year which would eliminate the possibility of the Port doing anything else. Commissioner Slinden said that is the motivator for doing Phase 2. Commissioner Seitle said he is opposed to taking out a loan and he thinks they should ask for a levy lid lift for an additional \$0.20 per thousand. Ed asked if it would make sense to wait a couple of years to go to the vote, do the bridge loan initially and have Phase 1 well underway with a Phase 2 plan in place with the City. That would provide the public with the specific information as to what they would be paying for, as opposed to the public paying now and being told later what will be built. Commissioner Slinden’s main concern is that there is a timeline driving Phase 1, and she wants it to happen sooner rather than later. She views the loan as a bridge loan and not an actual planned funding mechanism for the entire project, and sees the Port paying it off sooner

rather than later. She added that in a worst-case scenario, the Port could use an IDD to pay off the loan. Commissioner Tapert said he doesn't like the idea of getting a loan without knowing how it will be repaid. If it takes \$200,000 per year out of the existing revenue source, that straps the Port significantly. He doesn't want to commit to a loan until the Port has the necessary funding. Commissioner Slinden thought the Port should have money in place so work can begin on January 1, 2009, and even if the levy lid lift passes it will take a while for the money to come in. The Port will still need a loan. Dane said if it passes, then the Port can use councilmatic bonds. Port Accountant Chuck Edwards explained that a "councilmatic" loan is a regular loan. Dane said a loan will be needed regardless. Ed added that it is extremely unlikely that permitting, design and construction will be in place before late 2009, and 2010 is more likely. Dane explained that if the levy lid lift passed, the Port could "build the coffers up" for up to 18 months before the contractor would need the first payment.

Commissioner Slinden asked Edwards for his opinion of the situation. Edwards agreed they would need the loan whether they did a levy lid lift or an IDD. He added that banks like that kind of loan, and the Port should get the loan at the time it is needed – once a plan is in place. Commissioner Seitle said he knows a loan is required, but he would like to make it very short term because he doesn't want to use taxpayers' money to pay interest. He said the Board doesn't need to make a decision on the loan today, but they do need to make a decision regarding a levy lid lift or an IDD. From the very beginning of this project, there has never been any doubt that that the only means to pay for it is with taxpayers' dollars. There is no other source unless the Port starts making some money. He doesn't want to borrow money or go to the taxpayers when there is no return on the investment for the project, and Phase 1 doesn't provide any additional revenue. He would like to explore a slight improvement to Phase I, but that can be done at a different meeting.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Slinden to direct staff to prepare a Resolution to be signed and delivered to the Auditor's Office prior to the May 27, 2008, deadline requesting a levy lid lift to \$0.30 per thousand in lieu of an IDD. The Motion passed unanimously.

Langley City Councilman Jim Recuperero said a man (Langley resident Kurt Grant) had presented a different concept of Phase 1/Phase 2 at the last City Council meeting, and the concept did not require Phase 1 be torn out. Commissioner Seitle explained that in the Art Anderson Associates (AAA) design, Phase 1 is also designed to stay in place when Phase 2 is added to it. The old marina is the only thing to be removed in Phase 2. Ed explained the alternative concept presented puts the existing breakwater to the east rather than to the north, and adds a different, articulated wave attenuator on the north side that would be longer (about 700 ft.) and would figure into the cost of Phase 1. That would result in ferry passengers disembarking and having to walk nearly ¼ mile to land.

Commissioner Seitle said he would like to discuss with AAA the possibility of swapping out the permanent and transient slips to provide moorage for the 30 or so boaters on the marina waiting list and get revenue from them. Dane said they could certainly start the process working with the Recreation and Conservation Office (RCO) to move those slips around, but RCO is going to look at it on a linear foot basis. Ed said RCO will also look at services, so the Port will need to demonstrate comparable services are being provided for the new transient location. Dane noted that the model shows that while Phase 1 does

require Port subsidy during the time the Port is only in Phase 1, it's only about \$25,000-\$30,000 per year. Therefore, Dane thinks leasing out permanent moorage to make up that amount so that Phase 1 is at breakeven is realistic.

2. InterLocal Agreement Amendment: Dane was on hand to discuss the draft Amendment to the InterLocal Agreement (**EXHIBIT B**), and two of the issues requiring direction from the Commission.

a. DNR and Lease Close-out Issues: Dane asked if it is the Commissioners' intent to have the City of Langley's DNR lease closed out, so the Port can reduce its liability as much as possible with respect to the sunken tire-breakwater, or does the Port want to take over that lease and transition the liability over to the Port?

Commissioner Slinden asked about Paragraph 21 Added Text in the draft Amendment: what if the City doesn't do it? Ed said it's a good question, but right now they don't know how big of a problem it is or if it is a problem. He has talked with the City's new public works director, Challis Stringer, and informed her of the Port's concern. Stringer said the area is closed except by special request. Ed needs to work with her in the near future to determine if there's been any spillage, etc. He said the Port should be able to deal directly with the City on that issue, because it is not formally identified anywhere, unlike the reef which has been identified. The reef is a bigger cost and in all likelihood will still be in place after the transfer date, so a policy call is needed. Regarding Paragraph 21, Commissioner Slinden said that since it is not resolved yet, she is not comfortable with putting it into the ILA until the Port knows exactly what it is going to do. Ed explained that he wanted it firmly on record that it needs to be resolved, and if it can be resolved before the ILA is signed then it may be able to be removed from the ILA. Ed said most of the City was unaware of the issue, and he wanted to make sure the City was aware that it is a real concern of the Port.

Regarding Paragraph 3 of the draft Amendment, Commissioner Seitle didn't think it was a major issue. Ed said that was fine and explained that he and Dane just attempted to put everything on the table, and they await direction from the Commission as to how to proceed or not. Dane said the way the ILA is written, it's just a matter of receiving a "No Repairs Notice" from the City. The Port just needs to receive that document and as a Commission, say, "okay" and then it is done.

Commissioner Seitle said it has been reported that there is a foam fire suppression cart that was purchased for the marina, and he asked Ed to look into whether it exists or if it is just a rumor. Commissioner Tapert said there is also an 80-ft. gangway at the treatment plant. Ed confirmed it would be included in the list of equipment in the ILA. Commissioner Slinden asked if this is the final shot at the draft, and Ed said no, it's just the first shot. Commissioner Seitle said the draft was fine and he felt they could give it to the City for comments. Commissioner Tapert agreed. Commissioner Slinden asked what all the ellipses were for at the end of Paragraph 4. Ed explained that the sunken tire reef issue was specifically left blank because it is quite likely that one agency or another will require its removal. Dane said, "There's no question: it will be required to be removed." He said the Washington State Department of Fish and Wildlife (WDFW) wants the area returned to its original state. Senior Biologist Ray Buckley of WDFW commented that the Port could use the removal of the sunken tire reef as mitigation credits for any underwater dive site it wants to support, or use it for mitigation credits on the increased shadow area for either Phase 1 or Phase 2.

Dane thinks the Port will want to reduce or limit the liability the Port will take on with the DNR lease as much as possible. From his perspective, the mechanism to do that is to have the City of Langley's DNR lease closed out and then the Port would start a new lease upon transfer. Commissioner Seitle said the Port has no choice: they will have to remove the sunken tire reef because the City does not have the means to do it. Dane said there are two sub-issues: one is the liability issue with respect to the sunken reef, and the other is who pays for its removal. He has applied for WDFW for funds to pull it up, requesting \$50,000. Dane has also contacted DNR Reclamation, which will have to bring a barge in anyway to remove the Hein dock piles. He is working toward having DNR remove the sunken tire reef as well while the barge is in the harbor, and use that as the 50% match funds for WDFW, as well as some in-kind contributions from the Port and from the Washington Scuba Alliance (WSA). Dane said it could be a very efficient way of removing those things, so that while the Port is taking on the project, in the legal documentation, the liability will lie with the City.

Commissioner Seitle noted it is not necessary to do the physical removal of the sunken tire reef during Phase 1. Dane agreed it would probably not be required in Phase 1, but he is only bringing it up now because of the liability issues. Ed said the agreement to remove the sunken tire reef may well be locked in with the DNR lease changeover, but he suspects the Port can get the physical removal of it pushed out for a year or two.

Dane summarized his progress to date on the DNR issue. He said he had provided Metes & Bounds Descriptions (from Port surveyor Fakkema + Kingma) for the breakwater to DNR, so DNR can review and include it in a lease that they would like the City of Langley to sign. Jeff Schreck of DNR is working on that and it is in the DNR's legal department, and Larry Cort at the City of Langley is ready to receive it. Dane said the ball is currently in DNR's court. Regarding the temporarily placed breakwater, the intent is that the City will bill the Port for the increased lease area for the breakwater, and Cort is fine with that.

Dane said DNR's "default mode" is going to be just roll the City's lease over to the Port without any real close-out issues. Recupero said that would be good. Commissioner Slinden asked for the advantages of closing out the lease and opening a new one versus the Port just taking over the old lease. Dane said it puts the liability on DNR and the City jointly to reach an agreement (with the caveat that the tire reef will be pulled out at some point in the future). That is all that is needed for the City's lease to officially be closed out. If the lease is just rolled over, the Port will have the known sunken tire reef issue, but there is also the potential for other issues that no one knows about. Ed said the only testing that's been done was a relatively limited sampling. Although the results were below threshold levels, Ed pointed out that the Port had carried out the testing – not the current Lessee (City) or Lessor (DNR).

Ed summed up the Commission's direction to be: resolve all issues other than the sunken tire reef directly with the City, (except the existing repairs – try to get everything else resolved prior to the signing of the ILA). He said the Commission would see the next revised draft Amendment in a month or two.

- b. Other Property Transfer Issues (Input from Consultant Moon): Ed reported that Moon's input was that the ILA is not bad and the legal transfer shouldn't be too

difficult and seems to be moving right along. She reviewed the draft Amendment to the ILA and said more legal language is needed, but it's moving forward.

