



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

March 23, 2009

CALL TO ORDER

President McGregor called the meeting of March 23, 2009, to order at 5:30 p.m. at the Yelm Public Safety Building. Commissioners Barner was also in attendance. Commissioner Telford was absent.

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, Kevin Ferguson, Jeff Lincoln, Communications Manager Kathleen White, Project Manager Rick Anderson, Cascade Pole Site Manager Don Bache, 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: Shelly Badger, City of Yelm Administrator, and Mike Edwards.

APPROVAL OF AGENDA

The agenda was approved as revised. Action Item #2 will be presented by Jeff Lincoln instead of Joanne Snarski. Commissioner McGregor also asked to separate 5 & 6 on consent calendar for discussion.

President McGregor announced the Commission held an executive session, in accordance with RCW 42.30.110(g), prior to the meeting to discuss lease negotiations. No decisions were made.

COMMISSIONERS REPORTS

President McGregor reported he had a busy two weeks. He attended the Yelm Chamber Forum, a meeting with Dave Wasson from Batdorf and Bronson, a Commission Work Session, he met with St. Martins new University President, he and Ed Galligan meet with the East Bay Neighborhood Association, he met with Senator Frasier, he attended his first board meeting of the Visitors Convention Bureau, the Commission held a joint meeting with the Olympia Downtown Association, he meet with Olympia City Council Member Strub, and he met with Representative Gary Alexander. He noted that throughout the week he has more meetings with legislators as a part of Legislative Day.

EXECUTIVE DIRECTOR REPORT

Mr. Galligan reported that Commissioners and staff would be participating throughout the week in Legislative Port Day and at a WPPA/State Press Conference. There will be a Governor's Reception, Legislative Briefings, and a Port Display in the Legislative Building.

He noted that Ecology will be holding East Bay Redevelopment Public Comment session on April 1, at the Washington Middle School, from 6:30 – 8:30 p.m.

Mr. Galligan reported that the Port will hold a ribbon-cutting of Cascade Pole Cap Site, currently scheduled for April 17 at noon. Invitations will be sent for this event.

The vessel the "Dry Beam" is loading logs bound for Kashima Japan. This is the first time this vessel has called Olympia and Commissioner McGregor presented a plaque to the vessel Captain earlier in the day. The steamship line is Toyo Lines which is one of several steamship lines used to load logs out of Olympia. The stevedore working the vessel is Jones Stevedoring and the agent for the vessel is General Steamship. The anticipated longshore hours for this vessel is 1900 longshore hours that equates to around 47 longshoreman working each day for 5 days. These wages go right back into the community.

Mr. Galligan noted that the next vessel due in for the marine terminal is the Industrial Eagle to discharge windmill blades from Brazil on around April 6th. These blades are for a project in Eastern Washington. The blades will go into storage once they arrive to be loaded out sometime from June through August. A second vessel is also due in to discharge blades sometime in May.

Mr. Galligan noted that staff participated in a briefing for the Thurston County Economic Development trade mission to China. We have provided marketing materials for marine terminal and east bay (in Chinese) for the meetings. The EDC and St. Martin's will be representing the Port during meetings in the coming week. Staff has already responded to one inquiry related to future business with the Port from the meetings.

He reported that staff is completed negotiations with LOTT on a short-term license agreement to accommodate construction on 37,000+ square feet of property at East Bay for LOTT's administrative building. The license is being forwarded to Executive Director for signature.

Mr. Galligan announced that the Shell Oil Co., facility located at the New Market Industrial Campus in Tumwater recently announced it will not be exercising its last option. Respective staff members from the Port and Shell held teleconference(s) last week to identify the process of dismantling the facility and vacating the property at the end of March 2010.

He reported that property staff managed 7 lease transactions in February, including rent revisions and amendments for a year-to-date total of 20 transactions.

Mr. Galligan indicated that the Port will be hosting four eighth grade students as a part of the Window to Work program this coming Wednesday. The Port also sponsored several interns through a variety of cooperative work experience in partnership with St Martin's University, South Puget Sound Community College, The Evergreen State College, North Thurston and Timberline high schools over the past 12 years.

Mr. Galligan noted that the rail safety improvements are underway on Market Street causing some detours. The contractor will be precluded from working Thursday and Friday after the Market reopens. The rail contractor is now accelerating after his materials and specialty crews arrived on site.

LEGAL COUNSEL REPORT

Ms. Carolyn Lake reported in the appeal of the MTCA Dredge Order (West v. Puget Sound Partnership, Mr. West filed Motion for Remand (a request to transfer the case back to the SHB), set for March 20, last Friday. The City and Port objected to the Motion and its timing. On March 19, the Court struck the hearing explaining that the motion was not timely filed. The next day, Mr. West re-note the motion for Friday March 27th and also filed motion asking the Court (Judge Hirsch) to recuse herself. Mr. West bases his motion on what he calls the “arbitrary nature of this Court’s ruling” and “a lack of egalitarian evidentiary rulings once the hearings are scheduled”.

Ms. Lake indicated that regarding the West LUPA appeal of the City’s approval of the Weyerhaeuser’s site plan, on 6 March 2009 the Superior court (Judge McPhee) granted the Motion to Dismiss filed by Weyerhaeuser and supported by the Port and City of Olympia. Last Friday, the Court entered the written Order, Mr. West has 30 days to appeal.

Ms. Lake reported on the West V. City of Olympia (Weyerhaeuser permits). This is the matter where Mr. West appealed various City permits to Superior Court; the Superior Court dismissed the appeal after which Mr. West appealed to the court of appeals. All briefing is complete except Mr. West final reply brief. He requested and was granted an extension through May 11 to file his last brief. After that time, oral arguments will be set.

Ms. Lake indicated that in the case of West vs. Stephen L. Johnson, EPA Administrator, U.S. Secretary of Commerce, Washington State Department of Ecology, Environmental Hearings Office, State of Washington, Port of Olympia, City of Olympia, Weyerhaeuser, LOTT, Federal Railroad Administration, Washington State Department of Transportation, No. 3:08-cv-05741-RJB. This is the case in which Mr. West alleges a clean water act claim in federal court. The parties were scheduled to hold an initial scheduling and Discovery conference on Monday march 16. However, Mr. West has not yet served all named Defendants so the parties agreed to reset the hearing to April 30.

PUBLIC COMMENT

No public comment was given.

CONSENT CALENDAR

Minutes. The minutes from the February 23, 2009 Commission meeting were unanimously approved.

Bills and Voucher Approval. The bills and vouchers batches were unanimously approved in the amount of \$ 1,003,594.55. General Fund Checks Issued: 048518-048724. Voided Checks: 048540, 048570, 048601, 048615, and 048673.

Holbrook Inc. Lease Amendment No. 4

This amendment increases the ground rent from \$1,026.00 per acre per month, to \$1,676.00 per month, a \$650 increase per month. The amendment includes a provision for reimbursing the cost of added security as required by Homeland Security. This is pro-rated based on the total facility acreage and acreage leased.

The Commission unanimously ratified the lease with Holbrook Inc.

Glacier Aviation Lease Amendment #2

The Port entered into a Lease Agreement with Glacier Aviation dated July 23, 2004, covering specific premises owned by Port and leased to Glacier Aviation for Fixed Based Operations and office space as terminal area for air service. The Port entered into a Lease Amendment No. 1 dated February 25, 2008, for the renewal option period of February 1, 2008 through January 31, 2012.

The Port and Glacier now desire to amend the Lease Agreement for the purpose of memorializing Tenant's Right of First Refusal to lease and occupy the two remaining fuel storage tank locations (spaces 3 & 4 as listed in the Spill Prevention Control & Countermeasures Plan) currently empty and available at the Olympia Regional Airport Fuel Facility. Additionally, the Port and Glacier now desire to amend the Lease Agreement to incorporate Landing Fee Letter of Agreement language into the lease.

The Commission unanimously ratified the lease with Glacier Aviation.

Pearson Air Lease Termination Agreement

On February 10, 2009, K & M Aviation, LLC signed a Purchase & Sale Agreement for the purchase of Pearson Air, Inc., a Fixed Base Operator at the Olympia Regional Airport. The agreement was contingent upon successfully negotiating a new lease agreement with the Port of Olympia. A long-term lease agreement has been reached. This document is a companion document to the K & M Aviation Lease Agreement also submitted for Port Commission ratification as part of the consent agenda.

The Commission unanimously ratified the lease termination with Pearson Air.

K & M Aviation LLC Lease Agreement

On February 10, 2009, K & M Aviation, LLC signed a Purchase & Sale Agreement for the purchase of Pearson Air, Inc., a Fixed Base Operator at the Olympia Regional Airport. The agreement was contingent upon successfully negotiating a new lease agreement with the Port of Olympia. A long-term lease agreement has been reached. This document is a companion document to the Pearson Air, Inc., Lease Termination Agreement also submitted for Port Commission ratification as part of the consent agenda.

President McGregor indicated that Commissioner Telford had proposed some alternative language. He indicated that he is open to discussion at a later date on this issue, however is not in support of changing this particular lease. Commissioner Barner agreed. He indicated that the proposed language should be a topic at a future work session.

The Commission unanimously ratified the lease with K & M Aviation LLC.

ACTION CALENDAR

Cascade Pole Site Capping Phase II – Final Acceptance and Phase III Advisory

Mr. Don Bache indicated that in July 2008, the Port issued a public works contract to Active Construction, Inc. to construct the Cascade Pole Site Phase II capping. The work included capping of a portion of the Cascade Pole site with a combination of an asphalt cap and soil cap,

installation of lighting, storm drainage, landscaping, concrete curb and sidewalks, a gravel path and other shoreline and site improvements including the foundation for a radio tower and below grade ground array. Mr. Bache reviewed the contract cost summary.

Active Construction, Inc. Contract Cost Summary:

Original contract award	\$ 1,833,161.45
Change Orders 5	\$ 184,897.54
Sub Total	\$ 2,018,058.99
WSST @ 8.4%	\$ 169,516.96
Final Contract Total	\$ 2,187,575.95
Change Order percentage of original Contract	10.09%

Mr. Bache indicated that the Phase II capping effort is 50% funded by the State of Washington Department of Ecology Grant No G0600051. This grant will cover design, construction and staff costs associated with this project. Additionally, the cost of the ground array and foundations for the new KGY tower will be repaid by KGY as agreed to in the last lease amendment.

Total Project Cost Summary:

Item	Cost
Engineering	171,509
Construction	2,187,575
Miscellaneous	8,529
Sub-Total	\$2,367,614
DOE Grant reimbursement	1,203,619
KGY reimbursement	23,848
Sub-Total funding by others:	1,227,467
Total Project cost to Port:	\$1,140,147

Commissioner Barner commented that the parking lot view is quite amazing. He indicated that we are seeing more motorbikes and electric vehicles and we should accommodate them at that parking lot.

Commissioner Barner moved to authorize Final Acceptance of Contract No 2008-0006 to Active Construction, Inc. for the Cascade Pole Site Phase II Capping in the amount of \$2,187,575.95. President McGregor seconded the motion. The motion passed unanimously.

Cascade Pole Site Capping Phase III, Advisory

Mr. Bache reported that the next step in the remediation capping of the CPC site is planned for the 3rd quarter of this year. The phase III capping project will extend from the western edge of the phase II cap to the western boundary of the CPC site adjoining the Holbrook and KGY lease areas.

Mr. Bache noted that the scope of the capping will include areas inside and outside of the site slurry wall. For the one acre area outside of the slurry wall work will consist of excavating existing soil, transporting the soil to the area of the site inside the containment wall, testing of the

insitu soil, backfill with clean soil then continuing and finishing the shoreline trail started in the phase II capping.

He reported that for the areas inside the slurry wall work will include relocation of storm water and ground water systems, grading the site, capping with clean soil and then placing temporary fencing around the site.

Mr. Bache indicated that the execution of the phase III capping project is preceded by the completion of the Uplands Clean-Up Action Plan agreement between the Port and Department of Ecology. This plan lays out the remediation steps the Port had taken so far and outlines the requirements the Port must meet to manage the uplands portion of the site in perpetuity. He noted that the draft of the plan will be presented to the commission in the second quarter of this year and there will be a thirty day public comment period.

He reported that once the public comment period is over, Port staff will be requesting permission to call for bids for the phase III project. Construction is expected to take ninety to one hundred twenty days.

Mr. Bache reported that the current 2009 budget for the phase III capping project is \$549,000. The latest engineering estimate for the project is \$548,600 including engineering, port staff time and contingencies. This project is grant eligible up to a maximum of 50% of costs. The Port has an Ecology grant fund of \$527,995 for this project.

Commissioner Barner moved to authorize Final Acceptance of Contract No 2008-0006 to Active Construction, Inc. for the Cascade Pole Site Phase II Capping in the amount of \$2,187,575.95. President McGregor seconded the motion. The motion passed unanimously.

