



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

December 14, 2009

CALL TO ORDER

President McGregor called the meeting of December 14, 2009, to order at 5:30 p.m. at the LOTT Board Room in Olympia. Commissioners Barner and Telford were also in attendance.

Staff in attendance was: Executive Director Ed Galligan, Program Assistant Lorie Watson, Finance Director Kevin Ferguson, Airport Director Rudy Rudolph, Harbor Director Bruce Marshall, Engineering Director Rick Anderson, Marine Terminal Director Jim Amador, Sr. Manager Property Development Heber Kennedy, Communications Manager Kathleen White, Maintenance Foreman Mike Crawford, Maintenance Equipment Mechanic Dan Musser, Facilities Maintenance Paul Mickelson, Crane Electrician and Mechanic Mick Mattson, and Special Projects Coordinator Jennie Foglia-Jones. Mr. Bob Goodstein, Port's Legal Counsel, was also in attendance.

Public in attendance who filled in the sign-in sheet were as follows: Keith Bausch, Arthur West and Jim Langenfelder.

President McGregor announced that the Port of Olympia Commission held an executive session to discuss the collective bargaining agreement with the Local 47A at 4:30 p.m. at the Port Administrative Offices in accordance with RCW 42.30.140(4). The executive session ended at 5:07 p.m. and no decisions were made.

APPROVAL OF AGENDA

The agenda was approved as presented.

COMMISSIONER REPORTS

Commissioner Telford reported that he met with Mr. Gary Jorgensen of GA Jorgensen Company, along with Ed Galligan, to discuss a claim. He reminded Commissioners that GA Jorgensen provided snow removal services last winter and that there were some irregularities with the invoices and payments for that work and had written a report on the matter. Recently Jorgensen submitted another invoice. As Port Treasurer, Commissioner Telford responded requesting additional information to be able to evaluate the claim. The subject meeting was requested by Jorgensen. He did not provide any additional information and apparently thought he was there to negotiate a settlement, which was not the case. As yet, the additional information has not been provided.

Commissioner Telford then reported that he provided the other Commissioners with a performance evaluation of the Executive Director, and also a memo addressing his suggestions or considerations on salary actions for directors and director performance evaluations. It was clarified that copies of the Executive Director evaluation had not been given to the other Commissioners, so Mr. Galligan will provide them with copies.

Commissioner Barner reported that he attended a Transportation Policy Board meeting on December 9. He commented that there was a presentation by guests from the North American Sustainable Transportation Council who provided an overview of the Sustainable Transportation and Access Rating System (STARS) used to evaluate sustainability of transportation projects. He offered to share his material from the meeting, and suggested that information might be available on the TRPC's website. He added that the Board said farewell to members of other jurisdictions who are leaving their post.

President McGregor reported that he attended the EDC Thurston Economic forecast conference. He said that Dr. Riley Moore gave a presentation on Thurston's economic vitality index and he has copies available to share. The guest speaker was Dr. Bill Connelly, who is predicting this year that we've seen the bottom of the recession; however recovery won't happen as fast as it has before, but that this will be a long sustainable recovery. President McGregor also reported that he

attended the Lacey Chamber Forum, met with Ed Galligan on December 9, met with a potential Marine Terminal customer on December 11, and attended the Executive Session today.

At his request, Commissioner Barner will be briefed separately on the potential Marine Terminal customer.

EXECUTIVE DIRECTOR REPORT

Mr. Ed Galligan reported that Airport operation volumes are down about 8 percent for the year. He also reported that the Global Wisdom is expected to arrive on December 17 to load logs going to Japan. This brings the total vessels to 31 this year versus 4 last year.

LEGAL COUNSEL REPORT

Mr. Bob Goodstein provided the Commission with a legal update on matters occurring since the last Commission meeting on November 23.

Mr. Goodstein reported that on November 30, 2009, the PCHB Board denied Mr. West's Motion for Reconsideration of the Board's October 29, 2009 Order dismissing his appeal of the NPDES permit issue by Department of Ecology to the Port for the East Bay MTCA Clean-up work plan. In its ruling the Board agreed with both Ecology and the Port that the Reconsideration was untimely. This is the Board's final decision, subject to any appeal by Mr. West.

Mr. Goodstein also reported that the Court of Appeals heard oral argument on December 3 in the case in which Mr. West appealed the dismissal of his suit challenging the validity of engineering permits issued by the City of Olympia to the Port for Weyerhaeuser related infrastructure. At hearing, the City's attorney presented a consolidated appeal on behalf of the City, Port and Weyerhaeuser. Commissioner McGregor attended the hearing. The Port is seeking attorney fees repayment in the event the Court denies Mr. West's appeal. A ruling is expected in the next few months.

Mr. Goodstein reported on the matter of OPA v. Port of Olympia, indicating that on or about December 4, attorney Richard Smith on behalf of OPA filed a federal Clean Water Act suit. The suit is a follow up to the OPA's October Notice of Intent. The Port earlier had met with Attorney Smith and client representatives, in response to their 60 day notice, and parties agreed to a framework for future discussions. Attorney Smith is out of the country for a month but prior to his departure, he had notified Port counsel that he would be filing the suit, and stated he did not intend the fact of the filing to disrupt any ongoing settlement dialogue between the parties.

Mr. Goodstein added that environmental compliance remains a top priority for us and we look forward to more dialogue to take place with the Plaintiffs. He said we believe the suit will not detract from our commitment to an agreed resolution and we remain optimistic that will occur.

PUBLIC COMMENT

Arthur West presented Commissioner Telford with a humorous award for outstanding public service. He said he often criticizes those in public office, but Commissioner Telford has gone beyond the call of duty in his role. He commented on the Commissioner's past accomplishments, specifically referencing his legal actions that helped determine that certain Associations are quasi-public agencies and subject to the Public Disclosure Act. Mr. West commented about a current case he is currently pursuing which indicates it is clear there is still work to be done.

Commissioner Telford thanked Mr. West and responded to his reference about the legal actions, stating that in his naiveté at the time, he thought you could bring an item to the judge, he makes a decision, and that's the end. He said he went through the appeals process for two years before getting tired of the process. He said there were loose ends to the ruling and that's what Mr. West is running up against. He added that some battles are never over.

PUBLIC HEARING

President McGregor called the public hearing to order at 5:57 p.m.

2010 Comprehensive Scheme of Harbor Improvements

Mr. Kevin Ferguson reported that the Port of Olympia in December 2008 adopted a Comprehensive Scheme of Harbor Improvements. The document requires annual updates to reflect any capital project changes as well as any changes made to the included maps.

The 2010 Proposed Comprehensive Scheme of Harbor Improvements is in the same format as the 2009 document. In addition, it reflects the correct map from the Commission approved Development Guidelines and a new list of capital projects approved in the 2010 Operating Budget and Capital Investment Plan.

Commissioner Barner asked about changes to the document and Mr. Ferguson explained that the Commission has previously approved all these sections; the changes are administrative in nature only.

Commissioner Barner asked about specific uses of the West Bay tidelands retained by the Port and showing on the maps. Mr. Galligan responded that all the items in the Comprehensive Scheme are subject to Commission direction, and as we get into planning next year, those items will be open for Commission direction to staff.

Public Comment

No public comment was given.

President McGregor closed the Public Hearing at 6:07 p.m.

ACTION CALENDAR

2010 Comprehensive Scheme of Harbor Improvements

Mr. Kevin Ferguson presented a recommendation to approve the 2010 Proposed Comprehensive Scheme of Harbor Improvements as presented (as revised).

Commissioner Telford moved the Commission adopt the 2010 Comprehensive Scheme of Harbor Improvements as presented. Commissioner Barner seconded the motion. The motion passed unanimously.

