

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

Held at Freeland Library Meeting Room, 5495 Harbor Avenue, Freeland WA 98249  
With virtual access via Zoom Meeting Service  
Monday, April 24, 2023

**AGENDA**

Join Zoom Meeting

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SPECIAL MEETING CALL TO ORDER and PLEDGE OF ALLEGIANCE (3:30 p.m.)

**South Whidbey Harbor**

**Future Expansion**

**Boatyard Inn Tidelands issue**

**Wharf Street parking update**

**PSE Easement update**

**Comprehensive Scheme of Harbor Improvements – update**

**Transition to Interim Executive Director – update**

ADJOURNMENT (Approximately 5:00 p.m.)

## PORT DISTRICT OF SOUTH WHIDBEY ISLAND

Minutes of the Special Meeting

April 24, 2023

Held in Freeland, Washington  
and online via Zoom Meeting Service

**Commissioners Present:** Jack Ng (Freeland), Curt Gordon (Clinton) and Greg Easton (Langley)

**Port Staff Present:** Stan Reeves (Executive Director) and Molly MacLeod-Roberts (Port Clerk/Accountant)

**Others:** Angi Mozer, CASE Solutions (Port Consultant)

**MEETING CALL TO ORDER:** The Special Meeting of the Port District of South Whidbey Island's Board of Commissioners was convened on Monday, April 24, 2023, in person at the meeting room of the Freeland Library at 5495 Harbor Avenue in Freeland, Washington and online via Zoom Meeting Service. As announced, the primary purpose of the Special Meeting was for the Commission to address the items on the Agenda. Although the Meeting was of course open to the public, it was scheduled primarily for Commission consideration, discussion and action on those specific issues and public participation was not on the Agenda.

Commissioner Jack Ng (President) called the Special Meeting to order at 3:30 p.m., followed by the Pledge of Allegiance.

### COMMISSIONER DISCUSSION/ACTION

#### South Whidbey Harbor

- **Future Expansion:** In 2022, the Port applied for a renewal of the Army Corps of Engineers permit for a large Harbor expansion. The Corps sent it out for public comment in July and received two comments. One was from the Department of Natural Resources noting that the Port would have to expand its Port Management Agreement and the DNR Tidelands Lease to include that expansion. The other was from the Tulalip Tribes that expressed concern regarding the size of the expansion and the age of some of the documents (the biological assessment and mitigation plan). The Port met with the Tribes in December and discussed the expansion. The Tribes asked the Port to look into reducing the size of the expansion. Reeves had submitted a rough sketch to Reid Middleton did an assessment and drafted the final drawings of a smaller marina expansion and new breakwater. Because D and E docks are anchored by cables, the finger piers will be limited to boats under 40' in length. Anything longer would have to be anchored by piles, and it would be very difficult and costly to add pile support to those docks. Reeves said the intent of this meeting is to get concurrence from the Commissioners to send the drawings to the Tribes and get their response. Commissioner Curt Gordon noted that the revised layout is a dramatic reduction from the original permitted expansion, but is very practical. Commissioner Greg Easton asked how much it would increase moorage capacity, and Reeves said it essentially double the amount of existing moorage in the inner harbor. Gordon said it is a very practical and doable design that was initially created by Reeves and Harbormaster Kathy Myers. Easton likes the idea of scaling the project to something more realistic. He hopes the Port is responding to the market conditions as well. He understands that permanent moorage is restricted due to the funding source of the original marina. He hopes that if the need is for permanent moorage, that will be reflected in the Port's plan for future funding of the project. Gordon believes the Port needs to do whatever has the greatest economic benefit to the constituents of South Whidbey. Easton hopes BST Associates will provide some input in their economic analysis. Ng said the Port knows it will not be able to renew the permit for the original 100+ slip marina. The best thing to do is to submit for the smaller expansion and keep the permit alive for the future.

**ACTION:** A Motion was made by Easton and seconded by Gordon to authorize Port Staff to submit the revised layout and engage in conversation with the Tulalip Tribes. The Motion passed unanimously.



- **Boatyard Inn Tidelands Issue:** The Port received a document from the Matthew Walker, attorney of Wharfstreet, LLC (fka The Boatyard Inn). Reeves explained that when The Boatyard Inn transferred the tidelands lease via Statutory Warranty Deed to the Port in 2010, the process was not properly followed to record a boundary line adjustment for the petition of the parcel into two separate parcels. In the Port's records, Reeves found an application to the City of Langley for the transfer process, proof that the Port hired a survey company to perform the survey and all the paperwork to create a boundary line adjustment to create a tidelands parcel that would be connected to the Port's existing tidelands parcel to form one new parcel. He found all those documents but could not find any evidence that it was submitted to the City of Langley. When The Boatyard Inn began the process of converting to condominiums and searched for title, the County couldn't find it. Even though the Port has a Statutory Warranty Deed that includes a legal description and a sketch of the tidelands parcel, it is not a valid property transfer because splitting it into two parcels was never approved by the City of Langley's Planning Department in the first place. That has created a "cloud on the title" which is causing issues with Wharfstreet LLC's condominium conversion process. To resolve the problem, Wharfstreet is asking the Port to do a Quit Claim Deed so they can disavow any property ownership that was started in 2010, and in return they will give the Port an Easement Agreement for that title. Reeves had concerns about some of the language in the Easement Agreement as it places some constraints on the Port. The Commission can either try to go through and do the original property transfer the way it was supposed to be done 13 years ago, or do a Quit Claim Deed with an Easement Agreement for an expedited process.

Easton's sense is that if the Port ends up with the same rights and responsibilities under an Easement as it would have under ownership of the tidelands, and that's the most expedient means, he'd be okay with that. But it's not clear that the Easement would have the same rights and responsibilities. Gordon said it would have been cleaner for the Port to own the tidelands through a boundary line adjustment as originally intended, and wondered if the City or Wharfstreet would entertain the idea. Reeves thinks the attorney would, and the Port could make sure there is language that retains public use of the beach. Easton suggested adding public recreation use (canoes, kayaks, etc.) as allowable public use, and the condo owners would have the same rights to access. Gordon said the original intent was for the Port to own the tidelands, but the Port doesn't need it now. He doesn't have a problem with the Quit Claim Deed, except the Port is taking action and he doesn't want the Port to lose an opportunity for the benefit of the public. If it's rewritten so the public has a benefit, the Port can give them a Quit Claim and take the Easement. Ng agreed.

Reeves will contact Walker and hopefully have a document with those changes ready for approval at the next regular meeting. Walker was participating remotely, and said he didn't see a problem with the public benefit use; the idea was just to get it across the finish line as fast as possible and clear up the title issue. As long as the HOA members can utilize the tidelands as well as the rest of the public, it's fine. And Wharfstreet is specifically giving the Port any mitigation rights that may be useful in the future. He will go back to his clients and make the recommendation.

- **Wharf Street Parking Update:** Almost all of the clean up work has been completed in that second parking area. The hedge between the lot and the house has been torn out, and Maintenance & Operations Supervisor cleaned out much of the vegetation on the back of the lot. The Port has entered into a lease agreement with Whidbey Island Kayaking Company (WIKC) on the other (south) side of the house (in the Port's main parking lot). WIKC is currently renting a small triangular space on the north side from the City. In consideration for WIKC using the south side for their business, they will allow the Port to use their rented space on the north side. The Port will then be able to park the boat and trailer and the golf cart, as well as Harbor staff vehicles while maintaining access for the two Boatyard Inn spaces. Reeves will continue to ask the City to consider transferring that small triangle parcel to the Port. The Port purchased new fence panels for the property line north of the house, and the homeowner is taking care of the installation. It's looking really good.

- **Puget Sound Energy Easement:** After inspecting & measuring the property, Reeves said he is confident that the Port can delineate exactly where the property line is for trenching. Gordon asked if it was to give the easement to PSE. Reeves said it was, but the property owner would have to pay for the easement because PSE will not. PSE would want the Port to sign the agreement granting the easement, and then the Port would have to come up with an agreement with the property owner that they will pay X amount to have the easement. The Port's lawyer recommended contacting the PSE's realtor office and ask for an Opinion of Cost for the easement. He did and it came back as \$4,000.

Gordon noted that the current easement is for an overhead line with the pole near the restroom. He suggested shifting the easement from the pole to Wharf St, and eliminate the easement. Then it could all be underground from the Phil Simon House through the Port property and to the new construction at the end with underground transformers and a vault instead of poles. It would benefit the Port to eliminate the easement of its property if it ever wants to build something there. Reeves added that the homeowner of the Phil Simon House doesn't like the overhead lines going over the top of house, so he plans to ask the new construction owner if they can trench from the pole at the intersection of Sunrise Lane & Wharf St all the way down Wharf St. If it has to go all the way to the new construction, the Port might be able to take advantage of that and go right from that trench instead of overhead. Gordon asked Reeves to find out what it would take for PSE to eliminate the existing easement and move everything to the street. He can see the Port contributing to that as it would be more beneficial to the Port than granting another easement.

**Comprehensive Scheme of Harbor Improvements Update:** The Open House will take place the following day (April 25<sup>th</sup>) from 4:30-6:00 p.m. with representatives from Makers Architecture & Urban Design and BST Associates at the Freeland Library. The Commissioners will get BST's draft Economic Analysis tomorrow, and a short survey will be available to the public at the Open House and on the Port's website for community input.

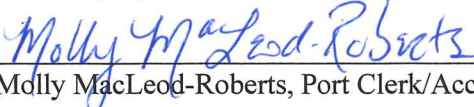
**Transition to Interim Executive Director Update:** Reeves and incoming Interim Executive Director Angi Mozer have been meeting 3 days a week. By May 12<sup>th</sup>, he thinks she will have a really good handle on things and what the key issues are, so the transition is going really well.


ADJOURNMENT: Without any further action, the Meeting was adjourned at 4:38 p.m.


Approved:

Minutes prepared and submitted by:

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Commissioner Jack Ng, Freeland

  
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Molly MacLeod-Roberts, Port Clerk/Accountant

  
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Commissioner Curt Gordon, Clinton

  
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Commissioner Greg Easton, Langley

**Public Disclosure Statement:** The foregoing Meeting Minutes, audio recording and all supporting documents presented are available at the Port of South Whidbey, 1804 Scott Rd., Suite 303, Freeland WA 98249.