Meeting Notes Summary

Date: June 30, 2022
Time: 3 to 4:40 p.m.
Location: Zoom
Topic: FGWG Meeting

Meeting Participants

Funding and Governance Work Group Members

- John Doan, City of Tumwater
- Jeff Gadman, Thurston County
- Rich Hoey, City of Olympia
- Matt Kennelly, LOTT Clean Water Alliance
- Justin Long, LOTT Clean Water Alliance
- Lisa Parks, Port of Olympia (alt.)
- Ray Peters, Squaxin Island Tribe
- Alex Smith, Washington Department of Natural Resources (DNR)

Executive Work Group Members

- Michael Althauser, City of Tumwater
- Jeff Dickison, Squaxin Island Tribe
- Carolina Mejia, Thurston County
- Debbie Sullivan, City of Tumwater (alt.)

Department of Enterprise Services

- Ashley Howard
- Ann Larson
- Carrie Martin

Department of Enterprise Services

- Dave Merchant, Office of the Attorney General

Environmental Impact Statement (EIS) Project Team

- Tessa Gardner-Brown, Floyd|Snider
- Lorelei Juntunen, ECONorthwest
- Kim Mahoney, Floyd|Snider
- Ray Outlaw, Floyd|Snider
- Sarah Reich, ECONorthwest

Public

- Wendy Brown
- James Crandall
- Christopher Ferguson
- Linda Kent
- John MacLean
- Sheri Sawyer
- DERT unnamed representative

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Welcome and Introductions

Carrie Martin welcomed the group and began the meeting.

Tessa Gardner-Brown thanked the attendees and noted the meeting would be discussion based. She then described the objectives and discussion topics noting the goal is to identify agreements and content that will comprise a Memorandum of Understanding (MOU) to be signed by the Funding and Governance Work Group (FGWG) members.

Tessa described that Dave would facilitate discussion around the framework of the MOU later in the meeting. Specific areas of discussion for the meeting included:

- Overarching goals supported by FGWG agreement
- Legal feasibility of FGWG agreement
- Long-term asset allocation
- Revenue collection assumptions
- MOU fundamentals

Tessa completed the introduction by noting that time would be reserved to discuss next steps for each agency's review of a draft and revised MOU before signature, and public comment and discussion at the end of the meeting.

Benefits of FGWG Agreement

Tessa briefly reviewed the benefits of reaching an agreement on long-term funding and governance as follows:

- Satisfies statutory requirement regarding local funding contributions
    - MOU to be included in capital request for design and permitting
    - MOU to be followed by formal ILA
- Shows investment in broader restoration efforts below Tumwater Falls, and commitment to funding of the last phase
    1. Budd Inlet remediation (Port of Olympia)
    2. Estuary construction (Enterprise Services)
    3. Sediment management after remediation and construction (jointly funded by FGWG)

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- Maintains a working waterfront
    - Sediment monitoring and maintenance dredging would avoid impacts to Port of Olympia and marinas

Legal Feasibility of FGWG Agreement

Dave described the benefits and legal feasibility of an MOU that captures the agreements among the FGWG. An MOU would satisfy Engrossed Substitute House Bill (ESHB) 2380's requirement for the project to identify shared local funding sources for the project, as it will outline the long-term funding commitment of the FGWG. The MOU would be included in the capital request made later in 2022 for design and permit funding, and the commitments of the MOU would later be formalized as an Interlocal Agreement (ILA).

Dave added that showing the legislature that local entities are committed financially to the project may encourage success in the capital request. Dave explained how the agreement would protect natural resources and processes, preserve a working waterfront in downtown Olympia, and earn additional revenue through tax benefits and Department of Natural Resources (DNR) leases, thereby providing broad public benefit. Dave confirmed that when a government-funded project benefits the greater public good, the fact that private entities also receive benefits or make a profit is acceptable.

Long-Term Asset Allocation

Ray Outlaw discussed the recommended asset allocations for each entity of the FGWG. Ray described a table on slide 5 of the presentation, wherein the most updated potential assets and responsibilities is listed for each FGWG entity. Tessa Gardner-Brown noted that a benefit to the way assets are allocated is that by passing ownership and maintenance of constructed elements to entities, these responsibilities are decentralized so that the financial focus of the FGWG's agreement can be on long-term maintenance dredging of deposited sediment after the 5th Avenue dam's removal.

Comment: The City of Olympia is comfortable with the represented asset allocations. Allocations are an important part of the story regarding local participation in funding and governance. We appreciate that this information was included in the presentation.

Question: What is included in Thurston County's "financial management" allocation?

Response: Sarah Reich explained that the next slide will better describe the answer to this question.

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Revenue Collection Assumptions

Sarah continued by describing the revenue collection assumptions of the MOU. Sarah noted that Thurston County (County) was proposed for managing the financial contributions toward the project's long-term maintenance dredging. Sarah described that the County could manage these monies in a centralized way, and that the County is the most logical choice for this role because the County often handles these kinds of arrangements. Sarah described the advantages of assigning the County with this role, which included the County's routine performance in this function, and its inherent centralized form of financial management which assures sufficient funds will be available, when needed. Sarah also noted the uncertainties of the County holding the role of the financial manager, which included potential investment constraints that might not allow for maximum long-term growth of the monies, uncertainty around where the FGWG would prefer these monies to be invested, and more rigorous effort of handling funds from numerous entities and types.

Comment: County funds are shared funds, and the County is the administrative agency for that, which is a role currently exercised by the County. All funds are all put into an established investment pool. If the FGWG prefers the monies be invested in targeted investments that are different than the County's standard investment, this isn't possible if the County is selected to manage the funds. The County doesn't have the resources to manage different investments for different agencies. Additionally, investment policy requires maturity at 2-2.5 years. There is a discretionary maximum of 5-year investment, but it has to be to the benefit of all parties.

Response: Sarah acknowledged that tradeoffs exist by selecting the County to fulfill the role of financial management, and that another financial manager may be able to diversify the FGWG's monies into investments with potentially higher returns.

Response: The money needs to be handled by someone; even if all entities hold on to their own money, there still needs to be a central point for the money to go and then be spent on long-term maintenance dredging costs.

Tessa asked the FGWG if they still wanted to pursue assigning Thurston County as the financial manager for the long-term maintenance dredging monies?

The FGWG expressed general agreement to confirm the County should assume this role. No opposition was voiced or written in response to Tessa's question.

Sarah further described that there was unanimous preference among the FGWG to collect annual payments rather than lump sums. The amount of annual contribution would be based on each entities' allocation as a percentage of the whole.

Sarah said there is still uncertainty about when those payments would begin; payments could begin after legislative approval of capital funds for design and permitting so the money has years to grow before construction and dam removal would occur. It could also begin after construction funding was secured. This early investment (as opposed to a scenario where funds aren't collected until construction completion) would demonstrate investment that may increase political will to move the project forward. Sarah specified that the ILA would need to address the potential risk of maintenance dredging costs exceeding the total planning level estimates through renegotiation triggers.

Question: Is the maximum cap of funds the same as maximum expected for dredging? Everything so far has been shown in today's dollars, so how do we address inflation or what those dollars buy in the future, and is that subject to renegotiation? Hopefully growth of dollars keeps up with the inflation, but can this all be renegotiated if needed?

Response: Sarah answered that yes, this is what is intended. The idea is that there are uncertainties in inflation and investment returns, but identifying a maximum cap of invested funding and a framework for renegotiation is intended to manage these uncertainties.

Question: What is the timeline for the ILA, and what is its structure? Does it automatically renew without additional action?

Response: Sarah explained that Dave Merchant will answer these questions later in the presentation.

Comment: The FGWG should consider the fact that approving funds is different than breaking ground; what happens if we're making payments and then ground doesn't break? This scenario should be discussed in the MOU.

Comment: The local government budget cycle is different than the state's budget cycle. We should remain aware of this as we pursue funding for the project.

Question: What's the tentative schedule to seek funding?

Response: Tessa Gardner-Brown said that we expect to complete the final Environmental Impact Statement (EIS) by the end of 2022, so that Enterprise Services can request funds in the 2023 biennium capital budget for design and permitting. If Enterprise Services is successful in receiving those funds, then a consultant team could be on board in mid-2023. The project's permitting is a 3–5-year effort; if permitting can be completed in 3 years, DES could then look to secure the remaining construction funds in mid-2026 and could begin construction thereafter. Therefore, we would be seeking funds from the FGWG for long-term maintenance dredging costs at the beginning of 2027, if the accrual begins concurrent or just after construction funding being secured. An 8-year construction period would follow the permitting and design phase.

Comment: Efforts should be made to prioritize securing construction funding for the project so that the FGWG does not submit annual payments towards maintenance dredging that would not occur if the project were never constructed.

Comment: Annual payments from FGWG entities should only begin once construction funding has been secured.

Comment: Without an MOU, there is no authority to budget money at the local level for release of money in the following year because local governments finalize their budget in December. [It was later clarified that an ILA would be needed to budget money, rather than an MOU]. These budgets run on a two-year cycle. 2023 is the second year of Thurston County's budget.

Question: If we agree for payments to begin when construction begins, would anything prohibit a jurisdiction from paying early?

Response: Sarah answered that jurisdictions can submit their payments early to show local commitment and support, and said that this effort may benefit the requests for state and federal project funding. Tessa added that the Port of Olympia's dredge and remediation is anticipated to be completed before the dam is removed. The soonest we could expect an initial expenditure for maintenance dredging would be around 2040. Ray also noted that earlier investment builds in time and interest to provide certainty that there will be enough money for dredging expenses, at least up to the negotiated maximum cap.

Comment: The characterization of the dredging in Budd inlet of contaminated sediment and the chosen remedial action may be a combination of dredging and capping of the contaminated sediment. This could bring the possibility of dyssynergy between capping activities and preliminary work that would be done in the Basin to remove sediments before removing the dam. Tessa replied affirmatively and noted that that dredging would occur in areas needed for navigation and that natural recovery (clean sediment from the Deschutes River covering and capping low levels of sediment contamination) could be used in the shallower areas of West Bay that are not used for navigation.

Sarah received general consensus that the FGWG unanimously prefers making annual payments for the long-term maintenance dredging, and received consensus that these payments would be collected at the time that the construction phase is funded, but not at the design stage.

MOU Framework

Dave Merchant described the framework of the MOU. He explained that an MOU is not an enforceable document but shows local agreement and would be provided to the state legislature.

The MOU intends to report on where entities agree and where work needs to be done to build consensus.

Signatories to the MOU would be the government and quasi-governmental entities that make up the FGWG. The ILA that would follow the MOU would expire in 2050, with opportunity for extension. The MOU would contain language around renegotiations and cancellations of the ILA, including both cost and event triggers. The MOU and future ILA would be structured to specify that the state is responsible for constructing project assets, that these assets would be transferred to the ownership of FGWG member entities in perpetuity. The MOU and ILA would outline assumed financial allocations toward maintenance dredging.

Dave noted that there is a need for confirmation from the FGWG regarding the understanding that the Port/Corps would fund their own dredging prior to construction of the Estuary Alternative.

Question: Would the Port be responsible for reviewing bathymetric data of sediment deposition and subsequently updating cost estimates for maintenance dredging?

Response: Sarah answered that the structure of payment collection gives the group some latitude to maneuver since the first dredge event is considerably smaller than the second, and because payments would be collected well in advance of the dredging.

Question: What if the first dredge event isn't a small event, or if it's larger than expected?

Answer: Dave said that there is an assumption that there would be enough money to pay for the first dredge event based on the money collection and investment approach (i.e., dredging funds would be collected once construction funds are secured; construction would occur over 7-8 years, and dredging is not expected to be needed until 6-years later). Tessa added that the trigger for a dredge event is when 10% of vessel slips at a marina are impacted/cannot be accessed because of sediment accumulation. She said that the Port gets less sediment accumulation annually because they're further downstream, and their trigger is if a vessel needs to wait 4 hours to get in and out of the vessel berth on more than one consecutive occasion. With that said, modeling shows that in the first 6 years, this trigger happens at the Olympia Yacht Club, when 10% slips would be impacted more quickly than elsewhere. Based on the EIS modeling, the first dredge event is expected to target accumulated sediment at the yacht club. Then, modeling shows it takes 12 years for a similar trigger to happen at the other marinas, the Port, and again at the Olympia Yacht Club, so the second event is expected to be much more expensive.

Comment: It was suggested for the MOU and ILA to build in a cost estimate after the first dredge event to anticipate the next dredge event costs and collect monies accordingly.

Comment: Appreciation was communicated that the MOU will discuss where more work is needed in the agreement.

Next Steps

Tessa described the MOU's anticipated schedule in the coming months. See slide 9 of the presentation.

Comment: The schedule is ambitious, but doable. The MOU is a policy level document that will need to be coordinated with other County officials before signing.

Tessa sought the group's consensus on whether a two-month review cycle of the MOU is sufficient, given that the content of the MOU will be reflective of the material covered in the discussions of this meeting?

City of Olympia will need to check with the City Manager about their Council's schedule. August 9, 16, and 23 may be possible for Olympia City Council.

Comment: The LOTT Board will not meet again until August 10. Matt will need the MOU before August 5 to meet with the Board on August 10.

Comment: The last 2 weeks of August is challenging for Tumwater because there are no meetings scheduled that month. The way to speed this effort along is to have a work session in late July or early August with the Tumwater Council. If the MOU is not ready until August, it likely won't be until the beginning of September that the Tumwater Council sees the MOU.

Comment: The Tumwater Council enters a recess at the end of August.

Comment: The Port of Olympia also takes a recess. The Port of Olympia commission has one meeting on August 8 and then no meeting again until September 12. The Port can add a briefing on the August 8 Commission agenda item, but will need the MOU before August 1 because that is when packets are due.

Carrie Martin asked whether the entities' legal reviewers will need to review the MOU before it is presented to their respective Councils and Commissions?

Comment: The Port's Commission can see the MOU, but will not sign the MOU without the Port's legal review.

Comment: The County's legal team does review documents before they are presented to the Council.

Question: Should we assume that the entities will see a first iteration of the MOU in August and then a revised second iteration in September?

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Response: Tessa answered by saying the MOU's second iteration would be sent to the FGWG entities in August. Then, each entity would have a separate process moving forward. A third iteration of the MOU could be sent in September if there's sufficient feedback returned by the entities in August.

Comment: The timeline described by Tessa is reasonable for LOTT. LOTT would need the third iteration of the MOU by September 9, and that LOTT's board will meet on September 14 and October 12.

Ray confirmed that all entities need to see the third iteration of the MOU by September 9, and asked whether the City of Tumwater needs the project team to present a briefing to the Tumwater Council?

Comment: It is preferred that the project team provides a briefing to the Tumwater Council, and does so at either their July 12 or July 26 meeting.

Question: Will the MOU have numeric allocations assigned to each entity, or will those be in the EIS? When do we attach numbers to the agreement?

Response: Tessa said that we are preparing the final EIS now. One element of the EIS that is being updated are the represented maintenance dredging costs – that effort should be completed in the next month or two, so the FGWG will be updated on these costs as soon as we can. Ann Larson clarified that the question sought to understand the percent of dredging costs allocated to each entity. Tessa clarified that perhaps at the July 26 FGWG meeting, the project team could have specific costs to present.

Comment: Councils will want to know what their participation in the MOU means financially.

Comment: When the Tumwater City Council is briefed on the MOU, the specific allocated contributions will be instrumental in Council agreement and signature.

Ray asked whether the Tumwater City Council meetings are held online or in-person?

Response: Tumwater City Council holds their work sessions online.

Comment: Everyone on the FGWG wants to see the framework of the MOU before we have more discussion.

Public Comment

No members of the public requested to provide comments.

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Adjourn

Carrie thanked the attendees and adjourned the meeting at 4:40 p.m.