

P O R T O F O L Y M P I A C O M M I S S I O N
M I N U T E S O F R E G U L A R M E E T I N G

August 25, 2008

CALL TO ORDER

Vice President Telford called the meeting of August 25, 2008, to order at 5:30 p.m. at the LOTT Board Room in Olympia. Commissioner Barner was also in attendance. President McGregor was out on vacation.

Staff in attendance were: Executive Director Ed Galligan, Administrative Manager Jeri Sevier, Airport Director Rudy Rudolph, Engineering Director Jeff Lincoln, Marine Terminal Director Jim Amador, Acting Finance Director Kim Peterson, Harbor Director Bruce Marshall, Property and Business Development Manager Mike Reid, Cascade Pole Site Manager Don Bache, Environmental Program Manager Joanne Snarski, and Front Desk Coordinator Jessie Bensley. Bob Goodstein and Carolyn Lake, Port's Legal Counsel, was also in attendance.

Public in attendance were as follows: Bill Pilkey, Harold Clark, Richard Wolf, Sam Lonton, and Rick Hughes.

APPROVAL OF AGENDA

The agenda was approved as revised. Vice President Telford indicated that due to a scheduling conflict, we must move the public hearing to follow approval of agenda. Mr. Ed Galligan requested that item #5 on the consent Calendar be removed for consideration tonight.

Port Development Guidelines – Public Hearing (Resolution 2008-21)

Ms. Carolyn Lake indicated that the Port Commission prioritized an update of the Port's Comprehensive Plan in late 2006. She noted that throughout 2007 the Port's Planning Advisory Committee (PAC) has been considering the changes recommended to the Commission, and issued their report to the Commission at a joint workshop on September 10, 2007.

She noted that the Commission re-visited the PAC recommendations recently at its May 20, 2008 Work Session, and again at its June 24, 2008 Commission meeting. On August 11, 2008 the Commission opened a Public Hearing on this action. The Commission recessed the hearing and continued the agenda item until the August 25, 2008 meeting without taking any action.

Ms. Lake noted that the SEPA determination was issued on August 5, 2008. She indicated that proper notice was given to meet all requirements.

Ms. Lake reviewed the changes suggested by the Port Planning Committee as follows:

- Eliminate Admiralty District - PAC Agree; (later Commission added back in)
- State Avenue District Be Changed to: East Bay District" - Agree
- Substitute East Bay Redevelopment Program Site Plat for existing State Avenue District Land Use Plan (LUP) - Agree
- Planning for East Bay should reflect sale of land to City – No Answer
- Eliminate Building Heights stated w/in Plan, since set by City Code – Agree
- Rename Peninsula Trail to "East Bay Trail"– PAC recommends: "East Bay Promenade"
- Airport Plans – Briefing Only
- Delete Tumwater Capital Campus design – replace with Tumwater Town Center Design –Agree
- Adopted Proposed New Market Industrial Campus (change one parcel from "Airport Oriented Industrial" to "General Aviation" - Agree
- Update Land Use Plan with name changes: "New Market Industrial Campus" and "Tumwater Boulevard" - Agree

She also indicated that there have been additional changes as follows:

Ms. Lake indicated that staff and the Commission also suggested changing title from "Land Use Plan" to "Port Development Guidelines". The planning document title "Land Use Plan" is a term strongly associated with the Growth Management Act \ Comprehensive Planning framework required for select cities and counties under Chapter 36.70A RCW, but are NOT applicable to Ports.

In addition, changes were made on page 3, Land affected by Section 404 fill restrictions, added text: "a portion of" (to clarify restriction in use does not apply to all 54 acres). Page 7, East Bay, deleted reference to Conceptual Master Plan. Page 8, East Bay, clarified definition of "mixed use" to include residential. Page 10, Northpoint, deleted reference to Conceptual Master Plan and deleted text: "and should be screened with bermed landscaping." Page 13, Landscape Management, deleted 1st full paragraph (reference to Landscape Management & Pest Control Plan). Page 15, Airport Development Guidelines, added language, which makes clear the only changes to the Plan are those needed to incorporate the Layout Master Plan Update.

Ms. Lake indicated at this time the Commission can reopening the Public Hearing. She noted that staff requests the Commission consider approval of the PAC recommended changes by adoption of Resolution No. 2008-21 at the Meeting of September 8, 2008.

Public Hearing:

Commissioner Telford opened the Public Hearing. There was no public comment given and the public hearing was closed. However, Commissioner Telford indicated that since this was moved forward on the agenda, if the public shows up later to testify, he would re-open the hearing.

LEGAL COUNSEL REPORT

Ms. Carolyn Lake reported on the appeal of the City of Olympia Land Use approval for Weyerhaeuser Company Site Plan (Approval of Buildings & Parking lot). She noted that on 8/15/08, the City of Olympia Hearing Examiner dismissed the majority of issues raised by Appellants Witt, Jorgensen and Mason and Appellants West & Dierker prior to the appeal hearing, based on a Weyerhaeuser Company Motion to Dismiss, which the Port supported.

She reported that on August 18, 2008, the appeal hearing was held before the City of Olympia Hearing Examiner. The hearing began with the two appeals consolidated, however, in response to conduct and statements by Mr. West, The Examiner "de-consolidated" the appeals. The Witt appeal hearing was considered that day, with the result that the Examiner dismissed two of the four remaining appeal issues. The Examiner took the remaining two issues under advisement. A decision will issue after post-hearing briefing is complete, in about 3 weeks.

Ms. Lake reported that the Mr. West appeal hearing began the next day 8/19/08. Upon motions by the Port and Weyerhaeuser Company, the Examiner also dismissed many of the issues claimed by Mr. West. At about 4:00 PM, the hearing was stopped based on Mr. West's announcement that he needed medical attention. At this point, the Examiner has asked parties to file any additional Dismissal motions, after which the appeal may be concluded based on written briefing.

Ms. Lake reported on the LUPA appeal at Thurston County Superior Court. She reported that this is a West / Dierker appeal of permits issued by City of Olympia for the Weyerhaeuser log operation. On 15 August, the Court (Judge McPhee) denied Mr. West's Motion for TRO/Stay of project construction. Tomorrow, 8/26, the Court will hold a hearing on various Motions to dismiss the appeal prior to the full appeal hearing.

Ms. Lake reported on the City of Olympia East Bay Plat Modification No. 07-0154. She reported that Mr. West and Mr. Dierker filed an appeal with the City of Olympia of the City's approval of modification to the Port's East Bay Shoreline permit. The City contends the appeal was filed too late, and has moved to dismiss. The Examiner will rule on the Motions shortly.

In addition, Ms. Lake reported on the West Dierker appeal to SHB Appeal re: City of Olympia Shoreline Substantial Development permits for East Bay. Previously, the Port and City filed Motions to Dismiss the West Dierker appeal of East Bay Shoreline permits. The due date for Mr. West & Mr. Dierker to respond was last Friday 8/22. Neither the city, the Port or the SHB received a response.

COMMISSIONERS REPORTS

Commissioner Barner reported he met with Mr. Alhadeff regarding the Olympia Brewery site. Mr. Alhadeff works for Benaroya. He gave his perspective of the site and the research they have done on the site. He also noted that he stopped at the Sand In the City event. It was a very impressive event and he was fascinated with the finished product.

Commissioner Telford reported he attended two meetings led by the Dispute Resolution Center in a continuing effort to plan for some kind of "Community Conversation" associated with recent events of civil disobedience. He noted that there is still no consensus on a model that would be productive. He noted that there is a citizen ad-hoc group wanting to accomplish the same goal.

Commissioner Barner expressed an interest in attending the upcoming meeting of the Ad-hoc group.

EXECUTIVE DIRECTOR REPORT

Mr. Galligan reported that at the last meeting he showed some slides on the maintenance staff working on the warehouse roof. He noted that staff has reported they have stopped all but about 5% of the leaks. With the recent rain, they found a couple more and will go up to repair those. This project was done very economically. Commissioner Barner expressed his appreciation to the maintenance staff for their creative thinking and ability to save money.

Mr. Galligan reported that the contractor working on the airport runway project completed the intersection two days early and opened the runway on Saturday.

He reported that at the next Commission meeting there would be a follow up agenda item to the Resolution recently passed on abandoned aircraft. There will be a resolution for the sale of an abandoned airplane at the airport. The resolution will come to the commission for action at the September 8th meeting.

Mr. Galligan reported that the President of the Puget Sound Pilots Association spoke at the Olympia Rotary meeting earlier in the day. His comments confirmed that this is a competitive market and berth depth is a factor and the future of the Marine Terminal depends on the berth dredge to keep the Marine Terminal viable.

Mr. Galligan also reported that stringent budget reviews and cuts have transpired at the Port over the past few weeks. He indicated that we have arranged for a maintenance crewmember to be transferred to the Port of Tacoma for the remainder of the year in order to cut costs. He noted however, that this is not without risk relative to maintaining those employees.

PUBLIC COMMENT

Bill Pilkey congratulated Commissioner Telford on the award for the Key Award to promote transparency in government. He commented that he salutes the fight for open public government. He commented that his questions about the financial reports are ignored; he commented that the dredge is for Weyerhaeuser; and he commented on the tax burden of the Port.

Commissioner Barner responded that the dredge is to keep the Marine Terminal viable for all shippers. It is the duty of the Port to maintain the depth to keep the Marine Terminal open. He noted that we have not dredged in 30 years. He indicated that the dam removal could have a devastating impact on the Port and it is the Port's responsibility to support a dredge of Capital Lake to keep the basin from filling in. This would be a huge tax burden on the citizens if the dam were removed.

CONSENT CALENDAR

Bills and Voucher Approval

The bills and vouchers batches 27-31 were unanimously approved in the amount of \$1,999,061.03. General Fund Checks Issued: 046774-047091. Voided Checks Issued: 046777-046780.

LOTT Alliance Plaza Purchase and Sale Amendment #1

The Port of Olympia (Port) as Seller, and the LOTT ALLIANCE (LOTT) as Buyer, entered into a Purchase and Sale Agreement on March 10, 2008 for a public plaza on Lot 4 of the East Bay Short Plat.

Due to circumstances beyond the Port's control, additional time is needed to complete the short-plat prior to closing. An Amendment is proposed to extend certain dates in the Purchase and Sale Agreement. The Closing Date is amended to occur on October 31, 2009 or 30 days following recording of the short-plat, whichever is sooner, or as modified by mutual agreement.

The Commission unanimously ratified the LOTT Alliance Plaza Purchase and Sale Agreement Amendment #1.

LOTT Alliance Purchase and Sale Amendment #4

The Port of Olympia (Port) as Seller, and the LOTT ALLIANCE (LOTT) as Buyer, entered into a Purchase and Sale Agreement on September 11, 2007 for Lot 8 of the East Bay Short Plat. The agreement has been amended three times; on October 9, 2007 (agreement on amount of the environmental credit); and on January 4, 2008 (extension of closing dates); and on June 23, 2008 (modified property description, modified language regarding demolition and removal of existing improvements, adjustment to purchase price, modified language regarding infrastructure improvements, latecomer fees, public plaza, closing date extension and lease of property provisions).

Due to circumstances beyond the Port's control, additional time is needed to complete the short-plan prior to closing. A Fourth Amendment is proposed to extend certain dates in the Purchase and Sale Agreement. The Closing Date is amended to occur on October 31, 2009, or 30 days following recording of the short-plat, whichever is sooner or by mutual agreement.

The Commission unanimously ratified the LOTT Purchase and Sale Agreement #4

City of Olympia / HOCM Purchase and Sale Amendment #1

The Port of Olympia (Port) as Seller, and the City of Olympia as Buyer, entered into a Purchase and Sale Agreement on March 10, 2008 for the Hands on Children's Museum (HOCM) on Lot 5 of the East Bay Short Plat.

Due to circumstances beyond the Port's control, additional time is needed to complete the short-plan prior to closing. An Amendment is proposed to extend certain dates in the Purchase and Sale Agreement. The Closing Date is amended to occur on October 31, 2009, or 30 days following recording of the short-plat, whichever is sooner or by mutual agreement.

The Commission unanimously ratified the City of Olympia/HOCM Purchase and Sale Agreement Amendment #1.

ACTION CALENDAR

Warehouse A Gutter Capital Expense Approval

Mr. Jim Amador indicated that the existing gutters on Warehouse "A" are in dire need of replacement. They are becoming a safety hazard due to the level of deterioration. The 2008 budget contains an opportunity-driven earmark of \$62,000 for this project.

He noted that the existing gutters are galvanized steel and are completely rusted through in many places. The replacement gutters will be stainless steel for longevity as well as to improve the quality of the storm-water run-off. Alternatively, the Port staff is exploring the possibility of using PVC drain-pipe if it can be done economically.

Mr. Amador indicated that if the PVC solution proves workable, the estimate is \$36K, of which \$17K is sunk costs of using Port labor and equipment. There is potential to complete this project for as little as \$20K if the PVC solution works out. The Port intends to try a small section with PVC pipe before committing to this option. If it doesn't work out, the estimate is \$45 to \$60K for stainless steel gutters, depending on whether or not we can reuse the existing hangers.

He noted that staff is requesting the Commission authorize approval of a Capital Expense Authorization (CEA) in the amount of \$62,000 for replacement of gutters on Warehouse "A". Once the Commission approves the CEA, the Executive Director will be asked to approve a small-works roster project to perform the work.

Commissioner Barner moved approval of a Capital Expense Authorization (CEA) in the amount up to \$62,000 for replacement of gutters on Warehouse "A". Commissioner Telford seconded the motion. The motion was unanimously approved.

ADVISORY

Environmental Program Update

Mr. Jeff Lincoln introduced Ms. Joanne Snarski, the Port's environmental program manager. Ms. Snarski provided a briefing on the Model Toxics Control Act. She indicated that there are three agreement options with the Department of Ecology (DOE). There is the Voluntary Cleanup Program, the Consent Decrees, and the Agreed Orders.

Ms. Snarski reviewed the Berth Dredge Interim Action. She noted that the Port is developing a small-scale interim action plan under an Agreed Order with DOE. The proposed dredge is up to 22,300 cubic yards. All dredged materials will be disposed in an approved upland facility. She noted that the objectives are 1) early action success for the Puget Sound Initiative, 2) mass removal of dioxin/furan contaminants, 3) to verify low impact dredging techniques, 4) in the absence of cleanup levels, to ensure newly exposed layers are not above existing concentrations, and to 5) achieve safe berthing operational needs.

Ms. Snarski reported on the East Bay clean up project. She noted that the Port is developing an Agreed Order the DOE. The Agreed Order will require the Port to develop and submit comprehensive remedial investigation work plan for the entire East Bay site. The Port will also need to develop and submit revised draft Interim Action Plan (IAP) for the infrastructure installation. In addition the Port will need to submit and IAP completion report and submit a draft Remedial Investigation (RI) report.

She noted the current schedule is to develop an agreed order, provide for public comment from September 1 to September 30, 2008. We will develop and submit a revised draft IAP to DOE, public comment on the draft IAP and NPDES permit application will be November 14 to December 18, 2008. The public comment on Ecology's draft NPDES permit will be from February 10 to March 8, 2009. The infrastructure construction mobilization will be from April 22 to May 5, 2009. We will need to develop and submit a draft RI report to DOE in November 2009.

She indicated that we would further characterize the nature and extent of the contaminants of concern in the soil and groundwater as well as develop a conceptual site model for soil and ground water to help analyze the potential chemical migration.

Ms. Snarski reported what the proposed Interim Action Plan will require the Port to specify the contaminated areas of concern within the infrastructure corridor, remove contaminants greater than cleanup levels during infrastructure installation, ensure no new contaminant migration pathways are created, and to treat all construction water using best available technology prior to discharge to East Bay.

She noted that the Interim Action Plan will require a description of the interim action, a description of the existing site conditions and a summary of the available data, alternatives considered and why the proposed alternative was selected, compliance and monitoring plans, and a health and safety plan.

Ms. Snarski reported on the Cascade Pole site. She noted that Ecology approved Phase 2 upland clean up activities and the efforts are currently underway. DOE and the Port are still to enter into an Agreed Order or Consent Decree for the uplands. DOE completed a draft of the final upland clean up action plan. The Port will review and comment on the Plan prior to September 15, 2008. Public comment on the plan will be as early as November 1, 2008 for a period of 30 days.

PUBLIC COMMENTS ON ADVISORY ITEMS

No public comment was given.

ANNOUNCEMENTS

Vice President Telford announced that the Commission would hold a work session with staff on Friday, September 5, 2008 from 9:00 – 1:00 at the Olympia Golf and Country Club for strategic planning.

ADJOURNMENT

Vice President Telford adjourned the meeting of August 25, 2008 at 7:30 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer