

Port of Cascade Locks

A Joint Meeting of the Port of Cascade Locks Commission and City of Cascade Locks Council was held November 24th, 2009 at the Cascade Locks City Hall Chambers, Cascade Locks, Oregon.

- I. **Meeting called to order:** Mayor Lorang called the City Council meeting to order at 7:00 pm. Commission President Lee called the Port meeting to order at 7:00 pm.
- II. **Roll Call City Council:** Mayor Lorang, Councilor's Osbourn, Pruit, Masters, Cramblett & Holmstrom were in attendance.
Roll Call Port Commission: Commissioner's Lee, McLean, Woosley, and Groves were in attendance.
- III. **Amendments to Agenda:** Nothing.
- IV. **Status of EIS (Environmental Impact Statement):**
CA Seeger stated that there is a full update in the City Locks Tender going out on Monday.

CA Seeger stated that we are waiting for the release of the final EIS. The Obama Administration has decided to do a policy review of off-reservation gaming applications and that should be completed in December 2009. Once that is completed they will be looking at individual applications.

Mayor Lorang stated that when they went to Washington DC they were told that the commutable distance policy was not going to be an issue with the Warm Springs application.

GM Daughtry stated the other issues being looked at regarding this application are the ancestral ties to the land, the ceded land rights, and the eligible land in Hood River.

- V. **Status of ECLI (East Cascade Locks Interchange) & IAMP (Interchange Area Management Plan) process.**

Port Commission President Tim Lee stated that he has been involved with this project since the beginning, about 2 ½ years. Commissioner Lee stated that we (Port, City, County) were not given the opportunity to be represented at the meeting when it was determined what interchange alternative had been chosen and that the ECLI would be closed.

Commissioner Lee stated that since the time we found that out we have been working through an extensive process to address this issue and fight the closure of ECLI.

Commissioner Lee stated that we hired one of the best traffic engineers to guide us through the process and he came up with a safe alternative that we presented to ODOT. Commissioner Lee stated that at the last joint meeting we stated that we were going to be able to move forward with the two options, but since then ODOT informed us that they were only going to move forward with one option, that being

the closure of ECLI, due to safety issues. Commissioner Lee stated that we are not through with the process; all three entities have invested a lot of time & effort into fighting the closure of the ECLI. Commissioner Lee stated that they have had meetings with Senator Metsger and have asked the Governor to intervene. The Governor has said that he cannot intervene with ODOT on what they see as a safety issue.

Commissioner Lee stated that the County and Port have signed an agreement with the City that allows us to participate in the IAMP process.

Commissioner Lee stated that the Port would like to propose to the City Council for consideration that the Port and City attorney's review legal under findings of the IAMP as well as the City's transportation system plan and comprehensive plan to determine what rights may exist for the City administratively and in court to contest the closure of ECLI. Commissioner Lee stated that the IAMP is a very important process and during this process we will figure out the impacts and mitigations available.

Commissioner Lee stated that the Port is still 100% in favor of the Warm Springs Resort project moving forward however we are adamant about the fact that ECLI not be closed.

GM Daughtry stated that Commission President Lee has been at all the meetings and is strongly advocating for the community.

Chuck reviewed the following points;

- When we first heard that the interchange would be closed we wanted studies done that would evaluate what the impacts would be. The studies came back and the position of the local community was that the impacts were unacceptable and the position of ODOT was that they were acceptable.
- The Port, City and County have argued with ODOT on every level and they will not budge.
- Another option is to look into any legal rights the City may have.

Karen Ostrye (Port's attorney) stated that the IAMP process ends in an agreement between the City and ODOT. She stated that the question is What if those two groups don't agree and there isn't an agreement. She stated at that point the City may have to amend their comprehensive plan and/or their transportation plan even before an agreement could be done. There would be no direct appeal right because the IAMP is an agreement between the City and ODOT and you wouldn't appeal something you have agreed to. She stated that the remedy would be not to enter into the agreement, but the question is what happens at that point.

CA Seeger stated that his understanding is that project can't go forward until the IAMP is adopted by the OTC (Oregon Transportation Commission), then the Federal Highway looks at the agreement. Once all of that is approved we have the green light to build the interchange and move forward with the project.

