



CAPITOL LAKE EXECUTIVE WORK GROUP

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

April 22, 2016
9:30 a.m.

(Approved: May 27, 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
Neil McClanahan, City of Tumwater

DES STAFF MEMBERS PRESENT:

Bob Covington, Deputy Director
Carrie Martin, Asset Manager
Ann Sweeney, Special Asst. to the Director
Ann Larson, Government Relations Manager

Jim Erskine, Communications
Paul Dziedzic, Meeting Facilitator
Nouk Leap, Administrative Assistant

MEETING PRESENTERS:

Jessi Massingale, Floyd|Snider
Tessa Gardner-Brown, Floyd|Snider

OTHERS PRESENT:

Sally Toteff, Department of Ecology
Sue Patnude, DERT
Dick Binns, Citizen
Tom Gow, Puget Sound Meeting Services
Jack Havens, Citizen
Katelyn Hess, Thurston County
Allen Miller, N. Cap Campus Heritage Park
Amy Hatch-Wineka, Thurston County
Dave Peeler, DERT

Daniel Einstein, DERT
Keith Dublanica, RCO
Bill Helbig, Port of Olympia
Chris Conklin, WDFW
Myra Downing, Olympia Yacht Club
Andy Haub, City of Olympia
Bob Wubbena, CLIPA
John DeMeyer, CLIPA/Olympia Yacht Club
Bob Barnes, Citizen

Welcome & Opening Comments – Updates – Status of Funding

Paul Dziedzic, Facilitator, called the meeting to order at 9:30 a.m. He welcomed everyone to the meeting.

Members of the Executive Work Group and Meeting Presenters in attendance provided self-introduction.

Review of Agenda

Mr. Dziedzic reviewed the agenda, which includes approval of the February 26 and March 25, 2016 minutes, a review of the process and a status update on items, and the first review of the goals and objectives. Future agendas moving forward include “first touch” and “second touch” items.

Mayor Selby advised of her early departure from the meeting at 11:00 a.m. because of another commitment.

Approval of February 26, 2016 & March 25, 2016 Meeting Minutes

By consensus, members approved the February 26, 2016 meeting minutes as published.

A change was requested to the minutes of March 25, 2016 revising the third paragraph on page 5 to reflect the following, “Mayor Kmet said it appears the work group would identify a range of alternatives that would be analyzed in the Draft EIS. However, is it also conceivable that the work group might select a preferred alternative as the Draft EIS is initiated? Ms. Massingale confirmed that such a selection is allowed within the EIS process.”

By consensus, members approved the March 25, 2016 meeting minutes as amended.

Reminder of Process/Phase 1 Implementation Plan

Community Input Meeting, Wednesday, April 27, 2016

Survey Open April 14-28 (Goals & Objectives)

Jessi Massingale, Floyd|Snider, updated members on the process to date. The meeting cycle includes the Technical Committee, Executive Work Group, followed by a Community Input Meeting. The next community meeting is scheduled on Wednesday, April 27 at 5:30 p.m. Meeting materials presented to the Technical Committee will be presented to the Executive Work Group and at the Community Input Meeting. To augment the materials, a summary of input received to date will also be provided to the Executive Work Group affording a review of initial feedback offered by the Technical Committee during its last meeting. Meeting materials provided to the Technical Committee were published online for the public initiating a two-week public comment cycle. Technical Committee members provided initial feedback on the materials and have the opportunity to check-in with their respective agencies to provide additional follow-up information before the closure of the two-week public comment period ending on April 28.

At the April 27 Community Input Meeting, the materials will cover the April goals and objectives materials followed by a facilitated discussion to receive input from the community. A brief overview will be provided to the public in addition to a printed copy of the online survey.

At the end of the public comment period, the team modifies the materials to reflect or inform the feedback from the three sources (Technical Committee, Executive Work Group, and the community). In May, a summary of the input will be presented for additional input by the Executive Work Group. At the May meeting, the Executive Work Group initiates its May proviso element topic with the same review cycle repeating.

Status of Funding & Governance Committee and Sediment Management Panel

Carrie Martin, Asset Manager, DES, reported members for the Funding and Governance Committee have been identified. Staff anticipates scheduling a meeting within the next week. Several seats remained unfilled for the Sediment Management Panel.

