

# CAPITOL LAKE EXECUTIVE WORK GROUP

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

> May 27, 2016 9:30 a.m.

(Approved: June 24, 2016)

# **EXECUTIVE WORK GROUP MEMBERS PRESENT:**

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

### **DES STAFF MEMBERS PRESENT:**

Chris Liu, Director Bob Covington, Deputy Director Carrie Martin, Asset Manager Ann Sweeney, Special Assistant to the Director

# **PRESENTERS/FACILITATORS:**

Paul Dziedzic, Meeting Facilitator Jessi Massingale, Floyd|Snider Christina Martinez, Jacobs

### **OTHERS PRESENT:**

Dennis Burke, E<sup>3</sup> Sandor Silagi, Citizen Kristin Swenddal, Department of Natural Resources Tom Gow, Puget Sound Meeting Services Jack Havens, Citizen Brad Murphy, Thurston County Resource Stewardship Bud Blake, Thurston County Chris Conklin, WDFW Dave Peeler, DERT Dan Smith, City of Tumwater Bob Holman, CLIPA Scott Steltzner, Squaxin Island Tribe Jon Pretty, Communications Jim Erskine, Communications Rose Hong, Asset Management Manager

Nouk Leap, Administrative Assistant

Daniel Einstein, DERT Bill Helbig, Port of Olympia Lydia Wagner, Department of Ecology Cristina Figureva, Department of Ecology Andy Haub, City of Olympia David Milne, Citizen Wendy Steffensen, LOTT Clean Water Alliance Richard Wolf, Citizen Phyllis Farrell, Citizen Peter Heide, Citizen Helen Wheatley, Citizen Capitol Lake Executive Work Group MEETING MINUTES May 27, 2016 Page 2 of 10

### **Opening Comments and Review of Agenda**

Paul Dziedzic, Facilitator, called the meeting to order at 9:31 a.m. He welcomed everyone to the meeting.

The committee will receive updates on the status of the Funding and Governance Committee, Sediment Management Panel, and the Technical Committee. Members will have an opportunity for a second touch review of Goals and Objectives, receive input from the community meeting, and engage in a first touch review of best available science and feedback from the Technical Committee.

Members of the Executive Work Group and meeting presenters in attendance provided self-introduction.

### Approval of May 27, 2016 Minutes

By consensus, members approved the June 24, 2016 meeting minutes as published.

# Second Touch on Goals and Objectives - Overview of Community Input

Jessi Massingale, Floyd|Snider, referred to revised materials from the previous meeting. The materials evolved from input received from the Work Group, Technical Committee, and the community. A summary of the results of the online survey regarding the materials from last month will also be provided. The online survey was a two-week survey to solicit input on goals and objectives.

Ms. Massingale reviewed Figure 1, *Timeline of Events Related to Capitol Lake and Evolution of Goals and Objectives*. Feedback was received and incorporated and will be included within the Proviso Report. Three events were added to the graphic representing:

- 1. 1971-1999 summer lake drawdown and marine saltwater backflushing is conducted to control algae blooms and freshwater plant growth in Capitol Lake.
- 2. 1996 Permitting efforts for construction of Heritage Park begin and highlight the need for an adaptive management process.
- 3. 2004 A herbicide (triclopyr) is applied to Capitol Lake as part of a research effort intended to control Eurasian watermilfoil.

Feedback was received concerning the value of documenting LOTT Clean Water Alliance's water quality treatments. The information will be included within the Proviso Report. The community recommended including the CLAMP Steering Committee recommendations. This information will also be included within the Proviso Report.

Figure 1 will be included in the Proviso Report because it provides context on the evolution and history of the lake.

Ms. Massingale referred to Figure 2c, *Community Input on the 2016 Capitol Lake Long-Term Management Planning*, showing results of the online survey conducted in April. Input was received from 421 survey respondents, with 346 written comments totaling over 50 pages. Similar to the review last month of the 1999 Environmental Impact Statement (EIS) process and the 2009 CLAMP results from public input, the graphic is a bar chart of relative order of magnitude of the survey responses. The top six goals in 2016 are consistent with those from 2009 and 1999, with some shifting in order. The top six include: aesthetics, sediment management, recreational opportunities, water quality, economically feasible and reasonable, and habitat restoration.

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At the community meeting on April 27, many citizens requested additional clarification on the definition of some of the goals, such as aesthetics and salmon recovery. It's important to understand that the goals are not tied to specific options. Using aesthetics as an example, one respondent indicated that the lake has been a beautiful asset and icon for the City and that the respondent supports aesthetics as an important long-term goal as a proponent for maintaining a lake. Another respondent equated aesthetics to a natural estuary that is aesthetically pleasing. The Figure captures some of the comments to provide context.

The Technical Committee did not offer specific comments on Figure 1; however, for Figure 2C, Technical Committee members recommended that information should be presented to reduce any indication of a specific bias either for a lake or estuary alternative. Additionally, some goals reflect only one comment as only one comment was submitted in the survey.

Other themes generated from the survey included interest in restoring and enhancing recreational opportunities, comments on costs, and comments ranging from evaluating long-term maintenance costs to reducing potential economic impacts to the local community. Other recurring themes centered on sediment management regardless of the lake management alternative. The public is aware that all options should carefully consider sediment management plan. A number of comments focused on garnering broad community engagement and continuing to engage the community throughout the process. Many comments spoke to the increased sense of urgency to act regardless of the long-term option and that the process should move forward to the next phase to pursue a final action. Many respondents cited frustration with how long the issue has been studied and discussed.

Jeff Dickison questioned the purpose of Figure 2c, as some of the comments are demonstrably false or inaccurate. His concern is that inaccurate information isn't conveyed as accurate because it's included within the Figure. Ms. Massingale acknowledged this, and shared a good example, a comment stating that a tidal exchange in an estuary would completely eliminate or remove invasive species. She acknowledged that there may be misconceptions as the comments presented on the Figure have not been modified from those submitted from the public as part of the on-line survey. In terms of each statement, it is important that perceptions or interpretations do not become the driving force moving forward. Best available science guides a credible process. Ultimately, the process will rely on valid and best available technical information.

Mr. Dickison acknowledged the explanation but questioned whether it's adequate in the context of his concern. He recommended including a disclaimer statement citing that the opinions may not represent scientific consensus or findings of fact. Commissioner Wolfe agreed that a declaimer should be included.

Director Liu supported the recommendation, as the information entails unedited comments from the community.

Mayor Kmet supported the recommendation as well.

Ms. Massingale referred members to Figure 3, *Goals for Long-Term Management of Capitol Lake*. Much of the discussion generated around Figure 3 during the reviews focused on lumping or splitting different elements versus providing more details. Blue circles are goals from existing project documentation that transition to primary themes of Environment, Infrastructure, Community, and Economy to create goals for long-term management (yellow circles) reflecting stakeholder input and provisions in the 2015 Proviso.

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The Technical Committee reviewed Figure 3 at its last meeting and offered additional feedback and minor changes to terminology, such as changing, "Recover healthy salmon runs" to, "Support healthy salmon runs." Instead of, "Maintain aesthetics and visual quality," committee members recommended, "Support aesthetics and visual quality" because it means different things to different people. Additional input included adding symbols, a circle, triangle, and square, to communicate the directives from the Proviso, requirements of federal or state law, and ecosystem recovery targets.

The information will form the basis for a draft Purpose and Need Statement (or problem statement under SEPA regulations.) A purpose and need statement identifies the reason for a project; what is the goal or purpose for doing the work? During the EIS process in Phase II, the purpose and need statement is compared against different long-term options to ensure the final outcome meets the goals outlined in the purpose and need statement. Additionally, as the process moves to secure permits in Phase III, the information forms the basis for the permit application(s). The consultant team has completed an initial draft and is finalizing it with DES for presentation to the Technical Committee, Executive Work Group, and the public in June. In June, the Work Group is scheduled to review a summary of identified hybrid options. The Purpose and Need Statement will be included within the Proviso Report and can serve as the foundation for the future EIS process.

Mayor Kmet requested a review of the Technical Committee's suggested changes to the yellow circles. Ms. Massingale reviewed the proposed changes:

Current	Recommended Change
Recover healthy salmon runs	Support healthy salmon runs
Maintain aesthetics and visual quality	Support aesthetics and visual quality
Maintain historical and cultural resources	Support historical and cultural resources
Avoid economic impacts	Avoid negative impacts and maximize
	economic benefits

The materials are publicly available for a two-week public comment period. Members were encouraged to provide input within two weeks.

Mr. Dziedzic invited feedback from members.

Councilmember Hankins suggested all notations of "Improve" should be revised to reflect "Support" because once the improvements have occurred, it would be important to continue supporting those efforts.

Mayor Kmet suggested the intent is to improve conditions rather than support efforts to improve conditions. Councilmember Hankins said her recommendation pertained to both improving and ensuring a plan is in place to support efforts in the future.

Mr. Dziedzic said the suggestion pertaining to "improve" is at a specific point in time because the goal for a management plan is to attain a specific condition and long-term management goal beyond the existing point. It was pointed out that the goals are long-term goals. Ms. Massingale acknowledged that it could be "improve and support" as there are some elements that speak to improving recreational opportunities because regardless of the future status of the lake, most people want recreational opportunities improved.

Mayor Kmet said that the example for salmon would entail more than just support, as the idea is to improve the return. Support is not necessarily the correct context.

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Commissioner Wolfe offered a suggestion of adding "Improve and support." Mayor Kmet acknowledged the suggestion. Additionally, for sediment management, there is no sediment management today and improve might be appropriate. The same could apply to aesthetics, as current aesthetics are not that desirable. The descriptions depend on the context. For the most part, adding, "improve" would be beneficial.

Ms. Massingale asked for input on materials for the next meeting when the draft Purpose and Need Statement will be presented to the Work Group. The team can compile a range of examples of purpose and needs statements from other projects completing an EIS process, permitting, and construction. The intent would be to provide some context for those unfamiliar with purpose and need statements and provide a range of examples. She asked for input on reviewing examples of different purpose and need statements prior to presenting the draft Purpose and Need Statement for Capitol Lake.

Mayor Kmet commented on the difficulty of condensing information within the yellow circles into a succinct purpose and need statement. Ms. Massingale agreed, as the goal is to ensure the statement has sufficient depth while avoiding preclusion of options.

Director Liu supported a review of examples of purpose and need statements.

### Mayor Selby excused herself from the meeting.

### First Touch on Best Available Science and Overview of Feedback from Technical Committee

Ms. Massingale reported the Proviso includes best available science and the DES Work Plan includes components of work surrounding best available science. The Proviso directed the identification and summarization of best available science for water quality and habitat relative to conceptual options of retaining or removing the dam. The DES Work Plan includes developing criteria and a process to review the science and opportunities for each group to review the information. To meet the goals, research was completed on different criteria and methods to identify best available science.

Ms. Massingale referred members to information on *Methodologies to Review Best Available Science*. An example definition for best available science is the federal definition provided in the materials.

During recent research, the team identified three options for consideration after reviewing a number of state, federal, and international methods that are widely accepted and used. They focused on methods that are suitable for review of environmental data such as water quality or habitat, confirming that the methods are commonly used and reflect current best practice, and confirming that the methods were provided in formal guidance or codified in law or in peer review literature.

The Figure, *Methodologies to Review Best Available Science*, also includes a source notation of the detailed sources of the technical studies, information, and reports. The sources are included on the DES website.

Ms. Massingale reviewed state, federal, and international methods for identifying best available science, which are detailed in the meeting materials.

Essentially, Washington State's methodology is a tabular format. The EPA's guidelines entail a narrative with five assessment factors. The International System is a scoring or ranking system from 1 to 4.

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Ms. Massingale referred members to the Figure, *Washington State Criteria for Ensuring Best Available Science is Used in Policy*. The information is from a table in the WAC Growth Management Act, which was enhanced to improve readability. The table represents a tabular format whereby the x-axis includes a list of sources of scientific information (data) to include: Research, Monitoring, Inventory, Survey, Modeling, Assessment, Surfaces, and Expert Opinion. The y-axis includes characteristics of Peer Review, Methods, Logical Conclusions and Reasonable Inferences, Quantitative Analysis, Context, and References. Check marks represent characteristics that are present for the information to be considered scientifically valid and reliable. An orange mark relative to Quantitative Analysis is indicative of positive validity of the information.

Ms. Massingale reported that the criteria for *Expert Opinion* includes guidance on determining if a person is qualified as a scientific expert and also acknowledges that there could be technical studies or data that do not necessarily meet the characteristics for validity or reliability under scientific evaluation but could be helpful as supplemental information. However, it cannot substitute or replace information identified as scientifically valid and credible.

Technical Committee input revealed that some Department of Ecology members were familiar with the methodology and have implemented and found the table to be objective when evaluating environmental data. The Department of Ecology is supporting the process and is sharing peer review categories. Overall, the Technical Committee provided initial support of the state's methodology.

Mayor Kmet pointed out that many of the goal statements pertaining to cost or history are not scientifically based. He questioned whether a definition of science has been identified. Ms. Massingale affirmed the WAC does not define best available science but infers a review of technical documents against the tabular format would deem credible science or no credible science. For those issues not scientifically-based, the alternatives analysis factors those goals acknowledging that best available science is not used in all approaches as the conceptual design in the EIS includes assignment of costs for each option.

Mr. Dziedzic noted that the Proviso provides direction on best available science and identifies it as findings of best available science concerning water quality and habitat as they relate to conceptual options of retaining or removing the dam. Mayor Kmet asked whether the intent of the criteria is to focus only on water quality and habitat. Ms. Massingale affirmed that the technical documents focused on water quality and habitat. Within the EIS process, identification would be required of the current state of water quality and impact on water quality under each of the options evaluated, as well as an assessment of climate change and sea level rise that are not addressed in the Proviso but reviewed and assessed during the EIS process. Mayor Kmet suggested including a statement identifying what would be evaluated by the methodology.

Jeff Dickison questioned whether the evaluation could be used on invasive species because limiting the assessment to water quality and habitat might be too restrictive in terms of the goals of evaluation on a scientific basis. Ms. Massingale advised that a review of the methods would include a review of the compiled document list. The Proviso stipulated water quality and habitat. The compiled technical document includes a definition of habitat as inclusive of habitat for fish, wildlife, and other aquatic organisms and it includes other information relevant to habitat, such as invasive species. An EIS process is not guided by a proviso directive. Any conflicting information on a topic could be subject to the evaluation method, as needed. Ms. Massingale said the language within the Figure would be improved and included within the Proviso Report reflecting that the compiled technical document list is focused on

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water quality and habitat and that the methodology could be used for any review of scientific information in the EIS.

Members supported Ms. Massingale's recommendation.

Ms. Massingale reviewed the Figure on USEPA Guidance for Evaluating the Quality of Scientific Information. EPA's method of evaluation includes five general assessment factors of Soundness, Applicability and Utility, Clarity and Completeness, Uncertainty and Variability, and Evaluation and Review. Within each factor or category, a number of questions require answers. The team did not edit the text. The Technical Committee indicated that the method is somewhat challenging or includes potential weaknesses for the introduction of subjectivity in scoring and answering of questions as it entails some judgment when answering each question. The consensus by the Technical Committee indicated the WAC was more appropriate for the review of environmental data.

Ms. Massingale referred to the Figure, *Internationally Recognized Scoring System for Evaluating Data Quality*. This method is a different approach as the method is based on scoring or ranking. The reviewer reviews the scientific information or technical studies and assigns a justification code based on the information's credibility or robustness with 1 the better score and 4, the lower score. Different groups have expanded the framework by providing more guidance. The method is largely used for material on toxicology. The method was considered because it is used commonly and frequently in the review of environmental data. Overall, the Technical Committee did not have the experience with the international method and given that the method is a ranking system, the Technical Committee believed that since the WAC is used for environmental data by cities and counties, it would be the preferred method.

Ms. Massingale referred to the peer review journal article, which is available on the DES website as an original source document.

Ms. Massingale responded to questions about the differences between the international ranking method as opposed to the WAC and the EPA methods. The WAC method is applicable to a range of sources and provides guidance on defining a technical expert or an explanation of how to review information from different sources of information. The WAC methodology eliminates some of the subjectivity and provides information about how to evaluate expert opinions. The methodology also acknowledges that information not meeting the characteristics of scientifically reliable and valid, could still supplement the science.

Ms. Massingale encouraged input on the three methods because the intent is that after completing the second touch, the method will be included in the Proviso Report as the preferred method for use in an EIS process.

Mayor Kmet asked whether the WAC method includes a guidance document describing the application of the methodology. Ms. Massingale said no additional guidance is available as the method is described in the WAC Growth Management Act. The team was able to locate information online on how the City of Seattle and other cities have used it, as well as Ecology and WDFW. Various examples exist of other governmental entities or agencies that have used the method. Mayor Kmet asked that the Work Group receive a copy of the WAC. Ms. Massingale affirmed the WAC and the other sources are included on the DES website.

Mr. Dziedzic commented that the EPA methodology is less clear on whether the information is valid or invalid. Ms. Massingale agreed the methodology includes more subjectivity because many of the

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questions are open-ended allowing the reviewer to consider or not consider sources whereas the tabular methodology is specific in terms of whether the source can or cannot be validated.

Ms. Massingale encouraged input from members by June 2. Information for inclusion within the Proviso Report will document the review for identifying criteria for best available science and the recommended method, as well as a description of the anticipated use in an EIS. These efforts are intended to streamline and shorten a future EIS process.

Ms. Massingale described the process for preparing the list of technical documents that would be reviewed for potential best available science for water quality and habitat. The table of documents reviewed to date is available on the website with a request to the community to provide additional reports or studies relative to water quality or habitat. The documents provide science related to water quality and habitat and would be relevant to the evaluation of long-term management options and the impacts of retaining or removing the dam.

The initial draft speaks to technical studies regarding water quality to include all water bodies affecting or affected by Capitol Lake. That enables the inclusion of reports or studies on Budd Inlet and the Deschutes Watershed. No firm geographical boundary has been identified at this time. For Habitat, the team deemed habitat as inclusive of habitat for fish, wildlife, and other aquatic organisms, and it includes other information relevant to habitat, such as invasive species.

Input from the Technical Committee was based on a definition of a geographic boundary when considering water quality because it encompasses the entire watershed. No geographic boundary was defined for habitat. The information will continue to be revised based on input and as additional sources of technical studies are identified for habitat and water quality.

Ms. Massingale requested input on whether water quality should also include water quantity. Preliminary information was received on water quantity. Other input included information on a Coho recovery plan, as well as habitat studies. City government officials representing Olympia, Tumwater, and Thurston County shared ideas on the work completed by the LOTT Clean Water Alliance and local government partners. The technical studies are listed chronologically with recent documents listed first. A larger list of sources in draft form was also prepared. Some stakeholder groups have also shared information that was included in the document. The document serves as a repository of source documents for the EIS process. DES has collected much material and published the information on the website. More studies, reports, and information are anticipated to be included within the list. The goal is to take advantage of this process to solicit and compile information. During the second touch on best available science, the team will report on results from input from the community and present a longer list.

Mr. Dickison asked whether the list would be screened using best available science methodology. Ms. Massingale affirmed that it would during Phase 2. The EIS process would include a compilation of all information and not just water quality and habitat. The information hasn't been screened against the method in part because of the limited timeframe to prepare the Proviso Report and because of the uncertainty of when Phase 2 would occur. If funding is delayed, the list could expand and any new information would be included in the screening. The intent is consolidating all information to facilitate an EIS process during Phase 2.

Mr. Dziedzic commented that the title of the document might imply that the documents have been determined to be best available science. It might be more appropriate to re-title the document as a

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document review on water quality and habitat for development or identification of best available science in an EIS.

Director Liu recommended clarifying that the sources of data have not been screened or filtered and that the filtering process would occur during the EIS process.

Ms. Massingale said the next meeting will include a larger list building from input from stakeholders, and a recommended or selected methodology based on input. Members will review the draft Purpose and Need Statement and complete a first touch review of hybrid options. The Proviso requires the identification of multiple hybrid options for future management of Capitol Lake. Options are to include substantial improvement in fish and wildlife habitat and ecosystem function, maintain an historic reflecting pool at the north end of the lake/estuary, and adaptive management strategies. At the June meeting, the Work Group will focus on the hybrid options identified from work completed from previous processes or suggested by the community. During the extended session at the June meeting, one of the presentations will feature a hybrid option. In July, the Work Group will review the full range of options, including a managed lake and a restored estuary.

Councilmember McClanahan expressed appreciation for receiving the historical data because it's important to acknowledge the time and efforts spent on Capitol Lake. The team has done a great job of encapsulating the information.

Mayor Kmet noted that the City of Tumwater has completed a variety of stormwater studies. It's likely other local jurisdictions have completed similar studies. Information also may be available on the ranking of streams in this area of Thurston County in terms of quality and habitat. It's also possible the Port of Olympia completed studies on sediment characterization, which isn't reflected in the list. Ms. Massingale encouraged the submission of all documents to increase the efficiency of Phase 2. Technical Committee members were provided with a shared file application for uploading reports, which can be shared with the Work Group as well.

### **Process Update from DES**

# Update on Open Technical Committee meeting.

Director Liu briefed members on the status of opening Technical Committee meetings to the public. DES is enabling the public to observe Technical Committee meetings. The meetings do not afford an opportunity for public comment. The Technical Committee is tasked to review a substantial amount of information. Because of the compressed timeframe, it's important the committee has the necessary time and resources to complete its work. It's also important that any public observation doesn't interfere with the work of the committee. Subsequently, DES is developing some rules for public attendance. DES also reserves the right to end public attendance if problems arise.

Mayor Kmet asked about the status of public attendance to the Funding and Governance Committee meetings. Director Liu said DES is still considering the option and no decision has been rendered at this time.

Commissioner McGregor thanked and acknowledged DES for inclusion of the public during the committee's meetings because it will benefit the process. It's important for the public to hear the discussions and have an opportunity to provide feedback at other venues.

### Update on Funding and Governance Committee

Deputy Director Covington reported on the initial meeting of the Funding and Governance Committee on May 17. He encouraged executive members to regularly talk to their representatives on the Funding and

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Governance Committee, so everyone stays informed throughout the process. The first meeting initiated the committee and outlined rules and responsibilities of each member. Information was shared on the process to date. Members initially identified different funding and governance models. Members reviewed directives in the Proviso. The Proviso directs the identification of conceptual options and degree of general support for shared funding by state, local, and federal governments, and potentially other entities, and identification of one or more conceptual options for long-term shared governance of a future management plan including consideration of an option similar to lake management districts or shellfish protection districts. All members were encouraged to think creatively. The process entails participation by each member. Members agreed to a template and an approach for gathering information and feedback. Some conceptual models could be different depending on the selected long-term management option.

DES is working on a draft of the initial information to disseminate to committee members. The second meeting will explore conceptual alternatives and consider the degree of support for specific models. Action items were identified for members to populate the matrix of models to aid future conversations. The next meeting is scheduled on June 21.

Mr. Covington queried members about any opportunities to connect with their respective members serving on the committee. Commissioner Wolfe said a meeting has been scheduled for the county's representative.

#### Next Steps

Mr. Dziedzic reviewed the presentations that are scheduled to occur after lunch, from community groups and individuals. The schedule includes a five-minute question and answer period following each presentation. Four presentations are scheduled between noon and 2 p.m.

Ms. Massingale reported the next Community Meeting is scheduled on Wednesday, June 1. She is unavailable to attend the meeting; however, other members of the Floyd|Snider team plan to attend. On Thursday, June 2, the two-week cycle for the online survey and request for additional studies and data ends. She invited comments on Figure 3 by Thursday, June 2. Materials will be transmitted by email for the June meeting. She encouraged members to review the draft Purpose and Need Statement prior to the meeting. June's meeting agenda includes a second touch on best available science, a summary of the results of the Community Meeting, a summary of additional technical studies received to date, and first touch review of hybrid options.

Mr. Dziedzic reviewed adjustments to the presentation schedule for the afternoon's meeting.

Director Liu reported on a suggestion received during the last Community Meeting for each member to publicize the meeting dates on their organization's website. DES staff will contact each organization to incorporate meeting information or provide a link for each organization's website.

#### Adjournment

With there being no further business, Mr. Dziedzic adjourned the meeting at 11:10 a.m.

Prepared by Puget Sound Meeting Services, psmsoly@earthlink.net