

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

Meeting held at South Whidbey Parks & Rec District, 5475 Maxwellton Rd, Langley WA
Tuesday, May 14, 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

BUSINESS MEETING

Consent Agenda

1. Approval of Current Vouchers (dated May 2013) in the amount of \$195,872.31
2. Approval of Minutes from the Special Meetings of January 22 and January 24, 2013

FINANCIAL UPDATE

March 2013 Financial Statement

Finance Manager Update

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

ACTION ISSUES

South Whidbey Harbor Update

1. Phase 1 Project: Breakwater Relocation with Uplands & Utility Improvements
 - A. Construction Issues
 - Progress to date
 - Proposal from Reid-Middleton for Design/Engineering/Inspection for Outside Mooring Points
 - B. Funding Issues
 - Cash flow projection for Phase 1
 - Port Security Grant funding approved for Marine Surveillance Cameras
2. Big Permit (submitted 2009): Response to Mit. Plan comments issued 4/30/13; Advance Mit. proposed
3. Boat Ramp Boarding Floats
 - A. Project complete, close-out underway
4. Harbor Operations
 - A. Mystic Sea operations: Summary from 2013 and Planning for 2014
 - B. Summer Operations
 - C. Offsite Parking at LMS (ref. Memo of Understanding w/City & School District)
 - D. Adjacent Projects

Port Operations

1. Port Comprehensive Scheme for 2013-2019
2. *Humphrey Road Parking Lot to be closed for Re-striping on Sunday May 19*
3. Freeland Park Exhibit

New Project Opportunities

1. Mukilteo Parking Issues

ACTIVITIES/INVOLVEMENT REPORTS

Economic Development Council (EDC): Gordon

Council of Governments (COG): Gordon

Skagit-Island Regional Transportation Policy Organization (RTPO): Gordon

Marine Resources Committee (MRC): Gregoire

Washington Public Ports Association (WPPA): Jerome

1. Spring Meeting at Skamania Lodge, Stevenson on May 15-17; Gordon to attend

Langley Shoreline Master Plan Committee: Gregoire

Island County Shoreline Master Plan: Gregoire

OLD BUSINESS

NEW BUSINESS

County Request for Input on Six-Year Capital and Transportation Improvement Plans (CIP and TIP)

ADJOURNMENT

PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Regular Meeting

May 14, 2013

Langley, Washington

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

*Arrived at 8:03 p.m.

Others Present:

Port Staff: Ed Field (Port Operations Manager), Angi Mozer (Port Finance Manager) and Molly MacLeod-Roberts (Port Clerk); **Others:** Ben Watanabe (South Whidbey Record), Sheriff Mark Brown (Island County Sheriff's Office) and 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, May 14, 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 January 22 and January 24, 2013

ACTION: A Motion was made by Commissioner Dennis Gregoire and seconded by Gordon to approve the Consent Agenda as submitted, including the authorization and acceptance of Vouchers dated May 2013 as signed today in the amount of \$195,872.31. *The Motion passed unanimously.*

FINANCIAL UPDATE

March 2013 Financial Statement and Finance Manager Report: The Commission acknowledged receipt of the March 2013 Financial Statement, which had been distributed to them previously (**EXHIBIT B**). Port Finance Manager Angi Mozer said the Port received \$46,000 in tax and operating revenue and incurred \$46,000 in operating and capital expenses during March 2013. Ending cash balance at 3/31/13 was \$925,000, consisting of \$500,000 in the Bond Fund and \$425,000 in the General Operating Fund. She noted that in April the Port received \$98,000 from the Washington State Recreation & Conservation Office (RCO) for reimbursement of the boarding floats project, and that will be reflected on the next report.

PUBLIC COMMENT – Items not on Agenda

Island County Sheriff Mark Brown was on hand to read aloud his letter dated 5/10/13 regarding the Port Security Grant (**EXHIBIT C**). Brown said he will not be seeking grant funding for the purchase of a marine response vessel and explained the reasons, including difficulty in providing the 25% match and concern about public perception of the expenditure even though it would not come out of the general fund and could not be used for staffing. He thanked the Port Commission and all who worked on the agreement and/or assisted in researching the legal and federal requirements of the grant process, especially Mozer.

STATUS REPORTS

South Whidbey Harbor Update

Phase 1 Project

- **Construction Issues**

Progress to date: Port Operations Manager Ed Field reported, *"We are making major progress. The old Hein dock is now just the Hein pilings."* The pilings that were sound are still there, but most of the near shore pilings were so shallow (only 12-18 inches deep) that they had to be removed. The original plan was to leave the pile caps, but although the beams were okay, the connection points were "rotty" so all of the caps were removed as well. Most of the removed wood has been hauled away, and the breakwater has been stripped of the cabling and wire rope and the light poles are down. Neptune Marine will finish the rest of the work stripping and removing those items from the breakwater during the next few days. After that, it will probably be pretty quiet down there for a few weeks. The first wave of procurement for piles has started and the water line plan is due in to the City of Langley in a couple of days. Field said the second wave of procurement and the next round of engineering submittals for the mooring lines, shackles, etc. is underway.

Proposal from Reid Middleton for Design/Engineering/Inspection for Mooring on Outside of Breakwater (**EXHIBIT D**): The proposal included Design Services (Task 001) and Construction Admin Services (Task 002). Under Task 001, Reid Middleton will perform design services to determine an appropriate design to add mooring bollards or cleats to the outside face of the breakwater to provide moorage tie up for a variety of vessels including small tour vessels. The total cost for the proposal was \$18,500, and Field recommended approval of Task 001 in the amount of \$14,704.

ACTION: A Motion was made by Gregoire and seconded by Gordon to approve Task 001 of Reid Middleton's 5/7/13 Proposal for Professional Services for Mooring on Outside of Breakwater in the amount of \$14,704. The Motion passed unanimously.

- **Funding Issues**

Cash flow projection for Phase 1: Based on Mike Carlson Enterprises' aggressive schedule, Mozer said it looks like most of the costs for the project will be borne by October of this year rather than the original expectation that the costs would go out through part of 2014. Since the second half of property taxes are not due until October 31st, the Port might bump into some cash flow issues during that month. Gordon asked, *"Beyond that point, are we fully funded with our year end balances?"* Mozer said yes, and although the conservative numbers for September/October are negative, the year-end balance will be \$433,000. She will work with Island County to streamline the process for grant reimbursement of the Rural County Economic Development Funds (RCEDF), and discuss the possibility of advance grant funding or a short-term loan if necessary. Gordon said he would work with her on it as needed.

Port Security Grant funding approved for Marine Surveillance Cameras: Mozer said the Port received notice from the Marine Exchange (the Port's fiduciary agent) that the Port received Environmental & Historical Preservation (EHP) approval for the project. She will begin working on the Request for Proposals (RFP).

Overall Permit* (Commission agreed to wait until Commissioner Chris Jerome arrived to discuss this Agenda item)

Boat Ramp Boarding Floats: Project is complete and close-out is underway.

Harbor Operations

- **Mystic Sea Operations:** Mozer and Field had a debrief meeting with owner Monte Hughes, who said he was very pleased with the operations this year and plans to return next year and stay longer. Hughes indicated he would prefer to stay on C Dock on the inside, but Staff explained he would have to move out

to the new dock on May 1st due to the RCO encumbrances. Field added another charter boat operator has expressed interest in mooring at the Harbor as well.

- Summer Operations: Dockhand applications have been received and interviews are scheduled for May 16, with the intention of hiring two part-time dockhands for the season. There will not be any bait and ice concessions at the Harbor this summer; Staff hopes to find a vendor for the 2014 season.
- Offsite Parking at Langley Middle School: No update.

[Jerome arrived at 8:03 p.m.]

- Adjacent Projects: Field has a meeting with Puget Sound Energy on Thursday at the Harbor to obtain information regarding undergrounding the wires in the future. Gordon asked him to forward that information to him.

*Overall Permit: Per Commission direction at the 4/25/13 Special Meeting, Joe Callaghan of GeoEngineers had prepared and submitted a Memorandum dated 4/30/13 (**EXHIBIT E**) to the Army Corps of Engineers (Corps) providing a response to the Mitigation Comments provided by the Corps on 4/2/13. He provided responses to their technical points and then notified them that the Port would like to formally request the opportunity to conduct Advance Mitigation for the project. Callaghan hopes to get an agreement in place by late summer/early fall. That would enable the Port use the remainder of the Hein dock (piles) as potential mitigation for future phases at the Harbor. Field explained that the big advantage is that because the Port will have improved the environment (say) two years in advance of Phase 2 construction, the Port would get credit for that temporal improvement for that period of time.

As requested at the 4/25/13 meeting, Callaghan had subsequently provided the Commission with copies of the Corps' and EPA's Federal Register (**EXHIBIT F**) from 2008 (when the planning for this project was underway). It provides guidance as to where mitigation for marine projects needs to be conducted. The Register states: "...using a watershed approach is not appropriate in areas without watershed boundaries, such as marine waters..." and "...compensatory mitigation project sites for marine resources should be located in the same marine ecological system as the impact site..."

Gregoire said that guidance could be read two ways, and that he had talked to two biologists and there are other ways to mitigate and other contexts that can be used. He stated, "*No one that I've talked to at the Port of Everett, the two biologists...Nobody mitigates in an urban harbor. That's just bad policy and we're setting precedent down the road.*" Gordon asked him to explain the definitions and difference between marine waters and watershed areas. Gregoire said that the Whidbey shoreline is all marine waters, but Everett has a river going through so it's a watershed area. The difference is salt water. But under their Shoreline Plan, Island County has made the argument that the County is a watershed in Puget Sound because it abuts six other watersheds in Puget Sound. He expressed concern that they have no idea how much it is going to cost the Port and stated that the agreement will not get done in the timeframe Callaghan indicated. He provided copies of "Appendix 2. Minimum requirements for a compensatory mitigation plan [33 CFR 332.4(c)] (**EXHIBIT G**). Gregoire said that Appendix lists 13 elements that have to be met, and it will be costly. He said, "*My main point is that we are taking action on putting a mitigation effort in an urban harbor without having a discussion of this with stakeholders (like Nichols Boat Builders) and the City of Langley who have things they want to do in that harbor. When that eelgrass expands, we're going to have twice as much eelgrass in Langley's harbor and there will be severe ramifications.*" He doesn't believe the overall project will be completed and that it's bad policy to keep pouring money into the permit, etc.

Gordon said that based on the information provided by GeoEngineers, it appears that the Port's hands are tied and we can't go the route that Gregoire is suggesting, and unless Gregoire can come up with a convincing alternative, we can't turn the ship. Gregoire said, "*The problem is the Port should never ask*

consultants to do something for them, they have to tell consultants what they want done. We never asked consultants at the Port of Everett."

Jerome said, *"I understand the concerns, but what I'm not hearing is any kind of viable alternative. We sat here and listened to Callaghan explain that potential alternative mitigation plans were considered at the time the permit application was written, and they were rejected because they were too expensive."* He said unless Gregoire has a viable, cost effective alternative mitigation to propose, they need to proceed with the plan in place. If Callaghan hadn't filed the response within the required 30 days, that whole permit that has been in process for four years would have been dead. Gregoire said, *"And what is that permit? I've never seen the damn thing. It's four years old and we haven't had any discussions on it in years."* Jerome said he has seen it, Gordon has seen it and Gregoire has seen the plan that the application was submitted for. Unless Gregoire has concrete alternative proposal, Gordon is not willing to put the brakes on the ongoing process.

Gordon suggested the Port might be able to do both: continue with the overall permit process and if Gregoire comes up with a reasonable, viable alternative they can try again. At the May 20th Special Meeting with Makers, Gregoire said he plans to present a mitigation policy. Gordon noted that the Port needs to be as efficient as possible with Makers at that meeting. He suggested that Gregoire should come up with a specific plan that they can take to GeoEngineers and then they could have a special meeting to discuss it. Gregoire said comments on Island County's Shoreline Master Plan are due for submittal to the Department of Ecology on May 24th and he will have 10 pages of comments to submit that the Port Commission will need to discuss on May 20th.

Gordon said he wants to stay the course with GeoEngineers. He encouraged Gregoire to send his comments to Callaghan and said he'd be willing to have a special meeting as needed to discuss the issue. Gordon said he agreed with Jerome that the Port cannot let go of this process.

Port Operations

- Port Comprehensive Scheme for 2013-2019: As noted earlier, the Port will hold a Special Meeting on May 20th with Makers to hold a Strategic Plan work session. Mozer said Makers still needs to interview commercial users and Island County representatives and she is working on coordinating those.
- Humphrey Road Parking Lot: Lot will be closed Sunday, May 19th for re-striping.
- Freeland Park Exhibit: Island County sent a .pdf of the final design (**EXHIBIT H**). The project is progressing and will be complete by the June 30 target date.

New Project Opportunities

- Mukilteo Parking Issues: Gordon said Island County Commissioner Helen Price Johnson and Mukilteo Mayor Joe Marine reported the Port's interest in having a shared section of temporary parking if it is created in and along the process of building the multi-modal facility. That facility might be built by 2019-2020, and Gordon explained there is an effort by Mukilteo to use a portion of the tank farm property in the interim without paying a huge lease fee. If it works out, the Port might have 50 spaces to use in a year or so.

ACTIVITIES/INVOLVEMENT REPORTS

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

EDC: No report. Gregoire said there was supposed to be an economic development element for shoreline activities in Island County's Shoreline Master Plan, but it was not done. Now the County is talking about updating their Growth Management Act (GMA) in 2014, and one of the issues is an economic development element, which is optional for counties. He said Island County chose not to do the economic development element the last time around, and along with the Chambers, etc., the Port needs to

have that issue as a mandate going forward. Gordon asked him to draft a letter to the County for the Port Commission to discuss at the May 20th meeting.

COG: Gordon said they talked a lot about tourism. They are still discussing whether there will be funding for Freeland Water & Sewer District (FWSD). He explained that there were two RCEDF grants, and FWSD is actually saying they don't want the second one that was supposed to be \$100,000 per year for 10 years. At next week's meeting all RCEDF recipients have make presentations to show where their projects are at in the process (Mozer will make the Port's presentation). Budget Director Elaine Marlow will provide an update on the funds after those presentations.

RTPO: Gordon said there are few "shovel-ready" projects and the federal and state government is no longer willing to allow entities to tie up and hold onto the funds for years while they wait until they have all the money needed for their projects. The state is now telling all the municipalities who were granted RTPO funds that they must "spend it or lose it." As a result of a 10-year accumulation funds at RTPO, the City of Langley was able to get an additional \$600,000 for its Second Street project.

Also at the recent meeting, the RTPO also voted to grant the Public Works Director the ability to form a Memorandum of Understanding (MOU) with the Washington State Department of Transportation to clarify the details of transportation concurrency, including level of service and when it kicks in, etc.

Jerome: Washington Public Ports Association (WPPA): No report. Gordon plans to attend the Spring Meeting at Skamania Lodge in Stevenson May 15-17.

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

MRC: Gregoire feels there is a need to educate some of the MRC members and define development on Whidbey Island as it relates to marinas and boat ramps.

Langley SMP: Gregoire said Langley adopted their SMP last week. DOE had hearing on Island County's SMP adopted their SMP in January and DOE had a hearing earlier in the month (comment period extended to May 24th). Gregoire is working with a group from the South End on written comments for submittal. The group plans to tell DOE where the gaps are in the SMP. DOE will then send it back to Island County, and the group will ask Island County to spend some time discussing a number of issues: the residential development package, designation for boat ramps and some definitions. Gordon asked him to get that list of comments to the Commission for them to consider, and Gregoire said he would prepare it so that it's ready for signature.

OLD BUSINESS: There was none.

Mozer realized she had skipped an item under the South Whidbey Harbor earlier. She has started the process of analyzing the utilities and moorage rates for the SWH, with the intention of having a relatively complete analysis by the time the Port starts work on the 2014 budget. She presented the results of her utilities analysis and potential options but did not recommend taking any action on the on the utilities' rates until she is able to analyze the other pieces (moorage rates, potential uses for the breakwater, etc.).

NEW BUSINESS:

Island County Request for Input on Six-Year Capital and Transportation Improvement Plans (CIP and TIP) (EXHIBIT I): Gordon said it is important that Crawford Road remains on the County's Plans for Capital and for Improvement, because it is the only area on South Whidbey that is zoned for light industrial. The Commission agreed. Gordon said passenger-only ferry service out of Langley should also be included; then they can look into RTPO grant funds for a study.

ADJOURNMENT: The Meeting was adjourned at 9:08 p.m.

Approved:

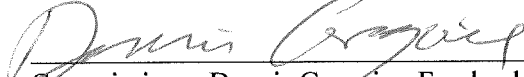
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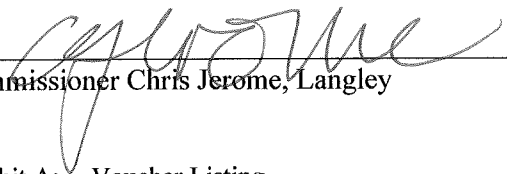
Commissioner Curt Gordon, Clinton



Edwin S. Field, Port Operations Manager



Commissioner Dennis Gregoire, Freeland



Commissioner Chris Jerome, Langley

- Exhibit A: Voucher Listing
- Exhibit B: March 2013 Financial Statement
- Exhibit C: Letter dated 5/10/13 from Island County Sheriff Mark Brown
- Exhibit D: Reid Middleton's Proposal dated 5/7/13 for Mooring on Outside of Breakwater
- Exhibit E: GeoEngineers' Memorandum to the Corps dated 4/30/13 re: Draft Mitigation Response Memorandum
- Exhibit F: Federal Register from 2008
- Exhibit G: "Appendix 2. Minimum requirements for a compensatory mitigation plan [33 CFR 332.4(c)]"
- Exhibit H: Freeland Park Exhibit final design
- Exhibit I: Island County Request for Input on Six-Year CIP and TIP dated 4/9/13