

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting

April 13, 2010

Langley, Washington

Present at the meeting were:

Commissioner Geoff Tapert, Freeland
Commissioner Curt Gordon, Clinton
Ed Field, Port Manager
Dane Anderson, Port Financial Manager
Molly MacLeod-Roberts, Port Clerk
Duncan McPhee, Asst. Harbormaster

Carl Robinson, Freeland Resident
Tony Puma, Boatyard Inn Co-Owner
Tony & Catherine Billera, Clinton Residents
Leanne Finlay, Freeland Resident
Bruce Buls, Clinton Resident
Larry Webster, Clinton Resident
Doug Struthers, Clinton Resident
Marcia Monma, Clinton Resident
T. Cooper, Clinton Resident

Absent: Commissioner Chris Jerome, Langley

1. MEETING CALL TO ORDER:

The Regular Meeting of the Port District of South Whidbey Island's Board of Commissioners was convened Tuesday, April 13, 2010, at the South Whidbey Parks & Recreation Meeting Room at 5475 Maxwellton Rd., Langley, WA. Commissioner Geoff Tapert, President, called the Regular 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 Special Meeting of February 3 and the Special Workshop Meeting of March 4, 2010. .
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 Gordon and seconded by Commissioner Tapert to accept and authorize Vouchers #4245 - #4282 for a total amount of \$40,391.79. The Motion passed unanimously.

3. PUBLIC COMMENT – Including Items not on Agenda:

Leanne Finlay, Freeland Chamber of Commerce Director: Finlay explained that the Chamber's annual parade will be held on May 22nd and they plan on the route ending at Freeland Park. The Chamber will have insurance in place and requests permission from the Port (and will also request

permission from Island County) to use the Freeland Park facilities for the event, during which the boat ramp and dock will be closed except for emergency needs.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commission Gordon to approve authorization for the Freeland Chamber of Commerce to utilize the Freeland Park facilities for their annual parade on May 22, 2010. The Motion passed unanimously.

4. ACCOUNTANT REPORT:

A. Financial Statement: The Commissioners acknowledged receipt of the February and March 2010 Financial Statements, which had been mailed to them previously (**EXHIBIT B**).

5. PROJECT ACTION ISSUES:

A. Possession Beach Waterfront Park:

1. Proposed Cell Tower:

a. Review of Property Status – Commission Direction: Port Manager Ed Field reported that he and Financial Manager Dane Anderson had conducted an exhaustive search of the Port's Possession property files back through 1985, including Meeting Minutes and all available correspondence. He said there was an acquisition project funded through IAC/RCO (Interagency Committee for Outdoor Recreation/Recreation & Conservation Office) in 1985, and a development project was started in 1985, withdrawn in 1986 and resubmitted in 1987. There was also a later development grant for extending the docks. The issue is how much the Deed of Right encompasses to use for recreation purposes. Ed explained that the original property agreement contains contradictory information regarding whether the proposal was for an 11.94-acre project or for a larger project with no acreage detailed and an abbreviated land description. The correspondence reviewed indicates the intent was to develop an 11.94-acre waterfront project, and there is no definitive documentation that connects the initial recorded deed with a broad property description to the more refined property description recorded later. At this point, Staff doesn't think there is any more information available in the Port's records or from IAC/RCO and therefore requested Commission direction on how to proceed (ask RCO for opinion on encumbrance issue, look into a conversion process, etc.). Commissioner Tapert asked if there were multiple parcels involved and if so, were they acquired at different times, and were all the parcels acquired with IAC/RCO grant funds. Dane said there were multiple parcels included with the original property transfer, but they were all transferred at once so there was only one acquisition. The total amount of the acquisition was \$570,000 and the amount of RCO funds used was \$150,000 (including both state and federal money). His understanding is that in the past with RCO-funded acquisitions, unless there is a specific section of property called out as not encumbered, the entire acquisition is encumbered.

Larry Webster of Clinton interjected, "That is a similar finding to what we found independently."

Bruce Buls said he lives in the neighborhood near Possession Park on Lupine Lane. He stated, "I still think this (cell tower) is an inappropriate use of public space for an industrial development, and it is an industrial development." His driveway is at the

bottom of the proposed access road and he was concerned because “a tremendous amount of water comes off that hill.” Buls questioned AT&T's claim that it would serve Cultus Bay residents because he didn't believe there were enough subscribers. He believes there are other alternate sites, and there are other options for the emergency responders as well. He concluded by saying it wasn't a good project for the Port and he was concerned about the water runoff.

Webster said, “When you talk to Justin Craven, the County's Critical Areas Planner, he will tell you that most of the Park is already categorized as hydrology-critical area, and contains an eagle habitat area as well.” He thinks going forward with this proposal “flies in the face of what we think the Port should do as good stewards of this property.” Regarding the hydrology-critical area, Ed asked if the cell tower would have a bigger impact than the nearby water tank, and Webster said it would because it would be closer to the edge of the bluff. Commissioner Gordon noted that if AT&T proceeded with a Pre-Application, all that information would probably come out in the Pre-Application process.

For clarification purposes, Commissioner Tapert explained that the Port is not the proponent of this project; the Port is the owner of the property and has received a request to lease an area.

Leanne Finlay of Freeland disagreed that a cell tower was industrial use; she considered it as a utility use. She thought utilities were included in that land transfer because almost all transfers have utility use included.

Carl Robinson of Freeland pointed out that the fire department believes the cell tower at Possession is necessary to serve the south end of the island. He added that a friend of his that lives in Clinton gets absolutely no television reception, so Robinson spoke with Steven Berke (Goodman Networks/AT&T) and asked him to check into the possibility of putting a relay on the cell tower for TV signals.

Marcia Monma of Clinton said the proposed 140' tower would be within 150 feet of her house, so if high winds knocked it down, either the tower or the trees it knocked down as it fell could hit her house. She is an AT&T customer and gets 5 bars within one mile of the proposed tower so there is no need for a cell tower there. Monma added that she pays \$275/month to AT&T, so if the cell tower does go there she wants the Port to get 10 times what she pays them.

Larry Webster asked what the Port's timeline is to conclude the review of documents and when will the Port set up a meeting to discuss the issue with RCO. Commissioner Tapert said the next items on the agenda related to those questions.

- b. Commission Determination on Proceeding to Lease Negotiation – ON HOLD
PENDING review of property status: Commissioner Gordon said they still don't even know if they can negotiate a lease due to the unresolved property issues. The Port has done all the in-house review possible, so he thinks it's time to turn the ball over to RCO and have them make a determination. Until RCO makes a determination, these discussions are almost pointless. The Commission agreed and directed Staff to submit a letter to RCO requesting a determination.

- c. Status on I-COM/AT&T Issue for Camano Tower?: Tom Shaughnessy from I-COM contacted Ed to inform him that since November, I-COM had been trying to get their AT&T to honor the contract that allows them 8 devices on the Camano tower. They currently have 5 devices on the tower and want to add one more and replace another device. Shaughnessy said I-COM has complied with all the contract requirements (engineering, etc.) but AT&T was very non-responsive at first, and now claims they want to use their own engineers and charge I-COM \$2,000, making it essentially impossible for I-COM to proceed. When Shaughnessy read about the proposed tower at Possession, he felt compelled to let the Port know that AT&T wasn't working very well with the first responders on Camano. Commissioner Gordon added that I-COM could lose a sizable federal grant due to AT&T's non-responsiveness, so they might sue AT&T. Berke (Goodman Networks/AT&T) told Ed that he was aware of the situation and would pass along the Port's concerns to AT&T. Commissioner Tapert preferred that the Port not get involved in issues outside its jurisdictional boundaries. Commissioner Gordon thought it was totally appropriate to do background checks on any potential lessee. He believes I-COM is a very responsible public agency and their relationship with AT&T is worth discussing.
- d. Commission Action on Proceeding with Pre-Application and Conference – ON HOLD PENDING review of property status: The Commission reiterated that this agenda item is on hold.

Larry Webster asked if the meeting with RCO would be a public meeting, and Dane explained they are not planning a meeting – they are sending a letter to RCO requesting a determination on the issue, but any response would be discussed during a public meeting of the Port.

2. Possession Float Installation: Scheduled for Saturday, April 17th. ALSO NOTE: Bush Point Float Installation scheduled for Monday, April 19th. Ed shared photos of the recently installed memorial plaque for Mike McCarthy on the boulder at Bush Point.

B. South Whidbey Harbor:

1. Expansion Project:

- a. Design & Permit Prep – Commission Action on Permit Comment Response: Ed and Dane have been working on a draft response to City Comments (**EXHIBIT C**), with the phasing of the project being the key to for the parking and utility issues. Commissioner Jerome has submitted his comments on the draft, and Staff is waiting for input from Reid Middleton and GeoEngineers. Once that input is received, along with the Commissioners' comments, it will be rolled into a final draft for Commission approval.

Commissioner Gordon asked if it was worth reminding the City of Langley that part of the ILA (InterLocal Agreement) states the City will help the Port with the offsite parking scenario. Ed thought it would be good to include as part of the response that the Port looks forward to working with the City on the parking issue.

b. Property Issues:

1. Tidelands Lease Donation: Completed and recorded.
2. Update on Port Management Agreement (PMA) (**EXHIBIT D**) from Department of Natural Resources (DNR) and Adjoining Lease (**EXHIBIT E**) – Commission Action

to Approve: Dane reported the Port has received DNR's PMA and the adjoining lease agreement for the aquatic area just north of the Harbor. There are a number of operational issues that the Port will have to address related to the PMA, revolving around insurance. The only other issue outstanding with DNR is the lease amount for the adjoining aquatic lease, which is a little over 3 times the amount that the City was paying for a similar area. Dane has asked DNR what piece of uplands property was used as the appraisal value, because that value is used to price the lease. Commissioner Gordon asked if it was a significant dollar amount, and Ed said it was \$6,500 per year compared to the City's prior payment of \$2,000 per year. Dane said he hopes to hear from DNR by the end of the week.

Dane explained that the PMA and the Lease could be signed separately, and they could sign the PMA tonight and wait to sign the adjoining lease agreement. He added that DNR has requested that the Port sign both documents within 30 days.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Gordon to approve the Port Management Agreement and authorize Commissioner Tapert to sign the Adjoining Lease Agreement conditional upon resolution of fee negotiations with DNR. The Motion passed unanimously.

Ed pointed out that the PMA has an impact on the six annual moorage lessees, as it increases their required insurance coverage from \$300,000 to \$1,000,000; or back the lease terms off to cascading 89-day leases. The Commission agreed that the additional insurance coverage is easily obtained and preferred that option over the change in lease terms.

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c. Funding Issues:

1. Bond Process – Status Update: Dane noted that the bond process is on hold pending outcome of other funding opportunities. The BIG (Boating Infrastructure Grant) will not be awarded until March 2011. He added that once the bond rating is obtained, there's just a 45-day time period before funding. He recommended that the Port pause in obtaining the bond rating until we figure out how much is needed after the various grants that the Port applies for have been awarded.
2. Rural County Economic Development Funds (RCEDF) InterLocal Agreement (ILA) (EXHIBIT F): Ed reported that Port Attorney Al Hendricks had reviewed this ILA (to enable the Port to access the RCEDF funds from the County) and had taken no exception to it. Dane recommended the Commission approve the Agreement as presented.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Gordon to approve the InterLocal Agreement for Rural County Economic Development Funds as presented. The Motion passed unanimously.

3. Boating Infrastructure Grant (BIG) Application (EXHIBIT G) – Status Update and Commission Approval of Resolution No. 10-04 (EXHIBIT H): Dane said that a requirement of the BIG Application is that the Commission must authorize a resolution committing the Port to providing the required matching funds (27%). The

Application is for grant dollars to purchase and place a 370 ft. breakwater for transient moorage for vessels 26' and over in length at a cost of \$3,000,000 with RCO providing \$2,195,493 (73%) and the Port providing \$812,773 (27%) in matching contributions that includes \$12,257 to be allowed for the donation of the tidelands and \$467,368 from the RCEDF grant. Regarding the donation of the tidelands, Dane explained that although Washington State's RCO doesn't allow donated property to be used as a match, the Federal government does allow donated property to be used as a match if it is necessary for the project. Dane noted that the Port and RCO have not had "a meeting of minds yet" on the matter, and he has asked for Representative Rick Larsen's assistance with reconciling RCO rules and the overriding program guidelines from Department of the Interior. Dane explained that the Port can go back and use a lot of the money spent on engineering and design (\$333,148) for matching as well.

Commission Tapert asked how much would come from the Port's operating reserves, and Dane gave the rough estimate of \$100,000. He added that the Port's debt capacity is \$1.4 million, and it could be paid with the bonds.

ACTION: A Motion was made by Commissioner Gordon and seconded by Commissioner Tapert to approve Resolution No. 10-04, authorizing application for funding assistance for a Boating Infrastructure Grant Program project. The Motion passed unanimously.

4. Port Security Grant Program: Dane reported that the Department of Homeland Security has a Port Security Grant opportunity and is working on developing that application. The present plan is to apply for funds to provide cameras for viewing Saratoga Passage, Admiralty Inlet and Possession Sound from the Port's facilities at Bush Pt., Possession and the South Whidbey Harbor. The cameras would be available when needed by multiple agencies such as fire, police, Coast Guard, etc, but would also be available to the general public for regular use, as has been proposed by this and previous Commissions. The Commissioners endorsed his efforts for this grant program

2. Harbor Operations:

a. Phil Simon Park Sign Proposal & Re-Opening Ceremony: No update.

b. Clean Water Contract with Washington State Parks for Septic Pump-out Cost Reimbursement - Status: Dane said the Port remains 2nd on the list behind a park on Lake Washington.

C. Staff & Operations:

1. Port Clerk Hiring: Molly MacLeod-Roberts has accepted the offer for the Port Clerk position! Ed reported it was a substantial hiring process with nearly 3 dozen applicants. Four candidates were interviewed, and Molly provided good recommendations and perspective on improving operations. She will start on April 19th and will work for both the Port and Edwards & Associates during the next 6 weeks or so as the Port transitions its home office. She will be paid hourly, with provisions for vacation, personal time and holidays (8).

2. Home Office Search – Manager Recommendations to Proceed: Ed said it is "a work in progress." There are 3 current potential locations: 1) Ground floor of China City in Freeland: It has a lot of space but is dark, and there is space available for a conference room

(unfurnished) until it is rented. 2) Ground floor of Windermere Building in Freeland: Excellent location and furnished. It would be a sublease, and there are concerns over ownership/financing issues and long-term impacts of those issues. 3) The former South Whidbey Record space in Bayview. It's on the 2nd floor and is not configured in a typical way. Nothing is definite at this point and Ed said he would request additional information from all potential landlords and report back to the Commission with a recommendation.

3. Updates on Pacific Coast Congress of Harbormasters and Port Managers (PCC) Conference and Dive Event: Harbormaster Rick Brewer reported the PCC Conference was excellent – a really good group and worth the money to attend. The Dive Event was successful with 23 divers and another 50 people who attended, including several kids. There were lots of prizes handed out thanks to great participation from the local merchants.

D. New Project Opportunities:

1. Possession Point State Park Acquisition/Development, Clinton – Response from Washington State Parks: Dane reported that since the State Parks essentially said “thanks, but no thanks,” he recommended this item be removed from the agenda, and the Commission agreed.
2. Ferry/Commuter Issues (Gordon): Commissioner Gordon reported that he had spoken with Representative Norma Smith and David Moseley from Washington State Ferries regarding the parking issues in Mukilteo. For years, the Port of Everett and others have tried to access the tank farm for parking but it's been a logjam between the Air Force and the 13 tribes and no progress has been made. There doesn't seem to be any other solution to the parking issue in Mukilteo. Commissioner Gordon said he would continue working on establishing a staging area for Clinton ferry traffic backups in the WSDOT parking lot behind the post office.
3. Island Transit Circulation/Shuttle Service Possibilities (Jerome): Since Commissioner Jerome was absent, there was no report.
4. Industrial Business Development – Resolution No. 10-03 (EXHIBIT D) (Tapert): Commissioner Tapert reiterated his focus on economic development and presented Resolution No. 10-03 in support of enhanced efforts in that area, resolving that the Port “shall vigorously pursue acquisition of viable real estate to establish business/industrial parks within its district boundaries with the theme of “Sustainability” and establish public and private partnerships to that end.”

ACTION: A Motion was made by Commissioner Gordon and seconded by Commissioner Tapert to approve and adopt Resolution No. 10-03 calling for enhanced Port economic development efforts focused on commercial/industrial business development and sustainability. The Motion passed unanimously.

6. ACTIVITIES/INVOLVEMENT REPORTS:

- A. Economic Development Council (EDC):** Commissioner Jerome was absent, so no report.
 1. Annual Membership Luncheon, April 21st at 11:30 a.m. at Useless Bay Golf & Country Club: Commissioner Jerome has registered, and Commissioners Gordon and Tapert said they would also like to attend. Molly said she would register them.

B. Council of Governments (COG): Commissioner Gordon reported there was no meeting last month, but he would attend this month's meeting.

C. Skagit-Island Regional Transportation Planning Organization (RTPO): Commissioner Gordon asked if by mentioning the potential usage of a water taxi at the Harbor, the Port would be eligible for transportation grants. Dane said yes, but in order to be eligible for transportation grants, the project must be identified by the local RTPO as a priority. Commissioner Gordon said at the next RTPO meeting he would ask what was needed to have the South Whidbey Harbor Expansion named as a priority.

D. Marine Resources Committee (MRC): Commissioner Tapert did not attend. Minutes are available on their website at <http://www.islandcountymrc.org>.

E. Washington Public Ports Association (WPPA): Commissioner Jerome was absent, so there was no report. Their website is <http://www.washingtonports.org>.

1. Spring Meeting at Chelan, May 12-13: Commissioners Jerome and Gordon will be attending.

F. Holmes Harbor Shellfish Protection District (HHSPD): Commissioner Tapert had nothing new to report.

7. OLD BUSINESS:

A. Comprehensive Scheme Mid-Term Review: To be addressed at May meeting (per request from Commissioner Jerome).

8. NEW BUSINESS:

A. Request from Island County for Input on TIP, CIP and Road Programs (EXHIBIT J): The Commission agreed that they should continue to recommend that Crawford Road be included and prioritized in these Plans.

9. ADJOURNMENT:

The meeting was adjourned at 8:42 p.m.

Approved:



Commissioner Geoff Tapert, Freeland


Minutes prepared by:



Edwin S. Field, Port Manager

Not present

~~Commissioner Chris Jerome, Langley~~



Commissioner Curt Gordon, Clinton

- Exhibit A: Voucher Listing
- Exhibit B: February and March 2010 Financial Statements
- Exhibit C: Draft Response to City of Langley Comments
- Exhibit D: Port Management Agreement
- Exhibit E: DNR Adjoining Lease
- Exhibit F: Draft ILA for RCEDF
- Exhibit G: Boating Infrastructure Grant Application
- Exhibit H: Resolution No. 10-04
- Exhibit I: Resolution No. 10-03
- Exhibit J: Request for CIP and TIP Input from Island County, dated 3/15/10