

**THE PORT DISTRICT OF SOUTH WHIDBEY ISLAND
REGULAR MEETING**

Meetings held at South Whidbey Parks & Rec District, 5475 Maxwelton Rd, Langley WA
Tuesday, December 10, 2013, at 7:30 p.m.

AGENDA

WORKSHOP (7:15 – 7:30 p.m.): Commission review of vouchers and recent correspondence

REGULAR MEETING CALL TO ORDER and PLEDGE OF ALLEGIANCE

Consent Agenda:

Approval of December 2013 Vouchers in the amount of **\$58,956.79** and approval of Minutes from the Special Meetings of Sept. 24 and Nov. 25, 2013.

FINANCIAL UPDATE

October 2013 Financial Statement and Finance Manager Report

PUBLIC COMMENT – Items not on Agenda: Please limit comments to 5 minutes

STATUS REPORTS

Possession Beach Waterfront Park

Ramp Rebuild Planning Project Kick-off Meeting

South Whidbey Harbor Update

Phase 1 Project

- Construction
- Funding

Boat Ramp Boarding Floats & Signage

Harbor Operations

- RCEDF Grant Application for Harbor Improvements
- Offsite Parking at Langley Middle School
- Restroom Usage
- USCG Private Aids to Navigation Permit

Port Operations

Port Comprehensive Scheme for 2013-2019 and Approval of Strategic Plan

Marine Surveillance Camera Project (Port Security Grant)

SW Fire/EMS Fire Boat (Port Security Grant)

ACTIVITIES/INVOLVEMENT REPORTS

Gordon: Economic Development Council (EDC), Council of Governments (COG), Skagit-Island Regional Transportation Policy Organization (RTPO) and Clinton Community Council (CCC)

Jerome: Washington Public Ports Association (WPPA)

- WPPA Annual Conference in Tacoma: Report from Continuing Legal Education (Field)

Gregoire: Marine Resources Committee (MRC), Langley Shoreline Master Plan (SMP) Committee and Island County SMP Committee

OLD BUSINESS

NEW BUSINESS

ADJOURNMENT

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting

December 10, 2013

Langley, Washington

Commissioners Present: Curt Gordon (Clinton), Dennis Gregoire (Freeland) and Chris Jerome (Langley)

Others Present:

Port Staff: Ed Field (Port Operations Manager), Angi Mozer (Port Finance Manager), and Molly MacLeod-Roberts (Port Clerk) **Others:** Shannon Kinsella (Reid Middleton), Celeste Erickson (South Whidbey Record), Jim Sundberg (Langley City Councilmember)

MEETING CALL TO ORDER: Following a Workshop from 7:15 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, December 10, 2013, at the South Whidbey Parks & Recreation District Meeting Room at 5475 Maxwellton Rd., Langley, Washington. Commissioner Curt Gordon (President) called the Regular Meeting to order at 7:32 p.m., followed by the Pledge of Allegiance.

CONSENT AGENDA

Approval of Current 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**).

Approval of Minutes: Minutes from the Special Meetings of September 24 and November 25, 2013.

ACTION: A Motion was made by Commissioner Chris Jerome and seconded by Commissioner Dennis Gregoire to approve the Consent Agenda as presented, including the authorization and acceptance of Vouchers dated December 2013 as signed today in the amount of \$58,956.79. The Motion passed unanimously.

FINANCIAL UPDATE

October 2013 Financial Statement and Finance Manager Report: The Commission acknowledged receipt of the October 2013 Financial Statement (**EXHIBIT B**) which was distributed to them previously. Port Finance Manager Angi Mozer said the Port received \$578,000 in tax, operating and grant revenue and incurred \$429,000 in operating and capital expenses during October 2013. Ending cash balance at 10/31/13 was \$1,031,000, consisting of \$211,000 in the Bond Fund and \$820,000 in the General Operating Fund. She noted that in October the Port received a FEMA grant reimbursement for \$287,336 for the South Whidbey Fire/EMS fire boat building project. That money will in turn be paid out to the fire district and reflected in December's financial statement. Cash balances are also up because of the construction payment requests have been significantly lower than anticipated due to construction delays, with no payment request submitted for December.

Snohomish Leadership Class: Mozer explained there are two main parts: in-class education days and an out-of-class community impact project. The most recent education day focused on government policy and included the Everett Mayor and the Snohomish County Executive as guest speakers. In addition to providing an idea of how government is structured and what it takes to get policies enacted, the speakers shared their individual leadership experiences. The other Whidbey Island representatives in the class are Sarah Diers Boyne (Wander on Whidbey), George Henny (Whidbey Telecom) and Tara Long (Coastal Community Bank). The community impact project they are working on is in Clinton, predominantly at

the Clinton Progressive Hall, where they plan to develop a regular schedule of food-based events, with a focus on locally grown and produced foods. Mozer and the other Island representatives are trying to put together a business plan for the entity, and by the time they are done they will have held two events there (a pop-up restaurant featuring local chefs and potentially a cooking or food-processing class).

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

STATUS REPORTS

Possession Beach Waterfront Park

Ramp Rebuild Planning Project Kick-off Meeting: Port Operations Manager Ed Field reported that Vladimir Shepsis of Coast & Harbor Engineering (CHE) would like to schedule a kick-off meeting. Gregoire felt the Commission should hold a Special Meeting to discuss the project and give direction to CHE. Jerome said the scope of the project is laid out in the information Shepsis provided, but if the Port needs to refine it he is open to having a meeting. Gordon noted this is the second time Shepsis has asked for more detail/direction. The Commission agreed to tentatively schedule a Special Meeting for Tuesday, January 7, 2014.

South Whidbey Harbor

Phase 1 Project

- Construction: Field said, *“We have conducted extensive correspondence and measurements with the contractor over the last week or so, demonstrating the status of completion of the project as far as the rigging and the positioning of the breakwater. Neptune Marine (Subcontractor to Contractor Mike Carlson Enterprises) re-mobilized today and was conducting initial rigging work, and will be back at it tomorrow with Reid Middleton in observation re-working the rigging on the north and south ends to bring it into conformance with the contract documents and positioning.”* Neptune has been out on the dock performing pipe welding and some utility work in anticipation of getting the gangway back in place so they can run the utilities down it. A lot of the utility work is on hold until the gangway is down on the breakwater again.

When the rigging is repositioned, the breakwater is in proper position and the gangway is replaced, it would make sense to put down a wear plate as it has been determined that a skid system directly on concrete does not work well and would quickly wear out the skids. After considering three different types of materials for the gangway landing, the most appropriate and safe for operations is believed to be a steel plate under the gangway. It will provide reduced friction and wear for the skids. Field said he would like to get a specific proposal from Mike Carlson Enterprises (MCE) for that plate and move forward with Commission direction so the work can be done prior to re-installing the gangway. Gordon said the Commission doesn't really have a choice, noting that the engineer (Reid Middleton) has already discussed that it was just something that was missed in the plans. The Commission agreed and gave Field the direction to proceed.

Based on the performance of the breakwater in position, Field said they are seeing very good attenuation and less movement than Reid Middleton expected, and not a lot of differential between the two pieces (D and E Docks). So at this point the enhanced fendering system does not appear to be needed and the basic fendering system is being installed between the 133' and 266' sections. Pile 133-5 has been cut off as required per Change Order #5. Once it has been positioned and rigged correctly, Reid Middleton will be inspecting the breakwater to see if it has a “list” or not. Jerome asked Shannon Kinsella of Reid Middleton if a list is a functional concern or just an aesthetic concern. Kinsella said it is primarily aesthetic. Field and Harbormaster Duncan McPhee had discussed the issue and agreed that it doesn't have to be perfectly level. There can be a bit of a list; it just needs to be functional and not make people uncomfortable on it. Kinsella added that the floats are manufactured with manholes for access and they can be ballasted over time as needed.

Reid Middleton had previously submitted a Construction Observation Report dated 12/3/13 (**EXHIBIT C**). The Report notified MCE of the following Requirements:

Contractor shall provide a written document identifying the northing and eastings of the position of the breakwater and line tensions, identifying which tidal elevation the measurements were taken at to confirm the position of the breakwater and line tensions meet contract requirements and a statement that all lines are installed per contract document requirements.

The Contractor shall review the video and assure that the tire reef is relocated away from the anchor line per the contract requirements.

Yesterday evening, MCE had provided an email response (**EXHIBIT D**) to the Report. The response indicated that MCE did not find anything written in the plans or the specs which states that they are to “assure that the tire reef is relocated away from the anchor line.” MCE asked to be directed to the specific language that specifies more adjustment to the tire reef is required beyond the piling locations. The Contractor also requested a formal inspection performed by the engineer of record to verify the work is done according to the specified contract requirements.

Based on the photos from an independent diver, Gordon said it’s pretty easy to see that there is more work for MCE/Neptune to do. He doesn’t think the Port should pay for more diving or additional engineering. Reid Middleton’s contract with the Port includes 30 incidents of RFIs (Requests for Information) from the Port and/or the contractor, and if it exceeds that amount, additional RFIs would be billed on an hourly basis. With all the change orders to date, including those for contaminated soils, water line issues, etc. the cost overruns of \$150K – very close to the 10% contingency amount. Field noted that only \$80K was for actual change orders to the contract with MCE, or 6% of the contract. The other items were for Puget Sound Energy, the costs for additional marine mammal monitoring time, additional geotechnical inspections and soil testing for the contaminated soils. Gordon asked for a breakdown of the cost overruns not paid to MCE. Field cited the following:

PSE	\$7,900
Marine Mammal Monitoring	11,500
Geotechnical inspections	4,500
Direct contaminated soil disposal	2,800
Sampling & testing costs	3,870
Water line inspection	15,000

Kinsella believed Reid Middleton has about \$12K in fees left, and they are trying to be prudent with their fees. Regarding tomorrow’s meeting at the Harbor, Gordon said, *“It sounds really collaborative and it’s a good thing that the Port and the engineer are going to be there with the contractor, for inspecting and to provide guidance.”* He asked Kinsella, *“Is this standard? Should we have figured we needed to be there with the contractor during his completion of the contract that he bid to do?”* Kinsella said site visits by the engineer are very common as part of the construction phase to check progress along the way, and are included in Reid Middleton’s estimated construction services. Gordon noted that Reid Middleton’s field engineer (Jack Seipel) has worked very closely with the contractor. Regarding the issue of whether the 266’ and 133’ sections of the breakwater were going to rub, Gordon said, *“If the contractor had put it in properly and finished it – you would have known then what you know now. It sounds like time was spent going down that road.”* He asked Kinsella if Reid Middleton’s engineer starts to initiate potential change orders in advance trying to foresee or stave off potential problems. He explained, *“Because this was actually going and Field had to stop it. Then, we realized that it was simply a matter of them completing the work they were paid to do and that solved the problem.”* Kinsella acknowledged that the field engineer was possibly too pro-active.

Gordon said in his experience, the initiation of a change order by the engineer brings the presumption that there is something wrong with the plan, and as soon as that is introduced to the contractor, the contractor

feels they can back away from responsibility of the project. He said, *“This takes away our negotiating power. Field and I walked that dock 3 weeks ago and there was excessive chain out of one hole and no chain out of others. You would think if Seipel walked that dock, he would have seen that and asked that. But instead he took the report from the contractor, assumed everything was where it was supposed to be and started working on a change order because the contractor didn’t think the sections were aligning properly. Two or three months ago, there was a \$20K change order for the clump weights and another \$7K for grinding so the shackles fit – before they were even in the water. I asked Field at the time what precipitated that change order. Field reported that Seipel believed one cable may rub on another, so this was a way to see it being assembled and stop a potential problem before it got started. I asked if it was because it was not designed correctly in the first place.”* He asked Kinsella what she thought, and Kinsella said, *“I think it would have performed and functioned as it was designed. But there are things we see in the field that can add value and longevity. If we had designed it that way originally, the Port still would have paid for it, but would have paid a more competitive bid price for those items. So I think there are value added things we see as engineers out in the field that aren’t necessarily a case of ‘this is wrong’ but rather now that we can see it connected, etc., we see a potential to increase longevity, add value and reduce the potential for problems.”*

Wrapping up, Gordon said, *“The contractor has stopped twice now and said he was done, and he wasn’t either time.”* Going forward, he wants all of the work MCE has been paid for to be completed and the Port will only consider urgent change order requests that would affect the overall expense to the District and should be dealt with immediately. Field was directed to keep the Board apprised of other change order issues and work with Reid Middleton to address those. Regarding a dive inspection, Gordon said, *“We’ll dive that when we feel like it’s time to verify the work after the contractor is done, using an independent diver.”*

- Funding: No additional discussion.
- Boat Ramp Boarding Floats & Signage: Mozer said they’ve run into a small snag: the final design for the Harbormaster office is not quite complete. However, she met with artist Jay Davenny and once that final design is ready, he can provide a solid cost estimate for designing the outside of it. Regarding the Recreation & Conservation Office grant funding remaining from the Boarding Floats project, Mozer reported she was able to get it extended through August 31, 2014, which will allow time for those funds to be used for the Harbor signage.

Harbor Operations

- Rural County Economic Development Funds (RCEDF) Grant Application for Harbor (**EXHIBIT E**): Mozer presented the Port’s application (requesting \$130,000 for engineering and construction costs for outside mooring) on November 27th to the Council of Governments (COG). There was not time for discussion at the meeting, but the members seemed to like the general concept and will discuss it at the January meeting. Jerome agreed there was positive feedback and added that Mozer did a good job presenting it.
- Offsite Parking at Langley Middle School (LMS): Jeff Arango (Langley Director of Community Planning) has drafted a memo and is suggesting there doesn’t have to be a signed InterLocal Agreement (ILA) with the Port/South Whidbey School District/City of Langley. Potentially, a more informal pilot study could be done using the LMS parking area and other areas in Langley. Rather than have designated spots for each entity, the Port, City and Schools would share the area that factored in scheduled events such as the Fair, etc. However, Mozer thought the Port would be able to use the LMS lot for trailers for most of the summer, and the City has committed to help manage the parking. Mozer will forward the draft memo to the Board for their review.

- **Restroom Usage:** Field said Harbormaster Duncan McPhee has observed non-boaters use of the public restrooms, especially the showers, has been increasing. Parking is impacted by such use and it requires additional cleaning time by Harbor staff. Field and McPhee recommend the Port consider installing cyber-locks on the restrooms and placing portable toilet somewhere on site. All boaters would get the combination for the restroom lock, but non-boating visitors would not. Gregoire said it is a management issue, but the Board needs data from the users and analysis of that data before taking any action. Gordon noted that it is the only public shower on South Whidbey. Jerome suggested the Port should discuss the issue with the City of Langley and see what the City wants to do about it, and perhaps discuss it with the County as well. City Councilmember Jim Sundberg noted that it would fit in with the Island County Fairgrounds long-range planning as there are public restrooms and showers at the fairgrounds.

Construction (continued): At that point in the meeting, Field asked to return to the Construction topic as he had missed bringing up the contaminated soils issue during the earlier discussion. Per Commission direction, he had drafted a letter to the City of Langley (**EXHIBIT F**) requesting City participation of 60% of the costs resulting from the unsuitable materials excavated from the (City-owned) Wharf Street right-of-way. Gordon believed the Port could ask for full recovery. The Port met the requirements, built the water line extension, and paid another \$15,000 for the inspection of the waterline. He added, *“And the law says that if in that process we come across unsuitable materials and petroleum products, it is the owner that bears that cost.”* The Commission agreed and Field was directed to re-draft the letter to seek full recovery of \$23,019.65.

Restroom Usage (resumed): Sundberg said he would let the Mayor know about the issue. Kinsella said Bainbridge Island had a lot of the same issues and they resolved them by installing locks with timers so they are open for boaters and the public during the day, but they are locked and accessible only by keypad during off hours. Field said he would discuss gathering data with Harbor staff and present a written report.

- **U.S. Coast Guard Private Aids to Navigation Permit (PATON):** Field reported that evidently the City of Langley has been responsible for navigation aids since January 1, 2009, because the Permit wasn't transferred when the Port took ownership of the Harbor. The Permit has been transferred and Staff is working to get the existing lights revised slightly and the new lights appropriately set for when the facility is open.

Port Operations

- **Port Comprehensive Scheme for 2013-2019 and Approval of Strategic Plan:** Mozer noted that Makers had provided a final draft of the Comp Scheme (**EXHIBIT G**) that afternoon, and she asked that the Commission provide any comments to her as soon as possible so it can be published and distributed to the public at least two weeks in advance of the Public Hearing scheduled to take place immediately before the regular January meeting. Adoption of the Comp Scheme will be on the Agenda for the regular January meeting. Jerome and Gordon had already provided comments and those had been included in the final draft. Gregoire indicated he had not had the chance to fully review it yet.

The Fairgrounds is not addressed in the Comp Scheme at all, and with the recent meeting regarding long-range planning for the Fairgrounds, Mozer asked the Commission if they wanted to include that as one of the projects or initiatives that are specifically called out in the Comp Scheme. Gordon thought it was probably covered by the other particulars – incubators, business development, etc. If specifics are needed later, the Comp Scheme can be amended, but he feels it should be left alone for now. Gregoire disagreed and said one or two lines should be added indicating the Port is collaborating with other parties to move that ahead, because the purpose of the Comp Scheme is to inform the public where tax dollars will be spent. After brief discussion, the Commission agreed to add the following initiative under Strategic

Goal 1: Support Business Growth: *Collaborate with the appropriate agencies in promoting the best economic interest of the fairgrounds in Langley.*

Mozer presented the Commission with the final version of the Strategic Plan (**EXHIBIT H**) received from Makers that afternoon. It has all of the Commission input to date and if the Commissioners feel comfortable, she thinks they can approve it. Gregoire said he needs to read it and have additional discussion. Gordon asked how it had changed from the electronic version sent on Friday. Mozer said the only changes were corrections of typos that Jerome had noticed.

Gregoire didn't like the pictures of the crab and clams in the Strategic Plan; he said they were habitat and there's not one mention of habitat in the Plan. Jerome said the Commission has had a draft version of the Plan for months and it's a bit late to making that type of change. He feels they have discussed it enough and he is ready to commit.

Gordon tabled the discussion of the Strategic Plan until later in the meeting*. He asked Mozer, "Where are we on the Comp Scheme?" Mozer explained the process in general as follows: Using the public comments from the Open House and correspondence, along with Commission input, Makers provided the final draft presented today. She would like to publish it for public review as soon as possible but no later than December 31st. The Port must publish the final draft Comp Scheme for 2 weeks prior to the Public Hearing scheduled for January 14th (before the regular meeting). The Commission said they would get any comments to Mozer within one week so it could be made available to the public.

- Port Security Grant (PSG) Program – Marine Surveillance Camera Project: Mozer reported it is at the final contract signing stage. Whidbey Telecom has been directed to order supplies and parts and they are on track to complete all work by January 31st (the deadline for the grant).
- South Whidbey Fire/EMS (SWFE) Fire Boat (Port Security Grant): The first reimbursement was received from Marine Exchange and delivered to the Fire District. Mozer said they are also working with a January 31st deadline and everything is looking good. Mozer asked for Commission comments on the draft ILA for moorage of the vessel at South Whidbey Harbor (**EXHIBIT I**) she had previously submitted. Gordon said some specifics should be left out, like where the vessel will be moored on the dock. Also, the draft cites a 40-ft. end section will be reserved and if they're going to rent 40 feet, they need to pay for 40 feet (rather than 34.5 ft.). Mozer was directed to make those changes to the ILA.

ACTIVITIES/INVOLVEMENT REPORTS

Gordon: Economic Development Council (EDC), Council of Governments (COG) and Skagit-Island Regional Transportation Policy Organization (RTPO), and Clinton Community Council (CCC)

EDC: Gordon said there has been a lot of work study around the economic effect of the US Navy, and there will be more.

COG: Jerome attended in Gordon's place. RCEDF presentations were made by the Port (discussed earlier), Port of Coupeville (fuel dock floats) and City of Langley (funicular or elevator).

RTPO: Meeting was cancelled.

CCC: The Council continues to be busy. David Moseley from Washington State Ferries came to Clinton, and the community was able to express their frustration over the fact that no one will take ownership of the whole "kiss and ride area" which is overgrown along the hillside and sidewalk. Gordon explained that WSF, the county and the state all have some portion that they are responsible for through ownership or easement. Moseley did agree to hold a special meeting to specifically address the Clinton community in January.

Jerome: Washington Public Ports Association (WPPA) and Marine Resources Committee (MRC)
WPPA: No report.

- WPPA Annual Conference in Tacoma: Field attended the Continuing Legal Education seminar and said it was a good program. Attorney Frank Chmelik had provided really good information regarding the Open Public Meetings Act and public records requests.

MRC: Jerome reported that there was a presentation on "Citizen Science" and how it works (having citizen volunteers contribute data to scientific projects). He said there was also a very interesting discussion about a case being heard in District 9 Court of Appeals, in which the federal government and the Tribes sued the Washington State Department of Transportation for the culverts that prevented salmon passage. It appears the State will lose and will have to replace the culverts. That particular lawsuit applies only to state-owned culverts, but there is funding available to address culverts that have an impact on the Endangered Species Act.

Gregoire: Langley Shoreline Master Plan (SMP) Committee and Island County SMP Committee: No reports.

EXECUTIVE SESSION: At Gordon's request, the Board of Commissioners went into Executive Session at 9:40 p.m. for an expected duration of 20 minutes to review the performance of a public employee. The Board came out of Executive Session at 10:00 p.m.

*Approval of Strategic Plan: Gregoire reiterated his objection to the pictures of the crab on page 9 and the clams on page 10 and the pavers on the final Acknowledgements page because he believed they were located in Coupeville. Field explained the pavers were actually from the walkway in Freeland Park, and the Commission agreed that photo was acceptable. Mozer was directed to request Makers remove the photos of the crab and the clams and replace them with Port-related photos.

ACTION: A Motion was made by Jerome and seconded by Gregoire to approve the Port of South Whidbey Strategic Plan as amended. The Motion passed unanimously.

OLD BUSINESS: There was none.

NEW BUSINESS


Island County Comprehensive Plan: Field referred to the Memorandum from Island County Planning & Community Development dated December 6, 2013 (**EXHIBIT J**) seeking review and comments regarding the Port of Coupeville's application to amend the County's Comp Plan to modify the boundaries between the Commercial and Agriculture sub-designations and add park and ride facilities to the list of allowed uses at Greenbank Farm. The Commission said they would review it.

ADJOURNMENT: The Meeting was adjourned at 10:05 p.m.

Approved:



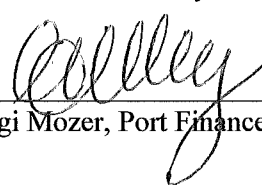
Commissioner Curt Gordon, Clinton



Commissioner Dennis Gregoire, Freeland

Commissioner Chris Jerome, Langley

Minutes reviewed by:



Angi Mozer, Port Finance Manager