

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

LOCATION: TLC Community Building, Freeland

DATE: April 16, 2008

7:00 PM – 7:30 PM WORKSHOP

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1. 7:30 PM - REGULAR MEETING

- A. Call to Order
- B. Pledge of Allegiance

2. BUSINESS MEETING

- A. Consent Agenda:
  - 1. Minutes on file: Minutes from Regular Meeting of February 13, 2008, and Special Meeting of February 4, 2008
  - 2. Vouchers: Vouchers #3380 through #3415 (as signed today) for a total amount of **\$67,839.00**.

3. PUBLIC COMMENT – Including Items not on Agenda.

A.

4. ACCOUNTANT REPORT:

- A. February 2008 Financial Statement (mailed earlier)

5. PROJECT ACTION ISSUES - Staff Report, Public Comment, Commissioners' Discussion

- A. South Whidbey Marina
  - 1. Review of AAA/GeoEngineers Proposals for Phase 1 Design & Permit Prep/Submittal
  - 2. Transfer/Property Acquisition: Proposals from Melanie Moon and Weed, Graafstra, Benson
  - 3. DNR Topics: Update on Lease, Restoration/Dive Site and Creosote Pile Issues (Dane)
  - 4. Major Task Updates (Dane)
    - 1. ILA Amendment and
    - 2. Boat Harbor Regulations
- B. Bush Point Boat Launch
  - 1. WDFW ILA for Reimbursement: Commission Action
  - 2. Transfer Status: Update (if available)
- C. Possession Beach Waterfront Park
  - 1. Marine Access Improvements: Proposal from WISK
  - 2. Drainage Improvements (related to existing reservoir)
- D. Clinton Beach, Dock and Parking Lot
  - 1. Welcome to Whidbey Sign: Relocation for Scenic Byway Sign?

6. ACTIVITIES/INVOLVEMENT REPORTS INCL. ANNUAL COMMITTEE ASSIGNMENTS

- A. Economic Development Council (EDC)
- B. Council of Governments (COG)
- C. Skagit-Island Regional Transportation Policy Organization (RTPO)
- D. Marine Resources Committee (MRC)
- E. Washington Public Ports Association (WPPA)
  - 1. Spring Meeting May 14-15 in Vancouver, WA
  - 2. Industrial Stormwater General Permit Compliance Training, June 12 in Lynnwood
  - 3. Facilities & Engineering Seminar Aug. 7-8 in Grand Mound, WA (focus on project development through bid processes and contract management)
- F. Community Trade & Economic Development (CTED)
- G. Holmes Harbor Shellfish Protection District
  - 1. Community Advisory Team Meeting, Thursday April 24 5-6:30 pm,

7. OLD BUSINESS

- A.

8. NEW BUSINESS

- A. Celebrate America: Request for Porta-Potty Sponsorship
- B. Orca Network: Proposal for Marine Mammal sign posting at Clinton Beach

9. EXECUTIVE SESSION (if necessary)

10. ADJOURNMENT

**PORT DISTRICT OF SOUTH WHIDBEY ISLAND**

Minutes of the Regular Meeting

April 16, 2008

Freeland, Washington

**Present at the meeting were:**

Commissioner Lynae Slinden, Clinton  
Commissioner Rolf Seitle, Langley  
Commissioner Geoff Tapert, Freeland  
Ed Field, Port Manager  
Dane Anderson, Port Financial Coordinator  
Molly MacLeod-Roberts, Port Clerk  
Wayne Nance, Possession Park Manager

Ed Young, Whidbey Island Sea Kayakers  
Fred Lundahl, Langley Resident  
John Martin, Clinton Resident  
Darrell Posch, Clinton Resident  
David Powers, Clinton Resident

**Absent:** None

**1. MEETING CALL TO ORDER:**

The regular meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on April 16, 2008, at Grigware Hall Community Building of Trinity Lutheran Church in Freeland, WA. Commissioner Seitle, President, called the meeting to order at 7:30 p.m., followed by the Pledge of Allegiance.

**2. BUSINESS MEETING – THE CONSENT AGENDA:**

**A. Consent Agenda:**

1. Minutes: Minutes from the Regular Meeting of February 13, 2008, and Special Meeting of February 4, 2008.
2. Vouchers: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the Board, and have been presented to the Board for review. The vouchers so listed and presented are summarized on the attached Voucher Listing (**EXHIBIT A**).

**ACTION:** A Motion was made by Commissioner Tapert and seconded by Commissioner Slinden to accept the Consent Agenda, including authorization of Vouchers #3380 - #3415 in the amount of \$67,839.00. The Motion passed unanimously.

**3. PUBLIC COMMENT – Including Items not on Agenda:**

**John Martin, Clinton Resident:** Martin distributed copies of the City of Langley's Boat Harbor and Moorage Regulations with his suggested recommendations for action noted on the

sheet (**EXHIBIT B**). He said if the Port can set its rules and regulations so that they match the City's ordinance, it would make it easier for the Langley Police Dept. to police the area. Martin said he understands Port Financial Coordinator Dane Anderson had been working on the same thing. Martin said he had called Port Manager Ed Field to let him know he had it done about 3 weeks ago but he never heard back from Ed. Commissioner Tapert pointed out that Ed had been on vacation. Martin said he wanted to know if the Port needed it to be in legislative language. He said it was quite a bit of administrative work though, so he decided, "Well, if I'm not going to hear from you folks, why the heck should I give up my free time to do that."

Martin went on to say that he needed to know within a month what the Port's decision will be regarding himself and the position of harbormaster. He said that he needs to tell the City of Langley as soon as possible if he is going to be working with the Port and not the City this summer. He said he also has another thing "with the Feds" sort of in the line.

Commissioner Seitle said with respect to the regulations, the Commission appreciated Martin's input. He said it is on their radar screen, but it is not that close and Dane and Ed will collate that information and format it prior to presenting it to the Commission at one of the Port's future meetings. Regarding the harbormaster position, Commissioner Seitle informed Martin that the decisions as to how the Port will run the marina starting next year is up to the Port Manager. Martin said he just needs to know yea or nay, and when he doesn't get phone calls returned, he gets concerned.

Commissioner Slinden said the Port would not take over management of the marina facility until January, so she didn't understand what he was expecting from the Commission now. Martin said that at a previous Port meeting, the Commission had discussed bringing someone on board at the marina in March or April of 2008. Ed said he intends to create the job description and the Commission would review it at an upcoming meeting, prior to the job being posted and advertised in coming month(s) as is legally required. Ed encouraged Martin not to stay away from another job opportunity, because the Port's timing is somewhat variable. Martin said he is basically retired, but he knows the City is planning on him working there this summer. Commissioner Slinden told Martin that in her opinion, he should count on working for the City if they've got a job for him there.

**Fred Lundahl, Langley Chamber of Commerce President:** Lundahl said the Welcome The Whales Festival would take place this weekend in Langley. He said this is the one time of year that there are whale watching boats departing from what's left of the marina in Langley. Lundahl said there is no one more anxious to see the Port move on with the marina plans than Monty of Mystic Sea Tours and other whale watching boat operators.

#### **4. ACCOUNTANT REPORT:**

**A. Financial Statement:** The Commissioners acknowledged the February 2008 and March 2008 Financial Statements, which had been mailed to them previously (**EXHIBIT C**).

## 5. PROJECT ACTION ISSUES:

### A. Possession Beach Waterfront Park:

1. Marine Access Improvement Proposal from Whidbey Island Sea Kayakers (WISK): Fred Lundahl, moderator of WISK, was on hand to discuss WISK's proposal for human powered craft and SCUBA diving access improvements to the Port's property at Possession Point (**EXHIBIT D**). He described WISK as an affinity group of about 180 kayak enthusiasts, and as an organization they are very interested in partnering with the Port whenever possible to move forward more opportunities for enhancing facilities for human-powered craft as well as scuba diving and other non-motorized activities.

Commissioner Tapert said he liked the idea, but said he didn't think the Commission had identified specific improvements to Possession Park in the Comprehensive Scheme, so if they were to entertain the proposal, they would first need to amend the Comp Scheme. Commissioner Slinden disagreed and said it was not a significant change from current Comp Scheme criteria. Ed said the outlined proposal is not expected to reach the level of requiring permits. Commissioner Tapert said he still thought the Comp Scheme should be amended or an addendum should be made indicating the Port supports scuba diving and kayaking and expanded facilities at Possession. Commissioner Seitle said the support is already stated in the Comp Scheme without identifying a specific location. Commissioner Tapert said to spend money on specific capital improvements, he thinks it first needs to be in the Comp Scheme to justify it. Commissioner Slinden noted that there is already \$20,000 in the Port's 2008 budget for Possession improvements.

Ed Young of WISK explained why they wanted a separate launch area. He noted that motorized boaters using the boat launch at Possession do not have a lot of patience for people trying to load and unload human-powered craft. Providing kayakers and scuba divers an alternative sandy beach area would get them out of the way of the motorized boats.

Commissioner Slinden said she understands there are also lighting issues, and some wiring repair work needs to be done for the lights to work on that side of the boat ramp. She also said there was a fire on the beach 3 or 4 years ago that prompted the Port to put in water to the north of the boat ramp, but there was never any water put in on the other (south) side. Commissioner Slinden said now would be a good time to get a water outlet on the south side of the ramp for both the proposed "wash-off facility" and for emergency fire purposes as well.

Possession Park Manager Wayne Nance said he was told the power to the lights on the beach was never hooked up. Darrell Posch, who lives just south of the boat ramp at the Park, said that when the Park was built 20 years ago, the lights were functioning for the first 4 or 5 months.

Posch said he was attending tonight's meeting to represent various neighbors who don't live full time at the beach but who own property there, and who have issues regarding WISK's proposal. He said the Port has been an excellent neighbor for the past 20 years. Posch indicated that in the year preceding the Port's opening of the Park, the neighbors and the Port reached agreement on all the issues of concern. However, he said that some of the promises made by the Port have since "fallen by the way side."

He said the Port was supposed to plant a buffer of trees to block the lights from cars using

the Park from shining into neighboring homes, and so the light from the Park wouldn't be too obtrusive. Posch said the Port planted all the trees, but they all died because they were not watered, and then the Port neglected to replant any trees.

Posch said the Port promised no boats would be launched or taken out of the water after dusk. He said that for the first few months, the caretaker would close the gate at dusk and there were no problems with after-hours use of the boat ramp, but then the gate was left open and has stayed open since. Commissioner Slinden explained that Jan Smith of Island County informed her that the gate could not be locked; if someone can go in the water there, they have to be able to get out. Posch said they were also promised there would be no overnight stays or overnight parking at the Park.

He said they were also told there would be no parking on Franklin Road, but since the Cleveland Trail was completed by AmeriCorps, people have started parking on Franklin and it has become a problem.

Posch said the Port had promised to place No Trespassing signs south of the boat launch on the beach. He said the homeowners have no issue with someone just walking across the beach, but there have been fisherman who have urinated and defecated in their yards and come up and cleaned their fish on his porch. Posch said the sign the Port put up is too small and posted too high for people to see.

He said the donation box at Possession probably doesn't make the "several thousand dollars a year" they said it could, and Commissioner Slinden agreed they do not collect anywhere near that amount. Posch said the area the WISK proposes improving is a designated wetland area and the Environmental Protection Agency (EPA) requires permits for any work done on that part of the beach. He said although a permit was not required from Island County to put the bat house there, he questions whether the Port got what he believes is a required permit from the EPA. Down at Possession Point, the State has designated it as part of the Washington State Kayak Trail, and the neighbors question why an additional kayak area is needed at Possession Park just 200-300 yards away. Posch said he hasn't seen kayakers have any difficulty launching at the boat ramp, except when a fellow brings down a trailer with 6 or so kayaks on it. He says the only times there are long lines are during fishing season in the morning and evening.

Posch said that several years ago, 700-800 yards of beach fill had been dumped at the unloading spot and then covered with crushed rock. He questions whether that was permitted by the EPA. He said the previous Park manager would clean the ramp at 5 a.m. and 11 p.m. and the noise at those hours was not appreciated by the neighbors. He did note that Wayne has been very considerate and amenable when cleaning the ramp. Posch also claimed the previous Park manager destroyed all the clam beds by taking the backhoe and dumping and dragging the sand from the boat ramp 200 feet south.

He concluded by saying he and the other neighbors have nothing against kayakers and they welcome them, but they do not see a need for putting in additional accommodations for kayakers at Possession Park.

Commissioner Slinden said she appreciated Posch's showing up at tonight's meeting, because in her 6 years as Commissioner, no one from the Possession Park neighborhood has ever said anything and it has hard to address issues without knowing what the issues are. She then went through the list of issues Posch had brought forward. That the lights

did work at one time is very good information to have. She thinks that the Port should fix those lights and get water going in that direction for safety reasons, etc. as well. Now that the Port is aware of the problem with the trees on the south boundary, it should be an easy fix as part of the overall project being proposed and could replant the trees as needed. She said Young has been talking to Island County regarding permit issues, and Commissioner Slinden said she doesn't believe the area has been identified as a wetlands area. Young said the County was unsure based on the aerial photograph, but based on the visual on-site inspection, the County decided that the proposed area was not a wetlands area. Regarding the after-hours issue, Commissioner Slinden asked Wayne if it would be a problem for him to close but not lock the gate after dusk and he said it would not be a problem. Wayne said the only time he has seen a problem after hours is during Seafair. Commissioner Slinden explained that the Port had been getting requests from both motorized and non-motorized boaters who wanted to leave their vehicles/trailers at the Park overnight so they could stay in Seattle or elsewhere. She said the State's designated area at Possession Park that Posch referred to does not have any place for vehicles – it is for water access only and does not have any land access. Commissioner Slinden noted that Franklin Road is a public road and the Port cannot stop people from parking there. However, the Port could possibly work with Island County to post signs there. The County needs to address the issue because the Port doesn't have any jurisdiction and can't keep people from parking on a public right-of-way. Regarding the beach signage for the fishermen south of the boat ramp, Commissioner Slinden mentioned that there is a sign at Clinton Beach that reads "No Public Access Beyond This Point" and it has been extremely effective. She said it would be easy to post a similar sign on the beach at Possession Park and alleviate the problem. In response to the donation box not collecting much money, she suggested the Port could move it to a more prominent location.

Commissioner Slinden thinks the motivation for the proposed improvements is just to have a nice recreation spot for people using non-motorized means to make use of the Park. It is a Port park and it is for boating, so this is a way of accommodating another element of the boating public and it is a pretty modest proposal.

Posch said the neighbors feel that the Park as it is right now has not really deterred any kayakers. Commissioner Slinden agreed, but added that this is a way of making it a nicer facility. She made the analogy of a homeowner putting a gazebo in their yard: it's not a necessity, but it makes it nicer. Posch asked if there was going to be any kayak storage at the Park, and she said this project does not have that, but there is a possibility that it will be proposed and discussed at a future date, but a boat house is a separate issue from the project being discussed tonight. Commissioner Slinden noted that a storage facility would be one possibility for economic development at the Park, but the Port is definitely not "trying to pull a fast one" and slide it in with tonight's proposal. The Port is trying to be as transparent as possible. She said this particular project is for recreational use only. Posch said it was a major issue when the Port first purchased the Park, and the Port had promised there would not be any storage facility at the Park for boaters. Commissioner Slinden said that if the Port decided they wanted to address that issue because it is 20 years later, economic times are very different and the Port has changed its focus, the Port would definitely let the neighbors know they were considering that and they could all sit down and talk about it then. She said she understands his concerns totally, but she also knows there is a huge demand for boat facilities such as storage and launching. Today people are trailering boats because it is too expensive to tie up at a marina as they did 20 years ago. Regarding the previous caretaker's activities, the Port has new caretakers at the Park and Commissioner Slinden noted that Posch had indicated Wayne is doing a great job, so that is

no longer an issue. She hoped she had addressed all of Posch's questions or comments, but she was open to further discussion.

Commissioner Seitle said he thinks the Port should make some improvements at Possession Park., but he was concerned about making "ad hoc" improvements such as enclosing the bat house. Commissioner Slinden suggested the bat house could be taken down in height so it isn't quite as tall, but still make use of the poles and the structure by creating a changing room.

Commissioner Seitle concluded that the Port needs to: fix the lights and ensure they are not obtrusive to the neighbors, replant the trees on the boundary, improve and add signage to the beach, and inform the County regarding the parking problems on Franklin Road. He doesn't think it would be a problem to put an enclosure around the bat house structure so that kayakers and scuba divers could use it as a changing room.

Commissioner Tapert thought that building within 200 feet of the shoreline would trigger a shoreline exemption permit. He said the Port should get something in writing from the County stating there are no violations of permitting/building issues. He said although he likes the idea of volunteer labor, he is also concerned about liability and quality of construction issues. He wants the Port to "do it right and do it to last."

Commissioner Slinden said Young has spoken with Matt Kukuc of Island County and Kukuc had indicated the area may very well qualify for the shoreline exemption. Young said there is also the Critical Areas side of it and Kukoc is still looking at it and WISK is still working on it.

Young wanted to make it clear that although they had talked mostly about kayakers tonight, the proposal is for all non-motorized, human-powered water access, including scuba divers.

Commissioner Tapert said items that are part of the maintenance at Possession, such as the water services, planting the trees, the signage are not an issue, but when discussing things like structures, he thinks the Comp Scheme needs to be amended for that. Commissioner Slinden disagreed because the proposal is not for a whole lot of improvements nor beyond the general scope of ongoing improvements envisioned in the Comp Scheme for ALL existing Port facilities, so an amendment to the Comp Scheme is not needed. Commissioner Tapert believed that the proposal goes beyond maintenance and enters the area of capital improvements, so the Comp Scheme would need to be amended.

Commissioner Seitle said there is some middle ground. He thinks the Port can fix the little parking lot there, enclose the bottom part of the bat house, and add picnic tables. Commissioner Tapert agreed, but added that at some point the Port needs to start addressing Mutiny Bay, too. Commissioner Slinden said the other thing is the lights and the water at Possession, and Commissioner Seitle said that should not be a problem. Commissioner Slinden noted that the Port would be handling the lights and the water; it would not be done by volunteer labor.

Commissioner Slinden asked the other Commissioners if they had any objection to planting the trees, fixing the parking lot, and the other minor items in the proposals. Commissioner Tapert said the only issue he has is with any structure that might require permit(s) – he wants to make sure they have approval in writing from the County. Commissioner Slinden asked if they had any problem with the proposal being handled at an administrative level by



Ed, and Commissioner Tapert said he had no problem as long as it met permit requirements and was budgeted because it is within Ed's ability and authority. Commissioner Slinden suggested that if the amounts exceed Ed's authorized limit, the Commission should authorize the increase.

**ACTION: A motion was made by Commissioner Slinden and seconded by Commissioner Tapert to increase Port Manager Ed Field's authorization limit not to exceed \$7,000 for the proposed improvements to Possession Park. The motion passed unanimously.**

Ed said that Dane had suggested that once the water line is put in, a branch could be added that would allow for drip irrigation of the new trees to be planted. The Commission agreed that was a good idea, and Commissioner Slinden said that would be another improvement that would be separate from the \$7,000, along with the water and the power costs which would come from the Port's maintenance budget for Possession.

2. Drainage Improvements (related to existing reservoir): Darrell Posch was on hand to deliver and discuss his proposal & estimate to improve the retention pond's water control (**EXHIBIT E**). Ed explained that there is an old reservoir on Port property uphill from Franklin Road, the area around the pond is pretty heavily overgrown, and during the rainy season over the last couple of wet years it has been overflowing even with the 1" inch "unofficial" drain line that Posch installed. The pond overflow sometimes then overwhelms the inlets to the cross-drains under Franklin, and it all ends up in the yards of Posch and his neighbors. Ed said he thinks upsizing to a 2" line will help give Posch more control over pond drainage in order to keep it from overflowing. Ed said he also spoke with Phil Cohen of Island County Surface Water Mgmt. about putting in some grates on the cross drains so they don't plug up as fast.

Posch provided additional background on the history of the reservoir. He explained that there was originally a 4" inch line from the reservoir down to his house, but when Island County assumed control of Franklin Road (which had been a private road), the County broke the 4" line and closed it off. As a result, when there is a good rain or a snow and a quick melt, the water comes down into Posch's yard and fills (or overflows) the 8" cross-drain culvert. He tries to keep the water level down, but if he is away from home and there is a heavy rain, when he returns he has a lake in his backyard. Posch said he lost a car and a truck in his yard – his Honda had only the antenna showing above the water and the truck had water up to the steering wheel.

Ed said Choen saw no problem with expanding the 1" inch "unofficial line" to a 2" inch "unofficial line" and continuing to run it through the existing culvert under Franklin.

The Commission was concerned that there was not sufficient technical data available yet to take action and they would like to take additional time to gather more information. Posch agreed that he was not in critical need of an immediate resolution, given the upcoming "dry" summer season. Commissioner Tapert, Posch and Ed agreed they would set up a time to meet at the site. Commissioner Seitle thanked Posch for his presentation.

#### **B. South Whidbey Marina:**

1. Art Anderson Associates & GeoEngineers Proposals for Phase I Design and Permit Prep/Submittal (EXHIBIT F): Ed explained that after talking with Commissioner Seitle, he had "pushed back" on both Greg York of Art Anderson Assoc (AAA) and Joe Callahan

of GeoEngineers on the mark-up issue, because in this instance GeoEngineers has a larger portion of the work than AAA. York and Callahan both indicated they had no objection to separate contracts. Ed recommended the Commission do that because it will save the Port \$7,400 in mark up costs without affecting progress. He said if the Commission authorizes him to do so, he would contact AAA and GeoEngineers tomorrow and have them write up separate proposals. If the Commission approves the action, then Ed could sign as per (today's) Commission approval when the new contracts arrive.

Commissioner Tapert asked if the intent is to initiate the permitting process and Ed said that was correct. A brief discussion regarding the steps and details of the permitting process ensued.

**ACTION: A motion was made by Commissioner Slinden and seconded by Commissioner Seitle to approve the proposals of Art Anderson Associates and GeoEngineers, subject to modification of the proposal into two separate contracts and elimination of the related mark up cost.**

Commissioner Seitle voiced concern about the reasonableness of AAA's proposed cost estimate. Commissioner Tapert said he knows they have to get the permits, but in his opinion the prices were high. He added that they don't have a much an alternative though, and Commissioner Slinden said she agreed completely with his opinion.

Ed noted that so far AAA had come in under their numbers. There was still money in Task 2.3 to continue through the March meeting with the City of Langley, and that ran a couple of months beyond the delivery of the Master Plan Update. Ed said they also left about \$50,000 on the table from data investigation.

Commissioner Tapert expressed skepticism about the level of complication and the high estimated cost of the permitting process as outlined in AAA's proposal, but added, "if we've got to do it, we've got to do it." Commissioner Slinden suggested informing AAA that the Commission thinks their costs are excessive, and letting AAA know that the Port does have other options when the next stages are reached and does not have to go with AAA when they get to build-out. She said if AAA wants the Port to hire them for the rest of the project, they would need to keep it reasonable.

Commissioner Slinden asked about Task 3.1.2 on page 2 of AAA's proposal, and Ed explained that the \$4,740 was for the Small Boat Center Charrette. She asked if they could ask for that to be removed, and Ed said yes, but it seemed like a good way to get all the community involved. Commissioner Seitle said they don't need to have a charrette. Commissioner Slinden said perhaps AAA didn't need to conduct the charrette; they could just have a meeting. Ed said he personally didn't have the design ability to lead a design charrette, but if the Port could find someone in the community to lead it and provide criteria to AAA, then that would work. The Commission agreed to remove Task 3.1.2 from the AAA proposal.

Commissioner Seitle said he wanted to know what the work product was for the 136 hours in Task 3.1.1 and (3.1.5). Ed said it was 25% design, JARPA and SEPA. Commissioner Slinden said it was to get the Port to the point to get the permits and to get to the 25% design level.

Commissioner Tapert said he didn't have a lot of confidence in the work product received so far from AAA. He said he would prefer that the Port open it up again with requests for proposals for the next phase. Commissioner Slinden asked which phase he was referring to and Commissioner Tapert said the permitting. He said they needed to have a design they are comfortable with and he is personally not comfortable with the current design. Commissioner Slinden said they have the City of Langley on board and engineering work that has been done, and they are at the point now that they can move forward. She said she would be really reluctant to go backwards at this point to another design phase. She would like to see them move forward and get the permit stage going. The Port has taken six years already just to get this far and spent half of the budget, and she'd like the Port to move. Commissioner Seitle said he agreed with her, but asked who would be providing GeoEngineers with the bulleted list of information needed under Task 4 – Environmental Permitting. Ed explained that AAA would be producing all of that. The intent and scope of AAA's proposal is to develop the design data and the information to support the full permit submittal.

**The motion was modified to remove Task 3.1.2 - \$4,740 from the proposal. A vote was called and the motion passed unanimously.**

2. Transfer/Property Acquisition: Proposals from Melanie Moon (EXHIBIT G) and Weed, Graafsta, Benson (EXHIBIT H): Ed noted that he had obtained two proposals for assistance with the legal intricacies of the marina property transfer, since this may require specialized expertise which is not available from staff, and the Port had previously used Phil Pearl for such specialized consulting but he is no longer in town.

**ACTION: A motion was made by Commissioner Slinden and seconded by Commissioner Tapert to hire Melanie Moon to assist with proper process and documentation for the property acquisition associated with the transfer of the Langley Marina from the City of Langley to the Port of South Whidbey.**

Commissioner Seitle asked if they need a consultant and if so, why. Commissioner Slinden said yes, because it is a technical matter and they need a professional to deal with it so the Port has a clean document. Commissioner Seitle said if this were a transfer of property between two commercial parties or two individuals, he'd agree a consultant was needed. However, the City has owned and operated the facility for the last 30 years with imprecise data on Metes and Bounds, etc. and nothing has happened. He questioned whether they need it for the InterLocal Agreement (ILA), since the Port is never going to sell the facility. Commissioner Slinden said they should have a clean contract for the transfer and since the cost may be only \$3,600 for Moon, and she feels it would be money well spent.

Commissioner Seitle said it's different since it is a transfer of a facility between two governmental agencies. He thinks Dane has done quite a bit of work on this and hiring a consultant would be duplicating that work. Commissioner Slinden said Dane's and the consultant's work is different, because the consultant's job is to make sure that all the property transfer is clean and Dane is taking care of the ILA. She said the ILA is not the same as the transfer of the property – one is a transaction and the other is a contract.

Commissioner Tapert said he was concerned with the hidden liabilities like environmental contamination, and Commissioner Seitle asked if the consultant would take care of that. Commissioner Tapert said Moon's proposal includes "environmental assessments" and Ed explained that Moon would perform due diligence (but not any actual site investigations).

Commissioner Tapert said she will protect the Port's interests in incurring liabilities regarding remediation or whatever.

Commissioner Tapert asked how it would relate to the Department of Natural Resources (DNR) lease. Dane said DNR would like to get the City of Langley in good standing with their existing DNR lease. Dane has requested that DNR close out the lease with Langley first, so the Port can move forward and start fresh on January 1, 2009, with a new lease. That would mean all the issues associated with the existing lease would be resolved and taken care of first. Dane provided additional explanations regarding DNR leases in response to Commissioner Seitle's questions. He noted that the sunken breakwater is a huge potential liability and if the Port assumed the lease as-is, the Port could have serious problems later.

Commissioner Slinden asked how duplication of work by Dane and Moon would be avoided, and Ed said he anticipated that Moon would have a meeting with Dane and Ed, go over the paperwork and the layout, and the 3 of them would identify "who needs to do what." Commissioner Slinden asked Dane if he had a preference for one consultant over the other and Dane said he did not; he is taking direction from Ed. Ed said that in his opinion, it would be preferable to have Moon working as the Port's consultant for \$90/hour than to have a paralegal at the city attorney's office for \$120/hour.

**A vote was called and the motion to hire Moon for an amount not to exceed \$3,600 passed unanimously.**

3. Update on DNR Lease, Restoration/Dive Site and Creosote Pile Issues: Commissioner Seitle said he is very concerned about the liability issues. He suggested that wording could be included in ILA that says all liability remains with the City. Commissioner Slinden agreed and Ed said then they would just have to get the City to sign it. Commissioner Tapert said environmental remediation is a big key, and as long as the Port documents all the liabilities there and holds whoever is responsible accountable, then they can move forward, but they do need to be careful.

Commissioner Seitle asked how the Port would be able to get what they needed from DNR. Dane explained that is a conversation that needs to take place between DNR and the City of Langley with input from the Port regarding the Metes & Bounds of the breakwater, which everyone now has. They just need to do it now and the Port is just kind of sitting on the sidelines right now.

Commissioner Slinden asked if Ed and Dane were simply updating the Commission, and no action or direction by the Commission is needed, and Ed said that was correct. Ed added that given the amount of time spent on the Possession part of the agenda, he would suggest that all of the marina financial, ILA and DNR issues could better be discussed in a workshop setting, possibly on Monday, May 5<sup>th</sup>. It would be a very focused workshop.

Commissioner Tapert said he had been working with Russell Sparkman regarding the dive site. He said the marina as proposed will touch the corner of the Nichols' DNR lease, which he thinks creates a potential problem with getting divers from the shore to the new artificial reef because they will need to go underneath the floating breakwater. He said the Port should probably provide a gap or opening between the breakwater and the Nichols' lease so divers can go through without going under the breakwater or entering Nichols' DNR-leased area. Ed asked, "As opposed to them swimming through the Nichols' area?"

and Commissioner Tapert said he didn't know if divers had the legal right to dive in the Nichols' DNR-leased area.

Commissioner Slinden asked if there are permits required for the new artificial reef. Commissioner Tapert said depending on who the proponent is, and it might be the Washington Scuba Alliance (WSA), they have to start with a substantial shoreline development permit and SEPA through the City of Langley. The permits will cost about \$800. Commissioner Tapert said WSA is going to run it, but he will provide some pro bono engineering work and plans. They are looking into reef balls and a grant program to help pay for them. Commissioner Slinden asked if they were taking care of all the permit side of it and if anything was expected from the Port. Commissioner Tapert said he is not going to be the proponent, he's just helping out WSA and Sparkman. Dane said Washington Department of Fish & Wildlife (WDFW) has a different opinion on the permitting issues associated with the dive site, and he briefly explained some of the additional requirements. Commissioner Tapert said that's why he wants WSA to be the proponent, and the Port could help but he doesn't want the Port to run the thing if they can avoid it.

Commissioner Seitle said the Port would have to run the removal of the existing reef, but Commissioner Slinden said not necessarily. Dane said they have not heard that from DNR yet and that's why he wants the City of Langley's DNR lease closed out.

Regarding designing the dive site, Dane noted that the Port could take an "off the shelf" design from Saltwater State Park, which has already been approved and put it at the marina in Langley. He said the Port really needed to look at its involvement with the dive site and the associated cost of that involvement. Another question is who will be the lead agency to be the proponent for the dive site, and Dane doesn't think it will be WSA or the City of Langley. He said it might be Washington State Parks. Commissioner Seitle noted that Commissioner Tapert was working on the issue outside of his role as Port Commissioner.

Dane updated the Commission regarding his discussions with DNR on the creosote pile issues. DNR informed him that their budget for the current biennium is spent; they are full. The Port is on the list for the next biennium. Dane said that DNR would prefer to take out all the piles that need removal in Langley at one time. There are a total of 640 of them, including those of the existing marina. He said that obviously doesn't set very well with the Phase I/Phase II development concept. DNR said they could come in and remove and dispose of the 84 piles of the old Hein dock – no problem. But, DNR said they do not like to assist in expansion of marinas, so if the Port wants DNR to come back and work on the piles for the existing marina, they will dispose of the piles for the Port but the removal of the piles will be the Port's responsibility. Commissioner Slinden asked if they could wait to take the Hein piles out until they were ready to take the existing marina piles out. Dane said he didn't think they could do Phase I without pulling out the Hein dock, and Ed agreed that some of the piles were in the way. Commissioner Tapert didn't think the cost of removing the marina piles would be that high, and Ed agreed that removal alone would be relatively minor. If DNR would still cover the disposal of the piles, that would be major. Commissioner Slinden asked if DNR would remove and dispose of the Hein piles without doing all the rest now, and Dane said, "Yes." Dane said he had specifically asked if DNR's funding of the pile removal would have any bearing at all on mitigation credits and the answer was, "Absolutely not."

4. Updates on ILA Amendment and Boat Harbor Regulations:

It was agreed that discussions regarding the draft ILA Amendment and Boat Harbor Regulations could be postponed until a workshop, tentatively planned on May 5<sup>th</sup>.

**C. Bush Point Boat Launch:**

1. InterLocal Agreement (ILA) with WDFW for Reimbursement: Ed provided the Commission with copies of the InterLocal Agreement from WA Fish & Wildlife Dept. (EXHIBIT D), which was prepared to partially compensate the Port for the additional work that has been done to complete the facility. He said the ILA for actual transfer of the facility is still somewhere in WDFW's system, but approval of this ILA will at least get the Port reimbursed \$9,000 and "keep us moving".

**ACTION:** A motion was made by Commissioner Slinden and seconded by Commissioner Seitle to approve the Bush Point Repairs InterLocal Agreement. The motion passed unanimously.

Commissioner Seitle signed the Agreement as President of the Port of South Whidbey Island's Board of Commissioners.

2. Transfer Status Update: Ed said he did not have an update.

**D. Clinton Beach, Dock and Parking Lot:**

1. "Welcome to Whidbey" Sign Relocation for Scenic Byway Sign: Ed referred the Commission to the letter Commissioner Slinden had drafted to Island County Public Works (EXHIBIT J). The Commission directed Ed to send the letter.

**6. ACTIVITIES/INVOLVEMENT REPORTS:**

**A. Economic Development Council (EDC):** Nothing new to report.

**B. Council of Governments (COG):** Nothing new to report.

**C. Skagit-Island Regional Transportation Planning Organization (RTPO):** Nothing new to report.

**D. Marine Resources Committee (MRC):** Commissioner Slinden said that Aundrea McBride of Skagit River System Co-Op had unofficially told her that SRSC is not going to recommend opening the estuary at Possession because there is so much sand there and they would need more participation from the neighbors to make it worthwhile and sustainable long-term.

**E. Washington Public Ports Association (WPPA):**

1. Spring Meeting May 14th-15th in Vancouver, WA: Commissioner Seitle said he would like to attend. The other Commissioners encouraged him.

2. Industrial Stormwater General Permit Compliance Training June 12<sup>th</sup> in Lynnwood, WA: Ed explained that it is free seminar put on by the Port of Bellingham. He said he would do additional research to determine whether the information would be helpful and applicable to the marina, and if it isn't, then he won't attend.
3. Facilities & Engineering Seminar August 7<sup>th</sup>-8<sup>th</sup> in Grand Mound, WA: With a focus on project development through bid processes and contract management, Ed said the preliminary notice for this seminar looks like it will be relevant and helpful for him to attend, but he hasn't seen a final agenda yet. He is leaning toward attending, but will wait until he has seen a detailed agenda to decide.

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

**G. Holmes Harbor Shellfish Protection District (HHSPD):**

1. Community Advisory Team Meeting Thursday, April 24<sup>th</sup> from 5:00-6:30 p.m.: Ed said he has attended the meetings until now but has had minimal input. He said he would like Commission approval to attend only selected meetings, and probably not this upcoming evening meeting, unless the Commission objects. Commissioner Slinden suggested that Ed should request that HHSPD send the Minutes to him instead. The Commission agreed Ed did not need to attend all future HHSPD meetings.

**7. OLD BUSINESS:**

There were no Old Business items.

**8. NEW BUSINESS:**

**A. Celebrate America: Request for Port-A-Potty Sponsorship (EXHIBIT K):** Ed noted that it was a late request, but said that the porta-potties would protect the Park's septic system from heavy holiday use, so it was really to the Port's advantage to continue this "sponsorship". The Commission agreed to approve this year's request, but asked Ed to notify the group that if they do not submit next year's request on time they will probably not get approval.

**B. Orca Network: Proposal for Marine Mammal sign posting at Clinton Beach EXHIBIT L):** Commissioner Slinden said she really liked the sign, but unfortunately there is no good place to put it at Clinton Beach, since there is no more room for additional signs after the recent educational panel installations. She suggested the sign could be better placed in Langley, noting that whales are actually seen there, or at Possession. The Commission directed Ed to tell Orca Network their sign could not be placed at Clinton Beach.

**9. EXECUTIVE SESSION:**


There was no Executive Session.

**10. ADJOURNMENT:**

The meeting was adjourned at 10:10 p.m.

Approved:

  
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Commissioner Rolf Settle, Langley

  
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Commissioner Lynae Slinden, Clinton

  
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Commissioner Geoff Tapert, Freeland

Minutes prepared by:

  
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Edwin S. Field, Port Manager

- Exhibit A: Voucher Listing
- Exhibit B: Boat Harbor and Moorage Regulations, with notes by John Martin
- Exhibit C: February 2008 and March 2008 Financial Statements
- Exhibit D: WISK's Memorandum Proposal for Human Powered Craft and SCUBA Diving Improvements to the Prot of South Whidbey's property at Possession Point, dated 4/2/08 and revised 4/8/08
- Exhibit E: Proposal and Estimate submitted by Darrell Posch, dated 4/15/08
- Exhibit F: Art Anderson Associates proposal for Professional Engineering Services dated 4/14/08
- Exhibit G: Melanie Moon's Resume and Estimate
- Exhibit H: Weed, Graafstra and Benson, Inc., P.S.'s Resume and Estimate
- Exhibit I: Bush Point Repairs InterLocal Agreement
- Exhibit J: Draft letter to Island County Public Works re: "Welcome to Whidbey" sign relocation
- Exhibit K: Celebrate America's Request for Application of Funds
- Exhibit L: Proposed Orca Network Sign