

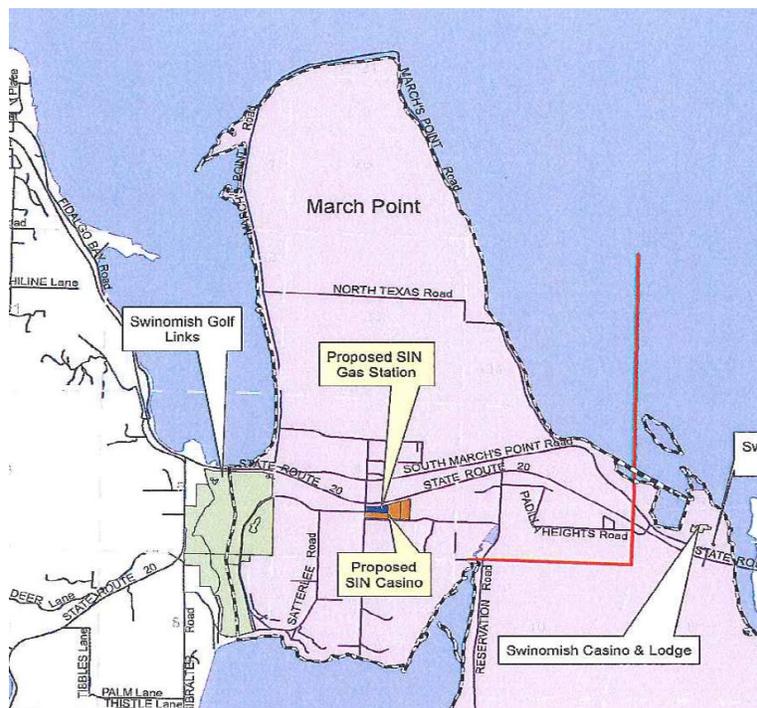


March's Point and Summit Park Informational meeting

Wednesday, March 15, 2017

Prepared by the City of Anacortes

- General Background
 1. Through several recent processes through the federal Bureau of Indian Affairs (“BIA”), the Swinomish Indian Tribal Community (“Swinomish”) have asserted that the boundary of their Reservation should be updated to reflect what they believe to be the correct historical Reservation boundary.
 2. The Swinomish assert their Reservation boundary was created by the Point Elliott treaty of 1855 and included all of the area east of the dotted line shown running through the golf course in the map below. The current Reservation boundary was set by Executive Order issued by President Grant in 1873 and is shown on the map as a red line.
 3. The requested historical boundary would include all of March’s Point, Summit Park, and property along Highway 20 East of the Golf Course, (“disputed area”).
 4. Property owners in the area are concerned about impacts on the ownership of their property, jurisdiction, and property values.



- Recent actions by the Swinomish Indian Tribal Community asserting boundary change:
 1. Proposed Constitutional Amendment.
 - The Swinomish, and many other tribes around the country, have petitioned the BIA to update their Constitution and By-Laws to minimize BIA involvement in tribal decision-making and promote tribal sovereignty.

- E.g. Currently the Swinomish must get BIA approval to hire an attorney.
 - The original application asserted that the boundary of the Reservation should be corrected to include the disputed area.
 - BIA responded by letter on September 13, 2016 and stated that the proposed amendment of the tribe's territory "conflict[s] with existing law and cannot move forward as presented."
 - In 1971 the BIA Tribal Claims Commission considered a formal request by the Swinomish to change their reservation boundary and the request was denied by formal order based on a thorough review of historical documents and maps.
 - The request was also litigated in 1934 in the case *Duwamish v. United States*, where the Court held that the 1873 Executive Order actually increased the size of the Swinomish Reservation over the 1855 Point Elliott Treaty.
2. Applied through BIA to convert property in the disputed area to trust land:
- "Fee-to-trust" application is a formal process by which the property is converted from fee simple property owned by the Tribe to property held "in trust" for the Swinomish by the United States of America.
 - Property in trust status allows tribe greater flexibility in uses of the property (e.g. casinos, marijuana facilities, etc.)
 - Property held in trust on a reservation would not be subject to taxing authority of City or County.
 - Fee-to-trust process is not available unless the tribe owns the property, i.e. privately owned property cannot be converted to trust land.
 - Properties with fee-to-trust applications to date include the gas station property across from the golf course and the golf course property.
 - The application process the Swinomish used was an expedited process based on their claim that the land was located on their Reservation. (A longer process is required for fee-to-trust applications for tribal land outside reservation areas.) The City objected to this process because the City doesn't believe properties in question are located on the Swinomish Reservation.
 - Future properties could include:
 - New opioid treatment facility (Bayside fitness building)
 - Any property acquired by the Swinomish in fee simple ownership
3. Objected to Samish Indian Nation fee-to-trust application for the Summit Park property.
- Samish Indian Nation owns property along Highway 20 in the disputed area.
 - Samish filed fee-to-trust application for property in 2016.
 - Once in trust, the Samish Indian Nation could site a casino on the property.
 - Swinomish objected to Samish application, asserting that the property is located on the Swinomish Reservation.

- City's relationship with the Swinomish
 1. City and Swinomish work cooperatively on many important community issues.
 2. Swinomish Indian Tribal Community is a customer of the Anacortes water system.
 3. Swinomish and City cooperate to provide essential services on the Reservation.
 - City provides emergency services to Swinomish (e.g. fire, EMS, etc.)
 - Swinomish pays the City for services provided:
 - 2016: \$86,173 for ambulance and police service
 - 2015: \$ 98,814 for ambulance and police service
 - 2014: \$67,114 for ambulance and police service
- What actions has the City taken to address Reservation boundary?
 1. City has done considerable research on these issues and continues to diligently investigate any new information or questions.
 2. City sent a letter dated December 16, 2016 to BIA on the Swinomish fee-to-trust application for gas station parcel.
 - City didn't receive proper notice.
 3. City sent a letter dated January 24, 2017 to BIA on the Swinomish fee-to-trust application for the gas station property.
 - City disputed Swinomish assertion of the location of reservation boundary
 4. City sent a letter dated March 9, 2017 to BIA requesting copies of transcripts of recent proposed rulemaking meeting.
 - BIA began process of considering possible updates to Indian Trader statutes, which would provide tribes with greater authority and control over businesses operating on reservations.
 - The stated purpose of proposed rulemaking is to support Tribal self-determination and self-governance
 - BIA held a closed tribal consultation at the Swinomish Casino on February 23, 2017.
 - City requested opportunity to attend, but was denied.
 - Meeting was one of eight nationally on this issue.