Update on May/June Community Presentations

Ms. Martin reported that in May and June, community presentations would extend the work group meetings. However, the presentations are not intended to substitute for the monthly Community Input Meeting. Community presentations to the Executive Work Group provide a conduit to groups or

individuals who have had a long-term involvement in the issues surrounding the management and future of Capitol Lake. In May and in June, the Executive Work Group will meet from 9:30 a.m. 11:30 a.m. followed by a lunch break with presentations scheduled from noon to 2:00 p.m. Invitations with information will be sent to individuals and groups within the next week. After receiving submittals, staff will schedule the community presentations.

Questions Raised, Whether to Allow Observers at Committee Meetings

Deputy Director Bob Covington said there was a question raised about allowing observers at the Technical Committee meetings. Staff is following up with committee members to receive some feedback. The feedback will be presented to the Executive Work Group for a discussion followed by a determination within the next week. It's important to resolve the issue to provide adequate time for notification of meetings to the public.

Mayor Kmet asked whether the issue would also apply to the Funding & Governance Committee, as well as the Sediment Management Panel.

Mayor Kmet said the Funding and Governance Committee would likely include legal staff and likely would prefer an environment enabling a free and open discussion about legal implications. Those discussions are typically not held in a public forum.

Director Deputy Covington advised that the Executive Work Group could render different public attendance decisions for each committee.

Mayor Kmet asked whether the Technical Committee is developing original information or reviewing and commenting on information consolidated by Floyd|Snider. Ms. Massingale said the Technical Committee is reviewing information provided by Floyd|Snider. Technical Committee members have the expertise on EIS and permitting processes and are able to provide input and guidance on edits, forms of communication, and recommended direction. The last meeting entailed an open discussion and questions.

DES staff will contact technical committee members about the option of enabling public attendance at meetings. The committee's input will then be presented to the Executive Work Group. The same process would follow for the remaining two committees after both committees have an opportunity to discuss the request during initial organizing meetings. He asked for input from members.

Mayor Kmet asked whether Floyd|Snider attends the meetings and extracts and reports on the information to the Executive Work Group. Mr. Dziejcz confirmed that process.

Commissioner McGregor asked whether the Executive Work Group operates under the Open Public Meetings Act. Deputy Director Covington advised that the committee meetings are not governing bodies and not required to be open public meetings. However, the Executive Work Group is open to the public to ensure transparency. Commissioner McGregor offered that under the Open Public Meetings Act, committees could convene an executive session to discuss legal issues or potential litigation. He prefers enabling public attendance affording an opportunity for the community to hear the discussions.

Commissioner Wolfe agreed with Commissioner McGregor. Even though the committee meetings might not be subject to the Open Public Meetings Act, the business of the public should be open to the public. If the discussion involves legal discussions, the option of convening an executive session is available. She recommended committee meetings should be open to the public.

Mayor Kmet shared that he discussed the matter with Tumwater staff. He reminded members that the committees are staff-level discussions that frequently occur daily in each governing entity. Interjurisdictional staff members need an opportunity to discuss, examine, and provide the Executive Work Group with good technical, legal, and administrative advice without public observations that may misinterpret both the discussions and the information. Understanding that the committees are comprised of experienced staff members, everything of substance discussed during those meetings will ultimately result in recorded documents presented to the Executive Work Group. He advocated for enabling an opportunity for staff to complete its work without couching comments because of public observations, which might reinterpret the information. Enabling public attendance would stifle the committee process as there is much work to complete over a short period and nothing is hidden from the public. .

Mr. Dziedzic acknowledged and thanked members for the feedback.

Briefing on Previous Goals for Long-Term Management, 1999 and 2009

Ms. Massingale reviewed the summary of materials of the proviso element on goals and objectives presented to the Technical Committee at its April 14 meeting. She reiterated that the process provides an opportunity to present information from each committee in an open and comprehensive forum. One of the components within the Implementation Plan is for each committee to be receptive of input from all sources to arrive at a mutual consensus between all the groups. Additionally, Floyd|Snider updates the materials incorporating and reflecting the entire monthly meeting cycle. Currently, committees are not rendering decisions, but are striving to achieve a point where the information supports the Proviso Report and the future project Environmental Impact Statement (EIS).

Ms. Massingale reviewed a timeline graphic outlining Capitol Lake major events, such as creation of the lake, the last dredge event, the onset of major water quality issues, and adaptive management processes (CLAMP process – 1999 programmatic EIS). The information outlines the history from 1949 through present day to assist in understanding the goals of the CLAMP Steering Committee and the public in the past and helping to understand the goals within the context of the site conditions at any specific time.

Tessa Gardner-Brown, Floyd|Snider, added that the timeline essentially reflects activities that are most relevant to the conversation of goals and objectives and not necessarily inclusive of all events that have occurred since the lake was constructed in the 1950s.

Mayor Kmet expressed interest in receiving information about the periodic dam openings to restore tidal flow to kill vegetation, as it appears cessation of that action led to significant impacts to water quality in the lake and the growth of invasive species. It's an important checkpoint to include. Additionally, the listing of Lower Budd Inlet for water quality violations and the specific violations are important considerations. The Department of Ecology's Total Daily Maximum Load (TMDL) Study is an important benchmark as well because it affects the watershed that feeds the lake. He complimented the team for the timeline as it provides helpful information.

Ms. Massingale noted that the inclusion of the TMDL Study was considered. She agreed inclusion of the TMDL Study would be relevant to Capitol Lake. The team also received input on the importance of including the permitting and review of Heritage Park because it served as the origin of the CLAMP process. She questioned whether the opening of the dam was a management strategy to assist in eradicating mud snails.

Councilmember McClanahan replied that the opening of the dam was during the freeze to drain the lake with the goal of freezing and killing mud snails. Deputy Director Covington said DES continues that practice today. Ms. Martin added that the saltwater back flush was initiated once and wasn't deemed as effective as the freeze.

Jim Erskine, DES, said the back flush didn't achieve the salinity levels necessary to kill mud snails. The freezing strategy was employed to lower the lake during periods when the temperature was at or below freezing throughout the day. The past practice of opening the dam was discontinued as a way to control algae and other invasive plants as saltwater is toxic to other freshwater vegetation. The Department of Ecology, as well as others, encouraged the Department of General Administration (GA) to discontinue the practice because of the impacts to water quality.

Ms. Massingale referred to the 1999 programmatic EIS process. As a component of the Draft EIS, public comment was received by testimony and from letters and incorporated within the Final EIS. The same process was completed for the 2009 Alternatives Analysis, which generated public comments on the goals of Capitol Lake. The team is summarizing the comments to provide the context of how certain goals evolved or remained consistent over time. As part of the review, the graphics would be updated to reflect 2016 current goals and objectives of the community and groups based on current conditions.

Ms. Massingale provided an explanation of the individual documents. The first is a bar chart comprised of public input from 146 comment letters and testimony on preference and order of magnitude of the long-term management goals provided by public comment on the 1999 Final Programmatic EIS. All comments were reviewed by the team and grouped by categories that were not preferential to any one alternative or option. For example, comments pertaining to aesthetics could apply to the lake as a reflecting pool or as an estuary. Additionally, the same goals are included in the online survey with a request to the public to identify their top five goals.

Ms. Massingale reviewed the top five goals from the 1999 EIS:

- Recreation Opportunities
- Aesthetics
- Habitat Restoration
- Economically feasible and Reasonable
- Water Quality

The community also provided input on their preference for the long-term management of Capitol Lake. The results reflect a nearly equal interest in the lake and the estuary options with a smaller segment of the community supporting the hybrid option.

The next document is a similar graphic focused on the relevant order of magnitude from the public comprised of 451 comments and testimony received during the 2009 CLAMP Alternatives Analysis process. Results reflect that the top two goals are Recreational Opportunities and Aesthetics that continue to hold true regardless of the management alternative. Economically Feasible and Reasonable advanced by one step while Habitat Restoration remained important to the community. Sediment Management overtook Water Quality possibly because of the timeline and the goals in 1999, which speaks to sediment management as a lower priority because the lake was dredged in 1986. The sixth preference is Water Quality. A new objective included in the 2009 that wasn't communicated in 1999 is Spiritual and Cultural

Values. Both graphs are helpful in providing context and an understanding where the community had placed its priorities and issues of interest during those timeframes.

Of the 451 responses, approximately 63% expressed an interest in an estuary option while 32% preferred a lake alternative, with 5% interested in a hybrid option and less than 1% interested in a no action alternative.

The dual goal of this process is to meet the conditions of the proviso by documenting the work that has been collaboratively produced and included within the Proviso Report while also having the process serve as the basis for the future EIS.

Finally, after the May meeting following the “second touch,” several variations might be developed for a purpose and need statement; however, there also might be a consensus or approval of a purpose and need statement. The Executive Work Group will receive the materials as they evolve.

Ms. Massingale invited feedback on the materials and process. Several members offered their thanks for the information.

Mr. Dziejcz reminded members of the opportunity to identify their respective top five goals.

Ms. Massingale added that as input is received, it’s also possible to offer other goals/categories that might have been missed or overlooked.

Commissioner McGregor expressed appreciation for the two bar graphs as the explanation provided a good basis of what the information was trying to convey.

Ms. Massingale noted that in addition to the graphics provided to the Technical Committee, the information also includes a summary of comments received by the CLAMP Steering Committee. That information is also available on the website. It was important to document what each entity in 1999 and 2009 communicated as goals, major concerns, or as major points of consideration. That information also feeds into the process for developing the purpose and need statement.

Briefing on Feedback from Technical Committee

Ms. Gardner-Brown reported the Technical Committee received information on the Phase 1 Implementation Plan and provided good feedback to the team in addition to conveying overall support for the process. Members reviewed the two bar charts and comment summaries from the 1999 and 2009 processes. Members provided no initial substantive feedback on the timeline, public comment summaries, or the CLAMP summaries. However, members were invited to review the information with their colleagues and provide any feedback by the April 28 deadline.

The focus of the committee’s conversation was on the graphic illustration (Figure 3) summarizing themes for goals and objectives for the long-term management of Capitol Lake. The graphic crosswalks goals from existing project documentation to recurring goals for discussion reflecting today’s stakeholder input and the 2015 proviso. The main comments centered on ensuring goals and objectives are viewed at a watershed level. One example was sea level rise and the pressures from both the Deschutes River and well as Budd Inlet affecting the entire system overall. The watershed approach is reflected as the long-term management options are explored. The team explained how there are primary themes that are emerging as the goals are revisited, as well as through past processes. Technical Committee members

agreed the themes were well captured and recommended adding economics because of the importance to both the public and to the agencies.

Ms. Massingale noted that many members also recognized how many of the goals pertain to multiple categories. The goals identified from previous processes included economics within community. Members recommended separating economics because of the importance. The graphic illustration will be revised after all input is received by April 28.

Ms. Gardner-Brown said the Technical Committee focused on adaptive management and potentially supplementing the goal with an assurance that any long-term management strategy is sustainable. Sustainability was a topic of discussion and the team and members discussed representing sustainability within the approach of adaptive management but not necessarily captured within the illustration. Members were also appreciative of the preview of the public goals and objectives and the values of recreation and aesthetics and wanted to ensure that those values are represented throughout the process. The committee also questioned whether some of the goals are really objectives or the steps necessary to achieve some of the larger goals. Discussion centered on whether there was value in reframing some of the issues as objectives or alternatively inviting the Technical Committee, Executive Work Group, and the community to provide feedback on those objectives necessary to achieve the goals. One example is improving water quality and whether meeting state water quality standards is an objective to help in measuring whether the goal has been achieved.

The main themes highlighted included improvement of ecological functions while ensuring long-term management goals are sustainable, maintainable, and economically feasible. Members discussed how many of the goals are inter-related, especially in terms of how one can improve other goals. Improving ecosystems functions would have a positive effect on water quality

Ms. Gardner-Brown added that the goals within the bar charts were included without regard to any management option. Each management option could be tailored to achieve the goals fully. That same intent applies to the graphic illustration (Figure 3).

Mr. Dziedzic invited feedback from members.

Commissioner McGregor said he understands that the goals for discussion relate directly to the five elements of the proviso with some overlaps. Ms. Massingale said proviso conditions are inclusive within the recurring goals. Commissioner McGregor recommended including additional information in terms of the specific proviso element impacted by each goal.

Mayor Selby supported the inclusion of an economic theme.

Ms. Massingale advised that Andy Haub recommended that theme, "Reduce Flood Risk," should be changed to "Management of Flood Risk" because it also captures sea level rise. Mayor Kmet spoke to economic implications and suggested the goal is much broader than capital and long-term maintenance costs because it also includes economic implications of continued water quality violations and what that could mean in terms of the managed treatment level for wastewater and stormwater in the system. Additionally, the City has recently been focused on the old brewhouse. Several historic themes conveyed during the process focused on how historically, the falls essentially were the south end of Puget Sound and the zone between the falls and saltwater was an important cultural location based on shell middens discovered in the area. There is cultural significance attached to the zone that hasn't been captured in previous discussions. Additionally, the ability to bring barges to the brewery at

one time was important, which today is not realistically practical; however, the ability for a kayak center for launching kayaks is another important value of consideration. Finally, because the basin is a freshwater system, the mouth of the old brewery area has changed in terms of the overgrowth of vegetation. Historically, the area was valued as an open area with clear views to the water.

Deputy Director Covington noted that during the 1999 and 2009 processes, aesthetics were a highly rated goal. He questioned whether aesthetics fall within the recurring goal of, "Gain community support and broad agreement." Ms. Massingale advised that the Technical Committee recommended revising the goal to reflect recreational opportunities and aesthetics as it was initially categorized within the top two primary goals of recreational opportunities and aesthetics.

Deputy Director Covington commented that the shaded area reflecting existing conditions affecting goals for long-term management appear to be redundant. He suggested removing the section if members agree as would enable a better focus on the important aspects of the goals. Mayor Kmet agreed with the suggestion. Ms. Massingale affirmed that it also aligns with Commissioner McGregor's suggestion to identify the goals in alignment with the proviso elements.

Jeff Dickison commented that existing conditions might need to be expanded or treated differently as they represent an important component. Existing conditions will affect the ability to accomplish the goals. For example, reducing flood risk is a sensitive issue surrounding flood protection. In the past, some people considered flood risk by the river whereas today, the reality is the greater flood risk is from sea level rise. That would be a constraint on what could be accomplished. Although improving water quality is a goal, it's also a constraint. Adding the health of fish runs or protecting fish passage are good as goals; however, the health of fish runs is a constraint on actions that could be pursued. The constraints should be represented in a larger context recognizing the role they play on achieving any of the goals and objectives.

Ms. Massingale acknowledged that a constant reminder of existing constraints might be unnecessary as an ongoing reminder because the subsequent topic on best available science might provide a better avenue for considering existing conditions and constraints.

Councilmember McClanahan said the section on existing conditions is the only area within the graphic that speaks to invasive species. It was an important topic to CLAMP during the discussions on Purple Loosestrife and Milfoil infestations that required some control measures. Today, the main issue is the mud snail. Councilmember McClanahan recommended invasive species should be more of a focus than combined with another overarching goal.

Deputy Director Covington remarked that the retention of the shaded text box of existing conditions is not problematic as long as it provides value. The challenge is placement of the information within the table, which is only one piece of the documents that form the narrative.

Ms. Massingale acknowledged that any changes would not be incorporated until after the closure of the public comment period. She recommended including the subject as a separate component for the June/July discussions for a comprehensive overview of existing conditions and constraints that eventually would need to align with the ability to achieve the goals.

Mayor Selby left the meeting.

Mr. Dickison pointed out that not all existing conditions/constraints are equal. Improving water quality isn't just a good idea - it's required by law. Some existing conditions have more traction or more weight than others. As the process moves forward, members also should consider that aspect.

Mayor Kmet commented that at high tide, he believes the lake is higher than the high tide. He asked about the relative elevation of the water bodies and whether a very high tide would be higher than the lake level. Mr. Dickison replied that high tides are more frequent than king tides. The fish ladder is open to water moving in either direction. There have been many incidents of high tide when water flows back through the fish ladder and into the lake.

Deputy Director Covington noted there are different measurements on both sides of the dam. DES monitors high tides and river flows. Barometric pressure plays a strong role, which is closely monitored by DES. Lake levels are lowered when king tides and high river volume are anticipated to minimize the risk of flooding in Olympia. He offered to provide elevational levels to the Executive Work Group.

Ms. Gardner-Brown invited members to provide any input by April 28 to ensure inclusion within the materials for the next review.

Mr. Dziejdzic asked for feedback on the process.

Mayor Kmet commented on the excellent information and the work involved in distilling so much information into several graphics. Once the graphics are finalized, they will be important to share with each entity.

Mr. Dziejdzic asked about the "first touch" and reminders each month about the process.

Mr. Dickison recommended more substance and less process. Members agreed the team has adequately explained the process and that the next steps should focus on substance because of the short timeframe.

Next Steps

Ms. Massingale reported the Community Input Meeting is scheduled on Wednesday, April 27 at 5:30 p.m. Public comments will be accepted until April 28. The team is focusing on incorporating feedback in the materials.

Deputy Director Covington reported the survey is available online. Executive Work Group members have been asked to share the link to the website through respective distribution channels. The next meeting is scheduled on Friday, May 27.

Adjournment

With there being no further business, Mr. Dziejdzic adjourned the meeting at 11:02 a.m.