At Commissioner Barner's suggestion, a press release will be issued and the new document will be put on the Port's website.

Commissioner Telford suggested the Comprehensive Scheme be thought out more than one year at a time and suggested perhaps a five year planning process outside the budget process. He thought by doing this, the document could be easily appended and be more nimble to change.

Local 47A Bargaining Agreement

Mr. Jim Amador reported that the proposed Collective Bargaining Agreement with ILWU 47A was presented as an advisory item at the November 9 Commission Meeting. The proposed agreement was brought forward as an action item at the November 23 Commission Meeting for approval. The agreement, as presented, was not approved by the Commission. The Commission however, amended the language in Section XXII and voted to approve the proposed agreement with its amended language.

Mr. Amador indicated that subsequent to the November 23 Commission Meeting, the Commission's proposed agreement was presented to ILWU Local 47A. On December 4 the union sent a letter to the Commission that Local 47A rejected the Commission's proposed agreement due to the amended language in Section XXII.

Mr. Amador presented the original agreement as agreed upon by the "Contract Task Force" with the only modification being the spelling out of the term "Comprehensive Plan" to "Comprehensive Scheme of Harbor Improvements".

Commissioner Barner commented that he feels we have an opportunity to take action and acknowledge the efforts of the folks from 47A to try to find some mutually agreeable solution. He said this document does that and provides a good window to affirm those efforts of both parties to provide a long term working relationship.

Commissioner Barner moved to accept the Collective Bargaining Agreement with ILWU Local 47A as attached to the cover memo. Commissioner Telford seconded the motion.

President McGregor indicated that he would like to see these contracts brought forward much earlier in the process. He said he would like to be proactive on both sides and get it brought

forward so we are close to agreement by the time the contract comes to completion. He added that this contract is similar to what was agreed to in 2006 with some slight modification.

The motion passed with a 2-0 vote. Commissioner Telford abstained.

ADVISORY CALENDAR

2009 Preliminary Port of Olympia Year in Review

The Port of Olympia Executive Director and Business Directors provided the Commission with a 2009 Year in Review, summarizing some of the accomplishments as well as the challenges at the Port during the year.

Mr. Galligan thanked staff for their dedication and said he hopes tonight's report demonstrates that not only are we proud of our accomplishments, but we also recognize that there are challenges we have faced as well, have addressed many, continue to work on some and are dedicated to continuous improvement in all of what we do.

Commissioner Barner asked about the marketing efforts for the vacant restaurant space at the Airport terminal mentioned in the Airport Department report. He also commented that it should be mentioned that the \$1.5 million in repairs done on GHI/JKL docks at Swantown was as a result of the Port Commission determining they were going to borrow money to do those repairs. He said he hopes that won't have to be the case the next time, and that there will be money set aside so we won't have to incur debt service for that kind of maintenance. He also asked about the agency that awarded the Clean Marina Award. Mr. Marshall responded that it was awarded by the accreditation agency, which is a consortium of several different agencies, and that marinas have to apply, complete a checklist, and be inspected twice to receive an award.

Commissioner Barner asked who cleans up the vacated Shell Oil lease site at the NewMarket Industrial Park that was mentioned in the Properties Department report, and Mr. Galligan clarified that Shell is responsible and they are in the process of doing that now. Commissioner Barner requested that advisories be scheduled to provide more information on the environmental accomplishments that Mr. Anderson presented in his report for the Engineering Department. Mr. Galligan confirmed that advisories will be scheduled at upcoming Commission meetings on those issues.

Commissioner Telford commented that a major frustration he's had for several years are legal costs and it's good to see from the Financial Department's report that they are tapering off and hopes it continues to decrease.

Commissioner Barner said that Mr. Ferguson indicated our financial reports were adjusted based on feedback he's received, and he asked what the feedback was. Mr. Galligan responded that one suggestion was the spreading of overhead and depreciation. Mr. Ferguson also responded indicating that on a number of occasions some individuals who come to our meetings have pulled him aside to suggest various things like wording of a sentence, how reports can better meet the transparency the Commission seeks, or how to make the information easier to read and understand. Commissioner Telford said he doesn't recall that citizens Bob Jacobs and Bill Pilkey, who have been most vocal about the need to change the reports, showed up for budget presentations this year, so they may be satisfied with the changes we have made to the document. He also mentioned the considerable expenditure of manpower resources on public records searches and agreed that putting information on CD as the Port is doing now saves time.

President McGregor said the emails that the Port sends out prior to a vessel arrival, as mentioned in the Communications report, have been a huge success based on the comments he receives out in the community. He also noted that those members of the public who are not on the list but who wish to receive the emails, can put their name on the list by emailing news@portolympia.com. He commented on the great garden the Lions Club created as part of the Port's Adopt-a-Garden program and asked who people contact if they want to get involved in that program. Mr. Galligan responded that Port staff member Jack Merrigan is the individual who is coordinating the Adopt-a-Garden program and he can be reached by calling 528-8000. Information is also available on the Port's website.

President McGregor stated that he appreciates the hard work that staff is doing day to day. He added that tonight's report shows a very active Port having an impact on economic development in this county. The report gives people an idea of what the Port is working on and the hard work the 43 staff members are doing.

CONSENT CALENDAR

Minutes. The minutes from the November 9, 2009 and November 23, 2009 Commission meetings were unanimously approved.

Bills and Voucher Approval. The bills and vouchers in the amount of \$1,163,574.90 were unanimously approved. General Fund Checks Issued: 050811-051079. Voided checks: 050543, 050733, 050770, 050861, 040229, 041035, 041123, 041739, 042937, 045074, 045312, 046119, 047251, 047687, 047916, and 050131.

Assignment of Lease: Pearson & Pearson, Pearson Leasing

This is an assignment of the lease with Earl Pearson dba Pearson Air to Pearson & Pearson due to the organization of the business. The original lease agreement was entered into on April 25, 2005 for property at the Olympia Regional Airport consisting of approximately 46,440 square feet or 1.066 acres and currently houses a General Aviation hangar.

The lease is assigned as of October 15, 2009 with all rights and obligations associated with the lease. The lease remains in full force and effect and will not be modified or terminated by Landlord based on this assignment. The assignment shall not release tenant from any obligations or responsibilities to be performed by the Tenant under the Lease.

The Commission unanimously ratified the Assignment of Lease from Earl Pearson dba Pearson Air to Pearson & Pearson.

Commissioner Telford noted that the lease assignment didn't have a date filled in, and there were no dates on the signatures. He suggested we make sure those items are completed on a signed document.

ANNOUNCEMENTS

President McGregor announced that the December 28 Commission Meeting is cancelled. He wished everyone a happy holiday and safe travels. He also announced that the next Commission meeting is January 11, 2010 at the LOTT board room.

He also thanked Commissioner Telford for his valuable service over the 8 year period that he has served on the Commission. He said that Commissioner Telford has brought a healthy perspective to the Commission and appreciates his hard work for the citizens of the County.

Commissioner Barner also thanked Commissioner Telford for his 8 years of service, saying he has done a great deal in the way of research and analyzing on behalf of the Commission which has been beneficial to them. Commissioner Barner also recognized the people from Local 47A who were present and recognized what they've accomplished on behalf of the Port. He said we have one of the most effective workforces on the coast and we have benefited greatly from our longshore community.

Commissioner Telford gave the other Commissioners a final report that he wrote and which he described as kernels of thoughts and opinions to do with as they wish. He reviewed his report aloud. He also thanked the other Commissioners and wished them the very best of luck for the future.

ADJOURNMENT

President McGregor passed the gavel to Commissioner Telford to adjourn his final Commission meeting. Commissioner Telford adjourned the meeting of December 14, 2009 at 7:30 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer