

**PORT OF OLYMPIA COMMISSION
MINUTES OF REGULAR MEETING**

September 24, 2007

CALL TO ORDER

President Telford called the meeting of September 24, 2007, to order at 5:34 p.m. at the LOTT Board Room in Olympia. Commissioners McGregor and Van Schoorl were also in attendance.

Staff in attendance were: Executive Director Ed Galligan, Administrative Manager Jeri Sevier, Airport Director Rudy Rudolph, Harbor Director Bruce Marshall, Engineering Director Jeff Lincoln, Marine Terminal Director Jim Amador, Marketing Director Kari Qvigstad, Finance Director Steve Davis, Sr. Manager of Property Development Heber Kennedy and Marketing Program Assistant Maureen Malahovsky. Carolyn Lake and Bob Goodstein, Port's Legal Counsel, was also in attendance.

Public in attendance were as follows: Representing *The Olympian* was Jim Szymanski. Others in attendance who filled in the sign-in sheet included: Tom Fell, Keith Bausch, Meryl Bernstein, Loralin Toney, Daniel Roy, Bill Pilkey, Patrick Holden, Ann K.A., Rod Tharp, Stanley Stahl, Meta Heller, Richard Wolf, and Susan McRae.

APPROVAL OF AGENDA

The agenda was approved as presented.

COMMISSIONERS REPORTS

Commissioner McGregor noted he attended the EDC meeting prior to this commission meeting.

President Telford commented he attended the Tumwater Chamber Meeting last week and gave the annual Port report at that meeting.

EXECUTIVE DIRECTOR REPORT

Mr. Ed Galligan commented on the runway project at the airport. He noted that the contractor is having some challenges in meeting the requirements by the FAA. Reid Middleton is the contractor managing the project and has been monitoring this project very closely. We do have liquidated damages in the contract, so the Port has recourse if there are any delays.

He also commented that the Marine Terminal is expecting a garnet vessel in at the end of October.

LEGAL COUNSEL REPORT

Mr. Bob Goodstein, the Port's legal counsel, indicated that he would be giving a legal report at the meetings here after to keep the Port Commission up-to-date on the status of the legal cases. He commented that the Port litigation has escalated over the past few years and Goodstein Law Firm has defended the Port in 14 cases.

He reported on the number of legal actions against Port. He indicated that since Jan. 1, 2006, the Port of Olympia has defended against fourteen (14) appeals and or legal actions in environmental/SEPA cases which sought to delay or stop development action by the Port or a Port tenant(s).

Mr. Goodstein noted on the number of cases where Port has prevailed so far. He commented that the applicable Court or administrative Hearings Board has ruled in favor of the Port in nine (9) of the 14 actions. There have been no rulings against the Port as the permitting party or permit applicant. The remaining 5 cases are active, with pending motions or court decision.

Mr. Goodstein reported on the number of persons/entities opposing the Port. He reported that the fourteen (14) environmental/SEPA related legal actions filed against the Port since Jan. 1, 2006 were brought by one or more of a total of thirteen (13) persons. Five of those 13 persons listed as opposing parties are involved in more than one appeal, as follows:

Arthur West - 14 actions

Jerry Dierker - 6 actions
Jerry Parker - 4 actions
Jan Witt - 3 actions
Stanley Stahl - 2 actions
Patrisa DiFrancesca - 2 actions

Ms. Carolyn Lake provided the Commission with an overview of the five pending litigation cases. The five remaining litigation case is relating to the airport line of sight project and the Weyerhaeuser project and the Port cargo yard improvements.

PUBLIC COMMENT

President Telford indicated that just prior to convening the meeting, he was asked to allow showing of a silent video sequentially narrated by three people. Since we have not faced this situation before, he asked for comments from the other commissioners.

Commissioner McGregor suggested that we have a policy that if someone wants to play a video it be submitted to staff for viewing and make a decision if it would be allowed at a meeting. Commissioner Van Schoorl indicated that the purpose for public comment is for a person to make public comment. If we open ourselves up for multimedia presentations, it sets a president that may be hard to manage in the long run. The Commission asked staff to look into what other jurisdiction do with requests for multimedia public comment.

President Telford asked Jeri Sevier if the video had been loaded so that it could be presented. She stated that she had to unloot it in order to get the Port's PowerPoint presentations running on the screen. President Telford then stated that showing it at this time was moot since we couldn't anyway. He suggested that before anything like this is shown, it would have to be reviewed beforehand to assure that it did not contain objectionable material.

Meryl Bernstein commented that she was disappointed that the video will not be played. She thought they had gotten prior permission. Of course the presentation she admitted is from their perspective.

Loralin Toney commented that she has been attending many meetings at the Port of Tacoma and activists groups. There is a similarity of what is going on with our governmental agencies, when people are having difficulty being heard, they get frustrated. She suggested that maybe mediation could be used to solve problems and prevent more lawsuits in the future.

Daniel Roy commented that he is also disappointed that they cannot play their video. He commented that we are in the 21st Century and we should be able to use other methods of media. He gave his presentation of the third section of the video. He discussed the negative impacts of the South Sound Logistics Center and the warehousing at New Market would have on the area.

Bill Pilkey commented about the three-minute public comment time, the budget deficit, and the decision that staff would not be required to answer questions at the meeting. He also congratulated the Port on passing the state audit. He asked if the 2008 budget would contain more phony numbers?

Stanley Stahl indicated that he put a lot of work into the video presentation and he indicated he would not be at the next meeting. He read the first narration of the video. The title of the video is "The Port comes to Maytown." He read a narrative that goes with the video about the impacts the South Sound Logistics Center will have on the area.

Sue Danver spoke about an FAA letter she received on September 4, 2007. She noted that there seems to be discrepancy about who is responsible for protecting the lark and the gopher. She said that the Port staff said that the FAA is responsible, and she wrote to the FAA, they responded that the Port is responsible for the protection of the species. She indicated that the Port needs to have a habitat management plan for these species at the airport.

Ann (last name unknown) indicated that she would present the second portion of the video. She too discussed the impacts that the South Sound Logistics Center would have on the area, especially the endangered and threatened species in the area.

Meta Heller commented about an article in the Evergreen Magazine put out by DNR. She commented that the report in the magazine is excellent. She noted that the members of the community are challenging the Port of Olympia on the same issues.

President Telford indicated that staff is working on a draft habitat management plan and the plan requires coordination with at least five agencies. Bob Van Schoorl indicated that we have been and are diligently working on habitat management plan. Ms. Danver asked if she could have a copy. President Telford said no because it is still a draft.

CONSENT CALENDAR:

Minutes Approval. The minutes for the August 27, 2007 meeting were unanimously approved.

Bills and Voucher Approval. The bills and vouchers in the amount of \$1,133,694.11 were unanimously approved. General Fund Checks Issued: 044100-044395. Voided Checks: 043447, 043635, 043952, 044061, 044101, 043587, 043975, 044195, 043826, 043927, 044223-044224, 044305, and 044220. Treasurer Commissioner McGregor gave an update on the payments for the capital expenditures. The checks issued for capital expenditures in the amount of \$475,345.48 were issued to FAA for Runway Line of Site project, to American Civil Constructors for the Marina Upgrade project, and to Wilder Construction for the Runway Line of Sight project.

ACTION CALENDAR

New Lease: Capitol Little League

Mr. Rudy Rudolph reported to the Commission that this lease is for youth baseball fields for games sanctioned by the Little League National Association during daylight hours only, and only Monday through Saturday. He noted that the lease is for five years and five months and will take effect when their current lease term expires on January 31, 2008. The premises include 10.6 acres across from the Terminal Building at the Olympia Regional Airport. Mr. Rudolph reported that there will be no on-site parking nor parking along the roadways will be allowed. The park-n-ride north of the site and the non-reserved spaces in the fenced terminal parking lot will be the only authorized parking for the tenant and its attendees. In addition, the tenant is required to set up refuse containers at the fields to maintain the premises free of debris during the entire term.

Mr. Rudolph reported that it is understood and agreed to by both parties that tenant's use of this parcel is non-conforming as described in the current port of Airport Layout Plan. Tenant recognizes that the Port may terminate this lease with 12 months notice. It is also understood and agreed to by both parties that tenant's use of this parcel is temporary and that tenant's improvements must also be temporary. Only temporary structures may be erected for concession, storage or restrooms in compliance with the City of Tumwater Municipal Code. Tenant will be responsible for removing all improvements at the end of the lease term.

Patrick Holden, president of the Capital Little League, thanked the Commission for the opportunity to speak in favor of the lease and thanked the Port staff that negotiated this lease. He noted that the league serves over 400 kids in the area and the league is 100% volunteer. They rely heavily on sponsorships and community donations. The league allows every member to play whether they can afford it or not through the scholarship program. Mr. Holden noted that this lease would allow the league to obtain more sponsorship because of the longer-term lease. He commented that this is a win-win situation for everyone.

Commissioner Van Schoorl thanked Mr. Rudolph and the Capital Little League for working together to make this lease work.

The Commission unanimously ratified the lease agreement with Capitol Little League.

Resolution 2007-21 – Sale of Abandoned Vessel

Mr. Bruce Marshall presented the Commission with Resolution #2007-21 that authorizes the Harbor Director to conduct a public auction of the 27' fiberglass sailboat "Betelgeuse", Washington registration number WN 9693 RF, to the highest and best bidder. The resolution further authorizes the Harbor Director to bid all or part of the accrued port charges at the sale and the Port of Olympia may become a purchaser at the sale. Value of the boat is estimated at \$1,500.00.

The Commission unanimously approved Resolution 2007-21 authorizing the Harbor Director to conduct a public auction of the sailboat "Betelgeuse."

ADVISORY CALENDAR

Land Use Plan Advisory

Mr. Jeff Lincoln reported that the Planning and Advisory Committee completed their review of the recommended changes to the Land Use Plan and issued their report on September 10, 2007 in a joint work session with the Commission.

He noted at that meeting the Commission and PAC members discussed the changes. Staff has attempted to integrate all of the recommendations of the PAC into the draft updated Land Use Plan. Staff is also in the process of completing an environmental review of proposed changes under SEPA. At that time the Port SEPA official will make a threshold determination and the action will be published for public comment.

Mr. Lincoln reported that it is the goal of the staff to complete the update of the Land Use Plan, by adoption of the plan by the Commission, before the end of the year. He noted that staff recommends that the commission hold public hearings at the commission meetings of October 8 and October 22, and after receiving the public comments from the SEPA action and reviewing the final SEPA action, consider adoption of the updated Land Use Plan on November 13.

Commissioner Van Schoorl indicated that after the adoption of the 1994 Land Use plan we spent a fair amount of time going out to service clubs and neighborhood groups to get the message out. He commented that he would like to get the Port out again to the service clubs using this document as a means to talk about what the Port is doing.

Commissioner McGregor indicated that he will not be at the October 8th meeting, but he will review the tape of the meeting to hear the public comments on the issue.

Commissioner Van Schoorl noted that the last work session with the PAC was a very good and enlightening meeting. President Telford noted that he did not recall the West Bay properties included in discussion with the PAC. Mr. Lincoln noted that the West Bay properties has been sold to the City and will be eliminated from the plan.

Bill Pilkey asked what the big rush is? Why are you trying to push this through so fast? Why not wait until the first meeting in January.

Sue Danver indicated that she made public comment written to the PAC. She indicated that it would be nice for the public to see what the public did think. She recommended that future PAC meetings be recorded and televised for the public. Some of the discussions that occurred were good discussions.

Loralin Toney commented that it takes a lot of work to keep up on what the Port is and what is going on. She asked where to find the documents for this plan? She also agreed that the Port should slow this process down to allow the public to catch up.

President Telford indicated that this proposal is changes to the existing comprehensive land use plan and has nothing to do with the South Sound Logistics Center. He commented that in reality, there are very few changes being proposed.

Mr. Lincoln indicated that the existing Comp Plan is on the website, and the PACs recommendations are also on the website. Mr. Lincoln commented that all the work done in 1994, the Port has been very true to those plans, and therefore there are few changes. He commented that we just want the plan to be the most current plan.

Susan McCray appreciated the offer to reach out to service organizations and share this information. She commented that she has a boat in the dry storage and she is concerned about the rumors about the dry storage being removed and no plan to replace it. She indicated that the sailing organization would be interested in talking with the Port.

Commissioner Van Schoorl commented that he has heard the concerns about the dry storage going away. He commented that it will go away in that location, but the Port is committed to finding some space for dry storage especially for the small sailboats. Mr. Marshall responded that they are looking at a location closer to the boat launch for small sailboats.

Arthur West commented that he is very concerned about this process and the fact that the Port does not give the public enough time. He also hopes we are working with other jurisdictions on this process as other jurisdictions have our land use plan included in theirs. He also suggested that the Port make one document called "the Comprehensive Scheme of Harbor Improvements."

President Telford commented that if come November 13 we are not ready to adopt, the Commission can consider pushing this item out further if needed.

Port Planning Framework Advisory

Ms. Kari Qvigstad reported on the long-range planning efforts and the milestones the Port has achieved over the past 10 years. She reviewed the 2007 Priority Initiatives and the current progress that staff is making on the Port's key initiatives for the year.

The top initiatives she reported on include:

- Runway Rehabilitation
- Marine Terminal Improvements
- East Bay Master Plan Development
- NorthPoint Site Resolution & Hotel/Office Recruitment
- Boatyard Expansion
- South Marina Project

The second tier priorities reported on include:

- Taxi Lane Rehabilitation
- Airport Security Plan & Gates
- Intermodal Enhancements at the Marine Terminal
- Update Conceptual Port Development Plan
- Marine Terminal Business Development
- Port Partnership and Proposed SSLC Planning
- Communications Strategy
- Navigational Maintenance Dredge

The third tier priorities reported on include:

- Prologs Development in Tumwater
- Target Marketing efforts for Tumwater Properties
- Port Administration Campus

Sue Danver commented that the Port needs to do a NEPA/SEPA for all the impacts for the Marine Terminal and the Airport. She commented that she assumes that involvement with the Department of Transportation on the Intermodal Enhancement Project will require a NEPA/SEPA. Ms. Danver commented that she talked to Tumwater staff and they have had requests for 4 million square feet of warehousing in Tumwater. She wanted to warn the public that large scale of warehousing is coming to this area. Commissioner Van Schoorl noted that this volume is not on Port property. He commented that the ProLogis warehouse is 335,000 square feet. The Port land in Tumwater could not accommodate 4 million square feet of warehousing.

Arthur West commented that he would like to see a comprehensive study on the effects of all the cumulative impacts of these projects. He commented on the Runway Rehabilitation with estimated completion in mid November. He noted that the original estimation was the middle of October; will this project be a month over? He also asked what was Phase I if this is Phase II. Is this now a phase project with three phases? He commented on the Marine Terminal and the bids have already gone out, when will construction begin on that project?

President Telford indicated that the Marine Terminal project would begin as soon as the contractor is mobilized and going. Mr. Lincoln indicated the contractor would get notice to proceed tomorrow.

Loralin Toney asked about the rumors in the community that the airport is expanding to allow 747's at the airport. She asked if the Commission could clarify if that is in the plans. President Telford indicated that the runways will not handle 747's and there are no plans to do that, nor has there ever been plans.

George Barner asked if there was a stop order placed on the project at the airport? He heard that the compaction for the asphalt was insufficient. President Telford indicated that this was covered earlier in the meeting. Mr. Galligan reported that the compaction was unacceptable and we are working with Reid Middleton to manage this project.

ADJOURNMENT

President Telford adjourned the meeting of September 24, 2007 at 7:11 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer