

Does Your Lawyer Have a Role in Community Relations?

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DOES YOUR LAWYER HAVE A ROLE IN COMMUNITY RELATIONS?

Robert Munroe, Principal Counsel
Maryland Port Administration

Short Answer to Question of Lawyer's Role

Litigation Risks will likely determine the nature and extent of your lawyer's role in community outreach/relations.



Some thoughts going through your lawyer's mind about community relations when your Port is in litigation or risk is high

“Sure, let's go talk to the community”



Some thoughts going through your lawyer's mind about community relations when your Port is **NOT** in litigation or risk is low

I'm ready to be a foot soldier and let's collaborate.

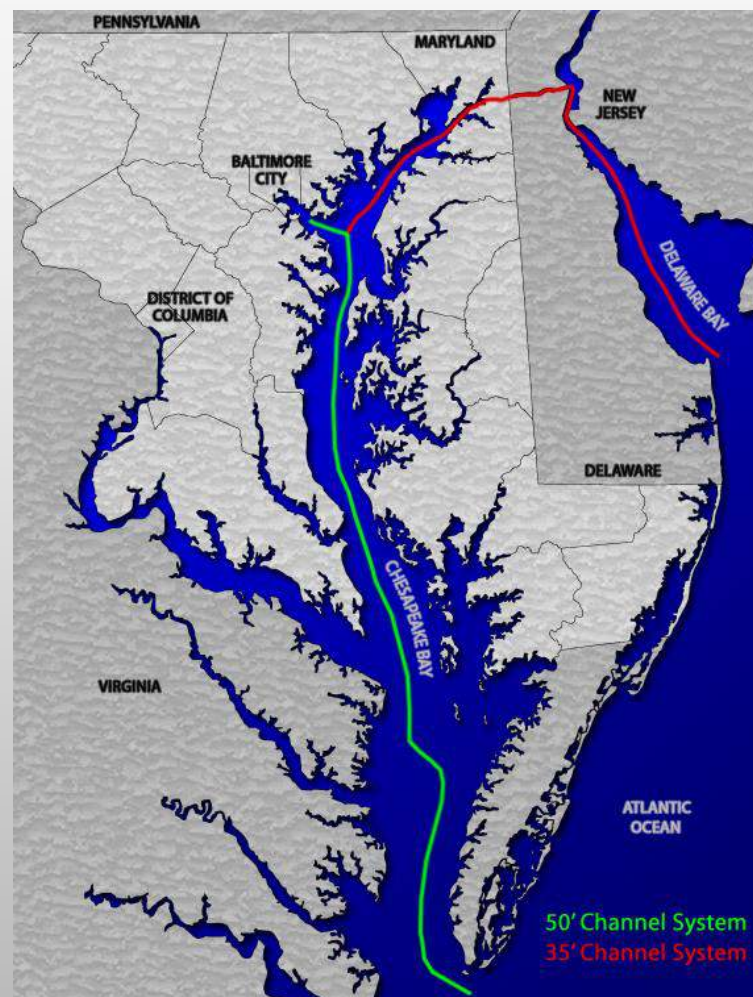


I'm busy right now



SCENARIO 1: COMMUNITY OUTREACH IN MPA DREDGING PROJECTS

Being the western most East Coast Port has inland transportation advantages, but it also requires dredged channels.



MPA's Dredged Material Management is accomplished through several means controlled by State law

1. Beneficial Reuse – habitat and wetland creation
2. Island Restoration – usually with recreational
3. Innovative reuse
4. Upland Containment



DMMP Structure

Governor of Maryland

Executive Committee

Management Committee

Citizens' Advisory
Committee

Harbor Team

Innovative Reuse
Committee

Hart-Miller Island
Citizens Oversight Committee

Cox Creek
Citizens Oversight Committee

Masonville
Citizens Advisory Committee

Bay Enhancement Working Group (BEWG)
And Scientific and Technical Advisors

Masonville DMCF



Part of Area to be Developed



Wildlife and Habitat Creation



On-site mitigation:
wildlife and habitat
creation, recreation
facilities



Creation of Masonville Environmental Education Center



Offsite Mitigation Like Schoolyard Greening

Schoolyard Greening at Franklin Square Elementary



Schoolyard before asphalt removal



Green schoolyard with newly planted trees and garden

Scenario 2: Community Outreach During Litigation



Dundalk Marine Terminal COPR Site



Lawyers' Role in Community Affairs

Port of Oakland
Port Attorney's Office
Danny Wan



PORT OF OAKLAND

Port of Oakland

Local and State Mandates

- Port is a department of the City assigned the responsibility and power under City Charter (City's "constitution") to manage and operate Port and Port lands.
- Port is also a trustee of California state lands entrusted by legislation to manage Port lands for the benefit of the State.
- Dual role = conflicting demands on Port
Local Benefits vs. Statewide Obligations

Local Contracting Preferences

Local Hire

- Local political and business leaders demand larger share of Port contracting and hiring to stay local (“community benefits”).
- Federal grant conditions and state disfavor local preferences when using federal or state assets (which is most of the Port’s assets).
- Board / community affairs staff are unhappy with lawyers saying “you can’t hire local”.

Living Wage Requirements

- Political and union leaders demand the setting of “living wage” or “minimum wage”.
- Shippers and airlines resist local wage mandates and small businesses claim they cannot afford.
- Port resistance led to union-led voter initiative that imposed living wage on Port operations.
- Small airport concessionaire sued the Port contending Port’s enforcement efforts violate federal labor laws.

What Does a Lawyer Do?

- Educate Board/Staff about law in areas of potential community controversy *before* controversy erupts
- In face of public demands, demonstrate to staff and Board that lawyer is being creative to come up with win/win solutions (don't be Dr. "NO")
- Inform Board/Staff of legal risk but realize that weighing legal risks is only a part of the policy decision-making process.
- Keep in touch with community group attorney and/or regulatory agency to exchange views on legal limitations and explore what's possible.

Does Your Lawyer Have a Role in Community Relations?



Chris White
Community Affairs Manager
Port of Portland, Oregon
4/7/15

Port of Portland, Oregon

- Independent, state-created agency
- 4 marine terminals, 3 airports, industrial land
- On Columbia and Willamette Rivers
- Nine commissioners, appointed by governor, affirmed by state senate



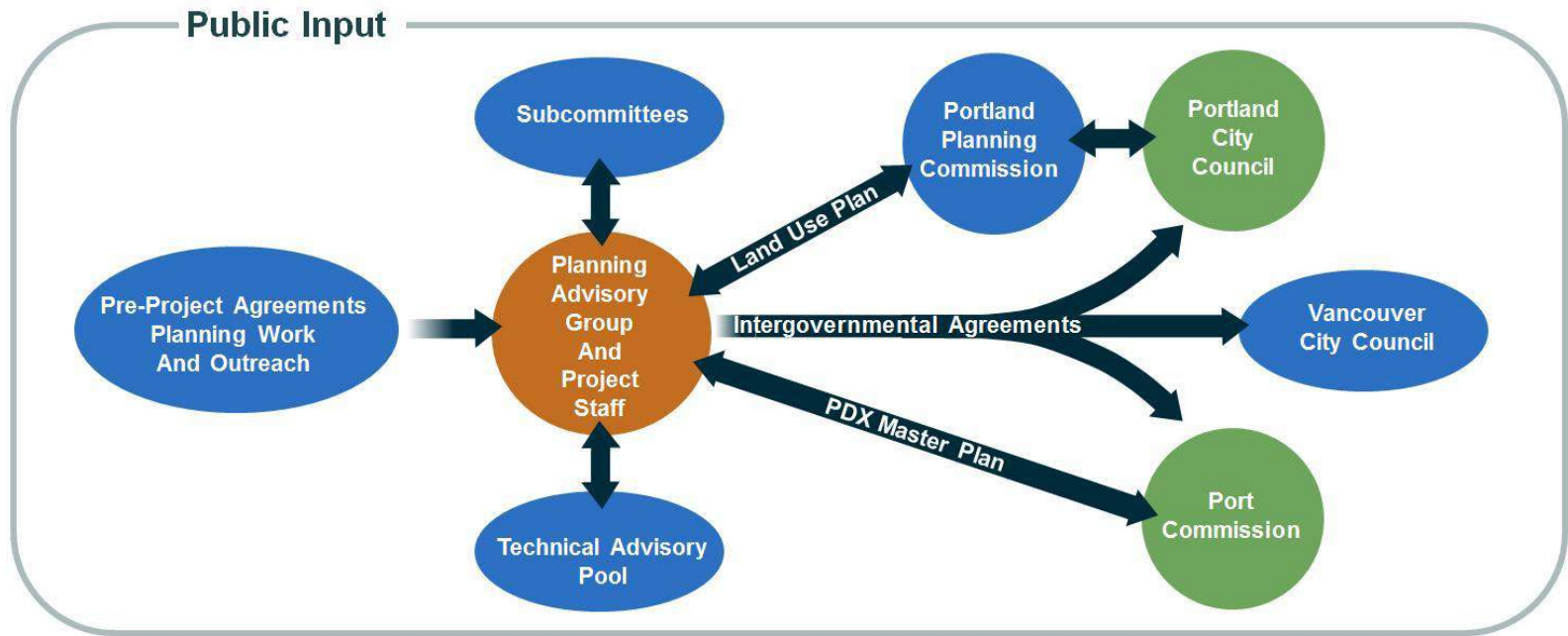
Case Study: Airport Master Planning

- Portland International Airport operated with a 10- year conditional land use permit from City of Portland. Cumbersome, not well-suited for this permanent use.
- Goal was permanent custom land use designation with rights to manage land, possibly plan for third runway.
- Created three year public process, in partnership with Cities of Portland and Vancouver, WA and community, to create a new plan.
- Many public meetings and much dialogue, but process resulted in a “plan district” zoning, no third runway and rights to build and develop planned projects.
- Through development agreements, Port agreed to pay \$25,000/ year toward certain projects and manage a Citizen Advisory Committee.
- Provides certainty, predictability and affordable mitigation that provides clear value.



Extensive Public Process

PUBLIC ENGAGEMENT



City of Portland Bureau of
Planning and Sustainability

AIRPORT FUTURES
CHARTING A COURSE FOR PDX



PORT OF PORTLAND
Possibility. In every direction.



PORT OF PORTLAND
Possibility. In every direction.

Advisory Committee

PLANNING ADVISORY GROUP



AIRPORT FUTURES
CHARTING A COURSE FOR PDX



Community Affairs Lessons

- Clear goals, structure, pre-planning, good staffing, time and patience paid off.
- Joint partnership in managing process was valuable in obtaining community trust and building foundation for future.
- Legal was helpful in playing out different land use and payment scenarios.
- Integrity of the process was as important as the message/substance for some participants.
- Plan for the arc of activism at the end.



Case Study: Land Annexation and Rezone

- West Hayden Island: Planned as future site of potential new marine terminal (bulks, autos)
- Port owns approximately 800 acres, half of island, but not within City of Portland, not zoned appropriately for development. Remote, unpopulated.
- Goal was to annex and rezone, so development would be possible.
- Residential nearby – some low income, some high income, houseboats. Enjoyed lack of development on adjacent property.
- Long term opposition to annexation by certain environmental organizations.
- Mobilization of residents, influential to city council





West Hayden Island



Case Study: Land Annexation and Rezone

- Five years of analysis
- Three year costly public process, extensive studies, two citizen committees, long engagement with City Planning & Sustainability Commission
- Process managed by City of Portland.
- Result was tentative approval, subject to change and more process, with costly add-ons that made project untenable.
- Port opted not to proceed.



Community Affairs Lessons

- The project was conceptual. People fill a vacuum with their worst fears.
- Despite what we know are facts, Perception=Reality for some citizens. It doesn't always help to argue the facts.
- Do a robust risk analysis, using what you know, not just what you hope.
- Consider whether you have a political strategy, and your organizational resource limits.
- Long term planning horizons and short term electoral politics can be in conflict.
- You might need a real campaign to prevail.
- Difficult processes draw from your “goodwill bank account.” They also mobilize your supporters for future projects, create discussion about Port value.



Questions for Panel Discussion

Timing

- When does the port attorney get involved in a project with high community visibility?
- Is the attorney out front or behind the scenes?

Litigation

- How do legal and community relations handle a project when litigation is threatened or already filed?

What is Environmental Justice?

EPA Definition of Environmental Justice

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

What is Environmental Justice?

- What is the legal role vs. the community relations role in environmental justice issues?

The Goodwill Bank: What is This?

- Is there a need for legal advice when community relations works to fill the “bank”?
- Does a goodwill bank pose ethical issues?

Communications on Highly Controversial Issues

- » Living wage and other employment-related issues
- » Fossil fuel terminals
- » Development of contaminated sites

Community Benefits Agreements

- What is a Community Benefits Agreement?
 - » Examples?
- What is the legal role vs. the community relations role?
- What's the legal role when more benefits are being offered than the law requires?

Regulatory Relationships

- How does the politics of the project shape the legal role?
- Does the political structure of the port have an impact?
- Are the community relationships regulated or set out in statute?

Regulatory Relationships

- Who is lobbying your regulators, and how can you address this?
- Who are the decision makers on your project and who should be talking to them?

Working Together

- Does the lawyer have a role in shaping public opinion or is that strictly a community relations job?
- How can the legal team best support community relations?

Questions for the Panel

Thank You!