

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF MASON

IN RE THE MATTER OF:)
) NO. 05-2-01083-9
THE PORT OF TAHUYA DISSOLUTION,)
)

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that on the 9th day of January, 2006, Mason County Cause No. 05-2-01083-9 came on for petition for dissolution hearing before the Honorable James B. Sawyer, II, Judge of the Superior Court sitting at the Mason County Courthouse, in the City of Shelton, County of Mason; and the parties being represented by their respective attorneys as follows:

ROBERT I. GOODSTEIN and RALPH U. KLOSE, Attorneys at Law, Robert I. Goodstein Law Group, PLLC, 1001 Pacific Avenue, Suite 400, Tacoma, Washington 98402-4440, appearing on behalf of the Jim Christen and Brad Smith, Petitioners;

KENNETH R. AHLF, Attorney at Law, 1230 Ruddell Road S.E., Suite 201, Lacey, Washington 98503-5749, appearing on behalf of the Port of Tahuya, Defendant;

JERRILYNN HADLEY, Attorney at Law, 901 S. 3rd Street, Renton,

Washington 98055-2735, appearing on behalf of Brad Carey; and
T.J. MARTIN, Deputy Prosecuting Attorney, 521 N. 4th Street,
P.O. Box 639, Shelton, Washington 98584-1715.

Court convened with all
parties present on Monday,
January 9, 2006 at 10:16 a.m.

THE COURT: Thank you. Court is in session. You
can be seated, or remain seated if you haven't gotten up yet.
The matter before the Court is Mason County Cause
No. 05-2-01083-9. This matter is on for a petition for a
dissolution. Mr. Goodstein, on behalf of the Port.

MR. GOODSTEIN: Thank you, your Honor. My name is
Robert Goodstein. My office is 1001 Pacific Avenue, Suite
400, Tacoma, Washington 98402. My phone number at the office
is area code (253)779-4000. I'm here today on behalf of the
Port of Tahuya on our filed Petition for Dissolution of the
Port, case number 05-2-01083-9. In addition, Judge, we have
submitted to the Court a memorandum re: the hearing for
Petition for Dissolution of the Port District, copies of which
have been provided to Mr. Ahlf, because he had appeared.
Other counsel did not receive a copy because we didn't know of
her appearance until this morning.

I would like to add to that memorandum, which is largely
copies of things that have come to our office or the Port's
office during the claims period that the Port published. I
said the Port, not Court. Three extra things that have come

in since that was filed with the Court, it was filed Friday. And we have two or three other documents that have come in.

The most notable document -- several of them by the way are documents that the Court sent to our office.

THE COURT: They were received directly from the Port. We made sure that those were faxed to your office and to Mr. Ahlf's office because those were counsel of record at that time.

MR. GOODSTEIN: Yeah. So I just want to tender, just to complete the notebook here, to the Court.

THE COURT: To the Clerk, if you would please.

MR. GOODSTEIN: Those additional items to complete that memorandum. In addition we would note that late Friday afternoon we received a letter from the IAC, which now is responsible for maintaining ALEA grants on behalf of the State of Washington. And they have indicated they are aware of this proceeding and ultimately would be satisfied if the disposition of Menard's Landing was that it was received by the county. We also have present in the court representatives from the county, Tim Sheldon who is a County Commissioner and a State legislature, and counsel from the County Prosecutor's office also present.

I believe that takes care of my preliminary matters. Further, as the Court knows, we are now one hour past the time we were to commence the hearing. And that is because there

have been discussions by and between counsel as to potential resolution of this matter in a way that would satisfy, in one form or another, all of the represented parties. The represented parties include Mr. Ahlf's clients who are a group of citizens who in part oppose the dissolution of the Port, or were prepared to. And also in part were concerned about the disposition of Menard's Landing. Also present is counsel Jerri Hadley who represents Brad Carey as an individual in this matter, with his individual concerns.

So let me speak to what I believe is the resolution of the conversations that we have briefly advised the Court about. The resolution essentially is this. What we would look for is the Court to indicate and enter an order indicating its intention to dissolve the Port upon the resolution of certain things that must occur prior to the order taking effect. Those things include the transfer of Menard's Landing to the county for their use as a continuing park; the satisfaction of IAC with that transfer.

And in addition, Mr. Carey has filed an order requiring systematic winding up prior to dissolution in which he asks certain tasks be accomplished. We believe that these are tasks that would be accomplished in the ordinary course of a wind up anyway. The difference here is that what Mr. Carey had asked for, as I understand it, is that the wind up occur prior to the dissolution. I believe we're accomplishing that task by having the Court indicate that it will dissolve the

Port upon the completion of those tasks that he has called out. Those tasks include taking action on open claims, completing action on open lawsuits, gathering and archiving public documents consistent with rules of the State Archivist, responding to pending requests for public disclosure, closing out of any leases, and gathering and properly archiving or terminating existing policies of insurance.

Let me make a couple of representations to the Court. I have been in contact with Mr. Blair Burroughs, who is counsel for Ms. Olsen, who I think is here today, who has indicated to me that I can represent to the Court that -- that would be satisfactory if that lawsuit was considered to be a claim and resolved as a claim, as long as the judicial input on that claim is properly received. And I think we can probably reduce that to some written agreement. And that resolves the -- or -- or address the completing actions on open lawsuits because I'm not aware of any other open lawsuit pending against the Court -- the Port, I'm sorry.

And also on the closing out of leases, I believe what we're talking about is part of Menard's Landing is an incorporated leasehold from the Department of Natural Resources. And in addition, there is an agreement for continuing payment of -- of the Port-a-Potty that's at Menard's Landing. We're unaware of any other contractual obligations that could be considered to be a lease. And -- and we're not objecting to that either.

So what we're looking for from the Court, your Honor, I

think in sum and substance is an order indicating that the -- the Port will be dissolved. And further directing that the agreed upon activities take place during this wind up period which will occur before the Court formally enters an order. We have previously in our memorandum suggested, and we only offered it as a suggestion that the Court could be guided by corporate dissolution rules, which are found at RCW 23B.14. We want to emphasize that was only a suggestion for guidance to the Court. And we're not suggesting that you are mandated to follow that as a process. Thank you.

THE COURT: Mr. Ahlf.

MR. AHLF: Your Honor, as counsel indicated, I represent a -- a large group who are prepared to file over a hundred petitions this morning opposing the dissolution. The prime thing is, as far as they're concerned and with my legal advice -- and they relied heavily on my legal advice, which I thank them for, even though they're not completely in agreement. But I am prepared to stipulate to the order that counsel indicated. And that is the Menard's Landing -- we need to have that taken care of, and we appreciate the county stepping forward to do that.

I do have some proposed Exhibits that I think would be helpful to the Court as this matter proceeds. And counsel both have those. And the first one just sets forth, particularly in items 3 and 4, the provisions of the IAC

agreement, or what was to be in our agreement. And that agreement is there, a certified copy of it. And also the deed of right to use, which is -- which is a dedication by the Port Commission. That's also certified.

And then there are a series of 8½ x 11 pictures of Menard's Landing, because I know it's been very helpful for me with those pictures to know exactly what it was we're talking about.

We -- we're in agreement with the proposal made. We would -- we will keep touch to make sure that the -- it is taken care of so that DNR can consent, once the county steps in and -- and agrees to fulfill all the grant conditions. Steps exactly into the shoes of -- of the Port Commission.

We would also hope that with this -- or urge the Court that with this filing period for claims, that once those claims are filed, we would hope they could be resolved in this piece of litigation as opposed to separate litigation and waste of judicial time for that. So I thank my clients for reluctantly agreeing to this stipulation. We think it will be the best for all concerned. Thank you very much.

THE COURT: Ms. Hadley.

MS. HADLEY: I'm Jerrilynn Hadley filling in for Sue Sampson this morning. I understand that we haven't actually submitted a notice of appearance, so I'd like to do that on the record; that Sue Sampson's office has appeared.

And we will submit the document by the close of business today.

I'm here representing Mr. Carey and his concerns. Mostly his concerns are that there's work that still needs to be done. These issues are addressed, but he's concerned that time be allotted. 120 days may not be enough. However we understand that that -- that's a good starting point. He would like regular meetings to be scheduled, although I understand that the Court doesn't really have the authority to schedule meetings for the Port authority. However he would like to make it clear that he thinks it's important that they work together to resolve these issues; that there be a claim period open. However claims may not be able to be resolved and lawsuits may end up being filed instead of just a claims period. However hopefully they can be resolved in a claim. But we'd like to just say that we feel that 120 days is probably not really sufficient, but a good starting place.

THE COURT: Well it sounds like what we have is a general statement of agreement. Certainly not a uniform agreement, but a general statement of agreement. And basically what I have to work with, of course, is the declarations that have been filed to date. And I am perfectly satisfied with indicating to the parties that having reviewed the statements that were made available to me, that I was strongly leaning toward the dissolution based upon the

interest of all parties concerned from the standpoint that you have a Port authority that essentially has no insurance, has very limited business that they've been able to accomplish, if it has any. And I think a very legitimate concern regarding the continued availability of Menard's or Menard's Landing, whichever the pronunciation is. I don't know.

And given the recitation that I received, I think that the primary issues are being addressed by the general statement of agreement of the parties that is before the Court. I will indicate, and the Court will sign an order dissolving the Port of Tahuya. However that will be done only upon completion of the 120 day period, which will be open for the claim period for processing of continued claims.

I did not realize that the one document that I had received from Ms. Olsen had in fact been filed. It didn't have a file number on it when I received it, so I thought it was probably still in a law office waiting to be filed. But I'm told now that it has been filed and is an open civil case in Mason County. And I'm pleased to hear that the parties are willing to participate and settle that claim in the context of this proceeding.

The Court will also attempt to, and will address the processing of claims during that 120 day period. I hear Ms. Hadley indicate that she doesn't feel that 120 days is adequate. And yet given the circumstances of the Port, the lack of insurance, the potential continued liability issues

that exist in that circumstance, there has to be some definition. And 120 days is not an unreasonable period for definition. Very frankly, that would not have been the number that I would have come up with. I would have probably come up with something somewhat shorter.

However we also have the need to facilitate the exchange with the county. And for those of you who are here and want to know a concern that I had in preparing for this case, I in reviewing it thought to myself, it seems fairly obvious on its face that dissolution is going to occur. If that occurs and the transfer hasn't occurred, the Statute is absolutely clear on what happens. And that is that there would have to be some method of a sale, which of course would have resulted in a litigation, which just didn't work. And that's one reason that I'm very pleased to have taken an hour this morning and allow the parties to talk about this because it does allow for an orderly transfer of this to an entity that has a Parks Department, that has hopefully the same interests or very similar interests of the people that have been in support of Menard's Landing otherwise in maintaining that as a public access point.

I know one individual filed a letter saying that she and her family use the park on a monthly basis. And it's nice to know that that can be expected to continue to occur. I was very concerned about what would have occurred otherwise.

So that having been said, I will sign an order. I'm

indicating that the Court will order the Port to be dissolved upon completion of the business as set forth, which means the processing of any open claims, the processing of any open lawsuits, the proper preparation for and completion of the archiving of the records of the Port of Tahuya, and any public disclosure requirements that may still be pending, and the proper termination and transfer of any leases that the Port has. And it appears from the representations that you only have the two, and they both essentially involve Menard's Landing. And that would be the ground itself and the agreement with the State of Washington, and of course the supporting lease on the Port-a-Potty facility that exists.

Are there any questions from any of the parties with respect to the intention of the Court? And I would expect that there will be a circulation of an order and presentation of the order. If the parties can agree, presentation of the order in two weeks. Otherwise I'll have you back to hear argument in two weeks on the civil motion calendar, which is a 1:30 calendar. So that all parties are aware. Mr. Martin.

MS. HADLEY: The one thing you didn't address was an open claims period.

THE COURT: Actually I thought that I had.

MS. HADLEY: Okay, you didn't say specifically.

THE COURT: But if I didn't do that, clearly the open claims period would be the 120 days that we have to process open claims. And all claims should be submitted

within that period of time.

MS. HADLEY: Thank you.

MR. GOODSTEIN: Judge, just for clarity purposes. I would propose that the Court publish, as it has published before, a notice of claims period in the local newspaper directing those claims to come to our office, as opposed to the Court. I'm sure the Court doesn't want to be inundated with whatever claims come out of this process, unless the Court sees otherwise.

THE COURT: No, I think that that is appropriate; that there be another publication. I know that there was an earlier publication, I believe with a 60 day claims period.

MR. GOODSTEIN: 30 days.

THE COURT: 30 day claims period. But in this case, pursuant to Court order, it's 120 day claims period. Mr. Martin, I'm sorry.

MR. MARTIN: Yes. Thank you, your Honor. T.J. Martin on behalf of Mason County. I just want to let the parties know the county's going to do everything it possibly can on our end to expedite the transfer over to the county. And I will also be working with the commissioners, such as Commissioner Sheldon, to make sure that the Landing, when it does come back into the hands of the county, that all the residents and individuals over in that area have a voice in maintaining the integrity of the -- of the Landing and its

genuine nature as it now stands.

So I just want to let the -- for the record, let the Judge know, as well as the citizens in that area, that the county has the intent of maintaining -- maintaining the current integrity of that Landing. Thank you, your Honor.

THE COURT: Anything further by any counsel? I will sign an appropriate order. If you can get it to me before two weeks, that would be fine.

MR. GOODSTEIN: Fine, thank you.

MR. AHLF: Thank you, your Honor.

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CERTIFICATE OF COURT APPROVED TRANSCRIBER

STATE OF WASHINGTON)
: ss.
COUNTY OF MASON)

I, SHERI K. ESCALANTE, Notary Public and Court Approved Transcriber for the Superior Court of the State of Washington in and for the County of Mason, do hereby certify as follows:

THAT the foregoing REPORT OF PROCEEDINGS, numbered from Page One through and including Page Thirteen, is a true and correct transcript of the hearing heard on 9 January 2006 **In the Matter of: The Port of Tahuya Dissolution**, Mason County Cause No. 05-2-01083-9 before the Honorable James B. Sawyer, II, Judge, of the Superior Court of Mason County, sitting at the Mason County Courthouse,

Shelton, Washington, on the date hereinbefore mentioned.

DATED at Allyn, Washington this _____ day of June, 2006.

SHERI K. ESCALANTE
Notary Public and Court
Approved Transcriber