

**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**

**June 23, 2008**

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**CALL TO ORDER**

President McGregor called the meeting of June 23, 2008, to order at 5:30 p.m. at the Comfort Inn, Evergreen Room in Tumwater. Commissioners Barner and Telford were also in attendance.

Staff in attendance were: Executive Director Ed Galligan, Administrative Manager Jeri Sevier, Engineering Director Jeff Lincoln, Acting Finance Director Kim Peterson, Marketing Director Kari Qvigstad, Marine Terminal Director Jim Amador, Program Assistant Lorie Watson, Project Manager John Thompson, Communications Manager Patti Grant, Linda Shilley, and Program Assistant Conley Booth. Bob Goodstein and Carolyn Lake, Port's Legal Counsel, were also in attendance.

Public in attendance were as follows: Representing *The Olympian* was Jim Syzmanski. Others in attendance who filled in the sign-in sheet included: Tom Fell, James Blakely, Pete Henderson, Meryl Bernstein, Richard Wolf, Debra Jaqua, Denise Garrett-Berry, Harold Clark, Sharron Coontz, Bill Pilkey, David and Beverly Nulf, Ryan Clintworth, Stanley Stahl, and Patrisa Di Francesca.

**APPROVAL OF AGENDA**

The agenda was approved as presented. Commissioner Barner indicated that even though the Port of Tacoma has made announcement to let the inter-local agreement expire, he would like to have the opportunity to make some comments. The agenda will stand as printed.

**COMMISSIONERS REPORTS**

Commissioner Telford noted that he attended the Mayor's Forum on behalf of President McGregor. He indicated that Tumwater has sent a letter to *The Olympian* and Thurston County will consider it asking them to publish the meeting dates and televised meeting times on TCTV. He indicated that he thought the Port should also send a letter encouraging *The Olympian* to continue publishing the televised dates and times. He indicated that he would draft a letter. Commissioner Telford noted that he attended the Air Show; it was a great event. He reported that last week he attended more planning meetings regarding having some kind of "Community Dialog" associated with recent civil unrest. This effort was initiated by the Olympia City Manager and by the President Office of the Evergreen State College. He noted that the meetings are not going to well, the representatives for the protestors change, and overall they seem to not want to participate for several different reasons. Commissioner Telford will keep the other commissioners apprised if anything develops.

**EXECUTIVE DIRECTOR REPORT**

Mr. Galligan reported that at the last meeting he reported that we would have the financial results for first quarter posted on the website and that has not been done yet, but hope to have them by the end of the week. He announced that anyone that wants a copy can call the Port and we can email him or her a copy.

Mr. Galligan also reported that Mr. Stahl and Mr. Parker requested the official statement for the bond sales. He noted that we are distributing copies to both Mr. Stahl and Mr. Parker. Anyone else that is interested can call the Port for a copy.

Mr. Galligan thanked the Commissioners for the advance questions regarding the agenda items tonight. He noted that it gives staff heads up and we are able to be more prepared and respond in advance to Commissioner concerns.

Mr. Galligan announced that the City of Olympia, the City of Tumwater, Thurston County, the Port of Olympia, and LOTT Alliance have joined together in an exciting partnership to improve the health and vitality of Budd Inlet. He indicated there would be a Community forum on Thursday, June 26<sup>th</sup> at Reeves Middle School from 6-9 pm to hear the public ideas.

Commissioner Barner asked questions about the air service grant. Mr. Galligan indicated that we would provide an update on the status of the grant to the commission at the next meeting.

## **LEGAL COUNSEL REPORT**

Ms. Carolyn Lake provided the Commissioners with a legal update. She indicated that in the Federal Suit contesting dredge activity, Mr. West challenged Department of Natural Resources (DNR) permits which allows the Port of Olympia to dispose of dredge materials at the Anderson / Ketron Open Water Disposal site, and permits issued by the City to the Port for alterations to the cargo yard which will serve the Weyerhaeuser log operation. She noted that on June 13, 2008, Federal Judge Ron Leighton granted the Motion to Dismiss brought by the Port of Olympia, the City of Olympia, Doug Sutherland and DNR, and Federal defendants (US Secretary of Defense & US Army Corp of Engineers); the ruling ends the lawsuit.

Ms. Lake indicated that in dismissing the case, the Federal Judge ruled, "Mr. West's attempt here to transform a battle over construction permits into a constitutional issue is merit-less". Both the City of Olympia and the Port requested fees and costs, on the basis that the 2007 suit was frivolous, and merely recycled the same allegations from a prior West federal lawsuit that had also been dismissed on Summary Judgment. The Court denied the fee request, citing to the federal court policy of granting leeway to pro se (unrepresented) litigants, but also stated in the ruling that, "Mr. West, however, is cautioned that the leeway extended here will not extend to further filings."

Ms. Lake also reported on the Weyerhaeuser permit appeal. Mr. West & Mr. Dierker filed an appeal to the court of appeals of the Thurston County Superior Court decision to dismiss their lawsuit contesting permits granted to Weyerhaeuser Company by the City of Olympia. The Court dismissed the Dierker West case based on a pretrial motion brought by Weyerhaeuser Company and supported by the Port.

Ms. Lake indicated that last month; Mr. West & Mr. Dierker filed a land use petition act appeal challenging, among other things, the site plan approval granted by the city of Olympia to Weyerhaeuser Company. They recently filed an affidavit of prejudice against the assigned Judge Tabor. Mr. West & Mr. Dierker have filed suits against a number of other Thurston County Superior Court judges, those judges recused themselves from this case. As a result, the case has been assigned to Judge Bruce Heller of King County. Various motions are now being scheduled for July.

Ms. Lake reported on the West Dierker Appeal to 9th Circuit Federal Court of Appeals. She noted that Mr. West & Mr. Dierker have an on-going appeal to the 9th Circuit court of appeals challenging the FAA grant to the Port of Olympia Airport for its runway rehabilitation and line of site project. Recently, as part of this appeal, they filed a request to "stay" the construction activity at the airport. The FAA and the Port are responding. Earlier in this case, the 9th Circuit denied a similar request by West & Dierker to halt airport construction.

## **PUBLIC COMMENT**

**Bill Pilkey** commented on lack of trust in government. He indicated that he has asked for financial and other information and has not received it.

Commissioner Barner asked permission from the Commission to meet individually with Mr. Pilkey to better understand his concerns.

Commissioner Telford indicated that he would like to have an update on the financials at a future meeting. Mr. Galligan indicated that staff could present the first half of the year and projections for the rest of the year possibly at the July 28<sup>th</sup> meeting.

## **CONSENT CALENDAR**

### **Minutes Approval**

The minutes from the June 9, 2008 were unanimously approved as amended with a 2-0 vote; Commissioner Telford abstained from voting, as he was not in attendance at the June 9<sup>th</sup> meeting. Commissioner Barner made some minor changes to the minutes.

### **Bills and Voucher Approval**

The bills and vouchers batches 19-22 were unanimously approved in the amount of \$597,619.61. General Fund Checks Issued: 046390 - 046636. Voided Checks Issued: 046393 and 046636.

### **LOTT Purchase and Sale Agreement Third Amendment**

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 twice; on October 9, 2007 (agreement on amount of the environmental credit); and on January 4, 2008 (extension of closing dates). Due to circumstances beyond the Port's control, additional time is needed to complete certain items required to be completed prior to closing. A Third Amendment is proposed to extend certain dates in the Purchase and Sale Agreement and to make certain other changes. Highlights of the Third Amendment include: Provisions regarding demolition and removal of existing improvements on the Property are modified to allow the Port to retain the existing building foundation, slab, and rail improvements on the Property until the completion of the East Bay Short Plat infrastructure improvements or June 1, 2009, whichever occurs first, so that the Port can use the existing improvements during construction of infrastructure improvements and related environmental remediation. In addition, LOTT may request the Port to leave the foundation and slab on the Property for temporary use by LOTT to support its construction, and LOTT would pay the incremental increase in costs to the Port from the delayed removal by the Port. The Port intends to dispose of, use, reuse, or sell the referenced improvements.

The Purchase Price is modified to conform to the area of the Property established by the East Bay Short Plat. The Short Plat resulted in a surveyed area of the Property of 75,938 square feet, as compared to the previously estimated area of the Property of 82,800 square feet. Pursuant to Section 2.1 of the Purchase and Sale Agreement, the Purchase Price is to be based on the actual area of the Property. The area adjustment results in a Purchase Price adjustment of \$85,775.00, reducing the Purchase Price to \$949,225.00, subject to recording of the final short plat.

Provisions for infrastructure improvements are modified to provide that the Port will construct all roads and all infrastructure necessary to accomplish the East Bay Short Plat as approved by the City, including but not limited to both halves of Jefferson Street and the northern half of the Thurston Avenue extension adjoining the Property to be purchased by LOTT. LOTT will pay the Port 16% of the total cost of the design and construction of such infrastructure (the total cost of which is presently estimated to be \$5 million - \$7 million), with payment to be made by LOTT on the later of (i) Closing, or (ii) thirty (30) days after completion of the infrastructure improvements.

Since the Port will be responsible for design and construction of all East Bay infrastructure improvements, there is no longer a need for LOTT to collect latecomer fees, and the Agreement is modified to delete such provisions and to provide that LOTT releases and transfers its rights to latecomer fees to the Port.

Provisions related to the public plaza (Lot 4 of the East Bay Short Plat) are modified to make the Agreement consistent with the Purchase and Sale Agreement between the Port and LOTT and the Inter-local Agreement between the City, LOTT and the Port related to the public plaza property. Specifically, the Port will facilitate the release of funds deposited by LOTT into escrow for development of the public plaza under this Agreement, with such funds to be used by LOTT for development of the public plaza pursuant to the agreements relating to that property.

The Closing Date is amended to occur on October 31, 2008 or sooner by mutual agreement of the parties. As LOTT may require use of a portion of the Property prior to Closing to support construction on its adjoining property, language is added to provide for a lease by the Port to LOTT at a fair rental amount based on then-current Port of Olympia Commission policy generally applied to similar property.

Commissioner Barner asked staff questions about the agreement. Ms. Qvigstad and Mr. Lincoln addressed his concerns.

The Commission unanimously ratified the Purchase and Sale Agreement Amendment #3 with LOTT.

#### **Mad Anthony's Lease Amendment**

Anthony's Restaurant at the Market District was due for a five (5) year rent revision on August 2007. Based on the property values at the time of revision, the Minimum Ground Rent and corresponding Surety did not change from the prior five years. This lease amendment addresses the rent and surety for the period, August 1, 2007 through July 31, 2012.

Under the lease agreement, the Minimum Ground Rent is calculated based on the value of the Leased Premises. The Port defines the Leased Premises as the restaurant pad site plus the parking area needed to support the restaurant's operations. The Standstill Agreement referred to in the

Amendment is an agreement between Anthony's and the Port that preserves Anthony's right to contest the Port's calculation of Minimum Ground Rent for the Leased Premises.

The Commission unanimously ratified the Lease Amendment No. 2 between the Port and Mad Anthony's Inc.

## **ACTION CALENDAR**

### **Port of Tacoma Inter-local Agreement Expiration**

Commissioner Barner indicated that he felt the Port of Olympia needed to have closure on this agreement even though the Port of Tacoma announced they would let the agreement expire. He suggested the Port of Olympia Commission take action anyway. He indicated that the final outcome would be of benefit to everyone, in hopes that this property can be used for habitat and conservation.

Commissioner Barner moved that the Port of Olympia Commission not renew the inter-local agreement with the Port of Tacoma. President McGregor seconded the motion.

Commissioner Telford indicated that there is no action required by the Port and he would like for the Port to get out of this and get staff working on other Port priorities.

Commissioner Barner indicated that we need a public statement because of all the time and effort by both Ports and the citizens. President McGregor indicated that a formal vote shows that we listened to the concerns of the citizens.

Commissioner Telford commented that the Port of Tacoma can divest themselves of that property in any way they want and the people who worked to derail this may not like the results. He commented that the Port of Tacoma could work with the citizens for a new plan that might involve use of some of the land for Fish and Wildlife purposes, but he does not want the Port of Olympia involved.

**Sharon Coontz** commented that the Port of Tacoma is working with the Dept. of Fish and Wildlife and others to set aside this property for habitat. She noted that she is pleased with the Port of Tacoma's new attitude to work with the Friends of Rocky Prairie. She asked for the Port Commission to vote against the renewal of the agreement.

**Meryl Bernstein** indicated that the Port needs to do more homework before moving forward with a project proposal. She indicated that the staff is keeping information from the Commission on the East Bay clean up. Commissioner Telford indicated that the staff is not hiding anything. He contended that the staff and Commission have been saying for years that we don't know the final costs related to this clean up.

Mr. Galligan indicated that from the very beginning, he asked the Port of Tacoma to answer two questions regarding the South Sound Logistics Center: What is the benefit to the Port of Olympia and What is the benefit for the Port of Tacoma. Those questions never got answered from the Port of Tacoma.

**Debra Jaqua** thanked the Commission for the questions posed to the Port of Tacoma at the June 9<sup>th</sup> meeting. She also had comments about her comments in the minutes for the June 9<sup>th</sup> meeting.

**Richard Wolf** asked what the Port is doing to re-look at the issue of getting trucks off the roads and onto rail now that the South Sound Logistics Center project is dead. Commissioner McGregor indicated that the mitigation of truck traffic was more related to the Port of Tacoma, not specifically for the Port of Olympia.

President McGregor read a statement regarding the South Sound Logistics Center public process. He noted, "While this has been a challenging process, this Port Commission worked to reach out and involve the public in these discussions. In this instance the public involvement and input that was received over the past few months was critical to the decisions that were made over the past few days. I am optimistic that the Ports of Tacoma and Olympia can continue to work together on many cargo related opportunities in the future for the benefit of the citizens of Thurston County, the citizens of Pierce County and the citizens of the State of Washington. With our states reliance on the flow of international cargoes as an important segment of providing jobs and economic development, it is imperative that the Ports of Washington State continue to find common areas within which we can collaborate for the benefit of all.

Commissioner Barner indicated that at the last meeting we asked some hard questions and never got answers to those questions from the Port of Tacoma. Their response was to not renew the deal and ignore the questions asked.

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

### **Resolution 2008-16 Ethical Standards for Port Commissioners**

President McGregor indicated that the Commission has discussed the changes to the Ethical Standards for Port Commissioners Resolution at the March 18, 2008 and April 16, 2008 work sessions. The revised resolution was presented at the May 27, 2008 and June 9, 2008 Commission meetings for public comment.

Commissioner Barner commented that he did not agree with the campaign donations by staff, he felt like it was putting a muzzle on a persons right to be able to contribute.

Commissioner Telford moved adoption of Resolution 2008-16, Ethical Standards for Port Commissioners. Commissioner Barner seconded the motion.

Commissioner Telford indicated that there is a difference between restricting a donation from port staff and accepting it. He noted that this has been carefully written to not violate the first amendment. He indicated that his concern is that there is pressure on the port staff to make political contributions.

President McGregor indicated that this removes the staff from the opportunity to give money to a candidate. Thinks this code of ethics is much tighter than before and supports it.

**Bill Pilkey** commented that he supports the campaign contribution restrictions, however, he would suggest amending it to include the labor unions of the port and special interest groups as well, or at least be disclosed at public meetings that a special interest group contributed.

President McGregor indicated that we have four Port unionized employees and they would be included just as port employees. He noted that as part of the Public Disclosure Commission rules, all activities are reported.

The Commission unanimously adopted Resolution 2008-16, replacing Resolution 2004-05, setting Ethical Standards for Port Commissioners.

### **GHI/JKL Dock Authorization to Award Bid**

Mr. Jeff Lincoln introduced Mr. John Thompson, project manager. Mr. Thompson indicated that on April 14, 2008, the Port Commission authorized Port staff to call for bids in association with the Swantown Marina Docks G – L Rehabilitation Project. At that meeting a Capital Expense Authorization form was not presented to Commission for signature. At this time Port staff is requesting Commission approval of the Capital Expense Authorization and Authorization to Award Contract No. 2008-0005.

Mr. Thompson indicated that this project would make necessary repairs to the Swantown Marina Docks G through L as identified in the dock survey done by Loral Construction in August of 2000. Repairs include replacing the walers, rub-boards and through-rods, adding additional floatation and leveling the docks. In addition, several (35) dock sections will have the concrete deck surfaces replaced due to cracking.

Mr. Thompson reported that bids were opened on June 18<sup>th</sup> and seven bids were received. The bids ranged from \$1.29 million to \$2.39 million. He indicated that the current engineer's estimate for this work was \$1.4 million to \$1.7 million dollars. Mr. Thompson reported that the lowest responsive/responsible bidder is Bellingham Marine.

Commissioner Telford moved approval of the Capital Expense Authorization (CEA) for project MB0802, Swantown Marina G-L Dock Rehabilitation for a total of \$1.7 million and to award the bid to the lowest responsible bidder, Bellingham Marine, in the amount of \$1,293,849.00, plus sales tax. Commissioner Barner seconded the motion.

The Commissioners asked questions about the difference between the \$1.2 million bid award and \$1.7 million CEA. Mr. Thompson indicated the difference is for sales tax, project management time, and 10 percent contingency.

No public comments were given.

The motion passed unanimously.

**Cargo Yard Reconstruction Final Acceptance**

Mr. Lincoln indicated that Mr. Thompson was hired when this project was out to bid and he was not part of the engineering process. Mr. Lincoln indicated that Mr. Thompson has done a great job reconstruct this project.

Mr. Thompson also recognized Mr. Rick Anderson for his assistance on this project. He noted that the work included improvements to the cargo yard in the form of paving, improved drainage and storm water pretreatment, yard lighting, extensions of utilities including water, sewer, communications, power, and gas for use within the cargo yard, as well as to the North Point area for future use. The natural gas pipe running along Washington Street was upgraded and relocated to facilitate expansion of the terminal rail infrastructure in the future. The scope of this contract also included reimbursable utility extensions, concrete slabs and the below grade foundations for a planned maintenance building in accordance with the Port’s lease with the Weyerhaeuser Corporation.

Mr. Thompson reviewed the milestones for this project and the cost summary.

Commission Authorization to Bid	July 9, 2007
Bid Date	August 7, 2007
Commission Authorization to Award	September 10, 2007
Notice to Proceed	September 25, 2007
Substantial Completion	March 13, 2008
Final Acceptance	June 23, 2008

**SCI Infrastructure, Inc. Contract Cost Summary:**

Original contract award	\$2,563,353.50
Change Orders (4)	\$ 370,110.65
Quantity Variations	\$ 96,467.94
Sub Total	\$3,029,932.09
WSST @ 8.4%	\$ 254,514.30
Final Contract Total	\$3,284,446.39
Change Order percentage of original Contract	14.4%

Mr. Thompson reviewed some of the challenges in paving, lighting and water quality improvements throughout the project.

Mr. Jeff Lincoln indicated that the Cargo Yard Program consisted of two major construction projects, plus the purchase of camels. The program included constructing building foundations and utilities extensions for Weyerhaeuser on a reimbursable basis. The project also included upgrading and extending sewer and communications to NorthPoint for future development there. Mr. Lincoln reviewed the total budget for the program, the program accomplishments, and challenges. He reported that the bottom line is that at the closeout of this program, the cost overrun was \$25,245.

**Cargo Yard Reconstruction Program Cost Summary:**

Description	Budget Code	CEA Approved by Commission 11/19/07	Actual Cost	Variance Actual to Budget Over / (Under)
<b>CARGO Yard:</b>				
Pave Berth three & Peninsula	TER007	\$1,853,409	\$1,853,409	
Pave Railway East of Staging Area	TER008	\$ 169,052	\$ 169,052	
Camels for berth area	TER011	\$ 364,874	\$ 364,874	
Pave Area East of Franklin, 5.57 Acres	TER003	\$1,653,743	\$2,740,527	\$1,086,784
Install Yard Lighting	TER009	\$ 430,244	\$ 430,244	

Description	Budget Code	CEA Approved by Commission 11/19/07	Actual Cost	Variance Actual to Budget Over / (Under)
Utilities to Maintenance/Office Area	TER010	\$ 133,255	\$ 187,146	\$ 53,891
Total Cargo Yard:		\$4,604,577	\$5,745,252	\$1,140,675
Weyerhaeuser Reimbursement			\$ (765,061)	\$ (765,061)
Receipt from sale of Bid			(2,350)	(2,350)
Total Port cost Cargo yard:			\$4,980,191	\$ 373,264
Other Infrastructure:				
Partial North Point Sewer Main	PRO603	\$ 338,587	\$ 338,587	
Partial Security Improvements	MTO702	\$ 125,940	\$ 125,940	
Partial Phase II Rail	TER013	\$ 136,000	\$ 150,000	\$ 14,000
Contingency		\$ 101,383		\$ (101,383)
Consultant Costs		\$ 80,424		\$ (80,424)
Engineering Staff Costs		\$ 65,338		\$ (65,338)
Total Other Infrastructure:		\$ 847,672	\$ 614,527	\$ (233,145)
Program Totals		\$5,452,249	\$5,594,718	\$ 140,119
Camels not yet purchased. Current estimate is \$250,000		\$ 364,874	\$ 250,000	\$ (114,874)
Total Estimated Program Budget Variance				\$ 25,245

Commissioner Telford indicated that he appreciates the new procedure for contract closeout. Mr. Galligan indicated that this is the third presentation like this and we will be doing this on all future projects. Mr. Galligan complemented Mr. Lincoln on this very challenging project; he did an extraordinary job. President McGregor concurred with that statement.

Commissioner Telford moved Final Acceptance of Contract No. 298 to SCI Infrastructure, LLC for the Cargo Yard Reconstruction, Project No. TER003. Commissioner Barner seconded the motion.

**Stanley Stahl** commented that he put in comment on the storm water permit for Weyerhaeuser; today was the last day for comment. He indicated that he did not think any testing was done for contaminants in this area.

Mr. Lincoln indicated that the material that was excavated was testing and would be happy to share that information with Mr. Stahl. The testing results found that the material was not contaminated.

Commissioner Telford asked that port counsel give an updated accounting of legal costs on this project as well as others.

The motion passed unanimously.

#### **Authorize Addition of City of Tumwater to Budd Inlet Inter-Local Agreement**

Mr. Lincoln indicated that on April 14, 2008, the Port Commission authorized the Executive Director to enter into an Inter-local Agreement with LOTT, the City of Olympia, Thurston County and the Washington State University Extension Service to accomplish Phase I of the Budd Inlet Restoration Project. The scope includes work necessary to accomplish a cleanup of Budd Inlet to stop pollution, fix systemic issues storm drainage and septic systems), restore habitat, clean up contamination, and to protect and enhance species.

He noted that at that time the four original entities invited all public agencies to participate. The City of Tumwater staff expressed interest, however, their process took longer than anticipated.

Tumwater is now prepared to enter the Agreement and has requested participation. LOTT and Thurston County have already approved this at their jurisdictional meetings. This is on the agenda for the City of Olympia

Commissioner Telford moved to authorize the Executive Director to add of the City of Tumwater to the Budd Inlet Restoration Inter-local Agreement. Commissioner Barner seconded the motion.

**Stanley Stahl** asked if the public could be a stakeholder in this process. Mr. Galligan indicated there was an announcement at the beginning of the meeting about a public meeting on June 26th at Reeves Middle School from 6-9 p.m. Mr. Stahl asked about the contract with Linda Hoffman. Mr. Lincoln indicated he could get a copy from the Port office.

The motion passed unanimously.

### **Meeting Format Changes Approval**

The Commission has discussed the changes to the meeting format at the May 27, 2008 and June 9, 2008 Commission meetings where public comment was received. Additional changes were discussed at both of those meetings and the changes were incorporated.

The Commissioners discussed the changes. Commissioner Barner asked if they would re-visit this again in 3 or 6 months to hear from the public how they think the new format is working. President McGregor indicated that if something is not working we could make improvements as we go. Commissioner Telford indicated the benefits of the new format are to hear agenda items as an advisory two weeks before and get comments before making a decision. The public can visit the website, review the agenda items, view the televised show from the previous meeting and come well informed to be able to give public comment at the beginning of the meeting.

Commissioner Barner moved to adopt the new format effective at the July 14, 2008 meeting and to review the success of these changes in 3 months and 6 months. Commissioner Telford seconded the motion.

**Stanley Stahl** indicated that if someone does not have a chance to be informed about the topic, they are out of luck.

**Patrisia Di Francesca** indicated that the public comment gives the Commission a heads up and is a benefit.

**Meryl Bernstien** commented that a new commission might view the meeting format differently than the current commission. She indicated that she felt the new meeting format is a mistake.

**Sharron Coontz** indicated that she sent comments in writing and never heard anything back. She indicated that the proposal is taking time away from public comment, not adding to it. President McGregor indicated that he did read her email.

Commissioner Barner indicated that after the 3-month and 6-month review he would like to have a dialog and get feedback from the citizens.

The motion passed unanimously.

### **ADVISORY**

#### **Resolution 2008-17 Master Policy for Administrative Authority of Executive Director Advisory**

Mr. Jeff Lincoln indicated that the Port of Olympia Master Policy Resolution 97-04 sets policy, and provides delegation to the Executive Director, for public works contracting, change orders, contracting for professional services, utilization of port crews, and more. This Resolution has not been reviewed or amended since 1997. He indicated that Ms. Linda Shilley has been on staff for approximately four months. Her main focus is on contracting procedures and updating this policy to be consistent with law.

Ms. Linda Shilley commented that in our recent State legislative session, Second Substitute House Bill 3274 was adopted and became effective June 12, 2008. This is an act relating to improving public contracting for public port districts. This act amends existing, and adds legislation relating to public works contracting.

She noted that the proposed changes are reflected in Resolution 2008-17 (Replacing Resolution 97-04) and incorporate new legislation, clearly define Executive Director authority, and sets policy that will increase Commission exposure to the progress of our public works projects.

Ms. Shilley reviewed the proposed changes with the Commission in the areas of competitive bidding exemption, purchase orders, utilization of Port crews, emergency contracts, professional services agreements, including architectural and engineering services, and public works contracts and change orders. She reviewed the changes in the dollar thresholds for the executive director authority.

Commissioner Barner asked if this is all a result of the Port of Seattle audit. Ms. Shilley indicated that some is a result, but mostly to tighten controls and define authorization. Commissioner Telford indicated that he met with Linda earlier in the day and discussed some proposed changes. He indicated that there may be too many dollar threshold amounts and it may be making it too complicated. Commissioner Barner asked what the time frame is for requesting action. Ms. Shilley indicated that it is on the calendar for July 14th for adoption. Commissioner Barner said he wouldn't be ready to act on the 14<sup>th</sup>, he commented that there is a lot to understand and digest, it is a bit overwhelming and he would like to get some industry feedback from the community. Shilley indicated that some of these changes are effective June 12, for implementation. Bob Goodstein, legal counsel, reported that the changes are mandatory as of June 12th.

Mr. Lincoln indicated that staff is acting in accordance with the law. He indicated that the concern is that staff needs to be able to lay out the calendar and the approval thresholds are very important in that process. We need to move this process forward and implement so we have tighter controls.

**Stanley Stahl** commented that some of the threshold numbers look really big. Mr. Lincoln indicated that these thresholds are setting the standard and he would be happy to match these with any other port in the state.

Mr. Galligan suggested that Commissioner Barner bring in some citizen advisors to meet with staff.

#### **PAC Land Use Recommendations Resolution 2008-19 Advisory**

Ms. Carolyn Lake indicated that the Port Commission proposed an update of the Port's Comprehensive Plan in late 2006. 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. The suggested changes are only to Chapter 3, Land Use Plan. Ms. Lake noted that the Commission re-visited the PAC recommendations recently at its May 20, 2008 Work Session.

Ms. Lake indicated that this programmatic action is subject to SEPA review. The Port Environmental Officer is considering addressing SEPA compliance through an addendum to the Final Environmental Impact Statement (FEIS) for the Strategic Plan for the Port of Olympia, under the authority provided in WAC 197-11-600(4)(c) and the procedures for preparing an addendum in WAC 197-11-625. The Port issued the FEIS on February 7, 1994; and a prior addendum related to the Budd Inlet and Airdustrial Park Land Use Plans was issued on December 23, 1994.

The addendum provides additional information regarding updates to the Port's land use plans for portions of the Port peninsula adjacent to Budd Inlet, and for a portion of the Port's properties known as the New Market Airdustrial Campus adjacent to the Olympia Regional Airport. The addendum is appropriate if the updates for the land use plans do not substantially change the analysis of impacts in the existing environmental documents for this project (WAC 197-11-706). The Port of Olympia as lead agency currently is reviewing the changes to determine whether they are within the scope and magnitude of impacts detailed in the FEIS and previous addendum.

She reported that Commission action would take place after the final SEPA determination has been issued, which is expected to be prior to July 3, 2008.

Ms. Lake indicated that currently the Land Use Plan is a part of the Port's Comprehensive Scheme of Harbor Improvements (CSHI). Per RCW 53.20.020, changes to the CSHI requires a public hearing, following public notice by newspaper publication with ten days advance written notice. Prior to Commission action, ten days advanced newspaper public notice should be provided for this action. In addition Staff recommends that the proposed Resolution be posted on the Port's web site.

Ms. Lake reported that the changes recommended by the PAC are confined to the Land Use portion of the existing Port Comprehensive Plan. She noted that a Draft Resolution redlining and incorporating the proposed changes to the Land Use Plan has been distributed to the Commission and was included in the Commission packet.

The Commission asked the PAC for a recommendation on the following topics. The PAC response is noted:

Eliminate Admiralty District - Agree  
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 Position  
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 – PAC received briefing only, No action requested.  
Delete Tumwater Capital Campus design – replace with Tumwater Town Center Design - Agree  
Modify 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

In addition to the PAC recommended changes within the Land Use section, staff is also recommending the title of the document be changed from "Land Use Plan" to "Port Conceptual Development Plan." This is because the planning document title currently used is a term strongly associated with the Growth Management Act \ Comprehensive Planning framework which is required for select cities and counties under Chapter 36.70A RCW, but are NOT applicable to Ports.

Ms. Lake indicated that Commissioner Telford suggested not eliminating the Admiralty District, but to expand the district to more uses. Commissioner Telford is also suggesting that the name be changed to Port of Olympia Development Guidelines.

Ms. Lake indicated that the Port staff recommends that the Port Commission:

- (1) Conditioned upon SEPA review being complete, set July 14, 2008 as the date for public hearing to receive comments on the proposed PAC recommended changes,
- (2) Direct staff to provide public notice of the July 14 hearing through notice published in the newspaper at least ten days in advance of the hearing, and by posting on the Port's web site, and
- 3) At the conclusion of the public hearing, the Commission considers approval of the PAC recommended changes by adoption of Resolution No. 2008-19.

Commissioner Telford indicated that the PAC said that the PAC agrees that the Admiral District should be eliminated as a separate district, however, they also noted that the area can be used for Marine Terminal purposes but that it should be available for new uses, which the Port deems appropriate.

President McGregor and Commissioner Telford provided Ms. Lake comments on the proposal.

Commissioner Barner indicated that he felt we are short on providing the public an opportunity to comment. He felt that this is a big deal and we should be notifying everyone so they can have an opportunity for input. We need to expand the list for notification.

President McGregor asked what the impact is of this document if we are to purchase additional land with the Real Estate Investment Fund. Ms. Lake indicated that irrespective of these changes, if the Port were to acquire new land, there are separate regulations associated with purchases. The Comprehensive Scheme of Harbor Improvements would need to be updated regardless after a purchase has been made.

**Patrisa Di Francesca** asked for a copy of the redlined and clean version. She commented that the term "Conceptual" is too vague and should consider a new title. She noted that this is a large document that will require homework and will need more time than the proposed July 14<sup>th</sup> date.

Ms. Lake indicated that this process started in 2006, in 2007, the PAC held nine meetings, and two public hearings were held.

Commissioner Telford indicated the changes are trivial and it is frustrating that it has taken so long to make these changes. We need to get this done. He suggested we have a public hearing at the next meeting and if we decide we need another one, we can schedule another one.

President McGregor indicated that he does not want to have a public hearing the same night as adoption. He suggested that we hold a public hearing on July 14<sup>th</sup> and then the Commission will give direction on the next step.

**Stanley Stahl** indicated that he does comprehend how this works, it seems that the land use planning is being done after the work has already been done. Commissioner Barner indicated that the terminology is different for Ports than cities and counties.

**Tom Fell** commented on the NorthPoint language in the document. He indicated that the plan for development at NorthPoint is too much for that property.

**Additional Public Comment:**

**Stanley Stahl** commented on the dredging of the berths. He commented that the dredge appears to be planned for the Weyerhaeuser lease. However, he would like to see the list of the other shippers that are interested in the berths.

Commissioner Barner indicated that we have been advertising for many years that we have 40 feet of depth at the berths. The latest data shows the depths are less than that. We have an obligation to provide 40 feet of depth to any and all shippers that want to come to our Port.

**ADJOURNMENT**

President McGregor adjourned the meeting of June 23, 2008 at 9:47 p.m.

PORT OF OLYMPIA COMMISSION

\_\_\_\_\_  
President

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Vice President

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Secretary-Treasurer