



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

January 26, 2009

CALL TO ORDER

President McGregor called the meeting of January 26, 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 were: Executive Director Ed Galligan, Administrative Manager Jeri Sevier, Airport Director Rudy Rudolph, Harbor Director Bruce Marshall, Marine Terminal Director Jim Amador, Marketing and Business Development Director Kari Qvigstad, Property Manager Clarita Mattox, and Front Desk Coordinator Jessie Bensley. Bob Goodstein, Port's Legal Counsel, was also in attendance.

Public in attendance were as follows: Keith Bausch, Bill Pilkey, Arthur West, Subir Mukerjee, Kevin Ferguson, Richard Wolf, Jeff Davis, Becky Holt, Karla Fowler, Patty Belmonte, Charlie Haney, and Sharron Coontz.

APPROVAL OF AGENDA

The agenda was approved as revised. Commissioner Barner suggested that under action item #3 we add the discussion of a joint meeting with the county commissioners. President McGregor suggested that we move the advisory calendar to follow F on the agenda and combine G & J for public comment. He also suggested that we change the order of the advisory calendar to be 1. Farmer's Market License Agreement Advisory, 2. East Bay RFQ/RFP Advisory, and 3. Marine Terminal Lighting Advisory.

President McGregor announced the Commission would hold an executive session, in accordance with RCW 42.30.110(g), following the meeting to discuss the evaluation of the executive director, expected to last 30 minutes and they may or may not have a decision following.

COMMISSIONERS REPORTS

Commissioner Barner reported that he attended the CLAMP meeting on the 8th of January. He would subsequently make materials available to McGregor since he will be taking over as the Commissioner representative. He noted that he attended the Commissioner County forum on the 14th held at St. Martins. He also attended a briefing today with staff and Heartland Consultants regarding the East Bay project.

Commissioner Telford noted he attended meetings regarding security issues, and attended the City of Olympia's 150th Birthday celebration. He also indicated that he would like to discuss the Commissioner Representative Assignments. Commissioner Telford noted that he also had a meeting with Heartland Consultants regarding the East Bay project.

President McGregor reported he attended the Olympia Lions Club meeting where he made a presentation, and he also attended the 150th Birthday Celebration for the City of Olympia. He noted that he also attended a meeting with Heartland Consultants regarding the East Bay project. He also attended Policies to Projects at Evergreen College.

EXECUTIVE DIRECTOR REPORT

Mr. Galligan reported that there is currently a ship at berth at the Marine Terminal, the Global Dream. He noted that 4,500 metric tons of garnet is being discharged, this will take two shifts, using 30 workers a shift. The vessel is expected to sail tonight or tomorrow.

Mr. Rudy Rudolph reported that the FAA has indicated they have funding for the Airport Master Layout Plan Update in the amount of \$68,000 into the program by Feb. 15th. He noted that staff will be coming at the next commission meeting for approval of the grant offer.

Mr. Galligan announced the hiring of Communications Manager Kathleen White, he noted that she started last week and will be fully on board next week.

Mr. Galligan announced the hiring of Finance Director Kevin Ferguson, he will be starting February 2nd. Mr. Galligan reported that he has a strong finance background and was most recently the Chief Financial Officer for the Community Trade and Economic Development Department. Mr. Galligan introduced Mr. Ferguson.

LEGAL COUNSEL REPORT

Mr. Bob Goodstein reported on the appeal of the Port's Line of Site project at the Olympia Regional Airport. He noted that the Olympia Superior Court dismissed the appeal, finding among other things that Mr. West & Dierker lacked standing to bring the appeal. Mr. West appealed to the Court of Appeals. The appellate briefing in this matter is concluded. The Court of Appeals will consider this matter on February 10th without oral argument. Mr. West recently moved the Court to allow oral argument, but the Court denied his request.

Mr. Goodstein reported that regarding the appeal of the City of Olympia's land use approval granted to Weyerhaeuser, an appeal by Janice Witt, Walter Jorgenson and Steve Mason, on January 9th, the Superior Court dismissed the Witt/Jorgenson/Mason appeal from the City of Olympia Hearing Examiner Decision which upheld the Weyerhaeuser approval. The Court agreed that the appellant (Witt/Jorgenson/Mason) lacked standing to bring the action. A hearing is set for January 30th to present the written Order of dismissal.

Mr. Goodstein noted that on the Commissioner Recall Action, the Supreme Court Order recently rejected West's reply brief in this appeal of the dismissal of the Commissioner Recall action. Mr. West met his deadline date of January 20, 2009 to file a corrected brief. A date for oral arguments will be scheduled soon.

Regarding the U.S. District Court of Western District of Washington at Seattle, No. 08-687. West v. numerous defendants, Mr. Goodstein reported the Plaintiff Arthur West filed a "Motion to Vacate and Transfer" in the above-captioned matter. The Honorable Ricardo S. Martinez, United States District Judge, declined to recuse himself voluntarily and the matter was referred to the Chief Judge. By Order dated today 1/26/09, the Chief Judge of the Federal court (Judge Robert Lasnik) denied the Motion. The Chief Judge determined: Plaintiff filed this motion to recuse only after two dispositive orders were entered in this matter. The risk that plaintiff is using allegations of bias to overturn a decision of the court is therefore considerable: in effect, plaintiff is seeking to remove Judge Martinez from this case because of his performance while presiding over this matter...bias is almost never established simply because the judge issued an adverse ruling".

"Plaintiff's bald assertion that the absence of a ruling on the request to amend was the result of Judge Martinez' dislike of plaintiff or his disability is nothing but speculation."

"Having reviewed plaintiff's motion and the remainder of the record, the Court finds that Judge Martinez' impartiality cannot reasonably be questioned. There being no evidence of bias or prejudice, plaintiff's motion for recusal is DENIED"

ADVISORY CALENDAR

Farmers Market License Agreement Advisory

Ms. Qvigstad reported that the Port and the Farmers Market entered into a License Agreement October 11, 2007 for Vendor Parking on the parcel commonly known as the Admin Building Site, located north of Market Street, between Franklin Street and Marine Drive. The License provides the Port flexibility to relocate vendor parking on 4 different sites (sites A, B, C, D depicted in the attached Exhibit) within the Port's Market District in the event the designated sites are developed. The License Agreement commenced April 2007 and ends December 2010.

She noted that the Port and the Farmers Market also signed a Memorandum of Understanding (MOU) on August 25, 2008, summarizing each other's intent to collaborate with one another in seeking long term parking solutions given the anticipated growth at the Market District and demand for parking. In that spirit, the Port agreed to extend the current License Agreement through 2012 and to further extend the current term through 2015 on a year-to-year basis provided the space is not committed for development.

Ms. Qvigstad indicated that the Market is requesting to memorialize extension of the current License Agreement through 2012 as stated in the MOU. Consistent with Commission direction,

staff will execute an extension of the current License Agreement under the same terms and conditions through December 2012.

Ms. Qvigstad indicated that staff will be requesting Commission direction and approval for the Executive Director to sign the agreement at the next Commission meeting.

Ms. Becky Holt spoke in support of the vendor parking area. She noted that the staff has worked with the Market staff and they appreciate the Port for recognizing the need for the vendor parking. She noted that although it is temporary, it is a significant and very welcome first step and the Market is committed and looks forward to a continued constructive relationship with Port staff to ultimately find a permanent solution for the Market District.

East Bay RFQ/RFP Advisory

Ms. Qvigstad provided the Commission with an advisory on the East Bay RFQ/RFP process. She reported that the Port of Olympia has been reviewing the qualifications of those interested in developing six, mixed-use parcels being offered as pad-ready building sites in the Port of Olympia's East Bay district. Respondents, either developers or end users, were able to note their interest in one, some, or all six parcels that range in size from approximately 21,000 to 116,000 square feet.

She noted that the East Bay district's economic development platform is expected to encourage significant private investment, complimenting the public projects already committed. The parcels, adjacent to State Avenue and totaling 6.83 acres of downtown Olympia waterfront property, are in close proximity to the planned public plaza, expanded children's museum, and LOTT educational facilities. This trio of dynamic projects is already predicted to create a vibrant, pedestrian-friendly center of activity, and connect surrounding communities, the waterfront and Olympia's downtown.

Ms. Qvigstad reviewed the approved site plan and reviewed the history of the project and the marketing plan for the future. She reviewed the timeline of the RFQ/RFP process.

Ms. Qvigstad indicated that qualified developers would be invited to make a formal proposal in the coming months. Those proposals are anticipated to be presented to the public for review and comment sometime this spring. Planning and citizen input for the East Bay project has been under development for more than seven years.

The developer shortlist includes: Intracorp, Long, MJR Development, Tarragon, and Vine Street. The timeline for the remainder of the process with the RFP to qualified developers being issued March 2, 2009, with responses due April 24, 2009. She indicated that we plan to have a public workshop in May and the selected developers will be announced in June and hope to commence exclusive negotiations with selected developer in July 2009.

Ms. Qvigstad announced that several partners are in attendance and will give updates on the LOTT facility and the Hands on Children's Museum facility.

Ms. Patty Belmonte representing the Hands on Children's Museum indicated that the New Hands on Children's Museum project is moving forward and they are very excited. She noted that the fundraising goal was exceeded in 2008, finishing the year at \$12 million dollars. She noted that they need to raise an additional \$4 million by end of 2009. She reported that they will be taking the working waterfront exhibit to the new facility and will be expanding that exhibit as well.

Ms. Karla Fowler representing LOTT, reported that the LOTT Administrative and Education facility is scheduled to break ground February 2, 2009. She noted that the new office building will bring all employees to one facility, it would double the laboratory space, and the education center will feature interactive water exhibit. She invited the Commissioners to the ground-breaking event on February 2nd at 12:15.

President McGregor indicated that some of the lumber was recycled from Warehouse A and will be used in the new LOTT facility.

Mr. Subir Murkejee representing the City of Olympia provided a schematic of the proposed Olympia City Hall. He noted that the timeline to start foundation work is May or June with a move in date end of 2010. Commissioner Barner asked about the parking for the building. Mr. Murkejee reported that the Police vehicles will park on site and there will be some customer parking along Chestnut St. and Cherry Street. Employee parking will be in leased lots at the employees' expense.

Commissioner Telford asked about the public plaza, he indicated that when we were looking at the Admin. building site, we were working with the Friends of Artisian's for an artesian well on our site. He wondered if anyone has approached them for that site. Ms. Fowler indicated that it could be looked at, but at this time no discussions have taken place.

Commissioner Barner indicated that the Port's Advisory Committee (PAC) could play an active role in the public workshop scheduled for May. Commissioner Telford indicated that they might not have enough information to lead this. We should invite them to come to the open house and advise us on what they think as a group or as individuals.

President McGregor indicated that maybe we could give them an overview of the proposals at one of their meetings and ask for their input. Commissioner Telford indicated that the PAC has not felt comfortable being in the lead role with the public. Commissioner Barner indicated we should involve them and affirm their existence. Commissioner Telford indicated we are planning to assign them a project to review New Market planning. We need to be cautious about what we ask them to do for us as most work full time jobs as well.

Marine Terminal Lighting Advisory

Mr. Jim Amador provided the Commission with an advisory on the Warehouse A lighting on the Marine Terminal. He noted that the warehouse is used for various cargoes and currently is a major filtering & distribution operation warehouse for garnet. The warehouse is 23 years old with deteriorating lighting and is need of replacement. Newer technology is now available that is energy efficient and provides better lighting.

Mr. Amador addressed the current lighting, the new lighting options, and next steps. He noted that the current lighting was put in 23 years ago and the lighting has a yellowish tint, and the newer lighting has the white tint. The ballasts have deteriorated or worn out, the replacement is costly and uses more energy. In addition, the current lighting is not adequate.

He indicated that the new lighting is more energy efficient with the white lights. The new technology has a narrow lamp, which provides an increased light output. The new lighting would also standardize the inventory throughout the Port. We have two options: A) Lights that are 4L with manual switches or B) Lights that are 6L with motion sensor switches.

Mr. Amador reviewed the costs of each option. Option A has a 2.1 year payback with a cost of \$21,117 with a \$10,558 rebate and Option B has a 3.1 year payback with a cost of \$32,732 with a \$16,366 rebate. There will be a annual savings of \$5,343 for option B and a annual savings of \$5,063 annual savings for option A.

Mr. Amador indicated that the staff recommendation is for Option B, over the long run the energy savings per year are greater.

President McGregor indicated that he visited the warehouse and noticed that the lighting is not adequate currently. He indicated that he looked at the lighting at St. Martins where the proposed lighting is being currently used. They increased their lighting so much that they do not need to have as many lights on. He noted that he felt that the motion sensors are the best way to go so that the lights will automatically go off when not being used. Not all lights will need to be on at all times because the lighting will be in zones.

Commissioner Telford indicated that he is concerned about the real costs involved because you have to replace the bulbs every 3 years or so. He noted that this is the right thing to do to save energy, but would like to know the real costs.

PUBLIC COMMENT

No public Comment was given.

CONSENT CALENDAR

Minutes. The minutes from the December 22, 2008 Work Session was unanimously approved.

Bills and Voucher Approval. The bills and vouchers batches 49-53 were unanimously approved in the amount of \$1,860,775.97. General Fund Checks Issued: 048072 - 048311. Voided Checks: 047931, 048132, 048053, 048239, 048277, 048300, 048308 – 048309, and 048278.

Puget Sound Energy Easement

Ms. Kari Qvigstad indicated that in conjunction with the redevelopment efforts in the East Bay district, the LOTT Alliance will be moving a power pole that is currently in front of their planned Administrative and Education building. Movement of this pole will require that a nearby power pole will need to have anchor guys. The newly anchored pole is adjacent to what will become lot 9 of the East Bay Redevelopment Short Plat. Puget Sound Energy will need a 10'x 40' easement along the back portion of lot 9 to adequately anchor and service this power pole. These efforts along with undergrounding cable, telecom, and local electric services will improve the aesthetics of the area.

The Commission unanimously approved the Puget Sound Energy Anchor Easement and delegated authority to the Executive Director to sign the Easement Agreement upon approval.

Jorgenson Air Service Lease Amendment

Mr. Rudy Rudolph reported that the Port entered into a lease with Jorgensen Air Service on December 1, 2008. The lease requires a surety in the amount of two times the annual rent. The attached Lease Amendment #1 changes the surety requirement to one times the annual rent (\$28,706.16). In exchange for reduction in the surety requirement, tenant is agreeing to construct leasehold improvements to the existing aircraft ramp area equal to or greater than the \$28,706.16 amount within one (1) year of this amendment.

The Commission unanimously ratified the Lease Amendment #1 with Jorgensen Air Service LLC.

ACTION CALENDAR

Resolution 2009-01 – Surplus Property

Mr. Galligan indicated that Resolution 2009-01 authorizes the Executive Director and the Director of Finance to dispose of surplus Port District property of less than \$10,000 in value, in accordance with RCW 53.08.090. This resolution was brought before the Commission as an advisory item at the January 12, 2009 meeting. He noted an error in 2nd paragraph should be “either.”

Commissioner Telford moved approval subject to the revision. Commissioner Barner seconded the motion.

The Commission unanimously approved Resolution 2009-01 authorizing the Director of Finance to dispose of surplus Port District property of less than \$10,000 in value.

Resolution 2009-02 – Signature Authority

Mr. Galligan indicated that Resolution 2009-02 authorizes the signatures for disbursement of Port funds from various brokerage and banking accounts for the Port of Olympia. He noted that since we have just hired Kevin Ferguson for the Finance Director, we add him to the resolution. The process of revising the signature cards with the bank takes about 2 weeks, and we will have Kevin's background check completed within a week. Then once the position of the Controller has been filled, the staff will come back with a revised resolution. This resolution was brought before the Commission as advisory at the January 12, 2009 meeting.

Commissioner Barner moved approval of Resolution 2009-02 as amended to add Kevin Ferguson as Finance Director. Commissioner Telford seconded the motion.

The Commission unanimously approved Resolution 2009-02 authorizing signature authority.

Commission Meeting Location Proposal

President McGregor indicated that he would like to take our meetings to other areas of the county during 2009.

Commissioner Telford suggested we combine Tenino Rochester and Ground Mound to be May 11th. He also indicated that we need to meet with the Olympia City Council soon, possibly a work session. Mr. Galligan indicated that we need to meet before the end of February and he would coordinate that meeting.

Commissioner Barner indicated that he thinks we should meet with the County Commissioners once a new commissioner has been appointed, possibly September 28, 2009.

The Commissioners unanimously approved the meeting locations as revised and discussed.

Commissioner Telford indicated that the EDC has their meetings on the fourth Monday at 3:30. So he thought that Commissioner McGregor could keep the EDC and Commissioner Telford would like to be more involved with WPPA, which was assigned to Commissioner Barner. Commissioner Barner agreed to give the WPPA to Commissioner Telford to represent the Commission on the board of directors, and Commissioner Barner will serve as the alternate.

The following was moved and unanimously approved.

Commissioner McGregor: Yelm Chamber
 Lacey Chamber
 Mayor's Forum
 CLAMP (Alternate: Barner)
 Visitors Convention Bureau
 Economic Development Council (Alternate: Barner)

Commissioner Telford: Tumwater Chamber
 Grand Mound Chamber
 Tumwater Downtown Association
 Olympia Thurston County Chamber
 Washington Public Ports Association (Alternate: Barner)
 **Internal Rep – Security Plan

Commissioner Barner: Olympia Downtown Association
 Transportation Policy Board (Alternate: Telford)
 Tenino Chamber
 Solid Waste Advisory Committee

Bonniewood Drive Re-Location

Mr. Rudy Rudolph indicated that a proposed short plat development east of Old Highway 99 across from the Olympia Airport requires drainage improvements and road relocation across Port property at the Airport. The developer has proposed to “underground” the Airport’s open storm water drainage ditch that crosses two proposed short plats east of the airport. This proposal was a Commission advisory on October 27, 2008.

Mr. Rudolph indicated that a realignment of Bonniewood Drive east of the airport is also required as a condition of development. This would result in an accompanying right-of-way dedication to the City of Tumwater totaling 11,521 square feet or approximately .264 acres (See Attachments). This is not a fee simple dedication and the Port retains ownership of the land. FAA has approved the proposed transaction. The developer is proposing to make the drainage improvements at no cost to the Port. All future maintenance and repair expenses associated with the drainage improvements would be borne by the Lot Owners Association.

Benefits to the airport in completing this project are as follows:

- The Port would be relieved of the requirement for ongoing maintenance expenses to the current drainage ditch.
- A new Ditch Maintenance Memorandum of Understanding with the lot owners will provide for periodic inspection and cleaning with the cost borne by the Lot Owners Association.
- The Bonniewood Road realignment will increase safety and visibility through the Old Highway 99 intersection and result in easier access to Port property benefiting a current port tenant who operates 18-wheeled vehicles.
- Light industrial development of the short plats will replace two residential dwellings.

He noted that FAA concurrence on the right-of-way dedication to the City of Tumwater totaling 11,521 square feet is required and anticipated.

Commissioner Telford moved to authorize the Executive Director to execute the D&W Stormwater Improvements/Ditch Maintenance Agreement and City of Tumwater Right of Way Dedication for the Bonniewood Drive improvements. Commissioner Barner seconded the motion.

The Commission unanimously authorized the Executive Director to execute the D&W Stormwater Improvements/Ditch Maintenance Agreement and City of Tumwater Right of Way Dedication for the Bonniewood Drive improvements.

EXECUTIVE SESSION

The Commission recessed to executive session at 7:25 p.m. in accordance with RCW 42.30.110(g), to discuss the evaluation of the executive director. President McGregor noted the executive session is expected to last 30 minutes and a there may or may not be a decision made when the Commission reconvened the public meeting. The Commission adjourned the executive session at 7:41 p.m. and reconvened the Commission meeting in public session.

Executive Director Salary

The Commission set the 2009 salary of the executive director to be adjusted by 2.4%, effective 1/1/09. The vote was 2 in favor, 0 in opposition. Commissioner Barner abstained from voting.

ADJOURNMENT

President McGregor adjourned the meeting of January 26, 2009 at 7:59 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer