

**PORT DISTRICT OF SOUTH WHIDBEY ISLAND**

Minutes of the Regular Meeting

August 9, 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:** Tony Puma and Paul Schell (Boatyard Inn Co-owners); **Clinton Residents:** Marcia Monma and Clyde Monma; **Langley Residents:** Andy McCrae and Stephanie Neis; **Oak Harbor Resident:** Ron Rhinehart; 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, August 9, 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**

**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**).

**B. Minutes:** Minutes from the Special Meeting of May 26, 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 August 2011 as signed today in the amount of \$81,826.54. The Motion passed unanimously.

**FINANCIAL ACTION ISSUES**

**June 2011 Financial Report:** The Commission acknowledged receipt of the June 2011 Financial Statement, which had been distributed to them previously (**EXHIBIT B**). Jerome noted that both Possession Park and the South Whidbey Harbor were ahead of budget at this half-year mark, due in particular to the higher electric bills at both of those facilities, the higher maintenance wages and water system maintenance at Possession, and the lower moorage revenues at the Harbor. Anderson explained that the electrical bills were higher because the weather was significantly colder this year. At Possession, Field explained that the increase in maintenance wages was due to the major dock rebuild and the increase in water system included the cost and the pump out and cleaning of the reservoir. At the Harbor, the decrease in moorage revenues is attributed mostly to the cooler than normal weather in May and June. Now that the weather has improved somewhat, things are starting to pick up again. Anderson noted that the highest months for moorage revenue are actually July and August.

**Application for Funds Process – Review of proposed standard authorizing Resolution (**EXHIBIT C**) and revised Application (**EXHIBIT D**):** Field explained that per the recommendation of Port Attorney Al Hendricks, Staff had prepared a draft Resolution to formalize the process of establishing agreements between the Port and the recipients of the Port's grant funding in support of

economic development. Per Commission direction, Staff then made the following revisions to the Application for Funds (**in bold**):

*4. Describe how your project works to accomplish the Mission of the Port of South Whidbey's six year Comprehensive Scheme, and specifically the Economic Development Goals as set forth in it.*

*8. If the Port of South Whidbey has previously awarded grant funds to your organization and/or for this project, provide information on the use and effectiveness of that previous funding. (Information documenting the effective use of previous funding will assist the Commission in prioritizing further funding).*

Field explained that if the format is approved, there will be an authorizing Resolution to approve all funds granted at each of the meetings in September and March.

**ACTION: A Motion was made by Tapert and seconded by Jerome to adopt the Authorizing Resolution Format and approve the revisions to the Application for Funds as presented. The Motion passed unanimously.**

**PUBLIC COMMENT – Including Items not on Agenda: None.**

### **PROJECT ACTION ISSUES**

#### **Possession Beach Waterfront Park**

*A. Review of proposed lease from Port Attorney:* Anderson reported, “We’ve had a couple of rounds back & forth with the attorney and the Commission was copied with the results. Unfortunately, I don’t have a copy of the proposed lease with me tonight – that’s my mistake. Most of the issues discussed at the previous meeting have been addressed, so the next step would be submittal of the draft lease to Goodman Networks/AT&T.” Jerome asked if there was any Commission discussion. Hearing none, he asked if anyone in the public wished to comment.

Clyde Monma asked, “So what are the details of the lease?” Anderson said the changes the Port has made to the original proposed lease are: 1) No initial planning period; payments start as soon as the lease is signed. (AT&T had proposed a feasibility period during which they would pay \$1,000 per year.) 2) The Port tightened up some language regarding additional carriers on the tower so the Port would share in that revenue stream by leasing additional ground within the same 40’x40’ area. 3) Tightening up the Federal requirement to allow ICOM and emergency services utilize the tower for their communications needs as well.

Monma asked, “So how much is it per month?” Anderson said that would be a negotiated amount. AT&T’s initial proposal of \$750/month has not changed, and he has recommended that the Port’s initial step in negotiations should start at \$1,100/month. Jerome noted that a noise limitation has been added to the proposed lease as well. He also pointed out that the current proposed lease was created from scratch by the Port Attorney – it was not a modification of the Goodman Networks/AT&T lease.

Monma asked about the duration of the proposed lease, and Anderson said it would probably be a negotiated item, but the initial term is 3 years, with an option to renew (presumably for another 3 years). Monma asked if the Port has any option to terminate the lease or is it left only up to AT&T, and Anderson said there are termination clauses in the lease for both the Port and AT&T to terminate. The Port can’t terminate it “willy-nilly” - they have to give AT&T an opportunity to remedy whatever situation exists.

Gordon asked Staff to email a copy of the proposed lease to Monma, and asked Monma to “keep in mind that all of these things are subject to change and be aware that we’re in negotiation on this.”

Monma said, *"I just want to make sure you're thinking about things, that's all. So we're talking about a revenue stream of let's say \$12,000/year for 3 years – that's the only thing that's really guaranteed to the Port. But they could stop, and you would get nothing else. That's just my point."*

Monma continued, *"I was thinking about why AT&T wants to build a tower on that hill, and I think it would be interesting to get some information from them as to how many South Whidbey households they could serve that they weren't serving before, and how many they think they will serve off South Whidbey."* Monma had printed off AT&T's coverage map (but did not provide a copy to the Port Clerk for the record). He claimed that the proposed tower would provide straight line signals off of South Whidbey. He said, *"So their capability with this tower of serving off-island is pretty significant, and my guess is that's where they are going to get their main revenue from – it's not from people on South Whidbey, and I think that's something you should keep in mind."* Gordon said, *"These phone networks are exactly that – networks. And the benefits to many folks on South Whidbey come from towers that are off-island. Even though this proposed tower may complete a system that benefits a lot of off-islanders, that doesn't negate its value to the citizens of South Whidbey because it helps complete the system. There is also the ICOM advantage."* Gordon told Monma, *"One of the nice things you've done with this map is you've given us more negotiating power, because it shows just how valuable this tower will be to AT&T."*

Gordon suggested the Commission should direct Staff to begin negotiations with AT&T. He would like it to start at \$1,100 per month, with the initial current rates starting immediately upon signing of the lease. The Commission agreed.

## **South Whidbey Harbor**

### A. Expansion Project

1. Status of Concept Design 266'+133': Reid Middleton (RM) said they would get the wave report on the revised breakwater repositioning to the Port on Tuesday, August 16.
2. SWH Expansion 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, as coordinated by Joe Callaghan of GeoEngineers.

Field said the Port finally had some communication from FEMA by way of the Port's fiduciary agent for the Port Security Grant. The fiduciary agent had submitted a lot of questions about permitting and process. Field and Callaghan have formulated a response, some of which is a new format that is essentially the same information as submitted for the JARPA and other permits and some of it may or may not be new information. FEMA is asking for an Environmental Assessment, and according to Callaghan, the USACE might have prepared the Environmental Assessment as part of their process of reviewing our JARPA. Callaghan will continue to dig into it. Field said he didn't have any other major development or news at this point. The issue will be added to the agenda for a Special Meeting on design issues to be scheduled for some time next week after RM's report is received, tentatively Aug. 17.

3. Boarding Floats & Uplands Design: In progress, RM working toward review submittal.

4. 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; Clean plans submitted 7/13/11.
- 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.

5. Property Issues: No update

6. Funding Issues

- Port Security Grant (Phase 1A): Federal Emergency Management Agency (FEMA) site visit to be scheduled in the next week. Anderson said, *"We've been working on a parallel path with FEMA – with the permitting on one side and the funding on the other, but it became very clear today (with the email from the fiduciary agent) that FEMA is not okay with that. FEMA wants all of our permitting completed so they can roll that into their Environmental and Historical Preservation (EHP) process. In order to get to that stage in FEMA's process, we need to have all the stuff we're asking USACE to marshal for us through our JARPA. That's a different understanding than we had initially. Initially we thought FEMA would make the funding contract contingent upon the Port getting all the permits in, and if the permits didn't come in, then we wouldn't engage in a funding contract. That's a pretty significant shift, since it becomes a serial thing which means we run into the challenge of extending it even further than what we've been expecting. We're looking at a minimum of 6 months to get the NMFS information, which FEMA needs to complete its EHP process."* Anderson noted that FEMA wants to do an on-site review that will include pointing out the mitigation, etc. As Field noted earlier, the Port is trying to avoid having to do a full Environmental Assessment, because the USACE's might suffice. Field noted that it would cost the Port another \$25,000 to do an Environmental Assessment.

Gordon asked, *"So if you don't have permits in hand, you're not going to get an award?"* Anderson said, *"That's right."* Gordon asked about the best case scenario for getting the permits, and Field said, *"At this point, we can't get a permit because we don't have a plan to send them. We need a revised document to send to the USACE to show what we want to build under the six-month programmatic small project permit."* Field also noted that today is the 2-year anniversary of the Port's JARPA submittal for the entire project. Jerome noted that the Port can build the reduced project (266'+133') without FEMA. He said, *"So if the Port gets the permits for the small project, we could apply to FEMA and proceed – we don't have to daisy chain it. We could just get on with it and hope the FEMA money comes through."* Field agreed and said the construction staff is driving to have plans ready to build as soon as we have the permits. Anderson cautioned, *"The likelihood that FEMA would reimburse the Port for those funds (for the reduced project) is extremely low, because the Port won't have signed the funding agreement until after the project has started."*

- Boating Facilities Grant (Floats only): Approved June 22<sup>nd</sup>, Funding Agreement received 8/9/11.

**Paul Schell** said his partner (Tony Puma) had taken two ferries and driven from Bainbridge Island to get a report on wave action on their property (The Boatyard Inn), and they were disappointed that it wasn't available yet. He asked that the Port call them when it is received. Schell continued, *"I support you going ahead, but I am really disappointed in the scale of what you're doing – I wanted a modified version that was at least larger. I thought we were long past the time when we built capital projects on cash. Most of the public agencies that I've been involved with...when you have a major*

*public improvement – you leverage it. You borrow against it and expect the income and the tax revenues to amortize the cost of that over the years. And since the port has been created with the purpose of building marinas and economic development, there’s nothing more that we can do to help visitor industry in South Whidbey than expanding that marina. It’s been the most important thing for years now, and it is disappointing that it’s going to be as modest as it is. So I would hope that you would at least make plans for an expansion of it – an increase in the amount of transient moorage and potentially even additional permanent moorage. Let’s hope that others (and I’m certainly going to be making an effort) get some other long-term lease income for the Port, so you can fund against that to build more than what you’re planning in the first phase.”*

Gordon said, *“If we don’t get funding from FEMA, we will be borrowing against everything we have left at the Port, because the marina loses money. And we have to hope and trust that Anderson’s financial calculations are correct – that by improving the marina, we’ll get it to break even. Everything you’ve just asked is precisely what we are doing to the maximum of our ability. We’re combining the only grant we could get (RCEDF) with the Port’s own money and bonding forward against our tax revenue. There isn’t any more.”* Schell said, *“I suspect the marina is the only income-generating investment that the Port has.”* Gordon replied, *“You’re talking income; not revenues. There’s money coming in, but the marina doesn’t make money.”*

Schell continued, *“There are other income sources we’ve mentioned in the past – from the State Aeronautics Board as well as the yacht clubs that would be interested in having an outstation with a long-term lease. For the record, I want to say that while I’m happy you’re going ahead, I’m still expressing disappointment publicly that that’s the limit of what you’re doing and not to plan for the future expansion as revenues and opportunities come in.”* Tapert noted that the Port has applied for permits on “the whole shebang.”

Schell said, *“We need to invest in the future, especially when times are tough.”* Jerome responded, *“But you have to have money to invest. From my point of view, if we have to do this without FEMA, we’re taking the Port all the way to the wall. We can’t build bigger with the resources we have.”* Schell replied, *“And if that’s the case, I applaud you, and maybe you need to take a hard look at your operational costs.”* Jerome added, *“When we had the special meeting, one of the items we asked Reid Middleton to address was the expansion possibilities with the modest design that we’re talking about, and we’ll be discussing that at our next special meeting on August 17th.”*

#### 7. Consortium Coordination

- InterLocal Agreement with Island County Fire District #3: Waiting for FEMA.
- InterLocal Agreement with Island County Sheriff’s Office: Waiting for FEMA.

#### B. Harbor Operations

1. Electrical Refurbishment: Underway.

2. Fee Schedule for 2012: Commission approval of proposed 2012 Fee Schedule (**EXHIBIT E**). Staff is still reviewing possible Specials and Coupons, but numerous winter leases will eliminate the need for Group Specials through at least early 2011-12. Field explained the proposed Fee Schedule would change the overnight moorage rate from a per slip rate of either \$24 or \$28 to a uniform \$1 per foot for all vessels.

**ACTION: A Motion was made by Tapert and seconded by Gordon to approve and adopt the 2012 Fee Schedule as presented. The Motion passed unanimously.**

## **Port Operations**

### **A. Maintenance & Operational Wrap-up**

1. City Ramp Cleaning: Working with City of Langley to address winter season cleaning.

**B. Redistricting Process:** Anderson presented Resolution 11-04, Assigning Commissioner Districts and Term Expirations (**EXHIBIT F**). At the regular July meeting, the Commission had agreed to accept Anderson's proposed redistricting option #3, and he said he had subsequently prepared the Resolution to include the legal description of each of the redistricted boundaries.

**ACTION:** A Motion was made by Tapert and seconded by Gordon to approve the Commissioner Redistricting and adopt Resolution 11-04 as presented. The Motion passed unanimously.

**C. Septic System Inspections per Island County:** Clinton Beach - To be determined

**D. Finance Manager – Review of Applications and Interview & Hiring Schedule:** Field said a total of six applications had been received. The applicants had a broad range of skill sets with different degrees of applicable experience. Staff had compiled a short list of 3 candidates for the position, and recommended those finalists be scheduled for interviews. Tapert said he was not comfortable with the Staff making the short list. Since there were only six applicants, he would prefer the Commission meet and interview all of them. Jerome said he had reviewed all the resumes and agreed with Staff that there were only 2 or 3 leading candidates. He said, "My concern is that we no longer have a Finance Manager after this meeting." After additional discussion, the Commission agreed that the Special Meeting discussed earlier would be scheduled for the morning of August 17<sup>th</sup>, and all 6 candidates for the Finance Manager position would be scheduled for interviews by the Commission and Staff for another Special on the evening of August 17<sup>th</sup>. Each interview would last 20-30 minutes.

**F. Port Attorney – Possibilities for new legal representation:** Anderson said the Port has received information from two different law firms: Anderson Hunter and Newton Kight, both located in Everett. The Port's current attorney had originally recommended Newton Kight, but subsequently said Anderson Hunter might be a better choice because of their breadth of experience with public agencies, including the Port of Edmonds and the Port of Everett. Anderson agreed to send copies of both law firms' information (including hourly rates) to the Commission, and the Commission agreed to discuss and select one of them at the Special Meeting on the morning of August 17<sup>th</sup>.

## **New Project Opportunities**

**A. Sustainable Economic Development and IPZ (Innovative Partnership Zone) Issues:** (Tapert & Gordon)

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

**B. Mukilteo Parking Issues:** (Gordon) Gordon said he had emailed State Representative Norma Smith, and her people are finally getting back around to U.S. Senator Patty Murray's people.

## **ACTIVITIES /INVOLVEMENT REPORTS:**

**Economic Development Council (EDC):** (Tapert) Tapert said the EDC had discussions about Nichols Brothers Boat Builders and their potential expansion into Oak Harbor at the Navy Seaplane base, and how to fund an Environmental Impact Statement for that. The mayor of Oak Harbor had looked at RCEDF for it, but learned RCEDF can't be used for planning purposes; it must be used for capital purposes.

Wayne Morrison (President, EDC) said, "The update on that is the base personnel are starting to waffle on allowing the Nichols' expansion to take place, so we're trying to reinstate their involvement. The idea

is we're trying to create about 100 jobs for Nichols there." The EDC continues to be involved in that process.

**Council of Governments (COG):** (Gordon) Gordon said Ron Nelson (Executive Director, EDC) had reported to the COG that not only are RCEDF to be used for capital purposes, but they are supposed to be used for infrastructure to provide business interests. So, it can't be used for an environmental study of any kind. Gordon said there was a lot of discussion about how the RCEDF money is monitored once it's been granted. COG is working toward allowing more flexibility with the funds, so instead of having just one application process per year, the COG would allow smaller applications throughout the year if opportunities arose (such as a commercial kitchen).

*A. Port to provide staff for Minutes for July, August and September meetings:* The Commission agreed.

**Skagit-Island Regional Transportation Planning Organization (RTPO):** (Gordon) Gordon said there is just over \$1 million of funding available for transportation projects, with applications to be submitted by September 6th. He had hoped the Port could get improvement dollars for one of the tank farm slabs in Mukilteo (if the Port could get access to that for parking), but it doesn't look like we'll make that window.

**Marine Resources Committee (MRC):** (Jerome) Jerome said he has been assigned to the Port Susan Marine Stewardship Area.

**Washington Public Ports Association (WPPA):** (Jerome)

*A. Special Trustees Meeting on August 19 in Olympia to vote on purchase of building:* Jerome explained that the Special Trustees Meeting is for the purpose of discussing, and possibly approving, the purchase of the building that WPPA currently leases, per the recommendation of the WPPA Executive Committee. If unable to have a representative at the meeting, ports have the option of completing and submitting the Official Ballot (**EXHIBIT G**), voting to approve or disapprove of the building purchase. The building appraises at \$2.67 million, not accounting for several major capital improvements that need to be made right away. Deducting those costs makes the purchase price \$2.25 million.

**ACTION:** A Motion was made by Gordon and seconded by Tapert to vote in favor of WPPA's purchase of the building as presented. The Motion passed unanimously.

Jerome voted "Approves" and signed the Official Ballot as President and directed the Port Clerk to submit the completed ballot prior to the August 18<sup>th</sup> deadline.

Jerome said WPPA is holding a Trade and Economic Development Seminar on September 22-23 in Wenatchee, but he is not able to attend.

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


**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

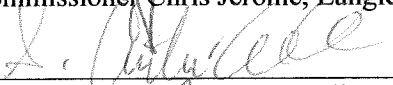
**ADJOURNMENT:** The meeting was adjourned at 8:45 p.m.

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: June 2011 Financial Statement
- Exhibit C: Draft Authorization Resolution Format
- Exhibit D: Revised Application for Funds
- Exhibit E: SWH 2012 Fee Schedule
- Exhibit F: Resolution 11-04: Assigning Commissioner Districts & Term Expirations
- Exhibit G: WPPA Official Ballot