

VASHON PARK DISTRICT BOARD OF COMMISSIONERS

MEETING MINUTES

Ober Park, Conference Room, 7:00 pm

DATE: Tuesday, November 12, 2019

Commissioners attending: Bob McMahon, Abby Antonelis, Doug Ostrom, Hans Van Dusen; Karen Gardner absent

Staff attending: Elaine Ott-Rocheford, Jason Acosta

ISSUE	DISCUSSION AND OUTCOME	FOLLOW UP
Call To Order	Bob McMahon called the meeting to order at 7:00 p.m. Bob stated that the agenda is no longer reviewed at the beginning of Board of Commissioners Meetings.	
Public Comment	Captain Joe: 8 December is the Open House at the lighthouse. It will be in Quarters A with both houses open. I will also be at the lighthouse. The lighthouse Santa will be there. Last weekend I rented both houses for the long weekend with my family. Both houses were immaculate when we checked in. Please pass on to Eric and Marshall that we found the houses the perfect place for us to have family gatherings.	
10.22.19 Minutes; 10.18.19 – 11.8.19 Preliminary Vouchers	Abby: I move to accept the minutes and the vouchers. Doug: Second. Pass 4 – 0.	Motion to accept the 10.22.19 Minutes and 10.18.19 – 11.8.19 Preliminary Vouchers. Pass 4-0.
Board Votes	Board Votes Hans: Motion to approve the Fire District Interlocal Agreement as presented with the fee of \$4,147.72 and a reimbursement from the Library of \$1,037.04. Doug: Second. Bob: How about a recap of where we are and how we got here. Elaine: I have not heard back yet from the Fire District on this. This draft was effectively the agreement that King County uses with all their various Fire arrangements. Ours is modeled after their agreement. The gist is that the RCW applies only to built structures on properties. The Fire District contends it applies to all properties and are contesting it. We did not want to make a decision until we learned what KC does. The value of our built structure properties makes our payment to the @ \$4100. We will bill the Library for their assessed value. The net hit to us is just over \$3,000. Hans: And this will be annually? Elaine: yes.	Motion to approve the Fire District Interlocal Agreement as presented with the fee of \$4,147.72 and a reimbursement from the Library of \$1,037.04. Pass 4- 0.

	<p>Doug: And the Fire District has not yet agreed to this?</p> <p>Elaine: I have not received final confirmation, but they initially said they would agree to it.</p> <p>Hans: How will it be adjusted annually?</p> <p>Elaine: It will be based on the rate they are assessing.</p> <p>Hans: How often do our assessed values change?</p> <p>Elaine: May be every 3 – 4 years. Since I have been here (6 years), I have only received one change in the assessed value of our properties.</p>	
<p>Levy Debrief – Junior Taxing District Rate Discussions</p>	<p>Elaine: Well, we passed! 79.94% as of today.</p> <p>Bob: What was the required number?</p> <p>Elaine: To validate was 3048; 60% of 40% was 1829.</p> <p>Doug: What was the turnout relative to April? I wonder if half the people in April changed their minds.</p> <p>Elaine: I can't recall the exact turnout, but the total for this was 69%. Last November, the turnout was much higher.</p> <p>Hans: We feel the 80% is an endorsement of the great work you and your staff have done and continue to do.</p> <p>Elaine: The campaign committee did great work, too.</p> <p>Doug: In a way, I think having the Hospital District on the ballot helped us.</p> <p>Elaine: Bringing up the Hospital District, we need to start conversations with VIFR and the Library asap to find out their plans for their rates and educate them about their various moves' effect on VPD. I just learned the Fire District's final budget hearing is Wednesday, November 13, 19:00 (7:00 pm). They called a special meeting. Should somebody go? I cannot. I have heard they are going to \$1.50. I believe they have a 6 year window for going to \$1.50 when they choose without voter approval.</p> <p>Hans: Let's ask them if they have a standing motion. And the library?</p> <p>Elaine: This past year they were talking about doing a lid lift to 50 cents.</p> <p>Doug: Is this to restore erosion?</p> <p>Elaine: I have not heard of a library levy since I have been here, so it could be that they get voter-approved then erode until they choose to do a lid lift. Just like the Fire District.</p> <p>Hans: Let's find out.</p> <p>Bob: When would a 2020 Library measure hit us?</p> <p>Elaine: 2021.</p> <p>Bob: So we wouldn't be affected by Hospital or Library until 2021. What about Fire?</p> <p>Elaine: There is enough wiggle room in the \$5.90 bucket to accommodate Fire in 2020 without affecting us.</p> <p>Bob: We have a year to get this figured out.</p> <p>Doug: Fire has to fill out these same resolutions and forms as we do. So it makes sense they are pushing it now to have it ready by the filing deadline.</p> <p>Elaine: Yes, by December 2.</p> <p>CJ: The Hospital District will be getting TAN notes to get up and going as soon as possible. In our thinking here, we need to be aware that they will be paying those off in addition to new programs down the road. When the time comes, they will likely set the rate higher rather than lower. One of the commitments was</p>	

	<p>that there will not be a break in medical services over this next year.</p> <p>Elaine: There are many moving parts in this Junior Taxing District, and despite all the begging and pleading we do against the effects on us, I think it is safe to assume that they are going to do what they are going to do. The other strategy we kick into high gear and meet with our elected officials to find out what our options are to protect ourselves. We should ask for an exception or revise the law.</p> <p>Bob: An exception would still require legislative approval.</p> <p>Doug: Some of our representatives do not understand this.</p> <p>Hans: Where does this sit legislatively? What is our resource? Constitution or WA State Legislation?</p> <p>Abby: Is there any way to recall the Fire District’s levy?</p> <p>CJ: It is difficult. You need to petition, create the legislation, get it on the ballot. You can recall the Board members and replace them with other people.</p> <p>Hans: Would it be productive to send a letter to HD, VIFR, Library that asks for transparency? 80% of voters said they want the park district.</p> <p>Elaine: It’s a waste of time. They all know what this could do. They will do what they want/need to do.</p> <p>Doug: There must be other districts in the state affected by this.</p> <p>Elaine: That would be a huge research project.</p> <p>Bob: We need to know what the law is – to start from there. That is the only thing that will help us.</p> <p>Abby: There is no way they won’t do what they need to do.</p> <p>Elaine: I agree that is out best strategy – go to our elected officials.</p>	
<p>2020 Budget – Draft 1</p>	<p>Elaine: I provided you with budget notes. I will refer to highlights, assuming you have read through this.</p> <ul style="list-style-type: none"> • Levy dollars are \$8400 higher than anticipated. \$1,525,432. • We must approve the attached resolutions by December 2. They tell the County what we want, driven by the resolutions. There may be a change with the final worksheet. It will be close. <p>Doug: Motion to approve Resolution #19-40 and Ordinance #19-41.</p> <p>Hans: Second.</p> <ul style="list-style-type: none"> • Carry over from 2019 looking like \$566,000. If we get more, it’s a bonus. • Current CPI inflation estimate is 3.2%. Wage increases are based on this, as well, based on policy that is attached to CPI. • No fee increase. My reasoning is that there is a bit of a levy increase, so I don’t think the extra \$16k is worth raising the ire of the user groups. <p>Hans: When was the last increase?</p> <p>Elaine: 2017 going into 2018. No fee increase in 2019. For the 4 year pro formas, I put in one increase in 2022. But it’s your prerogative.</p> <p>Bob: You included the fee schedule in the Board packet.</p> <p>Elaine: Per policy, I am supposed to. I also attached a fee comparison for Puget Sound districts. We are the lowest in fees. We can wear that as a badge, or increase relative to it.</p> <p>Bob: You mentioned somewhere that there are lighting fees. We should think about that for VES.</p> <p>Doug: When we have discussed fee increases in the past, it has always been an issue of timing. Somebody is always in the middle of registrations. I think that is one of the reasons we have not done recent increases.</p>	

There has been 10% inflation over that time. Can we plan an increase a year from now?

Elaine: It will always affect somebody.

Doug: We can announce it in June for implementation at the end of the year.

Elaine: So no fee increase for 2020, but there will be an increase in 2021.

- No significant changes in Admin.
- Maintenance – in education, this is a philosophical question about where we are going with sustainability. The herbicide licenses expire and must be renewed. The question is, are we going to go away from using herbicides?

Jason: We use broadleaf Ranger Pro and Speed Zone. Some Districts spray every 6 months. We spray sparingly. In the 6 years I have been in this role, we have sprayed Agren and VES twice. I schedule when there is no use on the field when kids are on break. I get nasty emails for using it at all. The purpose for spraying is to keep down your weed population for safety reasons. If we don't do it, we need to budget every 10 – 15 years to strip the fields and reseed or resod. If we are going to move away from herbicides, there is no sense getting our licenses. We only do it on the sport fields. There is a lot more clover at VES than I have seen in years. It's not the money – it's the two day time commitment for 2 employees.

Bob: It seems irresponsible to not be licensed if we feel we need to do it. If we let the fields go at the expense of having to replace the fields, it doesn't seem fiscally responsible to not do it.

Jason: There are districts that do not use herbicides. They have larger budgets to replace their fields.

Bob: How much pressure is there to not use herbicides?

Jason: There is a vocal group we hear from.

Abby: Diane got Round-up out of our stores.

Elaine: She does great work!

Bob: What does everyone think?

Elaine: Morally, it bugs me. Practically, I get it.

Doug: There are other issues besides when the kids can get back on the fields. Where does this stuff go?

Jason: The last time we did this, we did a water sample at VES. We sprayed a month earlier. The water came out drinkable. 12 inches of sand filters everything.

Doug: If we went the route of not using herbicides, there is a safety risk to the kids playing on a weedy field?

Jason: Broadleaf and plantine have large leaves that produce slick spots. You can manually pull weeds, but that is labor intensive.

Elaine: We did a test in concert with a conversation we had with Diane where we pulled an area by hand. It was extraordinarily labor intensive.

Jason: We are budgeted to get licensed, but we need to have the broader conversation.

Bob: It doesn't cost much to get licensed. We may as well get licensed until we learn more about this.

Hans: Is there an alternative to a less toxic treatment?

Jason: If we get licensed, we must adhere to the standards of the license. We must follow the label, because we are liable. But I take the atmosphere of the island very seriously.

Elaine: One of the CAPRA requirements is to write a Sustainability Plan. We can revisit it then.

- Under tools and equipment, we budgeted for a leaf vacuum attachment. It pays for itself in 2.5 years. Saves two guys blowing and raking leaves and using a piece of equipment from the School District that constantly breaks.
- We budgeted for a backup irrigation pump for VES Fields. The pump has gone out twice in the summer, and not having a backup can cause damage to the field.
- VES lights reimbursement from the sport groups is another question. I did not include a reimbursement, but I remember when the project come before the Board, Scott Harvey was adamant we not spend a dime on that field. We estimate it to be \$168 per month for 6 months.

Bob: We should add it when we revisit the user fees.

Doug: I believe we passed a resolution that says we charge them. On the fee comparison sheet, I see other districts have a lighting fee. It makes sense to just charge a flat fee.

Elaine: We don't have a lighting fee for anyone else. Are you saying create one for everyone who uses lights?

Hans: When we revisit this for 2021, we should include a lighting fee then.

Doug: I don't know why we wouldn't do it now. They are expecting to pay it due to the resolution.

Elaine: I couldn't find that resolution. I will look.

Hans: My intuition is that we wait until we adopt a new fee schedule.

Abby: And then there is the equity of not charging the horse people.

Doug: But in this case, they are expecting to pay it. They should be. That is the condition we agreed to do it.

Abby: Let's see if Elaine can find the resolution. If that is the case, we should adopt it now.

Elaine: Nothing special in Commons.

Hans: Interlocal Agreement goes on into perpetuity until we agree to change it?

Elaine: No, there is an expiration. We have another couple of years, I believe. I will look it up.

Hans: Does the fee change year to year?

Elaine: No. The 1st two years were negotiated down due to hardship. But we really dug into the actual costs and determined the regular fee should be \$75,000. That is where we are now.

Elaine:

- In programs, we are carrying \$25k over, which I am giving to Eric to keep developing new programs. Doing so is very labor intensive, like the BARC programming. That will be ongoing, and the wages there are about \$22k. It is a good thing in that it also reduces vandalism and drug and alcohol use. Kids are loving it. The rest of the money will continue developing new programs.
- With the pool, remember the winter budget would not exceed \$68,500. For 2020, with the timing of cash basis account, winter is at \$66,000 in this budget. I really prefer one budget. Separating it out doesn't really tell us anything. If we need to make a major purchase in the winter time, we buy it then, even when it benefits summer.

Abby: I agree with that. We can figure out differences outside the accounting system if we truly are concerned about winter cost effects.

Bob: It seems to me that we have shown it is a viable program. It makes sense to just have one budget as

we do for all the other facilities.

Elaine:

- One of the key reasons you are seeing a significant jump in the pool budget total is that in 2020 a minimum wage increase hits January 1. Most of our staff makes \$13/hour or less. All wages will go up average of 10%.
- Also, we need equipment purchases like a thermal cover, water pump, pressure washer, etc. The pool is expensive!

Doug: I would like to see user numbers. When I have been to the pool with my grandchildren, on a hot summer Saturday, I didn't see a lot of usage. The pool budget is increasing faster than any other area of our budget.

Elaine: As a general statement, our pool revenue is down from what we have anticipated, particularly in the winter time. Our lap swimmers are strong, but our open swim is light.

Hans: Do we reduce our open swim hours?

Elaine: Yes, Randy is constantly adjusting.

Elaine:

- Point Robinson – no changes.
- Fern Cove – no changes.
- Bonds/loans – should not be called this, since this is our truck and tractor lease.
- Capital Projects:
 - Per our Public Art Policy, all capital projects require 1% of the cost be dedicated to an art installation. That means we need to do something for Agren that costs \$2500. Either that, or change the policy.

Doug: Does that mean we should do something at the pool?

Elaine: We did do that dedication mural.

Hans: Put it out to the community, and see what they come up with.

Elaine:

- Village Green Entry - \$3,000
- Lighthouse Modifications – \$5,000, per the terms of the Coast Guard lease.
- Ober Park playground replacement project
 - \$175,000 grant
 - VPD Outlay = \$40,152 for architect and permit fees.
- VES Restroom
 - \$60,000 grant
- 2 Trucks – we absolutely MUST replace the 2 20 year old vehicles. The breakdowns are posing safety concerns.
 - Ford 150 – for manager, because he does not need to haul things as often \$28k
 - Ford 350 with dump bed \$37k

Jason: I am not married to these particular trucks. May go smaller. But I would like to have these as placeholders.

Bob: How many trucks do we have now?

Jason: Five.

Bob: Will we be replacing two, then?

Jason: Yes. We will get two trucks, and get rid of two trucks.

Bob; But several years ago, when we got three trucks, I thought you were getting rid of trucks.

Jason: That is when we had three employees. Two trucks were just sitting there. With hiring two people, those trucks are being used. They are in really bad shape.

Elaine: We are effectively left with \$138,000 for additional capital projects. Now, I need to make a statement about that, though. Over and above the budgeted capital projects, to be honest, I do not feel I can take on managing much more than that. Capital projects take so much time and energy. My preference is that we sit on that \$138k, push it into 2021, and look at the updated Capital Improvement Plan when the time comes to decide in 2021.

Hans: The high priority items in yellow?

Elaine: Yes. After the budgeted items in red are factored out, that leaves \$168k in the high priority column. Assuming property values continue to rise and no other taxing district eats into us, I estimate maybe \$16k a year more each year. We estimated with the 45 cent ask, we would be able to address all the items in the high priority column. I'm just saying, I can't do it all in one year.

Abby: We don't have to right now. It makes sense to put things off until we see what the Hospital District does, anyway.

Doug: I would question why the ivy remediation isn't a high priority item. Addressing that would do something for those who are otherwise not high users of our parks. It is not a lot of money, and in the long run, it would make a huge difference for our parks.

Hans: There are two items – Burton and Wingeaven. There is probably a spectrum of activity we can do between 0 and \$60k, including volunteers. Without belaboring it tonight, we should at some point come up with an ivy remediation strategy.

Elaine: There are many things we could call high priority. We are walking on thin ice with the septic systems at Point Robinson. We know there is rot around the windows. There is the wall at Inspiration Point that could tumble down the hill at any point. We look bad for not addressing any of these things.

Bob: But we don't have the money! We may have to start talking about a bond. I can't imagine people thinking badly of us if we can't address these things with the money we have.

Elaine: It's perception. Another example is this: let's launch into the Tramp Harbor Dock. The public perception is that we have screwed up. This is our fault. It's the Park District not taking care of an asset. I hear this all the time. It doesn't matter that our levy failed in April. It doesn't matter that this is actually the State or our insurance company.

Hans: That's exaggeration. I don't doubt there is that perception, but I do doubt it is the majority.

Elaine: They are loud voices. Let's put it that way.

Doug: The loud voices may be those who don't regularly use Park District facilities, so their perception is that the things they care about are being neglected. It would not be a difficult leap to say that one of the reasons money hasn't been spent on Tramp Harbor Dock is that it was spent, instead, on VES Fields. So if they believe that, it is our fault. We made other choices, and people may not like those choices. One way to

	<p>look at this is to look at other programs. Perhaps we should cut elsewhere to address capital projects.</p> <p>Captain Joe: Is the Foundation going to revive? Even \$50k would go a long way. A Foundation should be able to raise funds for a particular project. There will be a Hospital District Foundation.</p> <p>Hans: Elaine’s primary point I would like to address here is that the pipeline – her time -- can only support so much capital at one time, and I think it is reasonable to support that. And, I think we need to address the other stuff in the yellow and maybe then some. I am supportive of the ongoing conversation – fundraising, volunteer labor, etc. And we need to honor the Strategic Plan. How do we do that?</p> <p>Bob: It will need to be modified, because our scheduling of the Plan does not reflect the funding.</p> <p>Doug: That is the point I was trying to make. The difference between 52 cents and 45 cents takes an overwhelming amount out of the Strategic Plan.</p> <p>Hans: But remember, we made commitments to programming, too. I don’t think we can cut corners there. I don’t think there are significant areas in operations where we can be spending less, but it is okay to ask the question. Let’s make space for further conversation about the capital plan down the road. Adopt a number in the budget for capital.</p> <p>Elaine: Adopting the number for capital of \$115k as indicated, and having the \$138k as a buffer is actually a good thing. The boiler at the pool breaks down; another emergency arises. It gives us breathing room. I think this is a good way of looking at it with more room to plan in the future.</p> <p>Hans: When do we adopt the budget?</p> <p>Elaine: The Beachcomber is advertising our next meeting as our budget meeting. Last year when we did this, we knocked it out in two meetings. The critical thing is for you to approve the levy dollars at the next meeting – we have that motion on the table.</p>	
<p>Tramp Harbor Dock</p>	<p>Elaine: As you know I have been working with Enduris on potential insurance options for entering into the draft lease with the State (not looking at all good but more on that in a minute). My conversations with Enduris circled back to the engineering report from 2015 (attached). In 2015, Enduris agreed with our approach to put up warning signs as was suggested by our attorney as the best we could do if we chose to keep the dock open. Since it has been four years without repairs made as recommended in the report (repairs not made due to the \$300k cost), Enduris has now changed their stance. The signs will not cut it any longer. They have instructed us to close the dock to public access as soon as possible.</p> <p>Quite frankly, when I met with the State a couple months ago, they pressured me mightily to close the dock, as well. Their risk management team is very concerned about the condition of the dock and the fact that the report has been in the public for a long time without repairs made. I notified them about our insurance company’s mandate, and the good outcome there is that this removes the requirement to have a new engineering analysis done -- saves \$20,000 until we decide about replacement. At that, we would need a condition assessment done if we wanted to explore pile wrapping the existing pilings to determine viability.</p> <p>I believe we need to engage in some education about this before we actually do it. Sign stating “Dock to be closed on X date.” Flyers explaining the reason why.</p> <p>Jason: And we need to hold a public meeting. There are already rumors floating around that we are closing it. We need to educate about all we have done to save the dock and all the roadblocks we have incurred</p>	

from the State and insurance. People need to know all this. And we simply don't have the money.

Bob: Absolutely. We must be completely transparent.

Jason: The community needs to know we have been dealing with this since 2013 and have gotten nowhere. They need to know all that Elaine has done to try to save it.

Elaine: So, in summary, the process should take about 3 or 4 weeks. There must be an opportunity for people to come to our next meeting to talk about this. Be heard, and help understand the issues. I will draft a document to post on our website and Facebook that speaks to what Jason is saying. I will forward to you all for review. Know that the next question will be our plan for replacing it.

Doug: What is the \$300k figure you mentioned earlier?

Elaine: \$312,000 was the 2015 quote from KPFF Engineering to address the identified deterioration to the dock in their 2015 report. Of the 98 pilings, 11 were compromised in addition to various stringers, caps, etc.

Doug: And the environmental issues the State has raised were not identified in the KPFF report.

Elaine: Correct. It was only a dock condition assessment.

Doug: Where I'm going with this is the community would say we should have fixed it back then. We should have found the money to do so. But our reasoning was we didn't know where things were going with the State.

Elaine: Correct. The thinking of the Board then was, why spend \$312,000 on fixing creosote pilings when we have to remediate all the creosote pilings in the end? The thinking was that we would be throwing good money after bad. We didn't know what the liability issues were.

Hans: You're about to walk us through where we are going in the future. A couple months ago, you met with the State, and it was somewhat promising.

Elaine: Well, it is no longer somewhat promising. I keep hitting dead ends. My understanding of the liability issues have not changed. Our attorney's position on general liability has not changed.

Hans: Last time we talked about this, you had met with the State. They were going to do more analysis. I can't remember what all you said they were going to do except they also offered to meet with our representatives.

Elaine: The State offered to do the required sediment sampling. They were going to do it in October, and they have rescheduled it for mid-November. We still do not know the level of environmental contamination. Suppose they find some remediation that needs to be done? Is it reasonable to assume that, no matter what they find, it will be less than \$100,000?

Bob: No.

Elaine: That's where I'm going with this. No matter what they find, we will not be insured. If we move forward with the lease, and we have to remediate the environmental concerns, the cost of the remediation is on us.

Hans: So you are trying to get to the question of what we're going to do about the lease?

Elaine: Yes, when we have this public meeting, people will come to terms with the reason we had to close the dock. But the next question they are going to ask is: what are you going to do about the dock going forward? Are we going to replace the dock or not? It is feeling to me like we really need to decide whether or not we are going to replace that dock. The pressure is on from all sides now – the State and now the public – about what we're going to do about that dock.

Hans: What does “we” mean? I think a position of being supportive of everything we can to help that process is good. But we don’t have a checkbook, let alone the ability to take on that liability, to cover that.
Elaine: The public needs to understand how it starts with the liability. We can’t make a decision about the dock until we address the liability. The liability includes the general liability pointed out by our attorney: “The risks involved in signing this lease are significant. The lease essentially makes the district responsible for (a) all liability associated with hazardous materials that are part of the dock, e.g., the creosote pilings and leaching from those; (b) all liability associated with the use of the dock (which appears to include the acts of the public); and (c) for the removal of the dock if the lease expires or terminates. I do not recommend that the District sign the lease, based on these terms.”

Hans: Is somebody talking about entering into the lease?

Abby: We have talked about this a number of times, and every time we try to change the liability with the State, they return with a giant FU. That’s what happened last time Elaine met with them. That’s why we haven’t talked about it since. And now we are being forced to.

Elaine: The State told us last time that, if our levy passed in November, we had to make a decision about the lease. Coincidentally, now our hand has been forced in closing the dock at the same time, and now the public is going to demand a decision.

Abby: And the State will not bend.

Elaine: No, the State will not bend on these liability issues. Again, on the Environmental Liability piece, our insurance will not cover a pre-existing condition, i.e. the creosote leaching, past oil spills, etc. They also will not cover a Pollution Policy going forward. We do have pollution coverage for general liability but not in the case of contractual liability. Enduris does not cover contractual liability here. The State’s contract transfers all environmental risk to VPD. If we choose to take on the risk of Environmental Liability, the Model Toxics Control Act (MTCA) trumps contractual language and would go after KC and Standard Oil, but are we willing to risk potential liability they would identify as ours? What are the odds KC and Standard Oil aren’t going to fight it? The State believes our risk is minimal. Still, even small risk could be pricey. Could we even afford a \$20,000 hit? And what are the odds it would be that low?

Abby: I don’t think we have any business replacing a dock.

Bob: The first question is signing the lease. It makes no sense to me to sign the lease if it’s going to put us in that position.

Elaine: Therefore, the dock gets torn down.

Bob: Who tears it down?

Elaine: The State. Remember, we currently don’t have a lease with the State.

Bob: It occurs to me, too, that if we shut the dock down, the only way to keep people off of it is to get rid of it.

Abby: What is the idea in tearing it down?

Elaine: One option is to only allow tear down on the latter 160 feet that is on the State tidelands and preserve the first 180 feet on our tidelands. But, we would still have the condition of the dock to contend with.

Abby: No, I meant what is the idea for shutting it down?

Jason: Put up fencing across the front of it and take off 20 – 30 feet of decking behind the fencing.

Elaine: Over the course of the past few months discussing this, the State did say we can purchase Commercial Liability insurance for Environmental Liability and a Pollution Policy outside Enduris. I worked for months with Trigg Insurance on finding an outside insurer. He finally agreed that the risk is too great and likely cannot be insured. He agreed with our attorney that we should not sign the lease. Remember, most city/county governments who have dealt with this are self insured. His decision came to me just this past week.

Bob: It sounds like our decision is easy. We shouldn't sign the lease.

Hans: Yes, it does sound as if we should not sign the lease. I agree with that.

Doug: So if we don't sign the lease, then King County pays to have the dock torn down.

Bob: So we don't sign the lease, the dock gets torn down, can we erect another dock in the future if people still really want one?

Elaine: The State says it can't be done. This has to all be done as a replacement now. The odds of being approved are slim to none.

Captain Joe: It's the Shoreline Management Act. It would be almost impossible.

Bob: Then I guess we just have to be truthful to those who really want a dock.

Hans: Who is the actor, then? I get the issues around the lease in the near term. You were describing before some efforts to describe a more realistic understanding of the risks and options, in a passive tense, presented to the state legislature to advocate for a potential replacement. That may succeed or fail in a legislative session, but someone pulled that together before and put that before the legislature and said do you want to restore this public good? -- is it in the best interests of the State of Washington? Who now is that actor?

Elaine: Senator Nguyen. Senator Nelson did that advocating before, and it was not approved in the State's capital budget for an appropriation. The encouragement I received from the State in my meeting was that they would do the soil sampling, and going into it they thought the risk would be minimal. Also, I was encouraged by their willingness to help with Senator Nguyen in asking for an appropriation. Another option would be to ask Senator Nguyen for an appropriation to also pay for the environmental remediation. But honestly, I don't see that flying.

Hans: I don't understand all the moving parts. Before, 3 months ago, things were different from what you are saying now. Before, who was going to take on the environmental remediation?

Jason: They have always said that we would.

Elaine: Yes, it has always been on us.

Hans: But you thought it was going to be less – that it would be a reasonable amount.

Elaine: They said they *thought* it was going to be a reasonable amount.

Hans: And you were thinking we would find that out, and it would be a reasonable amount. We still don't know the answer to that. That hasn't changed. What has changed?

Abby: The insurance letter forcing us to close the dock.

Elaine: And due to that insurance letter, what has changed is that the question of "What next" is going to be asked of us by the public. We need to be prepared to answer one way or the other. The answer doesn't have to be definitive, because the truth is we are still working on it. But we do have to be honest about the likely inevitable outcome that we are not going to sign that lease, which means we are not replacing the dock. At

every turn, the risks are not being mitigated. I think we have to be transparent about this in this meeting.

Hans: *That* hasn't changed. I don't think we feel we can replace the dock.

Elaine: But my sense is that we have been trying to.

Hans: Have we?

Abby: We certainly were making that statement with the last levy. We were planning for it.

Hans: It wasn't in this levy. I am just trying to understand what has changed from this summer. What was last described is that we would get more information, we'll pursue the legislature, and if it succeeds or fails will be more in the lap of the legislature. I understood *that*. *We* don't have the cash to rebuild the dock, particularly because of April. I get that. I still get asked about it, and I have been saying, "Well, Elaine told me last summer that they're going to get more estimates, we will get more clarity, we'll take it to Olympia to see if they will fund it." But now, I don't think I can still tell people that. You're telling me something different.

Elaine: What has changed has been the inability to secure insurance. I worked with Trigg, and he couldn't find it. That is a huge piece that has changed.

Bob: The insurance would be for, if we were to sign the lease, and the dock were to be replaced, you're saying we can't get insurance to cover the risks involved – even if we have the perfect dock out there.

Elaine: Correct. I can't get environmental liability coverage for pre-existing conditions, and I can't get a Pollution Policy for conditions going forward.

Hans: Oh!

Bob: So we can tell people the only way this is going to happen is if we can get the state to just do it – to have a state-paid dock out there that the state takes full responsibility for, or otherwise it's not going to happen.

Doug: There still might be liability to the State. There are other docks out there. We have talked about the Harper Pier in Port Orchard, which was built with state money. Do they have liability insurance?

Elaine: I put a call in to them again just yesterday. I have spoken with them in the past. My thinking is that they are self-insured. The cities and counties are typically self-insured. They don't have a risk pool group like Enduris refusing to take on the risk.

Doug: So they are bearing all the risk themselves.

Elaine: I don't know that for sure. I have asked myself that question. It is why I have called Port of Bremerton about Harper. It is why I have called Bainbridge. And Metro Parks Tacoma. I will report back to you when I hear from them.

Hans: You're talking about environmental liability from a rebuilt dock?

Jason: Here's the thing. There is future risk if somebody decides to go out there and dump 5 gallons of oil off the dock. Our insurance will not pay for that. I have heard of people dumping refrigerators off of docks.

Hans: Every creek on the island has appliances dumped in them. That's not what we're talking about.

Abby: Wouldn't it be for if they find oil beneath Tramp Harbor Dock that gets stirred up in removing the dock? And also the pollution caused by the creosote pilings. It's a big deal that we wouldn't have coverage at all. The way the language in the lease is written is that we are liable for all of that.

Elaine: MTCA can go after prior owners – King County and Standard Oil – but at the end of the day, it starts and stops with us. If we were to sign the lease.

Hans: I don't get the long term environmental liability in the event the dock is replaced. That needs to be addressed.

Doug: You would think a pristine dock would carry little environmental risk. Is that what you're saying?

Hans: Yes.

Abby: I think the potential liability from removing and replacing would dwarf future concerns. I'm thinking of this as a problem for when the dock is removed.

Hans: We need to look to the state to cover that with the capital project.

Elaine: Think about the things that we don't know. Hypothetically, since that was a Standard Oil dock, there could be an old oil tank or old pipe filled with oil buried down there. That is the potential huge pollution problem that would be on us. We don't know what's down there.

Bob: It is not prudent to put yourself in a position to not have insurance coverage against all risks, even if we don't think there are any. We have to be insured. Even if we think it's safe and wonderful, we still have to have insurance. If we can't, we shouldn't do it.

Abby: Think of like when Jason gets these calls about occasionally using herbicide. And people are already concerned about the oyster farm.

Doug: One of the questions we are going to get might be building a new dock with a bond issue.

Elaine: That is certainly an option – if we decide to take on the risk. This decision starts with risk. The follow-up to that is how we're going to pay for it – state appropriation, float a bond, fundraise through a 501©3. The big looming question is, “Are you willing to take on the risks in the lease?”

Doug: It's a lease for a new dock.

Bob: No, it's a lease for the property the dock is sitting on.

Doug: But a lot of the risk we are worrying about is this old dock. Other communities have dealt with this. They have determined the risk is worth it. It is good to have insurance, but we have to assess the odds of something bad happening.

Bob: No, we have to have insurance.

Hans: Doug is talking about what the insurance and risk would look like on a new dock.

Doug: So we don't sign the lease; the county tears down the dock; then we have this land that is ours, and we build a new dock.

Abby: But the tear down and replacement all has to be done at the same time. Shoreline Management Act.

Elaine: And remember, we only own the first 180 feet. The dock is 340 feet long. The state owns the latter 160 feet of the tidelands.

Hans: So, Elaine, what do you recommend our message to be?

Elaine: I think our message needs to be that it is pretty unlikely we are going to enter into a lease with the State, and because of that, it is pretty unlikely we are going to be able to replace that dock. I don't know that we need to be that definitive in that meeting, because the truth is, we are still trying. But it is only right that we be transparent and say the truth.

Captain Joe: Question from the concerned public – why does Standard Oil keep being brought into this?

Elaine: Because they are the former owner, and MTCA would go after former owners.

Captain Joe: Maybe Standard Oil could be brought into this to avoid litigation? I don't know how any of that would work, but often companies like these have large funds for environmental clean-up.

	<p>Hans: That would be the State under MTCA to go after that.</p> <p>Bob: If we don't sign the lease, and the county or the state rips everything out of there, now we have our 180' of tidelands. You're saying the likelihood of not putting a new dock on that 180' is Shoreline Management issues. Not lease problems or money. If enough people on the island can raise the money, is a two step process really out of the question?</p> <p>Hans: I don't concur with the pessimism. We're not going to sign the lease. Beyond that, we don't know what the various government entities will do. We're the good guys. We're going to advocate for the public good for that facility. But our hands are tied legally and financially and through insurance. We can't say with certainty that a dock won't eventually be there.</p> <p>Elaine: I don't think I'm being pessimistic; I'm being realistic. We do know, because this is what the state has said.</p> <p>Hans: We don't know <i>that</i>.</p> <p>Elaine: Well, that is what they said <i>to me</i>. They said if you don't sign the lease, the dock comes down. Black and white.</p> <p>Hans: But I meant the replacement.</p> <p>Bob: That is a future thing. For right now, we have no choice.</p> <p>Elaine: Okay, that's fair.</p> <p>Doug: I would add another thing we don't know, if the Shoreline Management Act says no new docks, wouldn't they make an exception for a dock that was there for 100 years already? Especially if we are building a more environmentally responsible dock? The State said they want to work with us.</p> <p>Bob: Right now we have a closure problem we need to deal with.</p>	
Staff Reports	<p>Elaine:</p> <ol style="list-style-type: none"> 1) Concerts in the Dark is launched December 12 with the Paperboys at Vashon Theater. 2) Eric is coordinating a "Skateboard Jam" through a co-sponsorship arrangement with Dustin Lanfrey, the guy who owns the skate shop at Burton on November 15 from 5 – 8. There will be two high school bands playing, hot dogs, and give-aways (Ultimate Frisbee discs and helmets). 3) Also coordinating another event with a guy named Ralph Reign, date undecided, but activities will be open skate, skateboard competition, hip hop show, & night skate with electronic DJs. 	
Adjourn 9:00 pm	<p>Abby: Motion to adjourn.</p> <p>Doug: Second.</p> <p>Pass 4-0</p>	

Minutes by: Elaine Ott-Rocheford