

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting

June 14, 2011

Langley, Washington

Commissioners Present: Chris Jerome (Langley), Curt Gordon (Clinton) and Geoff Tapert (Freeland)

Port Staff Present: Ed Field (Port Operations Manager), Dane Anderson (Port Finance Manager) and Molly MacLeod-Roberts (Port Clerk). **Others Present:** Gordon Weeks (Whidbey Examiner), **Clinton Residents:** Doug Struthers and Dave Hoogerwerf, and **Freeland Resident:** Dennis Gregoire

WORKSHOP & MEETING CALL TO ORDER: Following a Workshop from 7:00 p.m. to 7:30 p.m. for informal Commission review of vouchers and recent correspondence, the Regular Meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on Tuesday, June 14, 2011, at the South Whidbey Parks & Recreation District Meeting Room at 5475 Maxwellton Rd., Langley, WA. Commissioner Chris Jerome, President called the Regular Meeting to order at 7:30 p.m. followed by the Pledge of Allegiance.

BUSINESS MEETING

1. Consent Agenda

A. 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**).

2. Approval of Minutes

A. Minutes: Minutes from the Special Meetings of April 14 and April 28, 2011.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Gordon to approve the Consent Agenda as submitted, including the authorization and acceptance of Vouchers dated June 14 and June 15, 2011 as signed today in the amount of \$63,188.76. The Motion passed unanimously.

FINANCIAL ACTION ISSUES

1. April 2011 Financial Report: The Commission acknowledged receipt of the April 2011 Financial Statement, which had been distributed to them previously (**EXHIBIT B**).

2. Additional information to be included on Application for Funds: Field explained that previously the Application had provided very general criteria, but Staff drafted a revision to the introductory text of the Application to focus more on the types of programs the Port may fund based on recent guidance from Port Attorney Al Hendricks and provide additional information. The proposed revision reads as follows:

At the March and September Regular Meetings, the Port Board of Commissioners considers Applications for Funds for grant funding in support of local economic development in general, and promotion of tourism within the District in particular, under two general categories:

- 1) Tourism promotion, specifically expenses related to drawing business and visitors to South Whidbey by means of off-island advertising, brochures and other such promotions.*
- 2) Economic development programs, specifically funds for capital projects which foster tourism development for South Whidbey.*

Information that will assist the Commissioners in prioritizing the grant funding includes amount and effectiveness of off-island advertising/promotion, attendance amounts and durations for off-island visitors, and/or measurable economic development benefits of requested funds.

Jerome noted that both categories have to do with either tourism promotion or development and asked, “*Is that a restriction we have on the use of funds or is it just the historical focus of these grants?*” He wondered if Item 2) needed to be narrowly focused on tourism development as opposed to economic development. Anderson reported that the attorney had indicated he was uncomfortable with the term “economic development” because it is so ill-defined in the Code, but the RCWs specifically call out that ports can advertise and provide funds for advertising for economic development purposes. Hendricks said the previously approved application for capital funding for the visitor’s kiosk was acceptable because it specifically fosters tourism development, but not the chairs at Clinton Progressive Hall.

Gordon concluded that Hendricks is uncomfortable with a broad economic development standard for capital projects, so he wants to specify tourism. Gordon said, “*What if we want to fund capital projects for something other than tourism, such as a commercial kitchen, where there is local benefit that meets an economic development goal that isn’t tourism related?*” Gordon felt the revised wording to the Application for Funds is too specific and Staff should ask Hendricks to review it again, because he feels there is a broad economic development standard that is set in the Code for port districts. Item 2) is too narrow and too defined. Jerome agreed, and added that he thought both Items 1) and 2) were too narrow, noting that the Uniquely South Whidbey Trade Fair and Clinton Vision project would not fall under tourism development but they do fall under economic development. He suggested just providing Applicants with a list of Port goals with tourism development being one of the goals that their project would support. Jerome also noted that the Port rarely receives requests for the capital funding so perhaps it shouldn’t be split out this way, instead it could just be stated that the Port supports projects that meet with the Port’s goals.