GM Daughtry stated that another unique feature is that this is not an ODOT project, it is a Warm Springs Tribe project and that is why there is potential for disagreement.

GM Daughtry stated that we have to look at the mitigations and how they plan to reroute traffic.

Councilmember Masters asked if the IAMP goes before the OTC why they couldn't help mitigate our concerns.

GM Daughtry stated that his understanding from ODOT is that the IAMP agreement has to be signed and agreed upon prior to going to the OTC. The OTC is not an arbitrator.

Commissioner Lee stated that his understanding is that if the Community/City Council cannot come up with an agreement with ODOT then project cannot move forward. If we are not comfortable with how the process is going and the mitigations and we feel that it will change the livability or economics of the Community then we don't sign the agreement.

Discussion on whether the issue can go to the OTC before the agreement with ODOT is settled.

Attorney Ostrye stated that we should do some more investigation as to what the OTC allows, or call them and get on their next agenda. Attorney Ostrye cautioned everyone suggesting that they check with other entities regarding what has been done in the past and if it worked.

CA Seeger stated that his question is "Do the Boards want staff to proceed with the IAMP". Should we find out what mitigations and actions will be taken to lessen the impacts to Forest Lane and address livability. We won't know what the final outcome will be until we go through the IAMP.

Commissioner Groves stated that now is the time to go before the ODOT Board.

Cascade Locks resident Bobby Walker stated that the IAMP will have its own representatives from ODOT. Mr. Walker stated that you will be making very hard decisions because you don't know what ODOT is willing to mitigate.

GM Daughtry stated that staff recommendation is to proceed with the IAMP; we need to have the process documented. GM Daughtry stated that ODOT has agreed that the impacts to Forest Lane need to be mitigated, and once we have that information, we can make an informed decision.

Councilmember Holmstrom asked what happens if the FEIS gets released and this issue is not resolved. CA Seeger stated that if the FEIS gets released it will still take awhile before anything can happen because there is a comment period and we expect lawsuits. CM Holmstrom asked if the Tribes can sue us if we don't reach an acceptable agreement with ODOT. CA Seeger stated that we don't know the answer to that question.

Mayor Lorang opened the floor to questions:

Community member Don Haight asked if this decision regarding the IAMP has to be settled before the Casino gets approved at the Federal level. He stated that he feels

the time to go ahead with pursuing the IAMP is after the Casino is approved at the Federal level.

CA Seeger stated that the cost to the City is nominal. The IAMP process would include two public hearings (planning & council). The IAMP development is paid for by the Tribe, they are the applicant. We will have staff time like we do for any planning project. The Tribes want to move forward with the process.

Mr. Haight stated how many years have we waited for approval and we still don't know we should wait until it is approved, then get our act together, we don't know what it's going to cost this City to put traffic on Forest Lane.

Councilmember Pruitt stated that we are talking about combining attorneys, do we have a cost estimate.

CA Seeger asked if the council was interested in teaming up with the Port's legal resources to look into any legal remedy there might be and then to what level of expenditure?

Attorney Ostrye commented that she felt the process would be in stages, the first part of the process could be a determination of what you can do and if there is a real legal remedy to take, that would be important to know before moving forward. Once you know that information then look at what the options are, if any and what the next step would be.

CA Seeger stated that would be his recommendation to the council to fund that first part of determining if we have options, then come back and decide what the next step would be.

Mayor Lorang requested a dollar amount to take the first step.

Councilmember Osbourn asked what would happen if we waited until the Department of Interior makes its decision about the Casino.

CA Seeger stated that the Warm Springs Tribe would be upset they have requested that we start this process.

CM Osbourn asked why you couldn't wait until it is approved, and then start spending the money for this process.

CA Seeger stated that one of the impacts if you wait is delaying the project. If the IAMP is not started and the Department of Interior approves the application it will delay the project.

CM Pruitt stated that the other impact of moving forward and then not getting the approval is that we have already invested the money. How will this impact the budget and do we have the money available.

CA Seeger stated that he was thinking about \$2,000 of the \$5,000 in the Special Projects Fund.

Community member Kate Stuart stated that she is hearing a lot of questions, but no answers. She commented that she has not heard what the attorney bill will be “total”, and we don’t know if the tribe can sue us. She commented at what point can we stop this and say this is too much money we don’t want to go through with this and not get sued and limited mitigation, there is no room for a full interchange. She commented that no one is asking the hard questions, she said there are a lot of citizens in TV land who are going to want to know what it’s going to cost. She asked if we do start the IAMP process is there a point where we can be forced to finish it, because the tribe has invested a lot of money in this. She commented we are not hearing the answers we came to this meeting to get, and I think you better start asking the harder questions.

Commissioner Groves stated that yes the tribe has invested a lot of money in this and we partnered with them in good faith to move forward with this project, as a board we need to support this as best we can, as we have been within our means, we need to know what the costs are going to be.

CM Pruitt commented that if it’s true what Commissioner Groves says, that because they have made an investment then we have to go through with it, then that’s going to make me question allowing any further development such as Nestle. She commented that if we are going to go down a path that we are obligated once we step on that path then that really puts our City at a liability and can we afford that? We can only go so far based on our budget and to base that budget on what if’s is what got our economy where it is now. I want to be cautionary.

Commissioner McLean said if you don’t have the money, then you don’t have the money, our honor comes into it, but if you don’t have the money then you can’t do it.

CM Cramblett stated that we do have an obligation, we went into this eyes open and that we are in favor of the Casino/Resort. He commented that this will cost some money to keep moving forward, stating that he’s in favor of moving forward but would like to know how much it will cost.

CM Master’s commented that the issue of obligation is that you can always change your mind. Stating that the Governor supported this project, but when we went to him for support and help with ODOT on the ECLI issue, he said that he could not be involved with a technical decision, so in a sense he has changed his mind.

Community member Kate Stuart stated that she mentioned legal obligation and monetary.

CM Masters stated to get to those answers we need legal advice.

Karen Ostrye (Port’s attorney) stated that she felt that you could get answers to make some preliminary decisions with probably 10 hours of attorney fees.

Commissioner Lee stated that the Port feels this is very important to get a legal decision as to what we can do legally in this process with ODOT. Commissioner Lee stated that we would like to partner with the City.

Commissioner Lee did a consensus of the Port Commission to move forward with getting a legal opinion regarding this issue. Commissioners Lee, McLean, Woosley & Groves all agreed by consensus. .

Mayor Lorang called for a roll call of the council for a consensus of spending no more than \$1500 for a legal opinion regarding this issue. Councilmember's Holmstrom, Cramblett, Pruitt, Masters, Osbourn & Mayor Lorang all agreed by consensus.

CM Master's stated the other question is: Do we want to proceed with the IAMP.

Mr. Walker encouraged the Council & Commission to continue with the IAMP.

Mr. Haight stated that he still doesn't understand why we can't wait until the Department of Interior makes a decision before moving forward.

GM Daughtry stated that there are two federal decisions; one being whether the land goes into trust, the second is the approval of the interchange. The process for the interchange is long and the Tribes have requested that we move forward with both of them simultaneously. Stating that we need to find out if the community will be supportive of this project if ECLI gets closed, therefore we need to know the impacts and mitigations on Forest Lane and the IAMP process will give us those answers. GM Daughtry stated that we need an interchange at the Industrial Park regardless of whether the casino is approved and therefore this process will need to be done before any project moves forward in the industrial park.

Community member Carol Taylor commented that the Port and City have different goals, but you are all elected to represent all of the citizens of Cascade Locks and she stated that she doesn't think that all of the people are being represented, there are people that don't want the casino.

Mayor Lorang closed the floor to public comment at 8:25 pm.

Mayor Lorang & Commission President called for a roll call consensus on moving forward with the IAMP process.

Councilmember's: Holmstrom, Masters, Cramblett, Osbourn, and Mayor Lorang in favor. Councilmember Pruitt not in favor.

Port Commission: Lee, McLean, Woosley, and Groves in favor.

Councilmember Pruitt asked if we could do a better job of advertising for these meetings.

Mayor Lorang and Commissioner Lee adjourned the meeting at 8:29 pm.