3. Inclusion of Dive Activities in Marina Scope: Comp Scheme Amendment?: Dane said the current Comp Scheme does not speak to dive activities at all, and if the Port wants to support such activities, the Board will need to amend the Comp Scheme to reflect that. Commissioner Seitle said if the Port doesn't spend money for the support, then there is no need to include it in the Comp Scheme. Commissioner Tapert said, "But there is a DNR lease." Dane said although WSA doesn't think increased DNR leased space is required, he disagrees. As far as the Port's involvement with the dive site and its development, there is almost certainly going to be significant Port involvement, if only for the permitting and inclusion into whichever phase. There will be staff time and in-kind contributions minimally, and probably some dollars associated with it as well. Ed said there are currently no provisions in the Comp Scheme for dive-related activities. Dane explained that a significant amount of planning and coordination with WSA would be associated with the effort to reach agreement on a permit with WDFW. Commissioner Seitle asked why the Port doesn't just "cease and desist" once the sunken reef is removed and let the volunteer organizations come to the Port and say, "We'd like to establish a dive site" and it would be done at their expense, not the Port's. Commissioner Slinden said if the Port gave permission, it would still need to be in the Comp Scheme. She asked how many times the Comp Scheme can be amended within a year, and if there are any other amendments that should be done at the same time. Ed said his review of the RCW's showed all that is required is 10 days' notice of a public hearing and there is no limit as to how many times it can be amended. Commissioner Tapert said the City of Langley's Comp Plan contains references to dive-related activities, and since the City's and Port's plans are required to be consistent, he considers the proposed amendment to be a technical revision to the Comp Scheme, and the Port should adopt it by reference. Commissioner Seitle had no objection and Commissioner Slinden said including it in the Comp Scheme is not a bad thing. Ed suggested including one dive related initiative under each of the three categories of Economic Development, Environmental Stewardship and Marine Access and Recreation under Potential Project Initiatives for 2007-2013. The Commission agreed and directed Ed to schedule the Public Hearing for the half-hour prior to the Board's regular June meeting.
4. Next Steps: Review and Coordination with Adjacent Properties, SEPA, ...: Ed said that nothing new came up regarding this agenda item.

At 10:35 a.m. the Commission took a short break. The meeting resumed at 10:45 a.m.

5. Near-term Improvements: Ed reported that he had asked Greg York of Art Anderson Associates to provide him with layout coordination for minor improvements for Phil Simon Park as soon as possible. York was mailed a copy of Commissioner Tapert's "Phil Simon Park Interim Improvements" Construction Cost estimate and Conceptual Sketch **(EXHIBIT C)**. Ed explained that York will focus on coordinating the layout of the summer improvements for Phil Simon Park with the initial scope of proposed Uplands improvements. Commissioner Tapert said Larry Cort, Director of Community Planning for the City of Langley, said he is generally fine with the near-term improvements as long as everything is upland of the high water line, and as long as the City is given ten days' notice of what the Port is specifically proposing, they should have no problem - but they will at least need the opportunity to comment.

6. Port Staff: Financial Coordinator Contract and Harbormaster Hiring Updates:
Commissioner Seitle said Dane has done a good job and the Port would like to keep him on. The Commission agreed to extend Dane’s contract for six months, and Dane accepted. The Commission agreed with Ed’s recommendation to delay harbormaster hiring until late summer/early fall.

7. Approval and Funding of Infrastructure in Washington Seminar (EXHIBIT D): Dane agreed to attend the seminar in Tacoma on 5/9/2008.

B. Island County Six-Year Transportation & Capital Improvement Plans: Ed asked how the Commission would like to respond to the March 27, 2008, letter (EXHIBIT E) from William Oakes, Director/County Engineer of Island County Public Works. Commissioner Seitle suggested writing a letter to Island County asking them to favor improvements to Crawford Road. Commissioners Tapert and Slinden agreed. Ed said he would provide them with a draft letter in the next few days.

5. ADJOURNMENT:

The meeting was adjourned at 10:55 a.m.

Approved:

Minutes prepared by:

Commissioner Rolf Seitle, Langley

Edwin S. Field, Port Manager

Commissioner Lynae Slinden, Clinton

Commissioner Geoff Tapert, Freeland

- Exhibit A: Funding Strategies prepared by Port Financial Coordinator Dane Anderson
- Exhibit B: Draft Amendment to the InterLocal Agreement for the Transfer of the City of Langley Harbor to the Port District of South Whidbey Island
- Exhibit C: “Phil Simon Park Interim Improvements” Const. Cost Est. and Conceptual Sketch, Tapert, undated
- Exhibit D: Approval and Funding of Infrastructure in Washington: 5/9/08 Lorman Seminar information
- Exhibit E: Six-Year TIP, Six-Year CIP and Annual Road Const letter from Is. Co Engineer Oakes, dated 3/27/08