



CAPITOL LAKE EXECUTIVE WORK GROUP

*Jefferson Building
First Floor Presentation Room
1500 Jefferson Street
Olympia, Washington 98504*

February 26, 2016
9:30 a.m.

(Approved: April 22, 2016)

JURISDICTIONAL MEMBERS PRESENT:

Cathy Wolfe, Thurston County
Pete Kmet, City of Tumwater
Cheryl Selby, City of Olympia
Jeff Dickison, Squaxin Island Tribe
Bill McGregor, Port of Olympia

DES STAFF MEMBERS PRESENT:

Chris Liu, Director
Bob Covington, Deputy Director
Carrie Martin, Asset Manager

OTHERS PRESENT:

Sally Toteff, Department of Ecology
Sue Patnude, DERT
Denis Curry, CLIPA
Valerie Gow, Puget Sound Meeting Services
Gary Bahr, Department of Agriculture
Peter Heide, Citizen
Bob Jacobs, Heritage Park Association
Martin McCallum, Citizen
Dave Peeler, DERT
Bob Barnes, SPSSEG
Steve Shanewise, Citizen
Lydia Wagner, Department of Ecology
Dan Smith, City of Tumwater
Robin Campbell, Thurston County
Dennis Burke, Citizen
Jerilyn Wallay, South Puget Sound Salmon
Enhancement Group

MEMBERS ABSENT:

Neil McClanahan, City of Tumwater

Paul Dzedzic, Meeting Facilitator

Doug Drees, Citizen
Nouk Leap, DES
Rose Hong, DES
E.J. Zita, Port of Olympia
Daniel Einstein, DERT
Steve Trapp, DERT
Bill Helbig, Port of Olympia
Chris Conklin, WDFW
Jeff Parsons, Puget Sound Partnership
Andy Haub, City of Olympia
Bob Wubbena, CLIPA
Scott Steltzner, Squaxin Island Tribe
Ann Sweeny, DES
John DeMeyer, CLIPA/Olympia Yacht Club
Maurice Perigo, Legislative Support Services
Lisa Dennis-Perez, LOTT Clean Water Alliance

Welcome and Introductions

Chris Liu, Director, Department of Enterprise Services (DES), called the meeting to order at 9:36 a.m. He welcomed everyone to the meeting.

Director Liu reviewed the meeting agenda. An open house is scheduled on March 9, from 4:30 p.m. to 6:30 p.m. to receive public comment on the proposed workplan for the year. At the March 25 meeting, the work group will receive a presentation on the Environmental Impact Statement (EIS) process and the permitting process.

Members in attendance provided self-introduction.

Paul Dziedzic, Facilitator, referred members to their workbook of materials requested at the last meeting on information and studies completed in prior planning processes. Staff will provide an overview of the materials.

Status of City of Lacey Participation

Director Liu reported on the outcome of the invitation to the City of Lacey to participate in the process. City of Lacey officials have advised that at this time, the City prefers to defer participation.

Approval of January 29, 2016 Meeting Minutes

Mr. Dziedzic recommended members submit any proposed changes to the meeting minutes of the January 29 meeting.

Approval of the minutes was deferred to the March meeting.

Overview of Background Information for Work Group

Carrie Martin, Asset Manager, reported the work group previously requested the Technical Advisory Committee (TAC) highlight previous studies to provide a common foundation for the workgroup's future work. Much of the previous Capitol Lake Adaptive Management Plan (CLAMP) Steering Committee's work included many summary facts sheets of various studies and reports completed during its process. Staff compiled the fact sheets, as well as other information supporting the provisions within the proviso.

Members of the TAC also provided some updates on new conditions and information relevant to management. She thanked TAC members and staff members from jurisdictions and agencies for assisting in the effort.

Ms. Martin reviewed the workbook contents:

- Table of Contents
- Fact sheets on work completed on plan reports completed by the CLAMP process:
 - Synopsis on the creation of the lake
 - CLAMP 10-Year Plan
 - Sheets summarizing the Deschutes Estuary Feasibility Study
 - Summary information from various reports
 - Three documents pertaining to the alternatives analysis fact sheets, as well as a description of the alternatives of the managed lake, estuary, dual basin, and Status Quo Lake.
- Hybrid Options
 - Analysis information for the dual basin to include information on the barrier for the reflecting pool
 - Engineering and Design Report includes more detail on the reflecting pool barrier
 - Several technical exhibits of the dual basin alternative

- Funding & Cost Sharing
 - 2013 Permitting Analysis – information on funding strategies and partnership opportunities (federal funds and grants, etc.)
- Sediment
 - CLAMP Report on Hydro-dynamics and Sediment Transport Modeling
 - Updated Bathymetric Survey Report June 2013
- Governance
- Flood Mitigation
 - City of Olympia letter on the City’s ongoing work evaluating flooding and impacts of sea level rise
 - CLAMP Alternative Analysis on downtown flood risk and how each alternative might impact the risk
- EIS/Permitting Section
 - Floyd|Snider permitting analysis – specific to a maintenance dredge
- New Information
 - High level summary of Puget Sound Nearshore Ecosystem Restoration Project for the Deschutes River Estuary, 2012
 - Floyd|Snider report on data gaps since completion of CLAMP reports, i.e. New Zealand Mud Snails and dredge material characterization
 - Department of Fish and Wildlife New Zealand Mud Snail Statewide Action Summary

Ms. Martin advised that staff would continue to add more information. Currently, the Department of Ecology is working on the Total Daily Maximum Load Study (TMDL), which will be new information, as well as more updated information on the status of Capitol Lake efforts to eradicate the New Zealand Mud Snail. Additionally, the Army Corps of Engineers offered to provide a presentation on its permitting authorities and how it might affect a future project.

Commissioner Wolfe asked about the status of other reports completed by independent parties, such as CLIPA and DERT. Ms. Martin replied that the information would be analyzed during the work group’s review of alternatives and hybrid options.

Mayor Kmet thanked staff for providing the consolidated information. It’s likely the work group would prefer to have some presentations on many of the reports to help members understand the analysis.

Members requested an additional copy of the workbook for their respective organizations.

Ms. Martin noted that all reports are also available on the DES website.

Discussion of Draft Work Plan

Director Liu presented two draft working plans for review. The first plan includes the work plan phases from 2016 through 2020. The second covers the phase from January through December 2016. Phase 1 includes approximately a 10-month period while Phases 2 and 3 are longer in duration. Staff also provided a legislative proviso outline of the five major sections of the proviso to assist members identify the linkage between the work plan and the budget proviso. For each section in the proviso, DES will schedule a public meeting and input session. The first public meeting on March 9 at the Jefferson Building will focus on soliciting comments from the public on how best to engage the public throughout the work group process.

Director Liu noted that the work plan is dynamic and will change as information is discovered, discussed, and validated. Technical teams, consultants, researchers, and others may make recommendations to assist in success during the first phase and set the pace for success in subsequent phases. The goal is to successfully complete Phase 1 and satisfy the requirements of the budget proviso to ready the process for Phase 2 of the plan (funding and EIS). Each portion of the work plan is intended to include public input. After receiving public feedback on the best way to receive public input, the work group will use the input to develop a robust public process moving forward. Director Liu noted that members would need to consider the best process that is the most inclusive while accommodating any changes to ensure the process engages the public. After conclusion of the open house, staff will collect and document all feedback.

The five sections of the work plan correspond to the five sections within the budget proviso. The first section is to identify and summarize the findings of the best available science concerning water quality and habitat as they relate to conceptual options of retaining or removing the dam. Since the CLAMP's last report in 2009, new scientific information became available from natural resource agencies on the subject. Additionally, many interested parties want other new information considered. There is a need to identify new scientific information and a process for vetting the information using a scientific process with emphasis on water quality and habitat. The following process is envisioned to accomplish these objectives:

- A. Identify and summarize the previously available science concerning water quality and habitat as a result of retaining or removing the dam.
- B. Identify new scientific information concerning water quality and habitat as a result of retaining or removing the dam since CLAMP's 2009 report.
- C. Provide an opportunity for developers of that information to present the information.
- D. Develop criteria and process for vetting new scientific information, which would involve identifying state and nationally accepted criteria and methods for evaluating scientific information and selecting appropriate criteria and methods to be accomplished.
- E. Organize current and new scientific information and identify gaps in the information that should be completed and the work needed to fill the gaps.

Mayor Selby asked about the commitment of the TAC, as members have other full-time commitments. Director Liu replied that after the Legislature approves the funding appropriation for the work group, DES would contract with a consultant to assist in organizing, obtaining, and categorizing the information available at this time. TAC will examine the reports and studies and provide guidance to the work group in terms of additional work and the mechanisms of the vetting process. TAC is not anticipated or expected to complete all the administrative work except the TAC will review the work completed to date that the work group will review.

Commissioner Wolfe commented that county staff resources are limited. Assignment of a staff member to the TAC without the administrative component would essentially equate to another full-time commitment. The county lacks the necessary resources for assignment of a staff member to the TAC.

Commissioner McGregor echoed similar concerns given the Port's list of capital projects. The problem is common to all agencies and jurisdictions as many are short-staffed and lack budgeting resources. Assigning resources from departments that currently lack resources will be problematic creating financial hardships to agencies and jurisdictions, as well as impacting the workloads of staff members. Director Liu acknowledged both the concerns and how the process is supported by limited resources.

Mayor Kmet added that another issue is the lack of a budget appropriation for funding the process. He asked about the current funding status. Director Liu advised that based on current information, an amendment was proposed to the Senate budget for funding of the original amount that was appropriated in the budget proviso. No companion amendment from the House has been offered at this time. DES is advocating to the Legislature the importance of the work to the community. If funding is not appropriated, the process would be unable to move forward; however, DES will continue with the planning until the session ends on March 10. The budget proviso provided for an appropriation to expend the money without actually providing the funding authority to DES, which occurs in another element of the budget process. A line item budget approval is necessary to provide DES with the authority to expend the appropriation. During the last legislative session, DES received authorization to spend the money; however, no funding was provided. DES believes there is work necessary to help prepare for the planning when funding approval is received. Delaying activity until March 10 would impact the year-end schedule.

Mayor Kmet recommended members should consider signing a joint letter to legislators asking for support and reinforcing the Senate's action. All jurisdictions are lacking in resources, and particularly for the technical elements, it's important to have the availability of a consultant to help consolidate the information.

Mayor Selby encouraged members of the public to consider sending a letter to the Legislature. She identified Ann Larson, Legislative Liaison, DES, as the contact person for citizens.

Commissioner McGregor agreed with the recommendation to ensure funding is received to move forward on the planning effort.

Mayor Kmet asked whether there is an expectation that the report to the Legislature would include a summary of the scientific information. Director Liu replied although the budget proviso doesn't request a decision, it does request the process to identify the science moving forward to the EIS process in terms of the different alternatives to consider in the EIS and that the information is provided and organized for each of the alternatives.

Mr. Dziejdzic added that provisions C and D in the budget proviso could be interpreted as the vetting criteria and the information that should be included in the report as products. Mayor Kmet conceded that the proviso includes "identify and summarize" current and new scientific information, which includes identifying gaps.

Director Liu reviewed the second element in the proviso to identify multiple hybrid options. A variety of options could run from an estuary to lake and back. The proviso asks for identification and evaluation of hybrid options for substantially improving fish and wildlife habitat, ecosystem functions, maintaining a historic reflecting pool, and adaptive management strategies. The proviso also directs identifying a general estimate of the costs of construction, maintenance costs, and public support for the options. To meet the directive the following process is recommended:

- A. Identify the hybrid options.
- B. Identify the list of options consistent with the language of the budget proviso that would be evaluated in the EIS process.
- C. Identify data gaps to vet the options via the EIS process.

Commissioner Wolfe asked whether the options include the lake, an estuary, or just the hybrid options. Director Liu said the options at this time only include the hybrid options as the lake and estuary options would be fully vetted in the EIS process. The intent is vetting gaps that may have been missed.

Mayor Kmet said many members have been approached by many citizens with a variety of options. It appears one area of public engagement is to provide the public with an opportunity to offer suggestions. He encouraged the work group to consider affording that opportunity. Additionally, it appears a step to identify the criteria for identifying the options is lacking. Mr. Dziedzic noted language in the proviso speaks to identifying hybrid options that include substantial improvement in fish and wildlife habitat and ecosystem functions, maintaining a historic reflecting pool at the north end of the lake/estuary, and adaptive management strategies. Mayor Kmet replied that there are other community values that are beyond those identified in the proviso that should be considered as part of an EIS process.

Director Liu deferred to the fifth element in the proviso, which includes a broad category of 'other'. Items not considered in the other proviso elements would be captured within that fifth element. Additionally, the City of Olympia submitted information about the potential of flooding. The budget proviso did not address flooding while everyone recognizes that it's a prime consideration for the community. The fifth element is the primary vehicle to consider other community values not identified in the budget proviso.

Mayor Kmet recommended the public process should include criteria the public believes should be evaluated as part of the process. Mr. Dziedzic suggested the fifth element could include identifying other criteria that should be considered. Mayor Kmet said that although the EIS process will ultimately result in a decision by completing environmental review, one important piece is not only identifying viable options and narrowing the list, but also considering other criteria the community identified as important to ensure a list of manageable options to evaluate in an EIS process.

Mr. Dickison said the discussion appears to be confusing two different issues as one is relative to the criteria that would be used to evaluate options in an EIS while the second is a narrower characterization of the presumption within element #2 as it moves through provisions a and b to identify a complete list of options (a) and identifying a list that would be shorter (b). Developing a list of 50 options would not necessarily mean moving forward with 50 options in the EIS. The task of narrowing the list of hybrid options is narrower in scope compared to reviewing an EIS against all options and all criteria.

Mayor Selby pointed out that within proviso element #2, identification of the range of public support for or concerns about each option is included to receive input on the public's concerns, which would also entail all options and not necessarily only those included in the proviso.

Mayor Kmet said it's important to utilize the public process to identify all options, as well as any concerns, values, and criteria that should be considered beyond the narrow set included in the proviso. To some degree, the EIS scoping process would address those considerations. Since the proviso lacks an analysis in terms of how to engage public support, it will be important for the work group to identify how to accomplish that objective.

Director Liu reviewed the third element in the proviso to identify conceptual options and degree of general support for shared funding by state, local, and federal governments and potentially other entities.

Before beginning discussion much less draw conclusions, due diligence should include reviewing current models and understanding the pros and cons of each model. The first tasks should include:

- A. Identify criteria for consideration of what a future model could be.
- B. Identify and evaluate current funding models available.
- C. Identify the gaps between current funding model and criteria for a future model.
- D. Identify options to consider.
- E. Identify how to proceed on the subject of shared financing.

Mayor Kmet commented on the importance of clarifying what shared funding entails.

Director Liu reviewed the fourth element in the proviso to identify one or more conceptual options for long-term shared governance of a future management plan, including consideration of an option similar to state lake management districts, Chapter 36.61 RCW or shellfish protection districts, Chapter 90.72 RCW. Options to pursue include:

- A. Identify and evaluate the existing models:
 - 1. Existing entities
 - 2. Statutory options to create entities (RCW 36.61 & RCW 90.72)
 - 3. Other options that could be created locally (municipal corporations, interagency agreements, memorandums of understanding, etc.)
- B. Identify positives and negatives of each model.
- C. The degree of inclusiveness of each model.
- D. Identify if and how to proceed on the subject of shared governance when moving to Phase 2.

Mayor Selby commented on the importance of discussing the nexus between shared funding and long-term governance because of the overlap between the two.

Director Liu acknowledged that the issues are related; however, for the purpose of the work plan the two elements were separated to afford an opportunity to focus the discussion on each element.

Mr. Dickison suggested within the option A.2 to include statutory options that might not currently exist but could be proposed. One example is the Nisqually River Management Council, which received statutory authorization for that specific watershed. Mr. Dziedzic affirmed the request to include new statutory options as sub-item 4.

Director Liu reviewed the fifth element in the proviso to engage in other related activities, which would contribute to reaching broad agreement on the long-term management plan. He offered some examples:

- A. Sediment mitigation is an issue identified from the CLAMP Report that was not addressed.
- B. Flooding mitigation strategies.
- C. Processes linking activities towards an EIS and align Phase 1 to springboard into Phase 2.

Director Liu conceded that the examples are not the only activities to consider. It's important to consider community wants.

Mayor Selby suggested "B" should be revised to reflect "Sea level rise mitigation." Sea level rise is an ongoing issue versus a one-time flooding episode. Olympia staff recently provided a report to the City

Council on the importance of any issue surrounding the lake/estuary as a way to potentially help prevent the downtown from being under water in the next 50 years. Community benefit should also be identified as another activity.

Discussion of Draft Work Plan

Mayor Kmet commented that because of the tight deadline, he doesn't envision the process as sequential necessarily. While the TAC is working on the scientific, the work group should schedule public involvement process to identify options. Funding and governance, to some degree, depend on the outcome of the other elements. Director Liu affirmed that because of the short timeline, staff never envisioned any of the activities to occur sequentially. A number of processes should be initiated immediately.

Mr. Dickison suggested providing direction to the TAC and clarify its works. The starting point could entail the TAC's direct role in addressing best available science (Element #1) and sediment management in terms of more information and clarification for the work group.

Director Liu advised when DES receives funding for the project the next step is engaging with the consultant and developing a scope of work. Scientific information and sediment management are important pieces. The submission of the hybrid models (Element #2) could begin immediately. Some activities could be queued quickly to help clarify the work plan.

Commissioner Wolfe reminded the work group of the request to staff, as the request is broad with no attached funding. The request should be narrowed, as the broadness of the request would be problematic for Thurston County. Director Liu said DES is relying on the consultant to obtain and consolidate existing information. The TAC will be asked to review the work of the consultants to ensure due diligence of the work and seeking any potential gaps. The expectation at this time is directing the consultant to begin the work and engaging. Commissioner Wolfe asked about the time commitment of TAC members. Director Liu said the time commitment at this point is unknown. Commissioner Wolfe asked for verification of the time commitment prior to assigning staff.

Mr. Dickison commented that now is the opportunity to step up and address the issues. The Tribe is committed to the process and staff members have been assigned. He encouraged all jurisdictions to consider the opportunity through that mindset.

Commissioner McGregor confirmed the Port's commitment and the assignment of the Port's Director of Engineering as a member of the TAC. He asked whether a TAC work schedule has been established. He recommended posting the schedule on the website. Director Liu advised that a schedule would be established but meetings are pending dependent upon the consultant. Several suggestions by some of TAC members have been offered on division of the work between members.

Overview of Environmental Impact Statement Process, Department of Ecology

Mr. Dziedzic commented on the work plan and the importance of the first year to achieve success to proceed to the next year to ensure the outcome is a viable request to the Legislature to fund an EIS.

Director Liu reported that seeking funding from the Legislature to fund the EIS depends on the quality of work completed by the work group. Proving the ability of working together will be an important piece in securing financial support. Secondly, the timing of preparedness for moving to an EIS is also an important consideration in terms of fulfilling the requirements of the proviso to satisfy the Legislature.

Sally Toteff, Regional Director, SW Region, Department of Ecology, provided an overview of the EIS process.

In 1971, the Legislature adopted the State Environmental Policy Act (SEPA). SEPA is the first step in any project and is a prerequisite prior to receiving permit decisions. SEPA identifies potential significant impacts and ensures that environmental values defined in SEPA rules are considered, as well as providing an opportunity for the lead agency to investigate other parts of the project that might have community value to include in the EIS. An EIS provides information to the public and to agencies rendering permit decisions.

An EIS is necessary if the project is likely to result in significant adverse environmental impacts. An EIS is intended to be an impartial discussion to disclose information to afford an opportunity for the public to better understand the potential environmental impacts of a proposal and provide comments on the draft EIS.

The first step of an EIS is the scoping process. Scoping affords an opportunity for people to provide feedback and direction to the lead agency on what should be studied in the EIS. Data collection and analysis, lead to creating the Draft EIS. During the review of the Draft EIS process, opportunities are available to the public to provide feedback through public hearings or written comments. All comments are reviewed and considered by the lead agency, which considers whether additional analysis is warranted or whether there are data gaps to complete. The next step moves to issuance of the Final EIS. Only after the Final EIS is issued, can the project receive permits and move forward.

Mayor Selby referred to the work plan and schedule and indicated a willingness to meet more than once a month. Commissioner Wolfe agreed. Commissioner McGregor commented on commitment to meet more than once a month.

Mr. Dickison referred to the EIS process and prior discussions on the type of EIS the process might undertake. Some suggestions included pursuing a programmatic EIS. He suggested the EIS should be structured to render a decision. A programmatic EIS can effectively include many options without rendering a decision. During his conversations in the last year within all sectors of the community and supporters of different options, the underlying theme from everyone was that any process should render a decision. It will be important for the work group to consider the EIS and it's likely not productive to consider pursuing a programmatic EIS that doesn't render any conclusion.

Commissioner Wolfe and Mayor Selby agreed with the suggestion.

Next Steps

Director Liu reviewed the upcoming schedule for the March 9 open house to receive public input on the work plan. The March 25 meeting includes presentations on EIS and permitting processes. Staff will consider the request to consider an additional meeting and provide some direction.

Adjournment

With there being no further business, the meeting was adjourned at 11:06 a.m.