Tapert said he would prefer the Port encourages capital projects that last as opposed to annual, recurring projects such as advertising & promotion for tours, etc. He said he would prefer the Administrative funding go away completely and leave only the Capital funding. Gordon disagreed, saying both Administrative and Capital are effective.

Field said he would re-draft the text, review it with Hendricks and have a revision for them to consider at the regular July meeting.

PUBLIC COMMENT – Including Items not on Agenda: There was none.

PROJECT ACTION ISSUES

1. Possession Beach Waterfront Park

A. Uplands Property Surplus Sale – Review and Possible Action on New Offer(s) Received: Anderson said there have been no updates. Gilbert (the individual who made a purchase offer above the listing price) is not interested in modifying his original offer which cuts off public access to the trail where the loop splits.

Jerome said he didn’t feel it was in the best interest of the Port District to sell the property to a private party with a truncation of the Dorothy Cleveland Trail. The District might be best served by pursuing the alternatives, such as the proposed lease for a cell tower. Tapert recalled that the Port had rejected another purchase offer for about \$100,000 less, and that potential buyer had indicated they would put up a cell tower and provide a full easement for the Trail. He said, “*I’m thinking that offer is looking pretty interesting right now.*” Gordon noted that the Port would not get any ongoing revenue if the property was sold rather than leased. Anderson had looked into lease payments at present value over 20 years. At

\$800/month, it was a wash. At \$1,000/month plus the opportunity for additional carriers on the tower, the net present value of that cash flow is significantly more than the Gilbert offer.

Jerome said, *“The original goal of putting the property on the market was so that it would remain in public hands with an agency whose job it was to have an upland park, but that is clearly not going to happen so it is not an option and isn’t on the table. Gilbert’s offer might still be on the table, but I’m not sure if it is an offer worth having. And we still have the option on the table of leasing the property for a cell tower.”*

Tapert said, *“I say we lease it.”* Gordon reiterated his position – he had hoped the Friends of the Dorothy Cleveland Trail would work with Whidbey-Camano Land Trust (WCLT) or other facility toward obtaining Conservation Futures or other grant funding to acquire and maintain the upland property and Trail. He said, *“Absolutely nobody has come forward to do that. We’ve done everything we could to proscribe and beg people to consider this option. So, I’m open to the idea of moving ahead with AT&T and the proposed lease for a cell tower.”* Since nobody wants to step up and acquire and maintain the uplands as a park, Gordon said the key issues to him are safety and bringing revenue to the District. By providing cell service, the Port can add safety to the south end community, bring in revenue and still have a park. Tapert agreed, noting that Island County Fire District #3 has stated they fully support and need the cell tower as first responders.

Gordon said they have done nearly 2 years of diligence on this issue, and the Port just did not receive any valid response. The Executive Director of WCLT attended Port meetings and criticized the Port’s actions, but never once made an offer to purchase the property (which is well within their bounds).

Jerome said he would like to propose that at a minimum they should “circle back” with Goodman Networks/AT&T on the lease. Anderson said he has continued to maintain a dialogue with Goodman Networks, and they are waiting on Commission action to move forward. The Port’s next step could be to review and modify the lease based on input received during the last 18 months of dialogue and start moving ahead on lease negotiations. Anderson said he would redistribute the current proposed lease to the Commission. The Commission agreed they would review the lease and provide comments to Staff, and then the lease (with Commissioners’ comments) would be forwarded to the Port Attorney for additional input, prior to discussion at the regular July meeting.

Jerome asked if anyone wanted to make a public comment on the issue.

Doug Struthers said, *“I don’t think a cell tower in a residential district like that is appropriate. I think if you were trying to put it next to somebody’s house in Langley where there are a lot more people – you wouldn’t do it. It’s just not an appropriate place for a tower, especially for only \$800 or \$1,000 per month – it’s not a lot of money. In a case where you have public domain, you would compensate people for loss of value of their property. This is like the tobacco thing; you can’t really prove that nicotine is bad for you, but we all know that it’s bad for you. So by the same token, we all know this is going to lower the values of the homes in that area. But you are Commissioners and you’re deciding what you need to do. I just think those people living in that neighborhood have to take it on the nose. They’re going to lose value on their property.”*

Dave Hoogerwerf said, *“It seems to me like burying your head in the sand by not putting up cell towers when people need them, especially for first responders, but secondly for people to dial 9-1-1 and just conducting business and talking to friends, etc. The south end of Whidbey Island has extremely poor cell service, as we all know. The only way to get better service is to add a cell tower, and to say you’re not going to do something because it might decrease property values – hey, you guys don’t come down and scoop the sand off of the Maxwellton Beach boat launch anymore and that makes it completely unusable.”*

Does that reduce the value of my property? Probably, but hey, that's life. I'm a great user of wireless and the industry, and by comparing it to the harmfulness of tobacco and saying the same thing is true of wireless is not a fair comparison. I mean, we've been sitting, working and living next to our TV sets since the 1940s and 1950s, but can anyone prove that has harmed anybody? I think using property, especially prime property at a higher level where you can get the signal down to people is a good use of the public's land, especially if you can get some income from it."

Dennis Gregoire agreed with Hoogerwerf, saying, *"I think the purpose fits within the role the Port plays and increasing communications helps economic development and increases values. I think the Port could do it and could actively facilitate the process."*

Struthers said, *"Making a point isn't going to change your mind, but nobody in our neighborhood is saying that we don't want cell tower coverage. We're simply saying it's in the wrong place and there are other alternative places that the tower could be put, including on people's land who want to get the same \$800 - \$1,000/month that you're trying to get. So really, the difference is simply that you don't have the revenues from this that you want, and it's not that we can't get cell phone coverage because we don't want it in that neighborhood – that's a red herring."*

Gordon thanked Struthers for his civil comments and reactions during the whole course of this issue. He said the upside is that if the Port does lease the space for a cell tower, the entirety of the Trail would still be maintained and open to the public. There could be a great benefit to the public if the tower goes up instead of the property being sold. This is an opportunity to benefit the South Whidbey community with economic development along with improved safety and some revenue.

2. South Whidbey Harbor

A. Expansion Project

1. Status of Concept Design 266' + 133': Engineering & Design underway.
2. Phase 1 Permit Status
 - Hydraulic Project Approval (HPA): Approved by Washington State Department of Fish & Wildlife (WDFW): Issued 2/13/10, revised 3/8/11. Follow up HPA for Temporary Breakwater Parking approved by WDFW: Issued 3/4/11, revision being coordinated by Joe Callaghan of GeoEngineers.
 - United States Army Corps of Engineers (USACE) Permitting for Complete Expansion: Joint Aquatic Resource Permit Application (JARPA) submitted August 2009. Review of impact-driving underway per pending Marbled Murrelet and Marine Mammal (MM&MM) Protection Plan from GeoEngineers, submitted on 4/21/11. Review may take 6 to 24 months.
 - USACE Permitting for 266'+133' via Programmatic BioAssessment: Possible approach to enable limited initial phase with <20 piles under 12" diameter, as coordinated by Joe Callaghan of GeoEngineers. They are working on criteria that would allow the project to basically be officially reviewed and processed in six months because of its status as a "small project." Field explained that the Port is assuming 14 H-piles are equivalent to twenty 12" round piles. He said, *"The intent is to get this first project permitted under this program, even as the bigger project continues to move glacially through the government process to determine the endangered species impacts, which could take another 6-24 months, and the USACE has already had the permits for nearly 2 years."* If the 266'+133' can be permitted by itself while the big permit goes on, there could be significant benefit to the Port: When the big permit is finally issued, the Port will have its 5-year permit window. Field added, *"This will not happen unless we have an agreement that the mitigation completed for the 1st phase (the removal of the Hein dock and sunken tire reef) is permanent attached to the project permitting, so that in effect the mitigation window will be extended an additional year or two."*

Field referred the Board to the letter from Tony Puma (Co-Owner of the Boatyard Inn) dated 6/8/11 (**EXHIBIT C**), in which he expressed concern over the preliminary finding that reflected waves will increase wave heights toward the Boatyard Inn's shoreline. Field noted that the analysis did not include the 10% dampening of the breakwater nor the effect of the Ice Floe dock. The letter has been forwarded to Reid Middleton and the Commission agreed to wait until Reid Middleton has provided additional information and comments before responding to Puma.

3. Boarding Floats & Uplands Permit Status

- Permit Extension Request to USACE: Revised JARPA submitted 2/22/11, U.S. Fish & Wildlife Service questions issued 6/3/11; Response submitted 6/9/11 by Reid Middleton.
- Master Permit Application to City of Langley; City approved prior permits (including Shoreline Conditional Use Permit, etc.) through 12/29/11 with further one-year extension pre-approved.
- Department of Ecology (DOE) Water Quality Certification and Coastal Zone Management (CZM) valid through 12/29/11 with one-year extension pre-approved.
- HPA: #122942-2 approved on 3/3/11, with 30% grating requirement

4. Property Issues: No update

5. Funding Issues

- Port Security Grant (Phase 1A): Unofficial approval of Project List; awaiting details. Anderson said, *"I have tried to turn the heat up on them, which is challenging because of the degrees of separation between us and the actual decision makers, but they do know that we are running out of time on our critical path. In order to be in construction in the 2012 season, they need to get back to us within the next 6 weeks or so."*
- Boating Facilities Grant (Floats only): Good results – ranked 9th out of 19, final decision in late June. Anderson reported that the state's budget includes funding for the program, and the decision will be made on June 22nd. The grant is for \$225,000 on the \$300,000 project.

6. Consortium Coordination

- InterLocal Agreement with Island County Fire District #3: Coordination in progress.
- InterLocal Agreement with Island County Sheriff's Office: Coordination in progress.

B. Harbor Operations

1. Electrical Refurbishment: Underway; probably will go out for bid in August with work scheduled after Labor Day.

2. Peak Season Operations: Summer Dock Attendant Marcel Seely hired; start date Thursday, June 16 (approximately 20 hours per week).

3. DockStock Update: DockStock is the big summer festival at the Harbor, intended for the boaters, to be held August 27, 2011. Commissioners are invited as Crab Cook-Off Judges. Since the date coincides with the Port of South Whidbey's 50th Anniversary, the information will be added to the DockStock 2011 T-shirts to be sold at the event.

3. Port Operations

A. Maintenance & Operational Wrap-up

1. City Ramp Cleaning: Working with City of Langley to address winter season cleaning. WDFW has placed restrictions on the cleaning related to the Endangered Species Act (spawning season for the Pacific sand lance). The agency is requesting no ramp cleaning be done from October 15th through March 1st. Staff continues to work with the City and WDFW to negotiate ramp cleaning during that time in order to

provide access for emergency boats as well as the many commercial and transient boats that use the ramp in the winter.

B. Humphrey Road Parking Lot

1. Port Operational Update: Invoices mailed, permits being issued, re-signing underway.
2. Stair Replacement: Replacement unit order placed and in fabrication; installation likely in July.
3. Light Pole Replacement: Done.

C. Redistricting Process: The Port is required to redistrict the Commissioner sub-districts (Freeland, Langley & Clinton) per the 2010 Census to make the population within each sub-district as equal as possible. Based on the Census data, the ideal size population for each Commissioner sub-district is 4,330. Anderson had prepared 3 options for redistricting, with Option #1 simply retaining the current sub-districts and Options #2 and #3 created by shifting entire voter precincts to make the populations equitable.

<u>Option #1</u> (current sub-districts)	<u>Option #2</u>	<u>Option #3</u>
Freeland (District 1) 4,711	4,342	4,342
Langley (District 2) 4,133	4,253	4,253
Clinton (District 3) 4,146	4,395	4,395

The voter precincts included in each district per option are as follows:

Option #1 (current)

- Freeland, District 1:** Austin, Freeland, Bush 1, Double Bluff, Saratoga 1, Saratoga 2, Bush 2
Langley, District 2: Lone Lake, Coles, Langley 1, Langley 2, Sandy Pt., Useless Bay 2, Useless Bay 1
Clinton District 3: Maxwellton 1, Deer Lake, Maxwellton 2, Clinton, Possession, Glendale

Option #2

- Freeland, District 1:** Austin, Freeland, Bush 1, Saratoga 1, Saratoga 2, Bush 2
Langley, District 2: Lone Lake, Double Bluff, Coles, Langley 1, Langley 2, Sandy Point, Useless Bay 1
Clinton District 3: Maxwellton 1, Deer Lake, Maxwellton 2, Useless Bay 2, Clinton, Possession, Glendale

Option #3

- Freeland, District 1:** Austin, Freeland, Bush Point 1, Double Bluff, Useless Bay 1, Bush Point 2
Langley, District 2: Lone Lake, Coles, Saratoga 1, Saratoga 2, Langley 1, Langley 2, Sandy Point
Clinton District 3: Maxwellton 1, Deer Lake, Maxwellton 2, Useless Bay 2, Clinton, Possession, Glendale

Anderson noted that at the regular May meeting, Gordon and Tapert said they preferred Option #3. Gordon said he had reconsidered and was less comfortable with Option #3 because the Freeland sub-district would extend way into Bayview (Sunlight Beach). Anderson explained that these are at the voter precinct boundaries and to change them would involve going down to the census block level and splitting voter precincts as the South Whidbey School District has done. The Port is required to provide metes and bounds for the sub-districts. He was able to get those from the County Assessor's office for the voter precincts. If the voter precincts are split, there would be an additional cost to the Port to have an outside consultant provide the revised metes and bounds. Jerome said Option #3 was okay with him, but asked if it was possible to swap Goss Lake with Sunlight Beach. Anderson explained the squared error is much higher under that scenario. The Commission agreed they would like to look at the South Whidbey School District's redistricting prior to making a decision.

D. Septic System Inspections per Island County: Bush Point - OK; Possession - Needed pumping, and Clinton Beach - To be determined (manhole covers rusted solid to the rings; working on opening them).

4. New Project Opportunities

A. Commercial Kitchen at Fairgrounds, including USDA Rural Business Enterprise Grant (RBE): Anderson has handed off all the information to Island County for them to pursue the grant. Field said it would be removed from the agenda.

B. Sustainable Economic Development and IPZ (Innovative Partnership Zone) Issues: (Tapert & Gordon) Gordon said the IPZ issue had been pulled from the agenda of the Washington Public Ports Association meeting he attended at Semiahmoo last month.

1. Potential Langley area “Green” Business Park and “Impact Washington” Possibilities: No report. .

C. Mukilteo Parking Issues: (Gordon) Gordon said he met with more individuals. Most recently, he met with Steven White, the legislative liaison for Boeing. White provided him with insight in terms of working with the City of Mukilteo and some of the state and federal politicians. Gordon is scheduled to meet with Representative Norma Smith on June 27th to discuss the issue. He added, *“I have some ideas about going after some RTPO funding as well to get the ball rolling, so I’m not at a point where I want to make any specific suggestion for action to the Commission.”*

Hoogerwerf said he is the Chair on the Clinton Ferry Advisory Committee, and he has been working on Mukilteo parking issues for about 3 years. The City of Mukilteo is very difficult to work with, especially the current mayor. Hoogerwerf’s advice to the Port regarding any conditional use permit from Mukilteo was: *“Get it in writing and make sure you understand what the issues are before going in, because they can pull the rug right out from underneath you.”* Hoogerwerf stated, *“From the perspective of a ferry rider and a commuter, we absolutely need parking in Mukilteo. We’ve lost over 200 parking spaces already and we desperately need parking. I fully support the Port doing whatever you can do over there (if it’s legal for the Port to do it in a different district). Washington State is designing a new terminal, and they’ve pretty much decided to either refurbish the existing terminal or building a new one at the tank farm. I’m a little concerned with the Port spending money on the proposed property for a parking garage 2 blocks away from the current terminal, because if the new terminal does go through, it would be better to build a parking garage at the new location.”* He reiterated that he fully supported any effort the Port makes (as long as it is financially viable) toward having a net gain of parking in Mukilteo.

ACTIVITIES /INVOLVEMENT REPORTS:

1. Economic Development Council (EDC): (Tapert) No report.

2. Council of Governments (COG): (Gordon) Regarding the RCEDF (\$0.09 funds), Gordon said they are still looking into the amount of changes made by grant recipients without first coming back to the COG. Both the Freeland Water & Sewer District and the City of Oak Harbor changed the dollar amounts of their projects without coming back to the COG. (Freeland’s sewer project went from \$15 million to \$40 million, and Oak Harbor’s project went from \$2 million to \$1 million). Gordon reported the COG is also forming an Island County Technical Advisory Group for the Puget Sound Partnership and involving some Tribe members with it. He noted that the Port will need to provide clerical staff to attend the July and August COG meetings and prepare the minutes.

3. Skagit-Island Regional Transportation Planning Organization (RTPO): (Gordon) Gordon said A. Rotating Port “Seat” on Technical Advisory Committee (TAC) with Port of Coupeville: Approved; Port of Coupeville to occupy through 2012. Gordon said RTPO is done with the 20-year Transportation Improvement Plan. He added, *“There is kind of an initiative out of the TAC to start to work on changing the Concurrency Law, which was written for state highways of state significance connected only by*

bridge and/or ferries.” Transportation levels are done right now because of the economy, and the TAC is concerned that when the economy improves, the Concurrency Law stops development.

4. Marine Resources Committee (MRC): (Jerome) Jerome said the MRC recently revamped their website: www.islandcountymrc.org The MRCs gets its funding through the Northwest Straits Commission and the NWSC is unfunded for the next financial year. They are waiting on federal appropriations. NWSC is therefore taking all the funds it has right now and splitting them among all the MRCs to try and maintain the administrative structure of each for 6 months in the hope that they get funding then. One of the projects MRC has been working on is “Sound I.Q.” – a database that graphically displays near-shore data (see the link on their website for more information).

5. Washington Public Ports Association (WPPA): (Jerome)

A. Spring Meeting at Semiahmoo, May 18-20: Gordon said the meeting was great and the networking was good.

6. Holmes Harbor Shellfish Protection District (HHSPD): (Tapert) No report.

OLD BUSINESS: None.

NEW BUSINESS:

1. WSF Public Info Meeting with David Mosely: Wednesday, June 15th at 6:30 P.M. at Langley Middle School.

ADJOURNMENT: The meeting was adjourned at 9:35 p.m.

Approved:

Minutes prepared by:


Commissioner Chris Jerome, Langley



Edwin S. Field, Port Manager



Commissioner Curt Gordon, Clinton



Commissioner Geoff Tapert, Freeland

- Exhibit A: Voucher Listing
- Exhibit B: April 2011 Financial Statement
- Exhibit C: Letter dated 6/8/11 from Tony Puma, Boatyard Inn