

**WESTERN WASHINGTON UNIVERSITY
BOARD OF TRUSTEES
AGENDA
October 9, 2014**

THURSDAY, OCTOBER 9, 2014

Location: OM 340

Time: 3:00 p.m.

1. CALL TO ORDER

3:00 – 3:05

2. WATERFRONT DEVELOPMENT

3:05 – 3:50

Presentation: Steve Swan, Vice President, University Relations and Community Development
Rob Fix, Executive Director, Port of Bellingham

Discussion

3. PUBLIC RECORDS TRAINING

3:50 – 4:35

Presentation: Kerena Higgins, Assistant Attorney General
Tony Kurtz, University Archivist and Records Manager, Wilson Libraries

Discussion

**4. EXECUTIVE SESSION MAY BE HELD TO DISCUSS PERSONNEL, REAL ESTATE AND
LEGAL ISSUES AS AUTHORIZED IN RCW 42.30.110(1)(i).**

4:35 – 5:00

1. CALL TO ORDER

**WESTERN WASHINGTON UNIVERSITY
ITEM SUBMITTED TO THE BOARD OF TRUSTEES**

TO: Members of the Board of Trustees

FROM: Bruce Shepard, President for Steve Swan, Vice President for University Relations and Community Development

DATE: October 9, 2014

SUBJECT: **Waterfront Development**

PURPOSE: Discussion Item

Purpose of Submittal:

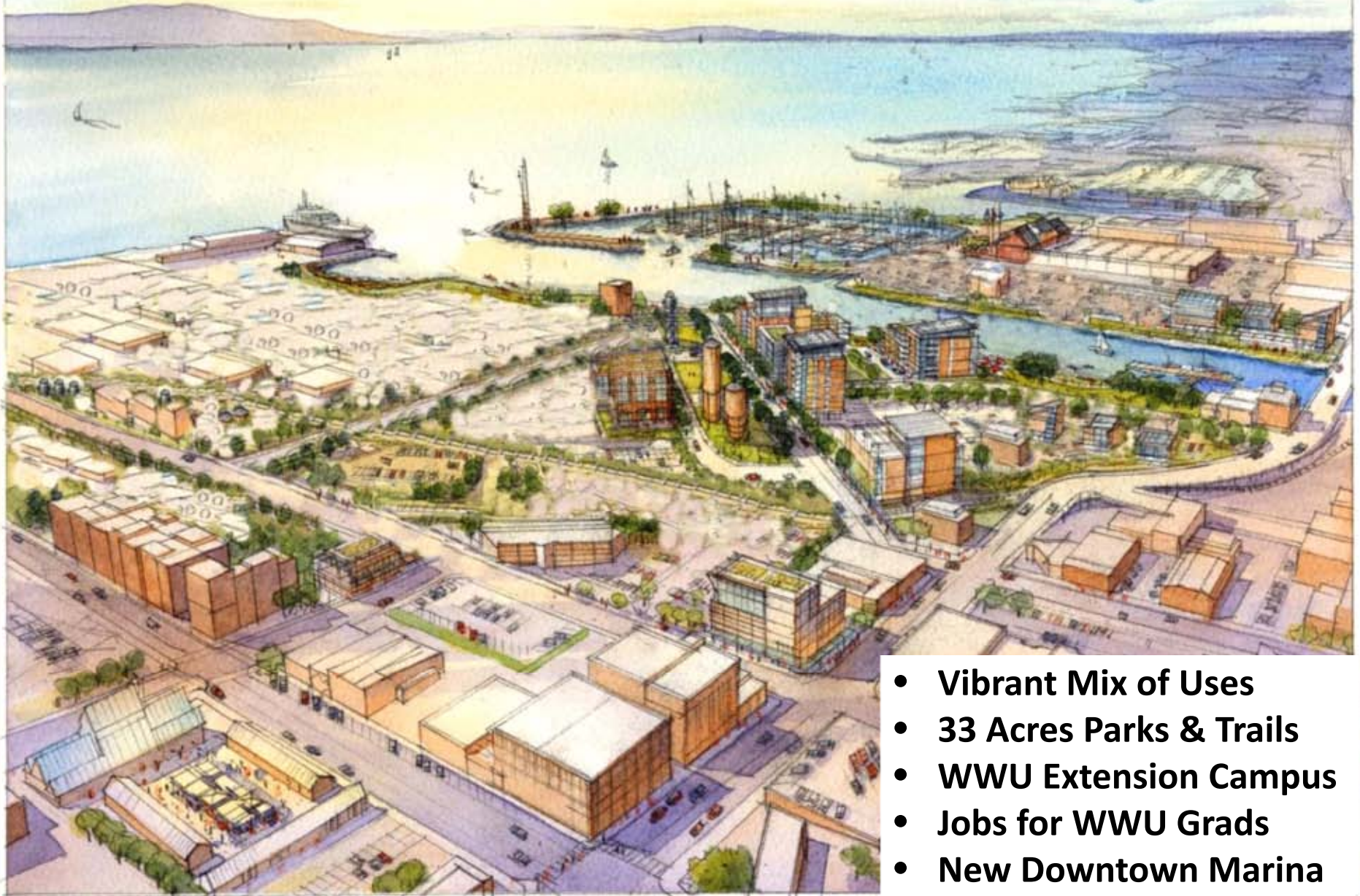
Rob Fix, Executive Director of the Port of Bellingham, will give a powerpoint presentation on the current status of the Waterfront Development Project.

The Waterfront District

An aerial photograph of the Waterfront District in Seattle, Washington. The image shows a large industrial area with several large, empty lots and some buildings, including a prominent brick building with a red roof. To the left, there is a large marina filled with numerous boats. The waterfront is bordered by a dark blue body of water. In the foreground, there are residential buildings and green spaces. The title 'The Waterfront District' is overlaid in white text on a dark background at the top of the image.

- * 227 Acres
- * 3 Miles of Shoreline

The Plan



- **Vibrant Mix of Uses**
- **33 Acres Parks & Trails**
- **WWU Extension Campus**
- **Jobs for WWU Grads**
- **New Downtown Marina**

Stephanie Bower, Architectural Illustration

The Challenges



- * Six State-Listed Cleanup Sites
- * Cleanup Costs >\$150 Million

The Challenges



- * No Roads or Utilities
- * Infrastructure Costs >\$131 Million

The Challenges

- Failing Industrial Shorelines (with Upland Contamination)
- Endangered Species
- Regulatory Permits



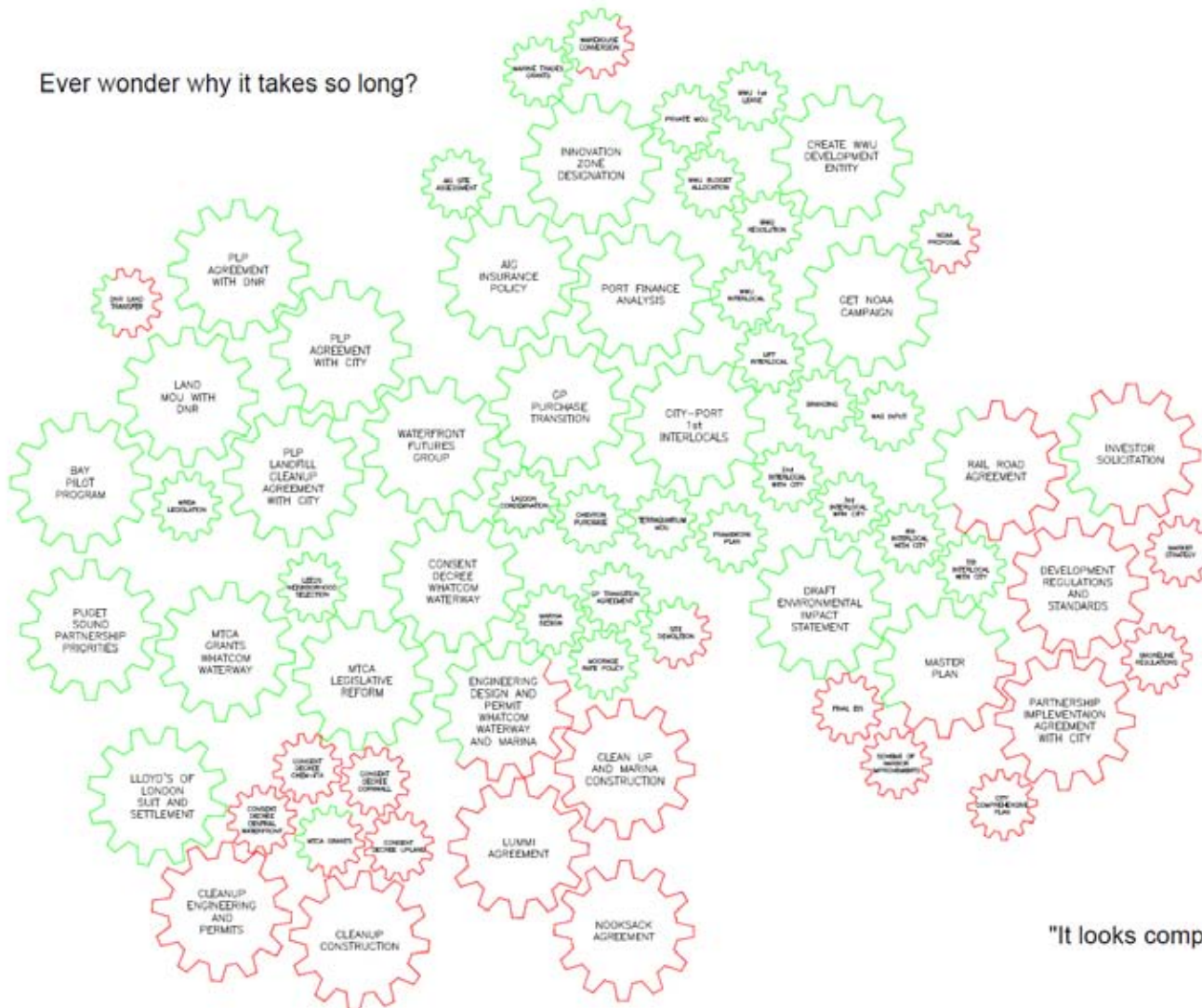
Regulatory & Permit Requirements (Partial List)

- **Federal**
 - *NEPA*
 - *ESA (US Fish)*
 - *Tribal Treaty Rights*
 - *NRDA*
 - *CERCLA (EPA)*
 - *Army Corp of Engineers*
 - *HABS/HAER*
 - *CWA*
 - *USCG*
- **State**
 - *SEPA*
 - *MTCA*
 - *SMS*
 - *HPA (WDFW)*
 - *DNR*
 - *Cultural Resources*
- **Local**
 - *Critical Areas*
 - *Design Review*
 - *Binding Site Plan*
 - *Clearing/Grading*
 - *Shoreline Management Act*
 - *Planning & Zoning*
 - *Port Comprehensive Scheme*
 - *Stormwater*
 - *County Health*

14 Different Federal, State, Local & Tribal Agency Stakeholders

It's Complicated!

Ever wonder why it takes so long?



LEGEND



"It looks complicated because it is complicated"

How Did We Get Here?



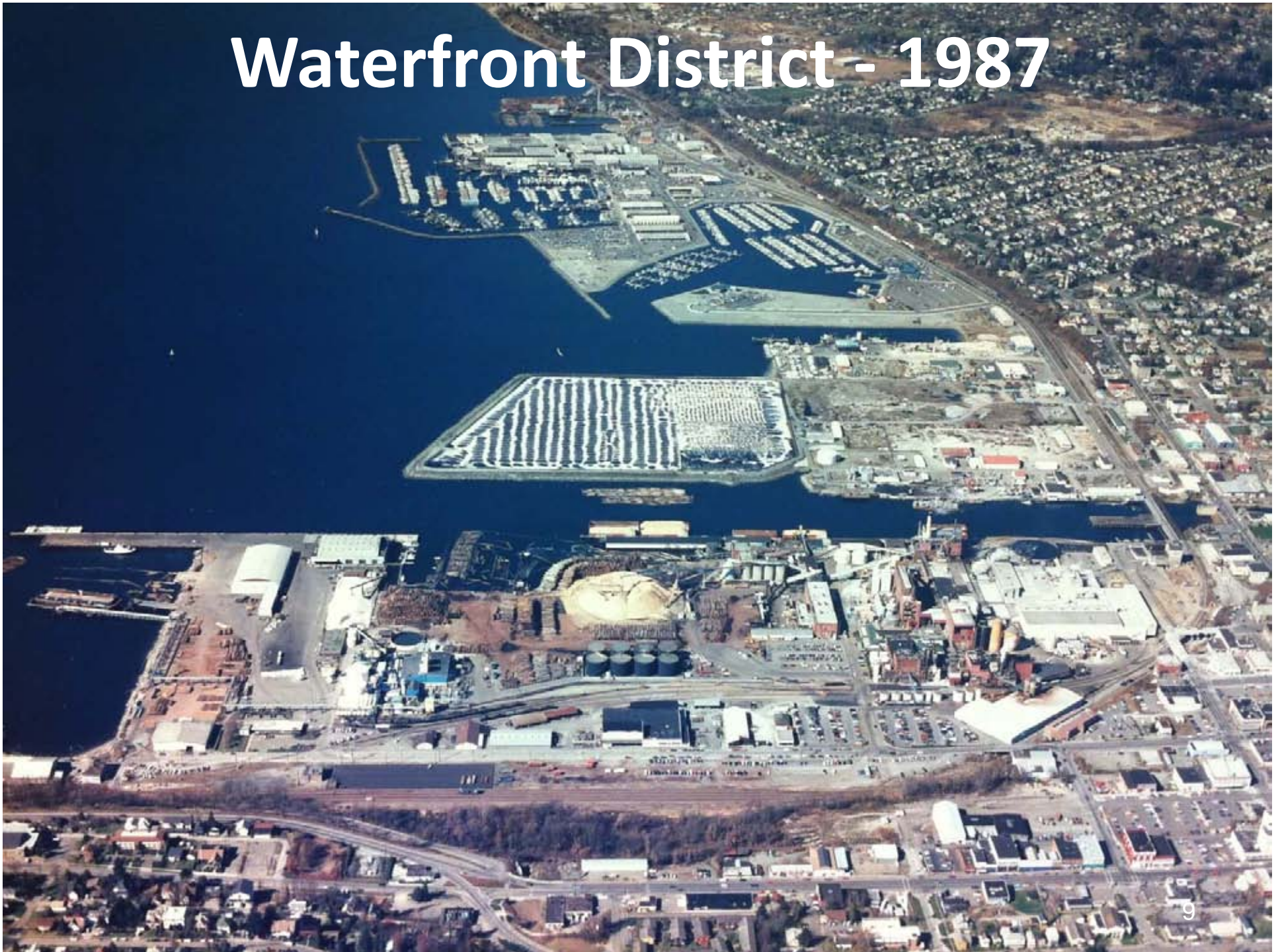
Pacific American Fisheries
– largest salmon cannery in world



Puget Sound Sawmills & Timber
– largest shingle mill in world

Historic Waterfront Economy

Waterfront District - 1987



Waterfront District - 2001

G-P Closes Pulp Mill

March 30, 2001

Georgia-Pacific Corp. today announced it will permanently close its already-idled pulp mill and associated chemical plant at Bellingham, Wash., following a review of their long-term viability. Those operations have been temporarily closed since December due to high electric power costs.

The adjoining tissue paper and converting facilities at Bellingham will continue operating with temporary electric generators while Georgia-Pacific searches for other sources



Georgia-Pacific is set to permanently close its Bellingham pulp mill

of affordable electric power. The tissue operations will be included in the continuing integration

analysis of Georgia-Pacific and former Fort James operations as the company seeks to maximize

synergies across its consumer products manufacturing system. The tissue paper and

converting operations have been powered by temporary generators since January.

Loss of Over 1200 Jobs

Waterfront Futures Group (2002-2004)

- Rebuild the Waterfront Economy
- Restore the Health of Land and Water
- Improve Public Access to Water
- Reinforce the Inherent Qualities of the Waterfront



Private Sector Redevelopment Unfeasible

Port Acquires GP Property (2005)

**The Waterfront District
(227 Acres)**

- * **Avoid Fenced Off, Underutilized Waterfront**
- * **Achieve Community Vision**

Key Partnerships

- **Georgia Pacific**

- *Land for Cleanup*
- *Environmental Insurance Policy*

- **Port**

- *Environmental Cleanup*
- *Marine Infrastructure*



- **City of Bellingham**

- *Streets, Parks, Utilities*
- *Development Predictability*

- **Ecology**

- *50 % Cleanup Grants*



Project Status

- All Zoning and Agreements in Place
- Environmental Cleanups Underway
- Designing Phase 1 Roads & Parks
- Negotiating Deal with Harcourt Developments for 10.8 Acres



Project Overview

- 5 Distinct Development Areas
- Phased, Long-Term Development
- 33 Acres Parks
- 6529 Jobs



Marine Trades Area

- Working Waterfront & Family Wage Jobs
- Future Marina Development



Marine Trades Area

- Technology Development Center
 - *\$1 Million Project*
 - *Port, WWU, BTC & Private Industry*
 - *Research, Development & Training Area*



***Washington
“Innovation Zone”***

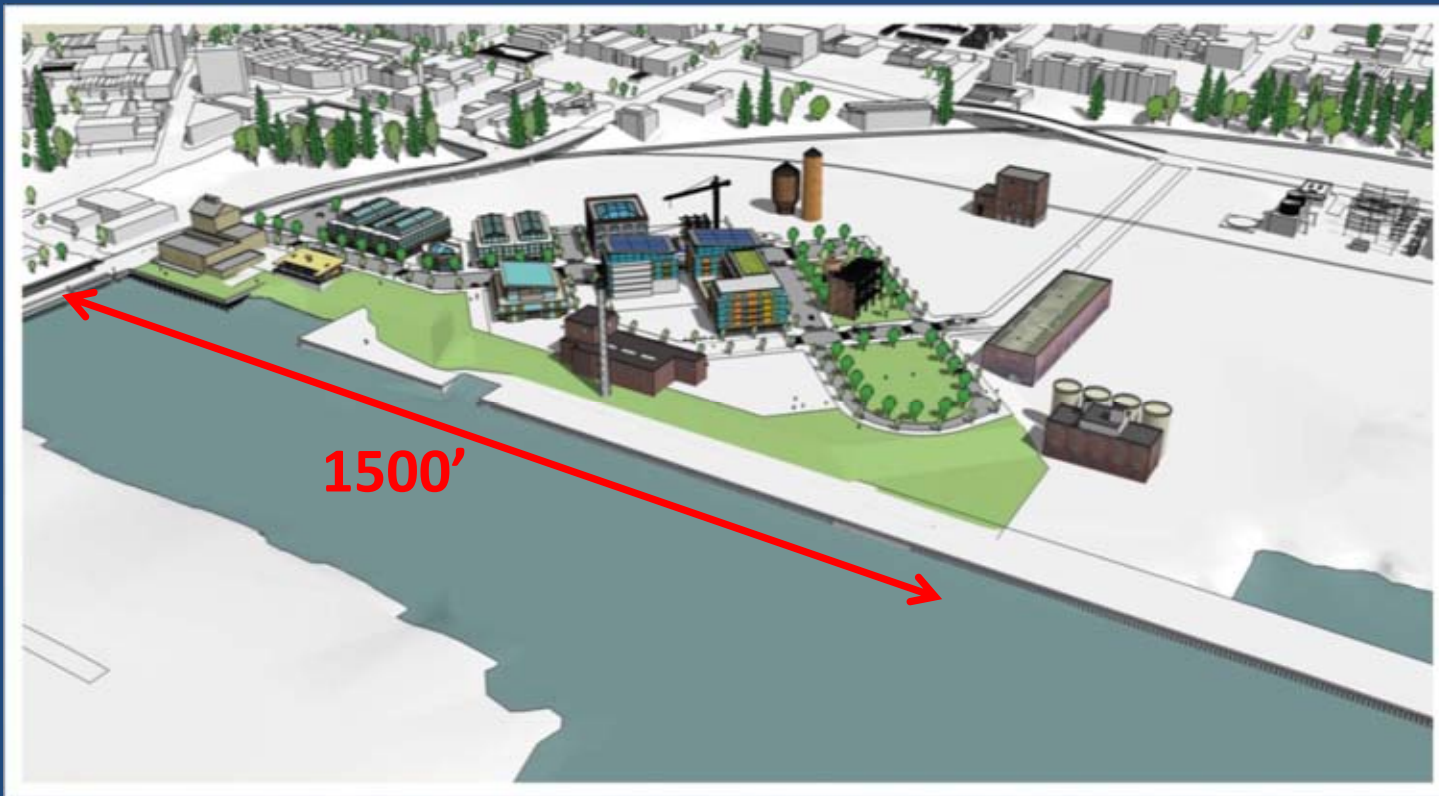
Downtown Waterfront

- Extend Downtown to the Water
- “Smart Growth”
- WWU Extension Campus



Downtown Waterfront

- Construction of Phase 1 Parks & Roads is scheduled for 2016-17
- 1500' Shoreline (Boulevard Park ~1000')



Log Pond

- Light Manufacturing & Assembly, High Technology, R&D
- Public Access along Shoreline



Shipping Terminal

- Deep Water Port
- Shipping, Port & Industrial Activities



Cornwall Beach

- Large Public Park
- Overwater Connection to Boulevard Park
- Design Phase



Project Economics

- **City: \$131 Million (Parks & Infrastructure)**
 - *Phased investment*
 - *Offset by grants*
 - *Recover by increased tax base*
- **Port: \$194 Million (Cleanup & Marine Infrastructure)**
 - *Phased investment*
 - *Offset by grants*
 - *Recover by sale or lease of 98 developable acres*



Innovation & Sustainability

- Brownfield Site Redevelopment
- LEED-ND Planning Approach
- East/West Street Grid for Passive Solar Gain
- Elevate Site Grades for Sea Level Rise
- Adaptive Reuse & Industrial Icons



Innovation & Sustainability

- Shoreline Restoration for Salmon Habitat
- District Utility Feasibility Study
 - *Micro-Hydro Power*
 - *District Energy*
 - *District Non-Potable Water*
- Underground Parking
 - *Walkable Neighborhood*
 - *Reduced Stormwater Impacts*
- Clean Ocean Marina



Next Steps

- Continue Environmental Cleanups
- Install Phase 1 Roads & Parks
- Sell & Lease Property



WESTERN WASHINGTON UNIVERSITY ITEM SUBMITTED TO THE BOARD OF TRUSTEES

TO: Members of the Board of Trustees

FROM: Kerena Higgins, Assistant Attorney General

DATE: October 9, 2014

SUBJECT: Public Records Training

PURPOSE: Presentation Item

Purpose of Submittal:

Earlier this year the Legislature of the State of Washington enacted an act known as the Open Government Trainings Act. The act relates to training public officials and employees on the following: public records, records management, and open public meetings. The new laws represent an effort by the legislature to support the rights of citizens to participate in the democratic process of open public government and limit violations by providing routine training and broadening awareness.

At the August 2014 Board of Trustees meeting, Board members received training from Assistant Attorney General Wochos on the Open Public Meetings Act. As part of the initiative to inform governing boards and employees on records management and the Public Records Act, Assistant Attorney General Higgins will present training materials on the Public Records Act, Chapter 42.56 RCW, and Tony Kurtz, University Records Manager, will present information on record management at the university.

Supporting Information:

- Presentation materials on Public Records Act – Kerena Higgins, Assistant Attorney General
- Presentation materials on Records Management Training – Tony Kurtz, University Archivist and Records Manager, Wilson Libraries

PUBLIC RECORDS ACT TRAINING

By the Washington State Attorney General's Office

**Presented by: Kerena Higgins, AAG
October 9, 2014**

PURPOSE OF THE OPEN GOVERNMENT LAWS

- ◆ People do not yield their sovereignty to the agencies which serve them.
- ◆ They do not give public servants the right to decide what is good for the people to know and what is not good for them to know.
- ◆ Remain informed so they may maintain control over the instruments they have created.

OPEN PUBLIC RECORDS LAW

- ◆ Passed in 1972 as part of Public Disclosure Initiative
- ◆ All records open unless there is an exemption
- ◆ Burden of proof on public agency to show why record is not open to the public
- ◆ RCW 42.56 (formerly RCW 42.17)

What is a public record?

- ◆ “Any writing which contains information relating to the conduct of government or the performance of any governmental or propriety function.”

“Writing” means....

- ◆ Handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

So, “public records” include:

- ◆ Paper records
- ◆ Photographs and film
- ◆ Electronic records and emails

AGENCY OBLIGATIONS

- ◆ Provide fullest assistance to requester
- ◆ Designate a public records officer
- ◆ Provide most timely possible action
- ◆ No fee for viewing records
- ◆ Records must be available during customary business hours

MORE AGENCY OBLIGATIONS

- ◆ Search fees prohibited
- ◆ Must honor requests by mail
- ◆ No release of lists of individuals for commercial purposes
- ◆ “Need to know” is generally not required

MAKING COPIES OF RECORDS

These rules essentially allow any and all records to be accessed without allowing a state agency to be bankrupted by individuals requesting copious amounts of copies

- ◆ Rules can be adopted to protect records and prevent disruption; **need to adopt rules/procedures to allow for access**
- ◆ Copying fees can be imposed, not to exceed 15 cents per page without justification
- ◆ Agency can require deposit not to exceed 10 percent of estimated cost of providing copies
- ◆ Agency can make copies available on partial or installment basis

RESPONDING TO A REQUEST FOR RECORDS

- ◆ **Within five (5) business days from when an agency receives a request, an agency must:**
 - ◆ Provide the record,
 - ◆ Acknowledge receipt of request and provide reasonable estimate of response time or to seek clarification (or notify others), or
 - ◆ Deny the request and explain why.

RESPONDING TO A REQUEST FOR RECORDS

- ◆ Denials must include specific reasons (referencing statute or law) for denying the request.
- ◆ For larger requests, create exemption (privilege) log identifying record (by date, author, title, etc.) and statutory exemption & reasons

What records are exempt?

- ◆ Personal information in an employee's personnel file, if "private"
- ◆ Investigations by law enforcement agencies until completed
- ◆ Preliminary drafts, notes, memoranda, or recommendations in which opinions are expressed or policies formulated
- ◆ Materials protected by attorney client privilege
- ◆ Other exemptions in law (trade secrets, other)

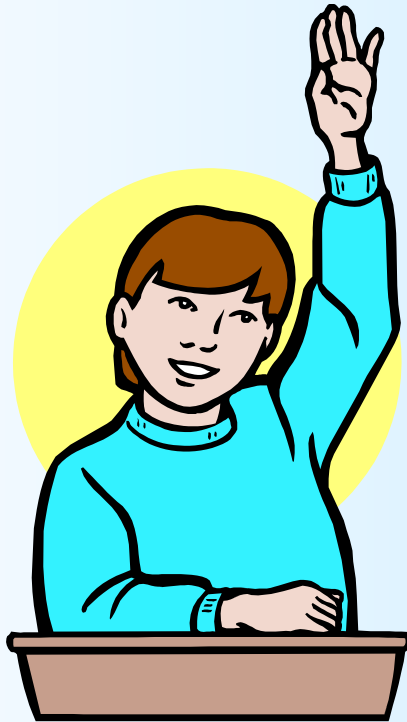
What happens if a request is denied?

- Requester may file lawsuit in Superior Court (one year)
- **Burden on the agency** to prove record is exempt, or why time estimate to respond was reasonable
- Requester can also seek Attorney General's Office review of exemption, and receive a non-binding written opinion. RCW 42.56.530 (state agency records only). Not required – requester can still file a lawsuit.

What happens if an agency loses in court?

- ◆ If court reverses the agency it must require:
 - ◆ Payment of court costs and attorney fees
- ◆ Plus, if court reverses the agency it will:
 - ◆ Award \$5 to \$100 a day for each day the record inspection was unreasonably delayed or denied

Questions?



RCW 40.14 Provisions

Records Management Training
in support of ESB 5964

Tony Kurtz, University Archivist
Western Libraries - Heritage Resources

650-3124

Tony.Kurtz@wwu.edu

Overview

- Terms and concepts
- Agents and actors
- Requirements
- Compliance in practice at WWU

Terms and concepts

- *Public Record*
 - “writing” (“writing” = any information affixed to a medium, not just text on paper)
 - prepared, owned, used, or retained by Western
 - relating to the conduct of Western or the performance of any institutional or proprietary function

Terms and concepts

- *Public Record...*
 - Virtually all records produced at WWU meet the definition of “public records” in RCW 40.14 and are subject to its provisions
 - However, not all public records possess equal value
 - Duplicate copies of an official record are “public records” but do not carry the same retention requirement as the official version.

Terms and concepts

- Retention schedule
 - A legal document that lists the retention and disposition requirements for public records and that authorizes the disposition of public records
- Disposition
 - The action taken when a record has satisfied retention requirements attending its creation and any other legal obligation requiring its existence
 - Destruction (most common)
 - Transfer to permanent archival status (for WWU – University Archives)

Agents and Actors

- State Records Committee (40.14.050)
 - Members drawn from Attorney General, OFM, State Auditor, and State Archivist
 - Approves all retention schedules – no records may be destroyed except by SRC-approved schedules
- Records Officer (40.14.040)
 - Agency-level designee to coordinate all aspects of the records management program and oversee implementation of 40.14 provisions
 - Acts as agency liaison to State Records Committee

Key Requirements

- Custodial requirements
 - Public records are public property
 - Agencies, officials, and offices have custodial obligations
 - RCW 40.14.020:
 - All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter.

Key Requirements

- Accountability Requirements
 - All records must be identified and accounted for on agency retention schedules
 - No records may be destroyed unless authorized by a retention schedule approved by the SRC (40.14.050)
 - This process must be accountable

Compliance at WWU

- Records Officer
 - Agency Records Officer is Tony Kurtz – will transition to Rachel Thompson this year
 - Engaged on a daily basis with managing retention schedules and attaining compliance
- Records Coordinators
 - Each office/program unit we work with has a designated “Records Coordinator” who serves as our primary point of contact
 - Should be the office director/official or designee
 - Should be a person with requisite knowledge and empowerment

Compliance at WWU

- Retention Schedules
 - Constantly evolving and updating
 - Major project underway to simplify
 - Recently eliminated about 600 titles from our books; SRC approved a whole new agency schedule for WWU last month
- Training
 - Not an explicit requirement in RCW 40.14, but still an essential component of attaining compliance
 - Presently this is on-demand or targeted to key constituents
 - Will expand and diversify

Compliance at WWU

- Records Center
 - Off-site storage, protection, disposition of boxed paper records
- Disposition
 - Provide and document disposition for records in the Records Center
 - Provide counsel and guidance for records stored by offices/programs

Compliance at WWU

- Digital Records
 - More complex than traditional paper records
 - Digital Records Preservation and Compliance task force
 - Membership from Libraries and ATUS, with representation from Public Records Office
 - Identify and articulate business and legal compliance needs
 - Develop procedures and processes
 - Identify system and infrastructure needs and propose any funding needs
 - Develop and pilot systems for digital records management and digital records preservation

Contacts

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Rachel Thompson, Records Management Specialist

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360-650-6654

4. EXECUTIVE SESSION

Executive Session may be held to discuss personnel, real estate, and legal issues as authorized in RCW 42.30.110.