

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting
August 12, 2009
Freeland, Washington

Present at the meeting were:

Commissioner Lynae Slinden, Clinton
Commissioner Rolf Seittle, Langley
Commissioner Geoff Tapert, Freeland
Ed Field, Port Manager
Dane Anderson, Financial Manager
Chuck Edwards, Port Accountant
Molly MacLeod-Roberts, Port Clerk

Jeff VanDerford, South Whidbey Record
Fred Lundahl, Langley Chamber of Commerce
Harrison Goodall, Langley Resident
Herb Helsel, Langley Resident
Chris Jerome, Langley Resident
Wayne Morrison, Clinton Resident
Dean Enell, Langley Resident

Absent: None

1. MEETING CALL TO ORDER:

The Regular Meeting of the Port District of South Whidbey Island's Board of Commissioners convened on August 12, 2009, at the Freeland Library Conference Room in Freeland, WA. Commissioner Slinden, 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 Regular Meeting of May 13, 2009.
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 Seittle to accept the Consent Agenda, including authorization of Vouchers #3949 - #3987 in the amount of \$80,628.32. The Motion passed unanimously.

3. PUBLIC COMMENT – Including Items not on Agenda:

There was no public comment.

4. ACCOUNTANT REPORT:

A. Financial Statement: The Commissioners acknowledged receipt of the June 2009 Financial Statement, which had been mailed to them previously **(EXHIBIT B)**.

B. Resolution No. 09-02 (EXHIBIT C) - Electronic Check Acceptance: Ed explained that Port Accountant Chuck Edwards requested approval to deposit check payments to the Port electronically, which will speed deposits and save staff time.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Seitle to approve and adopt Resolution No. 09-02, to authorize remote deposit services by the Port Accountant. The Motion passed unanimously.

5. PROJECT ACTION ISSUES:

A. South Whidbey Harbor:

1. Expansion Project:

1. Design & Permit Prep – Final Permit direction and submittal status: Ed reported that the permit process is going well. The process was slowed a little by the adjustments required to increase the sizes of a few slips. He noted that the State Environmental Policy Act (SEPA) environmental checklist included the question: *Are you doing an archaeological and cultural survey of the site?* Ed noted that the vast majority of the site under this permit is offshore, so the survey might not be specifically required. However, it would be prudent to have it done now, and know sooner vs. later if there is something, and it would also indicate to the Tribes that the Port is paying attention right from the start. GeoEngineers has submitted a proposal for Cultural Resources Management Services **(EXHIBIT D)** in the amount of \$4,800. Commissioner Tapert felt that GeoEngineers proposed fee for that service was reasonable, and Commissioner Seitle agreed.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Seitle to authorize GeoEngineers to conduct the archaeological and cultural study as proposed. The Motion passed unanimously.

Ed said that the anticipated construction method for the installation of pilings is by use of a vibratory hammer, not an impact hammer. The soil logs indicate the area is sandy enough, and the piles are not vertical load-bearing piles, and vibratory installation is typical for such conditions. He said the critical issue is whether or not the permit spells out the approach that will be used if the vibratory hammer doesn't work and a drive hammer needs to be used. Since the drive hammer has more potential for impact on native species, it requires additional permit components to address procedures such as an air curtain, a sound attenuation plan and an Orca monitoring plan. Ed explained that an all-encompassing base permit that includes the possibility of drive hammer use would require completion of a bio-analysis study (an upgraded biological evaluation which addresses the likelihood of "take" of endangered species). If the Commission decides to include the possibility of drive hammer use in the original permit, it will take an additional minimum 2-4 weeks to put the permit package together, and the required studies and plans will cost an additional estimated \$30,000. The Army Corps of Engineers (the "Corps") generally recommended that permits be "all-encompassing." However, Ed noted that if the Port submits the permit "as is" with vibratory hammer

use only, it will be submitted as a “not likely to adversely impact” and would be reviewed accordingly, and would have a somewhat quicker review period of about 12 months. A more complex permit that includes drive hammer use would require a formal consultation from the National Oceanic and Atmospheric Administration and various other agencies, the permit review period would likely be longer, and the agencies would have to respond to the bio-analysis with a formal biological opinion. Ed summarized that if the permit is submitted as is (vibratory hammer only), Staff hopes to have the permit within one year, and some construction could be done by the end of the 2010 construction season. If the all-encompassing permit is prepared and submitted, that process will most likely take 12-18 months. He explained that the downside is: if the Port runs into problems and needs to use a drive hammer, the project would have to stop until the paperwork and permits were submitted and approved, and there could be substantial delay costs for the Port from the contractor as well as the additional design and engineering costs.

Ed reported that Shannon Kinsella at Reid Middleton said it is a risk management call, but she did feel it was a low risk situation due to the soil conditions and the lateral piles. Kinsella noted that if two piles seems insufficient, the alternative to testing two piles with a drive hammer would be to simply put in a 3rd pile with the same vibratory plan, avoiding any proofing or testing.

Ed stated, “It comes down to: Do we go with the permits as is, without the provisions for drive hammer use (which is a little bit of a risk), or do we delay submitting for a month and get the all-encompassing permit package ready, acknowledging additional expense and review time”. Commissioner Slinden asked for Ed’s recommendation, and his response was to go ahead with the permit as is, given the Port’s financial condition and the harbor’s soil log conditions. Commissioner Seitle agreed that the risk was very low based on the soil logs and geography of the area. Commissioner Tapert also agreed it was a risk management decision, and that the risk was low, as did Commissioner Slinden, who added that the time issue is “huge.”

ACTION: A Motion was made by Commissioner Seitle and seconded by Commissioner Tapert to proceed with the permit based on vibratory hammer pile driving. The Motion passed unanimously.

2. Property Issue Update: Dane reported that all of the paperwork for the Port Management Agreement (PMA) has been submitted to the Department of Natural Resources (DNR). At the meeting with the DNR representative, Dane noted that the representative did not have any issues with any of the paperwork presented and was happy with the completeness of it. The representative didn’t see any reason why DNR wouldn’t enter into a PMA with the Port for the applicable portion of the project. Dane explained that the Port is only seeking a PMA for the existing harbor area, with an additional leased area where the breakwater is temporarily located. When the harbor is expanded, the existing PMA will then be amended to include the expansion.

Regarding the Schell/Puma tideland property, Dane reported that the owners have signed a Letter of Agreement but the Port does not yet have a signed Statutory Warranty Deed.

3. Funding Update: Dane noted that there are a lot of different bond options in conjunction with federal stimulus money, but they are extremely complicated. He

attended a conference on August 31st and learned a little more about strategies for getting the best deal on our cost of capital. Dane will consider the level of effort to apply for the US Dept of Transportation Tiger Grant and the Rural Municipality/Rural County Public Works Funding Board Grant, but he noted that neither has a high probability of being awarded to the Port.

From his discussions with underwriters and bond councils, Dane said he learned the Port, as an entity, needed to obtain a bond rating. He will work with Port Accountant Chuck Edwards and Port Attorney Al Hendricks on presenting a resolution to the Commission in coming months relating to future handling of reserve funds, etc. Dane added that they would be using Port of Port Townsend's model for the bond rating.

Dane's P3 (Port/Private Partnership) discussions with private parties in the area regarding their interest in long-term lease agreements in exchange for construction funding continue.

4. Phil Simon Park Relocation Project:

1. Construction Update: Ed said things are moving along "reasonably well." The designer is working with the contractor to determine the best way for finishing the paver gaps (pea gravel, sand, etc.). Work on the retention cells and barbecues will be done next week, followed by the picnic tables, etc.

Commissioner Slinden granted Langley resident **Harrison Goodall's** request to address the Commission. Goodall presented the Commission with his InfoNote dated 7/22/09 titled "Wharf Street District Public Comment," **(EXHIBIT E)** and explained that he presented it to the City of Langley's Planning Advisory Board (PAB) two weeks ago. He expressed his concerns regarding the PAB's design, and access to the marina and boat ramp and other issues. Ed said the Port has not done any sort of uplands design, parking layout, traffic layout, etc., and the PAB's design layout is conceptual and schematic at best. Commissioner Slinden agreed with Ed's assessment and reiterated that the Port has not discussed those types of details and the PAB's design is only conceptual. Dane explained that the PAB overlay district was just to discuss building heights and the retaining wall. Commissioner Slinden thanked Goodall for speaking to the Commission and encouraged him to stay involved.

2. Commission Direction on Picnic Tables: Ed referred the Commission to Mark Fessler's estimate dated 8/10/09 **(EXHIBIT F)** and presented the sample materials for the tabletop and benches for Commission review. Commissioner Tapert thought the proposed tables were too expensive and thought they could buy recycled plastic tables for \$200-\$300 each instead, as he had mentioned at a previous meeting. Commissioner Slinden disagreed and stated that it was a nice design. She didn't think recycled plastic tables would be durable. Commissioner Seitle said Fessler's design was very solid and would probably last a very long time. Ed presented a catalog listing concrete picnic tables for \$900-\$1,200 plus shipping and handling, and recycled plastic tables for \$600-\$750 plus shipping and handling. Commissioner Slinden noted that Fessler is a local artist, and the Port should support local businesses.

ACTION: A Motion was made by Commissioner Seitle and seconded by Commissioner Slinden to accept the proposal by Mark Fessler for the picnic

tables at Phil Simon Park. The Motion passed by a vote of 2 to 1, with Commissioners Seitle and Slinden in favor and Commissioner Tapert opposed.

2. Harbor Operations:

1. Harbormaster Report (EXHIBIT G): Ed referred the Board to their copy of the report (previously submitted). He said Harbormaster Rick Brewer continues to do a good job of drumming up business, especially with the yacht clubs, and noted that 13+ boats from the Mukilteo Yacht Club have been booked for the weekend of September 18th – 20th. There were no additional questions/comments.
2. Summer Intern Update - Extension by Port requested through September: The funding for the summer intern position ends on Labor Day. Per Rick's request, Ed recommended that the Port keep the intern through the month of September for 40 hours a week at \$10/hour (total of \$1,600).

Harrison Goodall of Langley said Rick's presence as harbormaster has been tremendous; he's an ambassador for Langley and the south end of Whidbey. Goodall has nothing but praise for Rick's work.

Fred Lundahl, Langley Chamber of Commerce, reported that the Langley merchants are also very pleased. Visiting boaters' comments to the merchants have been 100% positive. Lundahl agreed that keeping the intern through September is a good idea. He said boaters have been really impressed and appreciative of having 2 people on hand at the marina. He said the Chamber also has nothing but praise for all their hard work.

Chris Jerome of Langley said that with the number of boats anticipated to visit the marina in September, Rick definitely needs a 2nd person there for those busy weekends.

Commissioner Tapert asked what the estimated total cost would be for the month, including payroll taxes, and Chuck said they should figure about \$2,000.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Seitle to authorize the expenditure of no more than \$2,000 to extend the employment of the Harbor's intern for the month of September. The motion passed unanimously.

B. Clinton Beach, Fishing Pier, Dock and Parking Lot:

1. Dock – Investigation of Major Maintenance Issues: Todd Graves of Sound Slope & Shoreline has replaced 1 of the 3 broken through bolts and is working on a 2nd one, but Ed explained that it is not possible to replace the 3rd one because it dead ends into a pile well. Unfortunately, that means there is no realistic way of properly replacing the triangular steel frame at the junction and the through bolts that connect it. Ed said they will only be able to do minor maintenance and repairs that should get them through the next winter or two, but the dock will require major maintenance sooner rather than later. It is unlikely that it will go 5 years before needing major repair or replacement.
2. Washington State Ferries (WSF) Septic System Reconstruction: Ed said the reconstruction of the septic system at the Humphrey Rd. lot was done haphazardly with very loose sand and gravel backfill right at the edge of the parking lot without any containment or plantings to prevent it from washing downhill. The system monitoring includes a panel in the middle of the field that beeps an alarm when the system is overloaded, but no one can hear it

because of its location. Ed sent a letter describing the issues to the WSF terminal manager and copied the WSF Contracts Manager Tim McGuigan.

C. Bush Pt. Boat Launch:

1. Dock Condition – Repair Update: Ed said Marine Floats is supposed to be on site on Monday, August 17th per their verbal proposal and the Port’s verbal authorization. The gangway has been ordered from Mantle Industries in Blaine, WA, and the new hinge assembly will be galvanized this week. Next week, Marine Floats is scheduled to replace all the hinges on all the floats, install a new hinge on the bulkhead, replace all the pile hoop assemblies with chain-type pile assemblies, and install the new gangway. The Port will arrange to have a boom truck, and Dane will be the Port’s point of contract since Ed will be on vacation. Ed said conceivably by August 21st the floats would be back in the water for at least a month.

Jeff VanDerford of the South Whidbey Record asked, “Who pays for this?” Ed explained that the Port will pay for it and the Commission authorized Marine Floats to do the repair for (not to exceed) \$15,000. Washington State Department of Fish and Wildlife (WDFW) still owns Bush Pt., but the Port is obligated to maintain it. The Port and Marine Floats agree that WDFW’s design of the floats was terrible. VanDerford asked why the Port has to pay for it if they don’t own it. Commissioner Slinden said, “Because WDFW is giving us the property.” Ed explained that the Port has a 35-year lease and that the Washington State Recreation and Conservation Office has approved the transfer and the transfer documents are sitting at WDFW now.

2. Plaque for Mike McCarthy: The Commission discussed the wording for the plaque on the large rock at Bush Point, and agreed it should read: *“In memory of John Michael McCarthy, Bush Point Manager, 2006-2008”*

D. Staff & Operations:

1. Website Upgrade - Update: Dane reported that the website is up with just a few small technical issues to work out, and Commissioner Slinden said it looked really good.

Dean Enell of Langley said the Port’s website is very attractive, but he noticed that it is very slow to download .pdf files and suggested adding a notice that asks for patience and explains that it takes a while.

Commissioner Slinden acknowledged Staff’s hard work on the website and thanked them for their efforts.

2. Green Power Proposal: The Commission discussed the 7/27/09 letter from Puget Sound Energy (PSE) **(EXHIBIT H)**. Commissioner Tapert felt the Port should contribute at least at the minimum qualifying level of \$4 per account, and the Port should also consider providing the Port’s caretakers with compact fluorescent lights to replace incandescent lights at all Port facilities.

ACTION: A Motion was made by Commissioner Tapert and seconded by Commissioner Seittle to participate in Puget Sound Energy’s Green Power Program at the 26% level of Green Power purchase (\$4 per account). The Motion passed unanimously.

6. ACTIVITIES/INVOLVEMENT REPORTS:

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):

1. Environmental Seminar October 1-2 at Sun Mountain Lodge in Winthrop: Commissioner Tapert said he would be attending the Environmental Seminar as well as the Small Ports Seminar in Leavenworth October 22-23.

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

G. Holmes Harbor Shellfish Protection District (HHSPD): Next meeting scheduled for Thursday, October 22nd, 5 p.m. at Trinity Lutheran Church in Freeland, WA.

H. Puget Sound Partnership (PSP): Nothing new to report

I. Center for Wooden Boats Cama Beach/Whidbey Summer Event (September 5, 2009): Ed reported that it doesn't seem to have any connection whatsoever to Langley this year.

7. OLD BUSINESS:

A. County-wide Parks Issues: Nothing new to report.

B. Freeland Non-Municipal Urban Growth Area (NMUGA) – Economic Development Issues: Nothing new to report.

8. NEW BUSINESS:

A. Letter of Resignation (EXHIBIT I): Commissioner Slinden submitted her letter of resignation dated 8/12/09, and noted that this was her last meeting. She was very pleased that the permit applications are being submitted and the Langley project is going forward. She thanked the Commission and the public for working with her over the last 7½ years. The public in attendance applauded her, and she handed the gavel to Commissioner Tapert.

9. ADJOURNMENT:

The meeting was adjourned at 8:55 p.m.

Approved:

Minutes prepared by:

Commissioner Lynae Slinden, Clinton

Edwin S. Field, Port Manager

Commissioner Geoff Tapert, Freeland

Commissioner Rolf Seitle, Langley

- Exhibit A: Voucher Listing
- Exhibit B: June 2009 Financial Statement
- Exhibit C: Resolution No. 09-02
- Exhibit D: GeoEngineers proposal dated 8/12/09 for Cultural Resources Management Services
- Exhibit E: Wharf Street District Public Comment by Harrison Goodall dated 7/22/09
- Exhibit F: Mark Fessler estimate for picnic tables dated 8/10/09
- Exhibit G: July Harbormaster Report dated 8/12/09
- Exhibit H: Puget Sound Energy Green Power letter dated 7/27/09
- Exhibit I: Commissioner Slinden's Letter of Resignation dated 8/12/09