

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

October 8, 2007

CALL TO ORDER

President Telford called the meeting of October 8, 2007, to order at 5:34 p.m. at the LOTT Board Room in Olympia. Commissioner Van Schoorl was also in attendance. Commissioner McGregor was out of town.

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, and Communications Manager Patti Grant. 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: Troy Bussy, Tom Holz, Richard Wolf, Kevin Partlow, Harold Clark, George Kurzman, George Spencer, Bill Pilkey, Bob Jacobs, George Normany, Keith Bausch, Don Melnick, Robert Rose, Lori Rose, George Barner, Walt Jorgensen, Dan Roy, Ann Cacciari Roy, Meryl Bernstein, Richard Stedman, Sharon Contz, Tom Fell, Walt Jorgensen, Steve Wilcox, and Arthur West.

APPROVAL OF AGENDA

The agenda was approved as amended. Mr. Galligan requested we add to the advisory calendar a report on the Public Records. Mr. Galligan also noted that the Planning and Advisory Committee would meet on October 17th at 7:00 at the Port Offices.

COMMISSIONERS REPORTS

Commissioner Van Schoorl noted he attended the CLAMP meeting where they discussed the plan throughout the biennium.

President Telford reported he attended the Mayors forum on Friday where they discussed the law enforcement support on community activities. Also attended the CORPS of Engineers workshop on the dredge, which was a public meeting last Thursday at DOE to discuss the program. He commented that they are seeking public input for standards on in water disposal of dredge spoils. They will be issuing in May 2008 a recommendation for public comment on what the standards are going to be.

EXECUTIVE DIRECTOR REPORT

Mr. Galligan reported that a log barge is due in to the marine terminal around October 15th. This is a cedar barge with logs going to local mills. He also noted that construction is underway this past week for the final portion of Cargo Yard improvements.

Mr. Galligan reported that the Swantown Boatworks winter storage program began Oct. 1. We are just about full; the capacity is 40 boats. He also noted that the Boatworks expansion is moving ahead and is expected to be completed later this fall. This project will add about 25% additional capacity or 8-10 slots.

Mr. Galligan gave some updates on the SSLC: 1) Rocky Prairie Vicinity Tour – FORP well organized and informative. The Ports intend to conduct additional tours and outreach for whichever site emerges as preferred location following alt sites analysis. 2). Alternative Sites Analysis – Colliers Int'l retained and we are in the process of fine-tuning the scope of work. He noted that we anticipate this process to be completed by year-end. 3). Surface Mining Reclamation Plan Permit perfected by State DNR. 4) Market Assessment remains underway – anticipate preliminary finding in mid-November. 5). Maintenance work on site (removing scotch broom & mowing).

LEGAL COUNSEL REPORT

Ms. Carolyn Lake provided the Commission with the following report by legal counsel:

1. **The Port's Public Record litigation** is pending appeal before the Court of Appeals, after the Washington Supreme Court (Department I) ruled NOT to accept direct review of the Public Records appeal filed by the League/ Mr. West/ Mr. Koenig.

The primary appellant is the local chapter of the League of Women Voters. The primary issue on appeal is the local League's appeal of the approximately \$7300 penalty imposed by Judge Hicks; the **local** League wants approx. 1.3 million in penalties.

Recently the Port received a "friend of the Court" brief filed with the Court by the **State** of Washington League of Women Voters. The State Chapter **disagrees** with the local League and asks the Court **NOT** to impose any greater penalty, and to **deny** the local league's appeal on the penalty issue. Significantly, appellant Koenig also has taken this position, opposing the local League's appeal of Judge Hick's penalty amount.

2. **9th Circuit Court of Appeals - FAA issue.** By Order issued last Friday, October 5th, the 9th Circuit Court of Appeals **granted** the Port of Olympia's Motion to Intervene in Mr. West's Appeal filed of the FAA Line of Sight Airport NEPA review and the FAA grant.

More significantly, the 9th Circuit also **denied Mr. West's Motion for Injunction** to stop the Port's Airport Line of Sight Project construction. This ruling comes after Mr. West filed a request for Stay the Airport line of Sight Project. The Port had not been yet named as a party. Since then the Port moved to intervene in the federal case and filed pleadings opposing the Stay.

In today's Order, the 9th Circuit Court also denied Mr. West's Motion for FAA to immediately file its administrative record and ordered that the briefing schedule proceed. The Port's role will be to monitor the case and ensure the Port's FAA grant is well protected.

3. **State Court of Appeals - Airport SEPA appeal.** At the state court level, the state court of appeals also denied Mr. West's Motion for Stay last month. Mr. West has appealed that ruling asking the full panel of Appellant judges to review that decision.

4. **Explanation of Line of Site Construction Timeline & Impact on SEPA.** Opponents of the Airport Line of Sight project sometime characterize the Project as "now being phased", and argue therefore that additional SEPA review is needed. This is confusing a SEPA term of art, and applying it somewhat backward. A Project may undergo "Phased" SEPA review -- meaning that SEPA is done incrementally on multiple portions of a project, as the impacts of those portions of work become known; ultimately SEPA is completed for all phases of the project. That is NOT the case for the Line of Sight Project. SEPA review was completed on ALL aspects of the construction project; the SEPA review is therefore complete. Mere passage of time alone, including construction over more than one season, does not affect the integrity or validity of the initial SEPA determination.

5. **Update on Port Terminal Infrastructure/Weyerhaeuser Company SEPA appeal.** The Court's scheduling of this appeal has been significantly delayed by the fact that appellants have filed various affidavits of prejudice against the judges assigned to the case, resulting in re-assignment and re-scheduling. Currently there are numerous motions affecting the case which have been filed and briefed, but are waiting for a court date.

The case is now before Judge Hicks. Upcoming motions set for Oct 12th include:

1. Mr. West Motion for injunction to stay the construction project
2. A Show cause hearing on public record act issues filed by Mr. West
3. Motion to Consolidate & Deconsolidate the OPA 2 and West/Dierker appeal.
4. Motion to Strike the Affidit of Prejudice filed by OPA 2 against Judge Pomeroy.

PUBLIC COMMENT

President Telford indicated at the last meeting there was a request for a video presentation; we indicated that we would look at the issue of how the Commission would handle multi-media requests. He noted that we had a request for a video to be played tonight. President Telford indicated that we received that request on Friday; a response was given back with in 10 minutes of the email that we would like to review the video beforehand. Neither the Port nor the Commission ever received a call to review the video over the weekend or throughout the day today. He noted therefore, this video would not be seen tonight.

George Kurzman commented that the PAC recommended to get rid of the Admiralty district because there is not a need for boat building. He commented that he is being evicted from the Warehouse to make room for the Hands on Children's Museum. He asked the Commission not to get rid of the Admiralty District and to find a space for small boat builders.

Bill Pilkey reported on all the stories that have been published on the Port. He asked what is next? He also asked about issues relating to the SSLC. Why did the Commissioners not attend the tour sponsored by the Rocky Prairie Group a week or so ago? The taxpayers deserve and the right to know what is going on. He wanted the questions answered when asked by the public.

Bob Jacobs presented a chart of the operating results over the past few years, showing losses every year and the property tax assessment going up each year. He commented that he does not understand how the Port manages to lose money every year. He indicated that he is requesting the financial analysis for the Marina Docks.

Walt Jorgensen indicated that at the last meeting there was a request that a video be shown, has the Commission decided whether or not this would be allowed. Commissioner Telford indicated that we checked with other jurisdictions and the City of Olympia does allow other media presentations. President Telford indicated that the Port has decided that we need to have prior approval and review. Mr. Jorgensen indicated that this is against his rights to the first amendment. President Telford read his response to Mr. Jorgensen's email. He asked why he could not comply with the request. Mr. Jorgensen indicated that he did not have the right to edit or preview his first amendment rights.

Dan Roy commented that we could have complied with the request to preview the video, but it comes down to principle of the first amendment rights. He commented that they thought about the email and decided that we did not need to get the Port's approval of our comments.

Ann Cacciari-Roy indicated that she is a concerned citizen of Olympia and she chose to move to area because of the quality of life. She commented that she is concerned about the environment and the direction that the Port is going. She commented that the Climate Change program was great. She asked if the Port has done their carbon emissions footprint.

Sharon Contz commented on the SSLC. She indicated that the site is totally inappropriate for the uses being considered. She noted that the Friends of Rocky Prairie held a tour for the citizens and officials. The Port did not attend. She indicated that they feel the Ports should hear the concerns prior to making a decision on the site. She asked who drives the policy at the Port, staff or Port Commission?

Commissioner Van Schoorl responded to Mr. Kurzman's comments and indicated that the Admiralty district was set-aside for a large boat builder not small boat builders.

CONSENT CALENDAR:

Minutes Approval. The minutes for the August 1, 2007, August 15, 2007 and September 10, 2007 meetings were unanimously approved.

ACTION CALENDAR

Resolution 2007-22 – Sale of Abandoned Vessel

Mr. Bruce Marshall presented the Commission with Resolution 2007-22 authorize the Harbor Director to conduct a public auction of the 26 foot fiberglass sailboat, the "Sailor," registration number WN8530W, 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.

Steve Wilcox asked why the Port does not make a better effort of allowing the restoring of the boats instead of demolishing them. Mr. Marshall indicated that most of the time we do not receive any bids for the boats before they are destroyed.

The Commission unanimously approved Resolution 2007-22 authorizing the Harbor Director to conduct a public auction of the sailboat "Sailor."

Land Use Plan Amendment Public Hearing

Mr. Jeff Lincoln indicated that the staff was tasked in late 2006 to update the Ports Comprehensive Plan. He noted that this plan, originally conceived in 1994, has been consistently updated and major milestones accomplished since, with remarkable adherence to the vision, mission goals and objectives adopted. The portion of that plan that required updating was the Land Use Plan that would incorporate the most recent direction and commission approvals and guidance received since the last update.

Mr. Lincoln reported that the Planning and Advisory Committee worked on the changes proposed by the staff from April 2007 through the September 10th, when the entire committee met with the commission to report out their observations and recommendations. Their report, entitled “A Report by the Port of Olympia Planning & Advisory Committee to the Port of Olympia Commission Regarding Proposed Changes to the Port’s Land Uses” was provided at that meeting.

Mr. Lincoln noted that the Port of Olympia staff made a number of recommendations at the beginning of the PAC process, summarized below:

Update the Land Use Plan to reflect any features that have become more definitive, including North Point, East Bay and the New Admin Building plans.

Budd Inlet Land Use Plan

1. Eliminate the Admiral District – District distinction or use can be redefined by Commission if an opportunity arises,
2. Changed State Avenue District to East Bay District to reflect current planning and approaches to the redevelopment of that area,
3. Add the currently approved approach to the East Bay District plans to the Port Land Use Plan,
4. Changed West Bay District to reflect land sale to City,
5. Updated heights to be consistent with City code, and,
6. Original recommendation was naming the trail/pedestrian access along East Bay to the East Bay Trail. PAC recommended “East Bay Promenade”.

Relative to the development of the real estate surrounding or related to the Airport in Tumwater, the staff suggested updating the Airdustrial Land Use Plan to:

1. Reflect name changes to NewMarket Industrial Campus and Tumwater Boulevard,
2. Eliminate Tumwater Capital Campus and re-aligned into Tumwater Town Center, and,
3. Change Airport Oriented Industrial and boundaries to General Aviation.

Mr. Lincoln reported that the PAC considered these recommendations and made their report to the commission, after conducting a public hearing in August.

At this time, Mr. Lincoln indicated that staff recommends that the Commission open a public hearing to consider public input on the Port’s land use planning and the recommendations provided by both the PAC and staff. The commission may also consider other means of garnering public input to the recommendations before considering adoption of the Ports updated plans. President Telford then opened the public hearing.

Bob Jacobs indicated that the overall impression is very good. However, this document seems completely non-binding. The East Bay promenade is exactly right, this is a people space and gives people access to the waterfront. He commented that he would like a looping trail from Northpoint. He noted that the Ports general approach to development is unstated. He would like public access along the waterfront, then low buildings, then higher buildings inland.

Troy Bussy congratulated the City about doing brown field property on Port property. He noted that the Port is doing a great job of redeveloping property; the Port is one of the few that has been successful in redeveloping property. He encouraged the Commission and the Port to keep up the good work and don’t get discouraged.

George Spencer commented on the New Market section of the plan. The development guidelines do a good job of setting up the business park. He said he likes the concept of incorporating existing trees into the district. He suggested that be incorporated into all of the districts not just at the business park; keep as many trees as you can. The trail planned is good, but suggested a space for bicycles. He commented that he would also like to get space for bicycles in the greenbelt in the industrial district. And have good connections from the parking lots to the paths. Consider 76th as a green belt also. He indicated that there needs to be a truck route of how the trucks get in and out of there.

Tom Fell commented on the NorthPoint plans. This is a very unique location and he indicated that there is much to like about the plans there, however, he did not agree with the current green space is really not green it is a sidewalk with no benches or grass. He commented that there is no big public space, just a narrow walkway; there should be a space where the community can gather with families. The hotel should be moved south and the office building to move south as well. He said he would like to see more green public space.

Steve Wilcox indicated that he is still an advocate for Warehouse 2. He indicated that the Port should make an effort to preserve a part of Warehouse 2 and keep it what it has been, a space for small businesses that serve the Olympia community. He also noted that he was sorry to hear that the Port want to move KGY, it is such an icon of the community.

Bill Pilkey echoed the comments about KGY. He praised the Port for having a public hearing. He was told that only the PAC members represent the community and there would not be a public hearing. He commented that the PAC indicated that they were responding to staff proposals. The PAC should not be listening to the staff, but making their own observations, the PAC should examine the Port and make their own recommendation.

Arthur West complimented the Port on doing some planning on it's developments, but this plan is not specific enough and would hope the Port would look at developing a plan that is more specific.

George Barner commented that he agrees with previous speakers that we should try to preserve some of Warehouse 2. He also asked the Port to refrain from developing at NorthPoint. The Port also needs to rethink the removal of KGY until the citizens have input into this process.

President Telford indicated that staff has not received commissioner input on this process yet. He indicated that the next hearing should be on the document that is expected to be adopted. The Admiralty District should be retained as multiple use district for marine terminal, recreation, boat builders, office building, or any other use that we deem appropriate.

He noted that the Central District could be included into the Marine Terminal District. He commented that there are area character descriptions, like the East Bay District, parcels sold or acquired need included. The Marina District mentions a boutique hotel and he wasn't sure why. He also commented that he has questions about the hotel at North Point. President Telford indicated that he would like to have input from developers of whether or not that is the right use out there or not. He commented that we should check the language at West Bay check because the Port no longer owns most of the property at West Bay.

President Telford indicated that the plan made reference to the landscape management plan. He commented that the Promenade still has surface issues for handicap accessible. He commented that the Airdustrial is too chopped up with districts, not sure we need all those. He asked what is the strategic plan that is referenced in the plan? He commented that the plan mentions a signage plan that needs revision.

President Telford indicated that the next hearing should be a document with the changes for people to comment on it. Mr. Lincoln indicated that copies of the document are in the back of the room at the sign in table. He noted that after another hearing is held, staff would come forward with the conceptual plan for the commission to approve. Then at a later date, several documents will be pulled together to comprise the Comprehensive Scheme of Harbor Improvements.

Commissioner Van Schoorl thanked the public for comments, and asked for more comments from the public. He commented that he agrees with Bob Jacobs on the issue of the trail along the waterfront. He indicated that he is reconsidering the office building at NorthPoint as well. He indicated that he would like to see the hotel pushed back from the water with more public space in front. Commissioner Van Schoorl noted that the lease with KGY does end at that location, but we hope that they will stay on Port property. Commissioner Van Schoorl commended the PAC did a tremendous job on this project and we had a good work session with the PAC on these issues a few weeks ago. Commissioner Van Schoorl indicated that this is meant to be a flexible plan; we need to be able to respond to opportunities. He commented that he has talked to three high-end developers about a hotel at Northpoint that have interest.

ADVISORY CALENDAR

Public Records Advisory

Ms. Jeri Sevier indicated as the Public Records Officer of the Port, she wanted to provide the Commission with an update on the volume of records we have processed over the past year and a half.

She noted about a year & 1/2 ago we began tracking the requests. Since that time, we have received 74 public records requests from 16 citizens. Those citizens have reviewed over 10,000 + documents in the past year alone. She estimated that the Port has provided them with over 7000 copies from the documents they reviewed.

Ms. Sevier noted that pursuant to RCW 42.17, 310, the law allows for certain documents to be exempt from a public records request. She noted that only 22 documents of the tens of thousands of records reviewed were exempted in accordance with the RCW.

Ms. Sevier provided the Commission with some examples of some of the records requests. She noted that one request was for “every document...relating to the Olympia Regional Airport.” This request took staff approx. 5 months to fulfill, in the end the citizen took 820 pages and no documents were exempted from this request. She indicated that another request was for “all documents pertaining to Weyerhaeuser Company (letters, memos, informal notes, photos, charts, phone logs, drawings, audio letters, etc.” This request was subsequent to the documents provided earlier and relating to the current lawsuit. This request took staff approx. 2 months to fulfill and the citizen took 170 pages, in this request in accordance with the RCW, 16 documents were exempted.

Ms. Sevier indicated that another example is a request for “information on 7 major projects at the Port including: Airport projects, rail projects, dredging projects, intermodal infrastructure projects, Maytown facility, and any project with a state or federal grant involved. This request took staff over 3 months to fulfill, the citizen took 700 copies and in accordance with the RCW, 6 documents were exempt.

In addition, Ms. Sevier noted that we have received several requests for records that were overly broad and infeasible for either the Port or the citizens to economically respond. Examples of those overly broad requests include a request for all records containing the word “Parking”. She noted that we had a request for all materials stored on the hard drives of all machines, deleted or amended versions. She reported that in these two cases, I asked the citizen to be more specific and to better define their request, I never heard back from the citizen in either case.

Port Planning and Advisory Committee Appreciation and Appointment

President Telford noted that we have one member, Patti Moore, on the Planning and Advisory Committee that was appointed as an alternate in 2003. In 2004 a member resigned from the PAC and Patti was appointed to continue his term of one year. Patti was then re-appointed for another three-year term in 2005. Patti is not able to continue on the PAC and will have to resign earlier than her June 2008 term expiration.

The Commission recognized and thanked Patti for her service to the PAC and the Port. Patti is not able to be at the meeting tonight, but will be presented her award at a later date.

President Telford reported that in June of 2007, Don Melnick was appointed as first alternate. Due to Patti’s resignation, Don Melnick will be appointed to finish Patti’s year of service to the PAC. Don will then be up for a three-year term re-appointment in June of 2008.

Zero Emissions Vehicle Advisory

Mr. Bruce Marshall indicated that the evaluation of alternative fuel vehicles has been an item considered by staff for several years. He noted that until recently, the technology available has fallen short of expectations or has not been practical for port applications. However recent technological advances in fully electrical vehicles has prompted staff to research new designs and technology. As a result, staff has evaluated a fully electric truck and is recommending purchase of two zero emission vehicles for port use.

Mr. Marshall reported that these vehicles, the Xebra Zaptruck performed well for staff during our testing. It is the only city-class electric truck in production. Some of the advantages this vehicle offers include:

- Reduce fuel operating costs from .14 cents/mile to 1.5 cents/mile (\$2,800 in gasoline to \$300 in electricity)
- A 98% reduction in emissions
- Lower cost per unit
- Lower insurance costs
- Elimination of truck rental costs for contract security vehicle

Mr. Marshall noted that staff has approached the Olympia Regional Clean Air Agency seeking grant funding for a pilot program to evaluate the use of electric vehicle at the port. Working together on a program, ORCAA has agreed to fund half the cost of both vehicles as a regional test program for zero emission vehicles. The total costs of two fully electric trucks, including tax and

delivery is \$19,728.80 with ORCAA contributing \$9,864.40 towards the pilot program. As with ORCAA contribution the port's share would also be \$9,864.40.

Richard Stedman, Executive Director of Olympic Region Clean Air Agency (ORCAA) indicated they were pleased to offer the Port the grant for the pilot project of one of these electric trucks. He further commended the Port for coming up with great alternatives. He commented that they are also working with Weyerhaeuser on ways to reduce emission pollutions. Commissioner Van Schoorl commented that this is one more step towards reducing our carbon footprint.

PUBLIC COMMENT

Keith Bausch commented on the decision to allow the video to be shown. He commented that he would highly recommend that they not be allowed. He indicated that this would be opening Pandora's box. He commented that the whole public comment would be high jacked if you allow them 10 minutes each of the 20 minutes. He also commented that Port's don't steal cargo as Mr. Pilkey said. Ports are like any other competitive business.

Michael Cade, Executive Director of the Economic Development Council, thanked the Port for supporting the Manufactures Alliance. He commented that his has turned into a very significant victory for this community to create and maintain economic stability.

George Barner indicated that he was impressed that the Port is moving forward with the electric vehicles. He wondered why the employee purchased the electric vehicle had to pay for the electricity. Commissioner Van Schoorl noted that the Port couldn't gift public funds to an employee; it would be like giving them gas.

Kevin Partlow commented that he wanted to set the public strait. He is the chair of the Planning and Advisory Committee indicated that they are not a rubber stamp of commissioners or staff.

ANNOUNCEMENTS

President Telford announced that the Commission would be holding a Work session on budget with staff on October 17, 2007 at 3:00 at the Port offices.

ADJOURNMENT

President Telford adjourned the meeting of October 8, 2007 at 7:41 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer