

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

October 22, 2007

CALL TO ORDER

President Telford called the meeting of October 22, 2007, to order at 5:33 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, 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: Keith Bausch, Jerry Dierker, Arthur West, Harold Clark, Suzanne Nott, Bill Pilkey, Bob Jacobs, Patrisa DiFrancisca, Robert Rose, Sherman Will, Timothy Knittle, Dick Pust, Brent Dillie, Mike Peroni, George Kurzman, Meryl Bernstein, Sue Danver, Stanley Stahl, Meta Heller, Richard Wolf, and Tom Fell.

APPROVAL OF AGENDA

The agenda was approved as amended. Mr. Galligan asked that the Cardinal Glass Lease on the consent agenda be removed for consideration at this meeting.

COMMISSIONERS REPORTS

President Telford commented that the commission held a budget workshop on October 17th with staff at the Port offices.

EXECUTIVE DIRECTOR REPORT

Mr. Ed Galligan reported on the vessel traffic at the Marine Terminal. He noted that a Log barge of logs (600,000 board feet) for log tenant Holbrook coming from Canada is expected the week of October 24th. We are also expecting a Garnet Vessel from India on November 14th.

Mr. Galligan reported that work is proceeding on the cargo yard improvement project. This project will actually accomplish a number of things – cargo yard paving, terminal lighting and extending utilities to the marine terminal and NorthPoint.

Mr. Galligan reported that on Oct. 13th Evening Magazine announced their 15th annual the Best of Western Washington on Channel 5. The Olympia Farmers Market was mentioned as the runner up to the “Best Farmers Market” category. Pike Street receiving the #1 spot.

Mr. Galligan reported that Bruce Marshall met with the East Bay Neighborhood Association last week to review current port activities. In addition, Port Commissioners and/or staff have spoken to over 16 community groups to date.

LEGAL COUNSEL REPORT

Ms. Carolyn Lake provided the Commission with an overview and update on the legal status.

Ms. Lake provided an update on Port Terminal Infrastructure/Weyerhaeuser Company SEPA appeal. Ms. Lake indicated that when last the Commission was advised she explained that 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. As of the last meeting, there were numerous motions affecting the case which have been filed and briefed, but are waiting for a court date. The case had been pending before Judge Hicks, and several motions had been set for Oct 12th.

Ms. Lake indicated that in a move few could have predicted, the case has taken yet another twist - Following their disagreement with procedural rulings made by Judge Hicks, appellants Mr. West & Mr. Dierker filed a lawsuit with the Washington Supreme Court, naming among other parties, Judge Hicks and Judge Pomeroy. The suit asks the Supreme Court to look into the actions by the Thurston County Court and Court administration in the Port/WC SEPA appeal. As a result, both Judge Hicks and Judge Pomeroy do not believe it appropriate to hear any issues relating to the appeal until the Supreme Court takes action. It's believed that the earliest the Supreme Court can act is the first week of December.

Ms. Lake reported on the Port's Public Record litigation indicating that it had been pending appeal before the Division II Court of Appeals, located in Tacoma. Parties expected oral argument to be scheduled in the near future. However she noted that parties received notice last week that the case has been transferred to the Court of Appeals Division 1, located in Seattle. No explanation was given for the unusual transfer.

Ms. Lake reported that in other developments, the attorneys for the local League of Women Voters recently requested to substitute an individual person as the "appellant" after the State of Washington League of Women Voters filed a "friend of the Court" brief where the State Chapter disagreed with the local League and asked the Court to deny the local league's appeal on the penalty issue. The Court has not yet ruled.

Ms. Lake provided a report on the appeal of DOE approval of Water Quality certification for Army CORPS of Engineers Dredge Project. She noted that five parties (Mr. West, Stanley Stahl, Jerry Dierker, Jerry Parker and Patrisa DiFrancisca) brought this appeal before the PCHB. As part of that appeal, the Appellants ask for an Order staying the Department of Ecology Order No. 4878, which authorizes dredging of the Port of Olympia's harbor navigational channel in Budd Inlet of Puget Sound, as well as "a stay of all projects and actions permitting or approving decisions related to and or connected to the Port." The Port sought and was granted intervention by the Board in order to oppose the Stay. Briefing on that issue is on going.

Ms. Lake reported on the Federal Court case filed by Mr. West against the FAA, the Port, US DOT & Army CORPS of Engineers. She noted that this case began as an appeal filed by Mr. West against the various projects, in which Mr. West sought review of the FAA's funding of the Port's Airport project. However in early June of this year, the Court dismissed out as parties

WSDOT, the FAA & US Department of Transportation. The Court also Ordered Mr. West to file an amended complaint that provided clear statements of any cause of actions against the sole remaining parties: the CORPS of Engineers and the Port of Olympia.

Ms. Lake noted that Mr. West has since filed his amended Complaint. Last Friday, the CORPS of Engineers filed its Motion to Dismiss; on Friday the Port also filed its Answer, to be followed shortly by the Port's Motion to Dismiss and end that action.

PUBLIC COMMENT

Keith Bausch commented that unfortunately the public comment has been turned into a political campaign. He noted that Mr. Jorgensen declined to let Commissioner Telford to review his video that he wanted to show at the meeting. They showed this on TCTV and it was nothing but a Port hit piece. He commented that Mr. Pilkey also uses this as a venue to campaign.

Jerry Dierker asked how the Port got permits from the City of Olympia on the CORPS project. He did not understand how come the Port is doing land use when they do not have land use authority.

Arthur West asked how the Port got permit approval from the City of Tumwater and why that approval was not on file when a public records request was filed. He asked for full disclosure of permitting actions of the Port. He noted that the Port is trying to avoid compliance with the law and conceal records from the courts.

Suzanne Nott spoke about the responsibility for citizens to come to meetings and encourage the public to stand before the commission and have dialog about the issues. She indicated that the Commission leadership should encourage public involvement and avoid government by lawsuit and the kind of hot tempers that we have seen in the past. She encouraged the public and the commission to continue to come to meetings and carry out their responsibilities in a responsible fashion to influence the way that our government operates.

Bill Pilkey commented that he is disappointed about the lack of fiscal responsibility; the budget does a great job of covering up losses and deficits. Why do the budget fail to include depreciation? The Port should do a back up budget assuming that Weyerhaeuser contract will not be implemented. The budget calls for no change in the number of ships except for Weyerhaeuser.

Bob Jacobs indicated that he is representing the Carnegie Group of Thurston County put together a set of recommendations of what they believe the port policies should be. He indicated that they look forward to having dialog with the Port on these recommendations.

Patricia Di Francesca asked about the Port's environmental study and when will that be released. She noted at the joint session with the City of Olympia Commissioner Telford volunteered that the Port had hired consultants, how could we get copies of the Bjorgen Decision and the consultants review. Mr. Galligan indicated that she must have been referring to the re-filing of the Weyerhaeuser case. Commissioner Telford asked what environmental review she is referring to. She indicated that she is talking about all of them. Commissioner Telford responded that the last total review was in 1994. Mr. Jeff Lincoln indicated that this might be the SEPA review on the land use plan revisions and that report is not complete at this time.

Brent Dilly representing KGY Radio attorney advising the Port they wish to renew their lease at the end of Marine Drive. He indicated that KGY needs certainty and needs a long term lease.

They would like to continue leasing the land that the offices and studio are on; the building is structurally sound and does not need to be torn down. He noted that they would like to reduce the footprint to allow for the walking trail along the waterfront. There are not any real current plans for an office building or hotel and the lease will expire before a building is in place.

CONSENT CALENDAR:

Minutes Approval. The minutes for the September 24, 2007 meeting were unanimously approved.

Bills and Voucher Approval. The bills and vouchers in the amount of \$982,519.11 were unanimously approved. General Fund Checks Issued: 044401-044661. The project payments in excess of \$25,000 were to GeoEngineers and Skillings Connolly for the East Bay Pre-Development Plan and to Wilder Construction for the Runway Line of Sight project.

Purchase and Sale Agreement Amendment: LOTT

In accordance with the Commission's vision for the area and the Port's East Bay Redevelopment program, the Port Commission approved the Purchase and Sale Agreement by and between the Port and the LOTT Alliance on August 13, 2007.

In order to finalize the sale of this real property, the Port of Olympia was to come to agreement on the clean-up credit for future environmental work. The two parties have agreed on \$235,000 for the clean-up credit. The amendment reflects this agreement.

The Commission unanimously ratified the Purchase and Sale Agreement Amendment with LOTT.

West Bay Property Sale Closing

The Port of Olympia and the City of Olympia signed three Purchase and Sale Agreement's December 30, 2005 for the sale of several parcels of the Port's West Bay Property. The Port and City have closed on the main parcel and the northern parcel is awaiting closing upon the Department of Ecology issuance of a "No Further Action" letter after site investigation and possible cleanup work is completed by ARCO/BP.

The southern parcel was not fully surveyed at signing. The agreement stipulated that a survey would be completed satisfactory to both parties and a purchase price would be agreed upon. The survey is complete and the parcel to be sold contains approximately .75 acres of upland and 2.43 acres of tideland. A BNSF prescriptive easement runs across a portion of the property. The City and BNSF have reached agreement on the BNSF's interest and will be closing soon.

The Port and City obtained appraisals of the identified property and have met several times to reach a purchase price. The Port and City staff has arrived at a net purchase price of \$277,000.

The Commission unanimously approved the closing of the sale of West Bay property to the City of Olympia.

ACTION CALENDAR

Resolution 2007-23 – Land Dedication to State of Washington, Department of Transportation

Ms. Kari Qvigstad indicated as part of the Airport runway relocation project, there were a number of roadways south of the airport that needed modification/relocation. Case Road was realigned and Tilley Road between 93rd and 88th was abandoned.

She noted that 93rd Avenue between I-5 and Tilley Road and then south to the State Park is a State Route 121. As part of the plan approval process, the State of Washington Department of Transportation required widening of the 93rd and Tilley intersection for vehicular access.

Ms. Qvigstad reported that under the grant from the FAA, the Port purchased two small parcels of approximately 235 sf and 1,611 sf. Like all state highways, the Department of Transportation requires those parcels transferred to State ownership, and the FAA has approved the transfer.

She noted that the Commission Resolution presented here accomplishes this transfer from the Port's ownership to the State of Washington, Department of Transportation.

The Commission unanimously approved Resolution 2007-23 to dedicate land for right of way to the State of Washington Department of Transportation.

ADVISORY CALENDAR

Market District Advisory

Ms. Kari Qvigstad reported that since its original approval in 1995, the Port of Olympia's Conceptual Development Plan to create the "Market District" is nearly completed. In addition to expanding the Farmers Market and Batdorf & Bronson Coffee Roasters, attracting Anthony's to Olympia, development of two class-A office buildings and a vibrant waterfront plaza, a critical road connection, the Port's investments have nearly reached capacity. With remaining property either under contract or being utilized as surface parking, the remaining investment by the Port is completing a surface parking lot that fulfills its commitment to its existing Market Place tenant on the site that has been utilized most recently for Farmers Market parking.

She indicated that recognizing the growth and demand in the Market District, the Port Commission directed staff to investigate alternative solutions that would increase density in the district, while vigorously managing its assets to provide maximum benefits to the citizens of Thurston County. The two alternatives staff has proceeded with are 1) exploring acquisition of adjacent properties, and/or 2) design and development of a parking structure in the district.

A parking structure meets the following stakeholder needs:

- Returns marine terminal land presently used for auxiliary parking,
- Creates potential overflow parking for the Port Plaza,
- Accommodates the Port's current contract for Market Place office building parking,
- Creates new parking supply for Market Center office building and potential accommodation of new office building parking,
- Accommodates potential Farmers Market vendor parking.

Ms. Qvigstad indicated that the primary drivers for a parking structure are additional economic opportunity through new construction and job creation along with increased community benefit through continued success of the Market District.

She noted that the Port Commission approved a site concept for structured parking that also accommodates potential land acquisition in March of this year. Since then staff has been proceeding with a conceptual design for structured parking in the Market District. The project is in design and staff is preparing for site plan approval and vesting by the City of Olympia.

Staff also extended an agreement with the Farmers Market earlier this month that accommodates vendor parking through 2010. A key element of the new agreement is a provision that the Farmers Market will provide the Port with a long-term parking solution that sustains this valued community destination.

She noted that as previously outlined to the Port Commission, the critical path for this initiative includes the following.

- Continue to coordinate with Market District tenants, stakeholders and potential users to develop parking agreements for the parking structure.
- Develop a fiscal plan that provides for highest and best use in build-out of the Market District.
- Based on outcome, obtain approval from the Port Commission on a design that reflects stakeholder needs.
- Obtain vesting approval from the City of Olympia for parking structure and site plan.
- Recruit a developer to lease land to develop an office building on the parcel currently being used to serve parking requirements for the Market Centre office building. The project delivery would be dependent upon a parking structure that can serve both Market Center's parking requirements as well as the new building's requirements.
- Continue dialogue with the State of Washington related to a strategy that would accommodate Port expansion in the district.
- Timeline: First or Second Quarter of 2008.

Mike Peroni commented on behalf of the Farmer's Market. He noted that there are long-term parking issues that will need to be addressed in the future. The future of the Market and what has brought the Market to fruition is the foresight and policy making of the Port Commission.

Commissioner Van Schoorl indicated that as far as he is concerned, the Olympia's Farmers Market is number one in the State of Washington as a Farmer's Market; Seattle is a public market, not a Farmer's Market.

Mr. Galligan noted that this project would not go anywhere until we have a financing plan and a partner to build a parking garage.

President Telford commented that he does not remember the Commission approved a site plan and he could not find anything in Commission minutes that reflected that. He suggested a white paper on this issue in a comprehensive report and evaluation. He indicated that you couldn't design a parking garage in a vacuum with out knowing what is going on around it. This idea has not been pulled together in total. Commissioner Telford indicated that he felt the priority should be in the following order:

- Develop a fiscal plan that provides for highest and best use in build-out of the Market District.
- Based on outcome, obtain approval from the Port Commission on a design that reflects stakeholder needs.
- Obtain vesting approval from the City of Olympia for parking structure and site plan.
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Ms. Qvigstad indicated that the staff would bring a report that evaluates the issue and could schedule time one-on-one with Commissioners to brief this issue further.

Commissioner Van Schoorl noted that he recalls that this was the preferred site, however, staff was going to brief commissioners one-on-one.

Commissioner McGregor indicated that he recalls back in March when this was brought forward and the Commission looked at alternatives. This seems to be the preferred site that we discussed.

Properties Advisory

Ms. Kari Qvigstad reported that it has been an active year for the Port of Olympia in its Property Development line of business. Ms. Qvigstad highlighted the following property development activities at its Tumwater and Olympia harbor properties.

Ms. Qvigstad reported on the NorthPoint redevelopment. She indicated that staff has been working with KGY on the tower lease. She noted that the design needs to be completed by KGY. The Anthony's Hearthfire amendment & opening has been completed. Staff is preparing for developer recruitment at NorthPoint.

Commissioner Telford asked if KGY is currently paying lease on the tower and array? Mr. Heber Kennedy indicated that they are currently not paying lease on the entire space they use for the array and tower. Commissioner McGregor asked if the tower could be put in the drawing. If this is a draft then draft should be put on the drawing.

Ms. Qvigstad reported on the East Bay Redevelopment. She indicated that a purchase & sale agreement (PSA) to LOTT has been completed. There is a pending PSA to the City of Olympia/HOCM. The East Bay short plat & infrastructure development is underway. Staff has developed a Phase 2 Developer recruitment plan. The East Bay Shell Station acquisition (now under lease to Stan C's) has been completed. Staff has completed Warehouse 2 tenant relocation strategies. And the administrative building schematic design, site plan & pending lease agreement with Friends of the Artesians/City of Olympia has been completed.

Ms. Qvigstad reported on the Market District expansion strategies. She noted that the license agreement for Farmer Market vendor parking has been extended. The parking structure conceptual design has been completed.

She noted that the marketing strategies for Tumwater Properties are underway. The listing agreement with Colliers has been completed. Staff is facilitating ProLogis Development in Tumwater. The SEPA has been approved. Staff has completed option agreements for the following leases: D&R (4.68 acre site for flex space), Carting Center (2.8 acre site for indoor go-kart business) & Vine Street (9.378 acre office development). In addition, staff has completed lease amendments for: Capitol Little League (extended term), UPS (expanded premises, extended term and new improvements), and DaPaul Chip (extending term and increasing rent). She noted that we have lease assignments from GuestHouse Inn and Comfort Inn to Han Joe Ro, LLC (resulting in one owner), multiple parties to Airdustrial Equity (streamlining three leases to one and allowing for new development on the site), ASKA to Harbor Wholesale Groceries allowing for expansion of existing tenant facilities across street, and Consolidation of Rutledge Farms lease (2.6 acre corn maze) with existing 12 acre agricultural use site.

Ms. Qvigstad also charted the property inventory and recent leasing activities that are expected to result in continued strong performance for the property development line of business at the Port of Olympia in the coming years.

Breakbulk Market Report Advisory

Ms. Qvigstad indicated that during the past few years the marine terminal has seen healthy traffic levels. Imports of aluminum ingots and exports of military cargo boosted cargo volumes, and Weyerhaeuser announced that it would shift export operations from the Port of Tacoma to the Port of Olympia. However, cargo volumes have dropped recently due to the loss of both the aluminum and military business, and to a delay in the shift of Weyerhaeuser operations to Olympia. This has led to questions in the community as to whether or not the Port should continue to operate a marine terminal.

She noted that as part of an effort to help answer that question, the Port retained BST Associates to analyze the prospects for small ports such as Olympia to continue participating in cargo handling. To accomplish this BST combined an analysis of cargo movement data with a review of recent literature on smaller ports. The results of this analysis are presented in a report issued by BST Associates this month. Ms. Qvigstad will highlight the following excerpts from the report, which is available to the public.

Trade Forecasts

Ms. Qvigstad reported that according to the most recent WPPA forecasts, total cargo volumes are expected to increase by nearly two-thirds between 2004 and 2025. Imports from foreign countries are expected to account for the largest share of this growth, and are expected to more than triple by 2025, accounting for more than 40 percent of all waterborne trade by 2025. Outbound shipments to both foreign and domestic destinations should also show very strong growth. Only domestic receipts are projected to decline, and this is due mainly to declining oil production in Alaska.

Overall, she noted that the total Puget Sound cargo tonnage is projected to grow 2.2 percent per year during the forecast period, from 62.6 million metric tons to 104.4 million metric tons.

Puget Sound Breakbulk Forecast

She noted that the total Puget Sound breakbulk trade is projected to grow from 598,000 metric tons in 2002 to 1.1 million tons in 2025. The majority of the growth will come from increasing imports of metal products, while most of the remainder will result from imports of forest products. Export breakbulks are projected to increase by just 44,000 metric tons over the forecast period. Although slower than the growth of containers, the projected increase of more than 550,000 metric tons shows that there will continue to be a need for breakbulk facilities on Puget Sound.

Modal Shares and Corridors

Ms. Qvigstad indicated that the capacity of the highways and rail lines that serve the ports is becoming constrained. Interstate 5 is especially critical, for ports on both Puget Sound and the Lower Columbia River. The increases in port-related truck traffic will compete for capacity on a highway that is already severely congested. Growing rail traffic generated by ports is facing competition from existing freight traffic as well as from increasing passenger service, for space on a rail system with limited capacity.

Ms. Qvigstad reported that Washington ports involved in the breakbulk cargo market experienced realignment during the 1980's and 1990's as the forest products industry declined and other traditional breakbulk cargoes were converted into containerized form. However, this realignment appears to be near the end, and market opportunities do exist for the non-containerized ports.

She noted that the most recent forecast completed for the WPPA and WSDOT projects that the market for non-containerized exports and imports will grow slowly over the next two decades. This means that there will continue to be a need for ports to provide facilities to handle these cargoes.

Furthermore, competition for other uses of waterfront land continues to put pressure on breakbulk facilities. Those ports that resist the pressure to change the use of waterfront land will have the opportunity to compete for a cargo market that is expected to continue to grow.

The Commissioners asked that the report be placed on the Port's website.

Sue Danver indicated that there is limited availability along the Columbia River Gorge. Why would you develop Maytown when it is rail dependent when there is no way out? Where and how is it going to leave? Why are we developing a rail dependent site if there is no way to get the cargo out? President Telford commented that there are issues with rail transport across the mountains. He noted that the concern is with the railroads.

She also indicated that citizens do not approve of the Northpoint hotel; this is the best view of Puget Sound. The hotel should be set back if not put there at all. President Telford indicated that the plan for Northpoint has not been decided yet. There are still opportunities for discussion. Commissioner McGregor noted that the plan shown tonight is conceptual and a draft.

Commissioner Van school indicated that the WPPA did a rail study and the public interested in this matter should get a copy of that report.

Merril Bernstein commented much of the imports coming into the NW are passing through going to the east coast and it is the responsibility of the commissioners to paint an accurate the picture of what the site will be with the rail and the trucks, etc. We want an accurate picture and then we want an opinion.

Mike Peroni addressed comments from Commissioner Telford earlier. He noted that the market's continued success is dependent upon parking. He indicated that he is concerned with the markets need versus the Port's needs.

PUBLIC COMMENT (Continued)

Stanley Stahl commented that he does not understand the 14 cases that were reported on by Ms. Lake at the last meeting. He reported that there were two cases that the Port did not prevail in and she did not report on those. One was with the city of Olympia. The other was a records request case and the Port was fined. He also noted that he was here on September 24th with a video that he wanted to show and that request was denied. On October 8th the request by the Port was to prescreen it. He requested that his tape be played tonight on the DVD player. President Telford indicated that he has tried to work with the citizens prior to the meeting on this and did not get a response until the meeting. He noted that we asked for the citizens to get this cleared in advance. He commented that if you really want to show it, give it to the Port and it will be

scheduled on the next meeting. You don't have to do much for this to be played at the Port's meeting.

Merril Bernstein thanked Commissioner McGregor for offering the Friends of Rocky Prairie to help. They would love to help. She also noted that the deconstruction of the warehouse will be more costly but should be done. She also noted that when a light bulb was broke at a meeting, there was no concern for the environment, this is a hazardous waste. She further noted that the lawsuits that have not been won were based on technicalities, not substance.

Sue Danver indicated she prepared testimony for the hearing on the land use plan, which was supposed to be tonight, but it is not. She spoke about the airport and the habitat (the gofer and the lark). There have been two projects approved by the City of Tumwater with DNS issued on these projects not even taking into account these two species.

Walt Jorgensen commented about the comments regarding the request for showing the video. He commented that the Port sets the rules or laws; however, the Port does not follow the laws.

ANNOUNCEMENTS

President Telford announced that the next Port Commission meeting would be on Tuesday November 13th.

Commissioner McGregor thanked the staff for having the agendas ready and available one week in advance. This gives the public an opportunity for input and the staff's efforts are commendable.

ADJOURNMENT

President Telford adjourned the meeting of October 22, 2007 at 7:40 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer