

**WEST HAYDEN ISLAND  
PROPOSED ANNEXATION AND REZONING**

**Assessment Report**

**November 2008**

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**Executive Summary**

***Background***

Oregon Consensus (OC) was asked by the Port of Portland (Port) and the City of Portland Bureau of Planning (Planning Bureau) to conduct a neutral assessment of issues related to potential annexation, zoning and development planning for Port property located on Hayden Island. The Port owns a parcel of more than 800 acres consisting of most of the west half of Hayden Island (West Hayden Island or WHI). The Port, in conjunction with the Planning Bureau, is initiating a process to annex the property into the city and to rezone the property for future use. The Bureau and the Port were considering natural resource preservation and marine industrial uses for the West Hayden Island property. Consistent with a longstanding interest from the local community and conservation organizations, the Port and the Planning Bureau were interested in the possibility of convening a collaborative process to address issues related to potential annexation, planning and development on West Hayden Island.

***Assessment Process***

In the summer and fall of 2007, OC interviewed a broad cross section of stakeholders with interests related to potential annexation, rezoning and development on West Hayden Island. Interviewees included island residents and business interests, conservation interests, city and regional business interests, conservation and environmental organizations, city resource and planning departments, federal resource agencies and other interests. OC also interviewed executive leadership at the Port as well as senior management at the Bureau of Planning. Interviews identified a broad range of interests related to WHI including several key clusters of interest around:

- *Environmental Concerns.* Concerns about WHI's existing and potential value as a natural resource area providing important local and regional habitat and green space, WHI's environmental and habitat values, and the potential loss of those values if all or part of the site is developed.
- *Economic Concerns.* Concerns about the unique value of the site as a location for marine and intermodal industrial development including the importance of the site for local and regional economic development and the potential loss of those values if all or part of the site is preserved as green space or habitat.
- *Neighborhood Concerns.* Concerns about the impact of development of the Port's WHI property on the health, safety, general wellbeing, and quality of life of Hayden Island residents and their neighborhood and other nearby neighborhoods that may be affected by development on WHI.
- *Open Space Concerns.* Concerns related to the current lack of parks and open space on Hayden Island and the opportunity to provide areas for public access, recreation or passive enjoyment of nature.

The OC assessment determined that there was significant interest among the stakeholders in having an opportunity to discuss key issues related to WHI, to share information and perspectives, and to search for consensus on mutually acceptable ways to move forward. Although the assessment identified a number of factors that supported the feasibility of a consensus-based or collaborative process, OC did not at that time recommend convening a multi-stakeholder process because there were significant challenges to effective collaboration that needed to be addressed before any collaborative process could be convened.

### ***Preliminary Stakeholder Meetings***

To address these potential challenges to collaboration, OC recommended that a few of the key stakeholders engage in brief preliminary meetings to allow stakeholders to develop more effective working relationships in preparation for a potential multi-stakeholder or consensus-based process in the future. The goal and the outcome of these small meetings was to prepare stakeholders to engage in more effective negotiation by fostering a clear understanding of interests, building trust, and improving communication across the table. To begin this process, the Port and the Planning Bureau met once with stakeholders representing environmental and conservation interests and once with Hayden Island resident interests. In addition, the Port and the Planning Bureau met with representatives of federal resource and regulatory agencies to discuss concerns that the annexation and rezoning process (and any associated collaborative process) could complicate any federal environmental assessment process associated with future development activities on WHI if there were not adequate communication and coordination as the current local land use process moved forward.

Following this initial round of preliminary meetings, OC recommended one additional round of preliminary meetings, again between the Port and two small stakeholder groups representing environmental and resident interests, respectively. These meetings were intended to determine whether the stakeholders could frame a set of issues and alternatives that could be the subject of a meaningful stakeholder dialogue, what information would be needed to support that discussion, and how that information would be obtained. These meetings were also intended to confirm stakeholder goals for a collaborative process.

### ***Recommendations***

At this time, OC recommends that interested stakeholders engage with the Port and the Bureau of Planning in a collaborative process to exchange information and address interests and concerns related to the annexation and rezoning of West Hayden Island. With respect to the design of this process, there is a broad spectrum of possible collaborative approaches for engaging interested stakeholders in public policy decision making. Approaches range from agreement-focused, consensus-based processes intended to reach specific agreed-upon outcomes to broadly drawn processes for attracting stakeholder or public input. In this case, OC recommends that this process be a facilitated dialogue among a broad cross section of interests of manageable size conducted in an open, neutral, and transparent atmosphere. We do not recommend at this time that the goal of this collaborative process be consensus on a plan to move forward through the annexation and rezoning process or consensus on appropriate development on West Hayden Island. Rather, at the outset, the process should focus on (1) developing and sharing information that will inform any potential annexation and rezoning process and (2) exploring the benefits and costs (economic, social, and environmental) associated with a range of options or scenarios for zoning and development on the property. It may be, as the discussion evolves, that the participants will find themselves able to reach consensus on some aspects of the zoning and development planning process, but that consensus is not a necessary outcome. The parties' interest in participating in a facilitated dialogue rather than an agreement-focused process reflects their sincere desire to have a meaningful interest-based exchange of ideas while acknowledging that there remain, at this time, fundamental value-based differences among some of the parties and significant need for additional information that may affect the parties' interests. An inclusive, transparent, facilitated dialogue, conducted by a impartial third party facilitator working on behalf of all participants, is the next logical and appropriate step in this evolving process.<sup>1</sup>

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<sup>1</sup> Additional OC recommendations regarding the structure and substance of a facilitated dialogue can be found in the Recommendations section of the Assessment Report.

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DRAFT CONVENING ASSESSMENT REPORT**

## **I. Overview and Background**

Oregon Consensus (OC)<sup>2</sup> was asked by the Port of Portland (Port) and the City of Portland Bureau of Planning (Planning Bureau) to conduct a neutral assessment of issues related to the potential annexation, zoning and development planning for Port property located on Hayden Island. The Port owns a parcel of more than 800 acres consisting of most of the west half of Hayden Island (West Hayden Island or WHI). The Port, in conjunction with the Planning Bureau, is initiating a process to annex the property into the city and to rezone the property for future use.<sup>3</sup> The Bureau and the Port are considering natural resource preservation and marine industrial uses for the West Hayden Island property.

Local community interests and some conservation organizations have had a longstanding interest in engaging in a dialogue about the current status and future uses for West Hayden Island. The Port and the Planning Bureau, recognizing that there are a number of organizations and individuals with significant interest in the potential annexation, planning and development of West Hayden Island, consulted OC about convening a collaborative stakeholder process to address these issues. OC recommended conducting an assessment to determine whether a collaborative process was feasible with respect to issues of key significance to the Port, the Planning Bureau and the other relevant stakeholders. If the assessment determined that a collaborative process could be valuable, the assessment would also recommend an appropriate scope and structure for the process to best serve the needs and capacities of the stakeholders and to achieve a successful result.

## **II. The Assessment Process**

An OC assessment is an investigation designed to identify stakeholder issues and process concerns and to assist stakeholders in organizing or convening a collaborative process. During the assessment, a neutral third party helps stakeholders gather information, learn about each other's interests, understand diverse perspectives, identify potential barriers to collaboration, and develop ideas for overcoming any barriers or concerns. At the most basic level, the assessment phase of a collaborative process is intended to answer the question of *whether* a collaborative process is appropriate or useful. If the answer to this question is "yes," then the assessment may determine *how* the interested parties might move forward with such a process. The answer to the question of whether a process may be feasible may, however, be dependent on how the scope and structure of the process are defined. The two questions are thus interrelated, and there is often not a single, simple yes-or-no answer to the question of whether a collaborative process is appropriate or valuable.

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<sup>2</sup> OC is a program of the National Policy Consensus Center in Portland State University's Hatfield School of Government. OC is the state's program to provide neutral conflict resolution and collaborative public policy-making services to Oregon's state agencies, local governments and the public.

<sup>3</sup> The property is currently zoned MU-19 – a rural zoning designation that permits one residential unit for every 19 acres.

This West Hayden Island assessment began with a series of interviews with interested stakeholders including representatives from the Planning Bureau and the Port. In consultation with the Port and the Bureau, OC crafted interview questions and an initial list of interviewees. The interview list was not intended to include every individual with an interest in or information related to annexation or development planning for West Hayden Island; rather, it was designed to sample a cross section of the full range of perspectives on the issues. Suggestions for potential additions to the interview list were gathered from interviewees. Interviews focused on understanding the parties' interests and concerns and their willingness or ability to participate in good faith in a collaborative process to address those issues.

Initial assessment interviews took place in July and August 2007 and included individual, group, phone and in-person interviews with the parties and other stakeholders. The assessment process continued through the fall and early winter with additional contacts and interviews as needed and several meetings among stakeholders as described below. Overall, OC attempted to contact or interview more than 50 individuals and entities. More than 40 individuals participated in interviews or meetings or provided other input. (See list attached as Appendix 1.) The assessment helped OC gauge stakeholder interest in collaboration and evaluate the likelihood that a collaborative process could successfully resolve stakeholder issues.

### III. Interviewee Interests, Issues and Concerns

Participants in the initial assessment interview process represented a wide range of interests and expressed diverse concerns related to annexation and development planning on West Hayden Island. Overall, interviewees recognized that although annexation and zoning would have no immediate direct physical effect on the property, annexation and zoning would facilitate the actual development of the property. Consequently, interviewees tended to focus their comments on the effects of any development of WHI that might be enabled or facilitated by annexation and zoning. Key interests and issues raised by the interviewees are identified below.

#### Interviewee Interests

Stakeholder *interests* (as distinguished from stakeholder *concerns* or *positions*) are the underlying reasons a party has for taking a particular position – the potential gains or adverse impacts or risks that give a party an *interest* in the outcome of a particular public process. These gains or impacts may relate to a stakeholder's professional responsibilities or to personal needs or perceived well-being, including financial success, personal enjoyment, or closely held beliefs.

The stakeholders interviewed represented a broad cross section of interests including local and regional business interests related to marine industrial activity and freight movement; local and regional environmental organizations; island residents and businesses; federal and local government officials with relevant regulatory responsibilities<sup>4</sup>; and outside observers with academic or outreach roles. Interviewees described a variety of interests relating to planning and development on West Hayden Island. Some of the interests described by the interviewed stakeholders included, for example: strong interests in protecting personal quality of life and the health, safety, and character of their neighborhoods; professional interests in planning and providing for local or regional economic development and orderly development of land uses; personal or professional interests in preserving undeveloped open space, ecosystems and habitat for fish and wildlife; professional or personal

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<sup>4</sup> State regulatory and resource agencies were not interviewed during the assessment process.

economic interests in regional economic growth, the sustainability of working waterfronts, or the efficient movement of freight and commerce. In many cases, interviewees noted that they balanced multiple interests – for example a number of interviewees noted interests in both a vigorous local economy and a healthy local environment. The Port itself expressed a related interest in obtaining, through this process, increased certainty or predictability about future use of the property. Finally, other interviewees were simply knowledgeable about the issues without having any particular interest related to the issues of concern.

### Interviewee Issues and Concerns

Substantive stakeholder concerns related to annexation and development planning for West Hayden Island fall roughly into the following categories:

- *Environmental Concerns.* Concerns related to WHI's existing and potential value as a natural resource area providing important local and regional greenspace, environmental and habitat values and the potential loss of those values if all or part of the site is developed.
- *Economic Concerns.* Concerns related to the unique value of the site as a location for marine and intermodal industrial development including the importance of the site for local and regional economic development and the potential loss of those values if all or part of the site is preserved as green space or habitat.
- *Neighborhood Concerns.* Concerns related to the impact of development of the Port's property on the health, safety, general wellbeing, and quality of life of Hayden Island residents and their neighborhood and other nearby neighborhoods that may be affected by development on WHI.
- *Open Space Concerns.* Concerns related to the current lack of parks and open space on Hayden Island and the opportunity to provide areas for public access, recreation or passive enjoyment of nature.
- *Other Concerns.* Other related concerns including:
  - Concern over the impact of potential WHI development on federal dredge disposal areas and federal anchorages;
  - Concerns of agencies responsible for providing services or regulating activities related to potential development on WHI;
  - Concerns about compliance with local, state and federal regulatory requirements.
- *Scope.* An overarching concern of some participants was how to define the scope of a collaborative process related to annexation and zoning.

Most interviewees recognized the three primary issue areas described above (environmental, economic, and neighborhood concerns) as being the most significant areas of interest or concern that would have to be addressed in the annexation and zoning process as well as in any collaborative effort, although many interviewees held significantly different opinions as to the value or validity of one or the other set of concerns. Interviewee concerns are discussed in more detail below.

#### *Environmental and Natural Resource Issues and Concerns*

A number of interviewees raised concerns about WHI's natural resource value as a green space and habitat for a number of fish, wildlife and plant species. Even interviewees whose interests were not primarily related to environmental or natural resource concerns recognized and acknowledged either that the area has significant value (actual or potential) or at least that the issue of the area's resource value would be important to address in any collaborative process. Some interviewees seemed to believe that addressing these issues was a primary reason to have a collaborative process. Interviewees

expressed a number of reasons why preservation of some or all of this resource was important, including the following:

- WHI is one of the most significant unprotected greenspaces in the region – it is recognized as a regional asset providing important habitat for a variety of fish, wildlife and plants.
- Since the last effort to develop WHI four local fish species have been added to the federal endangered species list, including species for which WHI may provide important habitat (e.g., for juvenile rearing). Protection for undeveloped habitat is the top strategy for protecting these species in current planning efforts.
- The site includes an important cottonwood-ash bottomland forest habitat that represents a substantial percentage of the remaining acres of such habitat in the region. Some interviewees suggested that without active management to maintain the cottonwood ecosystem, it will probably disappear (in the absence of a dynamic river system and regular flooding), but others suggest the site may be able to regenerate more effectively now that grazing is no longer taking place on the site.
- The site provides important habitat along the Pacific flyway for migratory species including waterfowl and neo-tropical migrants.
- The site is in the floodplain.
- Size – part of the value of WHI as a regional asset is its substantial size.
- Placement – the site’s value is also enhanced by its position in the ecosystem and its co-location within a system of natural areas in an otherwise urbanized landscape.
- The value of the site has been recognized by various planning processes and by a broad cross section of environmental and conservation organizations as demonstrated by a letter signed by numerous regional groups offering to engage in negotiations to purchase the property.

The relative importance of these environmental values was, for some interviewees, greatly elevated because of the significant cumulative loss of these values over time in the local and regional ecosystem. As a result, some interviewees felt there was little room to allow for additional losses of habitat and natural areas in an already compromised environment.

On the other hand, some interviewees expressed concern that the natural resource value of the site may not be especially high and that the habitat was potentially degraded and not high quality. Some interviewees felt that given the other potential uses for the property, greater value could be realized by putting conservation or restoration efforts elsewhere.

#### *Economic Issues/Concerns*

A number of interviewees, including the Port, expressed the opinion that WHI is an important, even unique, regional asset as a prime location for marine industrial activity. These interviewees suggested that there is a small and shrinking inventory of lands available for this type of activity and that demand for such activity will continue to grow (as Asian trade increases and other Pacific ports become more congested). These interviewees tend to believe that some portion of the site should be substantially devoted to marine industrial purposes, and they mention the following in support of that belief:

- The site has a unique and highly valuable location as a multimodal transfer point that provides access to a deep water port and international shipping channel, two railroad mainlines, and interstate highway trucking corridors.

- The site is therefore an important regional asset in the overall movement of freight.
- The site was brought within the urban growth boundary (UGB) in order to address the apparent shortage of marine industrial property in the metropolitan area.
- Existing area port acreage suitable for new facilities is already limited or unavailable.
- Other regional ports (on the Columbia) do not offer the same opportunities in terms of acreage, deep water access and readily available multimodal connections.

Some interviewees suggested that the community interested in working waterfronts, freight movement, marine industrial development, and related economic growth would need to be more proactive in conveying the importance of their concerns in any forthcoming public or collaborative process.

Several interviewees noted that the inclusion of the site within the UGB was significant because it represented that a judgment had already been made about the appropriate use for the area, and that the region had committed to the use of the growth boundary system as an orderly and predictable way to provide for both resource protection and urban growth and development. Some suggested that the reasoned inclusion of the property as part of the industrial base within the UGB should be respected, but some also acknowledged that, for a property of this size and significance, it was likely that an examination of all potential uses was a political necessity. Others suggested that there was still a need for substantive natural resource protection even within the UGB.

On the other hand, a number of interviewees also felt that the economic need for additional marine terminal facilities had not been well demonstrated either during the last effort to develop WHI or more recently. Some interviewees felt that regional needs for port facilities could be met by looking to expand or improve the efficiency of existing developed or partially developed sites locally and throughout the Columbia River basin. For example, some interviewees suggested there could be better proactive collaboration among the Ports of Portland and Vancouver.

### *Neighborhood Issues and Concerns*

Many interviewees, including island residents and other parties, recognized that the potential development of West Hayden Island, following the annexation and rezoning of the area, could have a significant impact on Hayden Island residents and the residents of neighboring communities.

The primary issues identified or acknowledged by many interviewees were increased traffic (particularly truck traffic) and access to the island. Interviewees noted that access is already problematic with Interstate 5 providing the sole access to the island. Added traffic and trucks would aggravate those problems. Interviewees acknowledged that the ongoing Columbia River Crossing (CRC) process and the ultimate decision on how to upgrade the current crossing would have a significant effect on traffic and that it would be important to coordinate closely with that process. A number of interviewees noted that the construction of a new separate crossing from Marine Drive to WHI (an “arterial bridge” as had been discussed during a prior development effort on WHI) was one possible means for addressing traffic concerns (e.g., by requiring truck traffic to any new facility to use the new crossing or providing Hayden Island residents with special access to an otherwise limited-access private arterial bridge). On the other hand, interviewees noted that a new arterial crossing would raise its own set of concerns if, for example, its construction were to impact existing floating residences. In general there was strong sentiment that any proposed development would have to include measures to ensure that traffic problems would be improved (and not worsened) or there would be significant resident opposition. Similarly, interviewees recognized that either new development on West Hayden Island or an associated new bridge crossing to the island might have significant impacts on nearby off-island neighborhoods

(e.g., increased truck traffic through the St. Johns neighborhood from trucks using a new bridge crossing from Marine Drive to WHI).

In addition to traffic concerns, interviewees recognized that Hayden Island residents would have immediate concerns about the impact of any new WHI development on their health, safety or quality of life. Interviewees identified a number of potential concerns, depending on the nature of the development, including:

- Increased noise levels
- Air quality impacts (e.g., dust, odors, etc.)
- Health and safety risks (e.g., the handling, transport, or storage of toxic or otherwise dangerous substances at a new facility)
- Access to the river shore, open green space, and recreational opportunities

It is not clear at this point how effectively some of these neighborhood concerns can be addressed in the absence of a more concrete proposal for development on the property. While some issues will likely be sufficiently concrete for a meaningful discussion, it will be important to carefully outline the scope of issues to be addressed in any potential collaborative process.

#### *Other Issues and Concerns*

Interviewees identified the following additional concerns related to annexation and rezoning of West Hayden Island (and development of the property after annexation and rezoning):

- Some federal agency interviewees had concerns about the impact of annexation, rezoning and potential development of WHI on (1) the existing dredge disposal site and (2) federal deep-water anchorages in the Columbia near WHI.
- Some federal agencies also had concerns about how the annexation and rezoning *process* might affect the Port and the city of Portland's approach to a future National Environmental Policy Act (NEPA) process (including the "purpose and need" for the project as well as the analysis of alternatives) that may be required in order to obtain necessary permits for proposed development. They were concerned that the scope of an examination of project need and alternatives in the city's planning process might be significantly narrower than would be required under a NEPA analysis.
- Other local government interviewees expressed concern that without a more specific plan for development in the annexation and zoning process it would be difficult to assess the need for urban and environmental services for the area that the City would be required to administer or permit.
- Various interviewees expressed general concerns about compliance with local, state and federal regulatory requirements.

#### *Scope of Collaborative Process*

A number of interviewees raised concerns about the scope of any potential collaborative effort. In particular interviewees wondered how there could be a meaningful discussion agreement about future development when there is no concrete proposal (or set of options) available for consideration. Some stakeholders felt that seeking annexation and zoning without more detailed information about what would be built on the site was premature and not likely to gain approval

through the political process. The Port recognized the challenge, but was not able to identify, at this time, what type of facility might be most likely to be proposed for the site. The Port noted that with the land currently not annexed or appropriately zoned, the timeline from an initial concept to build-out and operation of a facility was likely to be approximately 10 years, making predictions particularly difficult. The Port believed that the annexation and rezoning were an essential first step in order to put development on the property within a reasonable planning timeframe. (See also the discussion below regarding potential challenges to collaboration.)

#### **IV. Potential Challenges and Opportunities for Collaboration**

##### **Challenges to Consider in Collaboration**

The interviews revealed, in addition to the stakeholders' substantive issues and concerns, a number of potential challenges to convening a collaborative process to address those issues. Some challenges were identified specifically by interviewees while others became apparent when comparing the interview responses of various stakeholders.

*Scope-related challenges.* A challenge at the outset of this process, as noted above, will be defining the scope of issues to address in light of the diverse interests of the parties. Some stakeholders may be very interested in focusing on development-specific issues such as traffic impacts and other operational characteristics of development, while others may be more focused on broad or general issues such as the overall footprint of development versus conservation uses on the property. The challenge will come in finding a balanced scope for the process that provides sufficient detail to keep stakeholders engaged without being overly speculative.

*Communication challenges among the parties.* Although many of the parties have developed ongoing working relationships with each other with respect to other issues, prior efforts at development on WHI (the most recent effort was nearly ten years ago) had been the subject of considerable debate and controversy. The stakeholders recognized that any new, collaborative effort to address issues related to development and conservation on WHI will need to overcome past differences, build trust and open up lines of open and honest dialogue on issues related to proposed development on WHI.

*Institutional stakeholders.* In a related concern, some interviewees recognized that a number of the key stakeholders or participants in the proposed annexation and rezoning process were large institutions and that engaging and communicating with such institutions presents special challenges.

*Value-based differences.* A potentially significant challenge to effective collaboration identified by the assessment was the marked difference in some stakeholders' fundamental values or beliefs related to the importance of different land use objectives for WHI. As discussed in more detail below, such fundamental value differences can challenge the ability of parties to acknowledge each other's needs. This can be frustrating for parties who want to be collaborative, but feel that the situation makes "compromise" unacceptable. This circumstance may require a more limited or stepwise approach to collaboration in order to explore more fully the potential opportunities to meet all the parties' needs.

*Zero-sum Negotiations.* Similarly, a potential challenge to collaboration may exist when the decision to be made is essentially a decision of numbers. Simply dividing up a pie where more for one party means less for another leaves little room for meaningful negotiation (a zero-sum game). To the extent that a collaborative process in this case is focused narrowly on the footprint of potential development, it could be difficult to have all parties collaboratively address the issues relevant to

annexation and rezoning on WHI. Again, it may require creativity to describe a scope for collaboration that is sufficiently broad to engage stakeholders and provide room for negotiation while avoiding unhelpful speculation.

### **Exploring Opportunities for Collaboration – Preliminary Stakeholder Meetings**

Despite a number of perceived challenges to a collaborative stakeholder process and an uncertainty about the prospects for success, many interviewees expressed interest in trying a process and provided suggestions for improving the likelihood of success. A number of interviewees expressed hope if not optimism that a collaborative effort could identify win-win outcomes that would satisfy multiple interests – whether those interests were in environmental protection, habitat conservation and restoration, protecting neighborhood character and quality of life, or in supporting the growth of a thriving working waterfront and a valuable multi-modal terminal.

In an effort to determine whether the stakeholders' strong interest in a collaborative approach could overcome some of the inherent challenges to the process, OC recommended and the parties agreed to participate in a series of preliminary meetings to explore stakeholder relationships, open lines of communication, and explore the potential for dialogue among parties with significantly differing values and interests. A key challenge in the assessment had been identifying potential areas of overlapping interest to determine what value there would be in a multi-stakeholder process addressing issues related to annexation and rezoning of WHI. While a "shuttle diplomacy" approach might help clarify potential areas for collaboration or consensus, OC felt it would better serve the parties' long term interests to let them cultivate their own working relationships with respect to WHI issues and build a direct understanding of each other's interests and concerns.

OC recommended to the parties that the Port initially engage in two small-scale meetings – one with individuals representing a cross section of citizen environmental and conservation interests and one with individuals representing a cross section of Hayden Island resident and neighborhood interests. It was not an objective of these meetings to negotiate potential outcomes or resolutions. The meetings were focused solely on building mutual understanding of interests, developing working relationships, and building trust. The meetings were relatively short (approximately two hours) and involved only three or four representatives from each stakeholder interest (six to eight individuals total). The meetings were facilitated by OC and held at a neutral site (OC's offices at Portland State University). Participating environmental/conservation interests included Audubon, Friends of West Hayden Island, and Willamette Riverkeeper. Participating neighborhood interests included HiNoon (Hayden Island neighborhood group), Hayden Island Mobile Home Park residents, and local business interests. A representative of the Portland Planning Bureau also participated in the meetings. The meetings provided opportunities for the parties to describe and discuss each others' interests (not just their positions) and to identify potential next steps for collaboration or negotiation among all interested parties.

A third meeting among Port staff, the Portland Planning Bureau and various federal resource and regulatory agency representatives also proved helpful to clarify the potential commonalities and inconsistencies between the currently proposed public processes (annexation and rezoning) and the federal NEPA process that would likely be required before any development were to take place on West Hayden Island. Although the discussion focused on NEPA, participants recognized that there were a number of federal regulations that might come into play during any development process including, for example, the Clean Water Act and the Endangered Species Act, as well as a number of related state and regional requirements. Participating federal agencies included the Fish and Wildlife

Service, National Marine Fisheries Service, Environmental Protection Agency, and the Army Corps of Engineers. At this point in the process the federal agency meeting participants seemed to agree that the current annexation and rezoning process did not necessitate any formal federal involvement or role, but the agencies did express an interest in monitoring the process as it moved forward.

These preliminary meetings proved helpful in overcoming challenges to negotiation and in improving working relationships among the stakeholders on WHI issues. The meetings also began to identify information needs and potential issues to address if a process were to move forward. OC felt, however, that there were still important questions to be resolved regarding some of the stakeholders' interests and the ability of the stakeholders to have a meaningful negotiation.

To take the next step toward a potential collaborative process, OC recommended one additional round of preliminary meetings. These meetings were again among the Port and small groups of environmental and resident stakeholders and were designed to determine whether the stakeholders could frame a set of issues and alternatives that could be the subject of a meaningful stakeholder dialogue. It was not clear at this point whether the range of options that the Port and stakeholders, respectively, were willing to discuss would allow for a meaningful dialogue. The stakeholders needed to engage in frank dialogue about their willingness to consider a range of outcomes on West Hayden Island. For example, environmental stakeholders and the Port had to determine if there was a mutually acceptable range of potential development and conservation alternatives (both onsite and offsite) that they were willing to discuss, what information was needed to support that discussion, and how that information could be obtained. Similarly, the Port and island resident interests needed to frame the issues to be addressed in a larger collaborative discussion (related to, for example, island access and traffic, public health and safety, conservation and recreation) and the information needed to support that discussion. Together, these meetings helped frame a potentially feasible approach to a broader stakeholder dialogue.

## **V. Analysis and Recommendations**

The Oregon Consensus has expertise in the neutral assessment, design, and implementation of collaborative processes that provide a meaningful opportunity for diverse interests to reach mutually satisfactory results on complex natural resource and public policy issues. OC provides neutral services and a neutral forum to help Oregon agencies, local governments, other public entities and their stakeholders to resolve public policy issues. OC does not take positions on the substance of the issues on which it works. OC has considered the input provided by interviewees in this process and has assessed whether there is sufficient reason to believe that a collaborative process could or could not be of value in resolving issues related to the proposed annexation and rezoning of West Hayden Island (in anticipation of eventual development of marine industrial and/or natural resource land uses on the site).

### **Key Characteristics of Successful Collaborative Processes**

In assessing whether some or all of the concerns and issues related to annexation and development planning for WHI are amenable to collaborative or consensus-based resolution, it is important to identify whether the key elements or characteristics are present that are likely to make collaboration productive and successful. In OC's experience, a consensus-building or agreement-focused process is more likely to succeed if it has certain characteristics including, for example:

- Clear objectives for the process in terms of outcomes and a clearly identifiable scope of negotiable issues.

- Adequate data and information to support informed discussion of the agreed upon issues (or the ability to develop that information in the course of the process).
- An appropriate and reasonably defined timeframe for the process and the resources to support the process throughout that timeframe.
- Identifiable parties capable of representing the diversity of interests related to the issue. All the parties must be able to participate in good faith – i.e., they must believe they are as likely to achieve through negotiation all or more than they would be able to achieve through alternative approaches (e.g., litigation, legislative, or political approaches). To support a meaningful consensus-based process, even a sincere desire to be “collaborative” is not sufficient absent an equally sincere commitment to resolve issues through negotiation.
- An acceptable overall legal and political context for the process and a mechanism for implementing a consensus agreement if one is reached.

In this case, the assessment process identified many factors that appear to support taking the next steps toward a successful collaborative process. Key issues have been clearly outlined, although they are many in number. Many stakeholders have already identified information and data needs for a collaborative process (including a need for information on ecological values and on the local and regional economic justification for marine industrial facilities). To the extent that this data is not immediately available, it seems reasonable to believe that specific needs could be readily identified and literature reviews or other research prepared that could meet reasonable data needs. In addition, while there is no specific deadline driving the process, there are factors motivating some parties to move the process forward expeditiously, and proper management of the process can ensure that other stakeholders do not use the process as a tool to cause unwarranted delay. The assessment process also suggested that there are a reasonable number of identifiable parties with an interest in the process and the ability to represent (formally or informally) the spectrum of interests related to land use planning and potential development or conservation on WHI.

As discussed in the sections above, the assessment also identified a number of potential challenges to a collaborative process, opportunities to address and overcome those challenges, and a strong desire among the parties to have a collaborative dialogue. Perhaps the most difficult challenge has been to determine whether all the necessary parties were truly able to make a commitment to resolving key issues in an agreement-focused, consensus-based process. That is, given the scope of issues for discussion, do all the parties in fact believe that a negotiated agreement is as likely as any other approach (e.g., litigation, politics, or standard public processes) to achieve their objectives, and are they prepared to commit to the process as a means of achieving those results?

Consequently, OC has concluded that, at this point, there is *not* a strong belief among all the parties that a strictly *agreement-focused* mediated process is in their best interest at this time. Given the significant value-based differences in the parties’ visions for WHI, it is not clear that all could come to the table with a commitment to finding a negotiated agreement. However, the parties and OC do believe that there is an opportunity, both feasible and beneficial, for engaging in a more limited collaborative approach that makes sense as a next step in this evolving process.

## OC Recommendations

OC recommends that the interested stakeholders engage with the Port and the Bureau of Planning in a collaborative process to address interests and concerns related to the annexation and rezoning of West Hayden Island. In particular, OC recommends that the parties engage *not* in an agreement-focused mediated decision making process, but rather in a facilitated dialogue and mutual learning

process. An inclusive, transparent, facilitated dialogue, conducted by a impartial third party facilitator working on behalf of all participants, is the next logical and appropriate step in this evolving process.

There is a broad spectrum of possible collaborative approaches for engaging interested stakeholders in public policy decision making ranging from narrow, agreement-focused processes intended to reach specific agreed-upon outcomes or recommendations to broadly drawn processes for attracting stakeholder or public input. In this case, OC recommends that the next phase of this process be a facilitated dialogue of manageable size among a broad cross section of interests conducted in an open and transparent atmosphere. OC does not recommend at this time that the goal of the group or this collaborative process be consensus or agreement on a plan to move forward through the annexation and rezoning process or on the appropriate outcome for development on West Hayden Island. Rather, at the outset, the process should focus on:

1. Developing and sharing information (environmental, economic, etc.) that is essential and acceptable to the stakeholders and relevant to the annexation and rezoning process; and
2. Discussing the benefits and costs (economic, social, and environmental) associated with a reasonable and agreed-upon range of options or scenarios for potential zoning and development on the property.

As the discussion evolves, it may be that the participants will find themselves able to reach consensus on some aspects of the zoning or development planning process, but that should not, at this time, be a necessary outcome or commitment of the group. The parties' interest in participating in a facilitated dialogue, rather than an agreement-focused process, reflects their sincere desire to have a meaningful interest-based exchange of ideas while acknowledging that there remain fundamental value-based differences among some parties and a significant need for additional information that may affect the parties' interests. Thus an open-ended facilitated dialogue appears to be the next logical step in the process.

Based on the preliminary discussions among some of the key stakeholders, OC can make a number of specific process recommendations regarding the structure and content of a potential facilitated dialogue process. At the outset of any process, however, the stakeholders themselves should discuss and confirm their own understanding of the process including its structure and desired outcomes.

OC process recommendations regarding a proposed stakeholder dialogue on West Hayden Island annexation and rezoning issues include the following:

#### ***Goals and Outcomes***

- The goal of the process is to have an exchange of information among the participants and an informed dialogue on potential alternative scenarios related to zoning, development, and conservation on West Hayden Island.
- It is not necessarily the goal of this process to reach consensus on any particular set of recommendations, although the participants would be free to explore areas of common interest or agreement.

#### ***Participation***

- The number of direct dialogue participants should be manageable in order to facilitate effective and meaningful conversation.
- The process should involve a broad cross section of interests – e.g., island residents and neighbors, affected business interests, maritime labor interests, regional economic

- interests, conservation and environmental interests, public agencies (local, state and federal).<sup>5</sup>
- Participants should not be charged with representing or “delivering” any particular constituencies, but rather should participate as individuals (or organizational staff); however the group should strive to be broadly representative of the community at large.
  - The group should strive to represent a balance of interests, but because the group will not be “voting” on any recommendations or decisions, an exact balance is not necessary. (Although the goal of the group is not necessarily to reach any agreement or decision, to the extent the group should choose to strive for agreement, such an agreement would be reached only by consensus and mutual consent of all the participants.)

### ***Operating Principles***

- At the outset, the group should agree on a basic set of operating principles describing the goals and basic structure of the process.
- Operating principles should also address process and ground rules relating to decision making, participation, timelines, scheduling, facilitation, and communication.

### ***Subject Matter***

- After confirming its structure and operating principles, the group should begin their work by vetting and agreeing upon or confirming a scope of work for developing information related to (1) the purpose and need for and (2) the impacts and benefits of a range of marine development and conservation scenarios for West Hayden Island.
  - Information should be developed for each scenario with respect to (1) the economic costs and benefits, (2) the conservation and environmental benefits and costs, and (3) the social and quality-of-life impacts. Information gathered should take into consideration relevant regulatory compliance requirements.
  - Options to be considered should include a range of marine development options (e.g., different types of facilities, different footprints) including options for mitigating impacts to residents and surrounding habitat or conservation areas (e.g., arterial bridge, noise and light mitigation, green construction techniques).
  - Options considered should also include a range of conservation and open space options (e.g., recreation opportunities, open space preservation, ecosystem services banking and managed restoration or enhancement).
- It is OC’s understanding that the Port is initiating a research and data gathering effort to support the work of the stakeholder dialogue and to support a broader planning effort that seeks to optimize marine development and natural resource protection and enhancement on West Hayden Island. The Port has indicated it will work with the stakeholder group to refine that effort.
- Other stakeholders, and the group as a whole, may want to examine what specific data or information could be developed or provided by other participating organizations.

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<sup>5</sup> State regulatory and resource agencies were not interviewed during the assessment process. Although there may be some commonality of interest with other agency or public stakeholders, engaging one or more relevant state agency representatives will likely add a useful perspective as the process moves forward.

*Schedule, Timing, and Support*

- The group should be convened relatively soon so that it can confirm and agree upon the information it needs and the plans for acquiring that information, building off the initial direction provided by the preliminary stakeholder meetings.
- The Port and the Planning Bureau have a strong interest in moving forward with the process in a timely fashion so that that any planning for WHI might be able to move forward to Portland City Council in coordination with planning for East Hayden Island (already under development). The stakeholder group should make a good faith effort to act expeditiously, but it should also take the time that is needed to obtain reasonably necessary information and to have a well-informed, substantive and thorough discussion. The group should seek to agree upon target dates for identified milestones as part of its preliminary work identifying operating principles.
- The group should have the benefit of a neutral forum and professional impartial facilitation and support to keep the process moving forward effectively and efficiently. Neutral services should be provided by an entity or individual whose clear mandate is to serve the varied interests of the stakeholder group as a whole regardless of the source of funding for these services.

OC remains prepared to assist the stakeholders, including the Port and the Planning Bureau in convening and supporting a dialogue among interested stakeholders related to the proposed annexation and rezoning of West Hayden Island. In particular, OC is prepared to help identify and provide the appropriate resources and facilitation support for this process to move forward. As a neutral forum and a provider of neutral convening services, OC recommends and supports this proposed collaborative process, and, if asked to provide further services, OC would be committed to ensuring that any process moving forward is transparent and inclusive of the full range of perspectives and interests related to West Hayden Island. We look forward to working with the stakeholders to help them achieve their mutual collaborative interests.

**WEST HAYDEN ISLAND  
DRAFT CONVENING ASSESSMENT REPORT**

**ATTACHMENT 1**

**List of Interviewees and Other Contacts**

OC contacted, interviewed or otherwise obtained input from the following individuals in the process of preparing this report:

Susan Barthel	City of Portland - BES
Bernie Bottomly	Portland Business Alliance
Patty Boyden	Port of Vancouver
Bob Clay	City of Portland
Corky Collier	Columbia Corridor Association
Tom Dana	Friends of West Hayden Island
Brent Foster	Columbia Riverkeeper
Ann Gardner	Portland Freight Committee
Ed Garren	HiNoon
Jeff Gerritsen	Hayden Island Mobile Home Park
Don Gire	HiNoon
Phil Grillo	Working Waterfront Coalition
Elisa Hamblin	City of Portland
Timme Helzer	Friends of West Hayden Island
Laura Hicks	US Army Corp of Engineers
Robert Hillier	City of Portland - PDOT
Mike Houck	Urban Greenspaces Institute
Brad Howton	Columbia Crossings
Greg Jones	City of Portland - PDOT
Roberta Jortner	City of Portland
Steve Kountz	City of Portland
Susie Lahsene	Port of Portland
Keith Leavitt	Port of Portland
Kaitlin Lovell	City of Portland – BES
Cheryl Lund	Friends of West Hayden Island
John Marshall	US Fish and Wildlife
Ben Meyer	National Marine Fisheries Service (NOAA)
Larry Paulson	Port of Vancouver
Sam Ruda	Port of Portland
Bob Sallinger	Portland Audubon Society
Carol Schuler	HiNoon
Tom Taylor	US Army Corps of Engineers
Greg Theisen	Port of Portland
Ry Thompson	City of Portland
Cathy Tortorici	National Marine Fisheries Service (NOAA)
Walter Valenta	HiNoon
Yvonne Vallette	EPA

Vicky Van Dyke	Friends of West Hayden Island
Sarah Vickerman	Defenders of Wildlife
Alice Ann Wetzell	City of Portland – Bureau of Planning
Travis Williams	Willamette Riverkeeper
Bill Wyatt	Port of Portland
Joe Zehnder	City of Portland – Bureau of Planning

OC also contacted, or attempted to contact, the following individuals who either declined to be interviewed, suggested an alternative, or did not respond to our inquiries:

Lanny Cawley	Port of Kalama
Nancy Ellifrit	Vancouver Audubon Society
Bruce Holte	ILWU – local 8 labor
Debrah Marriott	Lower Columbia River Estuary Partnership
Gerry Meyer	Port of St. Helens
Ken O'Hollaren	Port of Longview
Dave Ripp	Port of Woodland
Steven Tang	Jantzen Beach Super Center – Morgan Stanley
Liz Wainwright	Merchants Exchange