

**PORT DISTRICT OF SOUTH WHIDBEY ISLAND**

Minutes of the Special Meeting

August 17, 2011

Freeland, Washington

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

**Others Present:**

**Port Staff:** Ed Field (Port Manager), Dane Anderson (Port Financial Manager) and Molly MacLeod-Roberts (Port Clerk); **Others:** Tony Puma (Boatyard Inn Co-Owner), Andy McCrae (Langley Resident) and Dennis Gregoire (Freeland Resident)

**MEETING CALL TO ORDER:** The Special Meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on Wednesday, August 17, 2011, in the Port office conference room at 1804 Scott Rd. in Freeland, WA. As announced, the primary purpose of the Special Meeting was to conduct a workshop for Commission and Staff review and direction on design and permit issues for the South Whidbey Harbor Expansion Project. Although the Meeting was of course open to the public, this Special Meeting was scheduled to enable the Commission to fully review project, technical and legal details with Staff, and to address scoping, prioritization and direction for the designers and Staff, and public participation was not on the Agenda. Review of proposals from law firms interested in representing the Port were also on the Agenda for Commission direction at this meeting. Commissioner Jerome, President, called the Special Meeting to order at 10:03 a.m. followed by the Pledge of Allegiance.

**PROJECT ACTION ISSUES**

**South Whidbey Marina Expansion Project Design & Schedule Review Workshop**

1. *Commission and Staff Review of Reid Middleton Memo dated 8/16/11 (EXHIBIT A), Diffracted Wave Analysis at Shoreline Bulkheads for Relocated/Reconfigured First Phase 266'+133':* Field said the report from Reid Middleton was very positive. The analytical method used for determining wave diffraction patterns around breakwater structures was provided by the U.S. Army Corps of Engineers Shore Protection Manual. Field said, *"Two good things came out of this: 1) We now have a drawing of the latest configuration, and 2) The results of the wave diffraction analysis indicate that there is a slight improvement of the conditions as a result of installing the breakwater for the southeast blows. As far as design issues go, at this point I would like to be able to tell the designers to proceed to implement this 266'+133' layout and the 30% drawings."*

Field said Harbormaster Rick Brewer's initial reaction on the layout and location was that it met the needs he was looking for as far as both access and ability to flush logs through, etc. Brewer had rave reviews on the layout and wave conditions, and he is looking forward to having the ability to accommodate the larger boats plus the commercial vessels used for whale watching and the Victoria Clipper, etc.

Gordon said, *"There are improvements over the current conditions, so I'm satisfied there won't be any detrimental effect to the Boatyard Inn property."*

**ACTION:** A Motion was made by Gordon and seconded by Tapert to proceed with the Relocated/Reconfigured First Phase 266'+133' Design.

Although not on the agenda, Jerome opened the meeting for public comment.

**Tony Puma** (Co-Owner, Boatyard Inn) said, *“Thank you for doing this; I think this gives everyone assurance that things are looking better. Because I’m a fan of science and engineering, I’m going to have PND just look at this, and if they have any comments either way, you’ll know about it. But I think it looks legitimate and scientific, and I appreciate you’re doing it.”*

He continued, *“My only comment has nothing to do with me – it has to do with you guys. I really wish you could take this thing and move it slightly enough that you could get a little more space inside. The more area you have inside, the more space you’ll have to put boats. To the extent that you could slide the Bremerton breakwater away from the existing stockade – every inch adds value to your situation. I would suggest that you slide it as far north as you can, which gets you more protected area inside.”\*

Tapert asked why the gangway location had changed from the previous version, and Field explained it was due to moving the breakwater 60 ft. to the northwest in order to capitalize on the benefits from the Nichols’ pier.

Jerome said, *“It seems to me we have arrived at a compromise between what we wish we could do and what we can afford and what is good for the wave environment.”* In terms of adding more capacity, he noted that the Commission has asked Reid Middleton to look into possibilities for future add-ons to this phase.

While he generally agreed with Puma’s comments about space, Gordon said, *“With all due respect, I also know that we have been agonizing about every small, incremental portion of design, and this is the design we’ve got. This is the best case scenario and we’ve proven that it’s not a detriment. We need to go ahead.”*

**Andy McCrae** asked, *“Has the City of Langley been on board with this? Because I met with the mayor yesterday, and he expressed some concern about the reconfiguration and the process and that it might be in conflict with the agreement between the City and the Port.”*

**Dennis Gregoire** asked if the Port had to get a shoreline permit from the City. Field explained that most of the shoreline permitting has been done for the big project. Both Jeff Arango (Community Planner) and Larry Kwarsik (Director of Community Planning and future mayor) are aware that the Port is looking at reconfigurations along these lines. Since the Port just received these drawing of the final version yesterday afternoon, the City doesn’t have the “gory details” yet, but the concept of a much-reduced, first phase installation has been on the table with them repeatedly. Jerome said, *“In addition, I verbally presented essentially this concept in an earlier form at a City Council meeting. The mayor has me give a Port report every couple of meetings, and I presented this concept and explained that it is what the Port can afford to do and what the Port can actually get done now – and they seemed to be on board with that. The other reason we went this route is that it does meet the requirements of the ILA (InterLocal Agreement): we’re putting in boarding floats and deploying the breakwater.”*

Gordon noted that another critical piece of the ILA is that the City is required to help the Port provide parking. He had met with Kwarsik, who expressed concern that the first phase wasn’t big enough. Gordon said, *“I made it clear to him that there are two issues: We don’t have enough money to build a larger facility and you (the City of Langley) haven’t helped us with any parking. This phase is going to max out the parking we have. And it wouldn’t be realistic to build something bigger if we had the money, because we don’t have the parking and it’s not going to work. Basically, it’s either this or nothing.”*

Jerome said the Port would continue to keep the City of Langley posted. In response to Gregoire’s question regarding shoreline permitting, Field said, *“The shoreline permitting and the whole permitting process has basically gone as far as it can with the drawings we had. The overall concept for the full*

build-out was approved, and Phase 1A was approved. Gregoire said, *“So because the footprint is less, it’s easily amended.”*

Field continued, *“Jumping to permit and funding issues, our fiduciary agent for the Port Security Grant and the Deputy Regional Environmental Officer from FEMA conducted a site visit at the Harbor on Monday. I more or less barraged them with all the permits, process and discussions that we’re already in and the level of input we’ve had with the Corps, the National Marine Fisheries Services, the cultural resources studies, etc.”* Field explained that FEMA were looking for concurrence documents; some of which might have already been prepared but are all being held in abeyance waiting for the Endangered Species review. After the site visit, he had forwarded the revised Biological Evaluation that GeoEngineers prepared earlier this year. Subsequently, the FEMA representative emailed that the Corps *“...looks like they may be initiating a formal Endangered Species Act consultation with the National Marine Fisheries Services for the project (once you get the information we discussed to them), this explains the several month delay in getting the permit issued. They apparently do have a response from the State Historic Preservation Office on file, so I’ll get that from them. The Corps is not preparing an Environmental Assessment, so FEMA will not be able to leverage this but instead write its own. Sometimes we do this in house, sometimes we ask the applicant to do it. For now I’m going to defer how we proceed until the Corps initiates their formal consultation. In either case we should easily be able to wrap that up in the timelines for permit issuance next spring.”*

Gordon noted that a Motion has been made and seconded and there has been discussion. He said, *“I would like to call for a vote on the question, because I believe this is a different topic.”*

**Jerome called for a vote on the Motion to proceed with the 266’+133’ design. The Motion passed unanimously.**

2. *Permit Status Update, and 3. Funding Status Update (combined for clarity):* Gordon noted that at a previous meeting, Finance Manager Dane Anderson had informed them that the process FEMA uses for the Port Security Grant is “permits in hand first, then funding.” Anderson made it clear that since the Port didn’t have permits in hand, it was going to be unlikely that the Port would get funding. Gordon said, *“From your conversation, am I sensing that we are somehow back in the running?”* Field responded, *“I think we’re making progress. It helped to be able to demonstrate that it is our intention (with the permits in place) to build it next year.”* He noted that it wouldn’t look good if FEMA’s process slowed down a project that was ready to build.

Regarding sequencing, Field said, *“It seems if we do the full solicitation in complete concurrence with federal requirements and the permitting is in process, and the permits are issued and the agreements are in place before we start paying substantial money to the contractor, there might be a bit of window in there. If we can get the agreements in place before the cash really starts rolling out, it would seem it is still conceivable to parallel those things rather than make them bid sequential.”*

4. *Commission Direction on Proceeding toward Bidding (Early 2012 or...):* Based on the Commission decision today, Field said the next step is for Reid Middleton to produce permit-type drawings of the reconfigured layout for submittal to the Corps, the City of Langley – everybody. He thinks there will be some revisions on the existing permits and ultimately the Port will need to go to a building permit with the City, but that’s just one more step and shouldn’t need a lot of structural review. As Reid Middleton is working on the permit drawings, they should be rolling this 266’+133’ layout into the 30% drawings for the previous layout and reestablish that stage of progress, and continue to work on the various review notes (security, utilities, etc.), get the uplands squared away, and just proceed with the drawings.

- Next deliverable = 90% Review Set in November 2011. Field thought that was probably optimistic at this point, but said, *"We'll get there as soon as we can and bid it as early in the year as possible."*
- Preliminary Direction for Packaging with Ramp Floats and (limited) Uplands Improvements. Field said they would proceed with rolling the Ramp Floats project in with the first phase. He reported that the funding agreement came in from RCO for the Boating Facilities Grant and it has been signed and activated.
- Final Direction on Bid Package Contents TBD based on Permit and/or Port Security Grant Status. Field said they would proceed with merging the drawings (266'+133' and Ramp Floats) for a bid set. It will be all one contract, but will have different bid schedules.

Gordon asked, *"Where do we need to be with the design for a potential future pier addition, whether it's funded by City dollars or FEMA or our money? What should we be doing?"* Field replied, *"What I heard at the last meeting is that everybody needs a cartoon – some sort of drawing of what it potentially could be – and a ball park estimate for it."* He said that is already being addressed by Reid Middleton on a separate design task, showing what could be built later for \$500,000, what could be built for \$1,000,000, etc. They will keep it moving ahead parallel to the 266'+133' project, but it won't be attached to the 266'+133' project because at this point there is no current funding attached to it. Gordon said he would like to see the results for the potential future addition sooner rather than later so they are prepared if other funding opportunities become available.

Puma agreed that the Port didn't need to go into detailed engineering on that segment. Once the Port has the "cartoon" drawing, if the funding shows up, he said there are a number of things the Port could do, including an addendum to the bid which would design/build that portion of it. Puma said it was important for everyone involved to have the cartoon drawing to work with. He and Paul Schell and another hotel owner need it in order to present the request for a portion of Langley's hotel/motel tax for the expansion of the marina next month. Puma said, *"Some sort of sketch and a number is helpful."*

Jerome said he wanted to make it clear that *"...what I'm looking for in this addition concept (whatever it is) is function. I'm much less interested in having to utilize the finger pier designed for the full build-out that we are not doing right away. I'm more interested in having something that works when deployed now. Whatever it is needs to have a clear function."*

Field said he would ask Reid Middleton to specifically answer the questions about the function and what could be done for \$500K and for \$1M, and have the drawing and estimate ready for the September regular meeting. He noted that the agenda for that meeting is already pretty full with the Applications for Funds and the first preliminary budget discussion for 2012. Gordon said if the agenda became too full, they could always push the Applications to the October meeting instead. The Port's priority has to be keeping the SWH expansion going. He also noted that at some point, the Board would probably have to start meeting twice a month. Jerome noted that in addition to serving on the Marine Resources Committee, Langley Mayor Paul Samuelson has asked him to serve on the Shoreline Master Plan Committee that will meet every other Wednesday from 10 a.m. until noon from now until the end of the year. Jerome and Field have discussed the possibility of the two of them "tag teaming" the meetings. Gregoire said he might be able to help out as the Port representative since he has experience in shoreline management, and because he is the Port Commissioner-elect (running unopposed for the Freeland position in November). Field and the Commission thanked Gregoire and all agreed it would be a good idea for him to take on that role.

**Port Attorney**

*1. Commission Review of proposals from potential legal representatives and Direction to proceed:* Anderson had previously forwarded the information provided by Newton Kight L.L.P. and Anderson Hunter Law Firm, P.S. to the Commission (**EXHIBIT B**). Field said although he appreciated current Port Attorney Al Hendricks' recommendation of Newton Kight, based on the amount of municipal (and especially port) expertise that Anderson Hunter has, his recommendation is for Anderson Hunter.

**ACTION:** A Motion was made by Gordon and seconded by Tapert to select Anderson Hunter Law Firm, P.S. as the Port Attorney. The Motion passed unanimously.

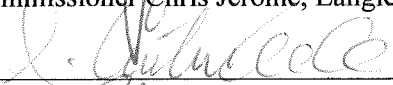
**ADJOURNMENT:** The Special Meeting was adjourned at 10:45 a.m.

Approved:

Minutes prepared by:

  
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Commissioner Chris Jerome, Langley

  
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Edwin S. Field, Port Manager

  
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Commissioner Curt Gordon, Clinton

  
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Commissioner Geoff Tapert, Freeland

Exhibit A: 8/16/11 Reid Middleton Memo – Diffracted Wave Analysis at Shoreline Bulkheads

Exhibit B: Proposals from Newton Kight LLP and Anderson Hunter Law Firm P.S.