East Bay Redevelopment – Dept. of Ecology Grant Acceptance

Mr. Jeff Lincoln indicated that the Port entered into an agreement with the Department of Ecology (DOE) in November 2006 for the voluntary cleanup of Parcel 3 of East Bay. Since that time the agreement has been converted to a Toxics Cleanup of the entire site, and the Port has expended significant funds in the site analysis and cleanup plans. He noted that the Port is eligible for 50 percent matching grants for the cost of the studies, testing and plans prepared thus far for the site.

Mr. Lincoln reported that in April 2008 the Port Commission approved an expanded scope of work for the environmental studies for East Bay and at that time the commission was informed that the Port would likely be eligible for grants to defray the costs of all studies, testing and other work related to the site cleanup. The staff submitted the grant application on December 8, 2008. On February 27, 2009 the Port received a grant offer from DOE in the amount of \$487,185. The offer must be accepted and returned to DOE by April 13, 2009.

Mr. Lincoln noted that the Grant would fund 50 percent of the costs of environmental consulting, soil and ground water sampling and the development of reports and plans. To date the Port has obligated \$966,022 towards these activities and has paid \$557,105 to date. An additional \$14,174 is eligible for the implementation of the grant and up to 25 percent of port staff cost.

Commissioner Barner moved to authorize the Executive Director to enter into an agreement with the Department of Ecology for matching grant funds for East Bay environmental activities covered in Agreed Order DE5471. President McGregor seconded the motion.

The motion passed unanimously. President McGregor complimented staff on doing everything they can to obtain any and all grant monies to help on these projects.

Thurston Regional Planning Council – Associate Membership

Mr. Ed Galligan indicated that the Commission provided direction at the March 9, 2009 meeting for staff to prepare a letter to the Thurston Regional Planning Council requesting a \$1,000 associate membership. He noted that he prepared a letter and obtained signature by Commissioner Telford since he is absent tonight.

Commissioner Barner indicated he would like to add that the TRPC is the Metropolitan Planning Organization (MPO) as well. He noted that there is requirement to be associated with them in order for the Port to be considered for funding. President McGregor indicated that the associate membership would not allow the Port to be a voting member.

Commissioner Barner made a motion to the change the letter to include the MPO and have it signed by the Commission President. President McGregor seconded the motion. The motion passed unanimously.

Resolution 2009-03 Authorizing the Sale of an Abandoned Vessel

Mr. Bruce Marshall presented Resolution 2009-03 authorizing the Harbor Director to conduct a public auction of the vessel WN 1216 MC, a 24' Wayfarer sailboat, to the highest and best bidder. The resolution further authorizes the Harbor Director to bid all or part of the accrued port charges at the sale and the Port of Olympia may become a purchaser at the sale.

He reported that the current owed to the Port is \$1,356.85. He noted that the auction is set for April 1, 2009 at 11:00.

Commissioner Barner moved approval of Resolution 2009-03, authorizing the sale of an abandoned vessel. President McGregor seconded the motion. The motion passed unanimously.

Yelm Activities Update

Ms. Shelly Badger, Yelm City Administrator, noted that the Port of Olympia has been collaborating with the City of Yelm on several economic development initiatives over the past years. Examples of the joint efforts include promoting Foreign-Trade Zone#216, market research studies, acquisition of the Yelm Roy Prairie Line railroad from the BNSF, and promoting the direct rail connection to the Yelm Prairie Line, which is located less than a quarter mile from the Tacoma Rail Mountain Division Line, just west of Roy WA, in Pierce County. The joint activities have also included a close partnership with the Thurston County Economic Development Council to further economic development strategies for the community.

Ms. Shelly Badger provided the Commission with a PowerPoint presentation on Yelm's recent efforts in the following areas.

- Overview of Yelm's industrially zoned property 300 acres, which includes 109 acres of FTZ designated parcels
- Reclaimed water
- Update on the SR 510 Yelm Loop project

- Status of the Yelm-Roy Prairie Line connection to Tacoma Rail
- City of Yelm/Port of Olympia partnering opportunities and timing

Airport Master Plan Consultant Selection

Mr. Rudy Rudolph reported that in November 2008, the Port Commission approved the 2009 Capital Investment Plan that included a 2009 Airport Master Plan Update. That project is to be 95% funded by the Federal Aviation Administration (FAA). He noted that the 2009 Capital Investment Plan lists the estimated total project cost at \$210,000 with a Port-matching share of \$10,500. He indicated that the actual projected project cost would be estimated after the full scope of services is completed.

Mr. Rudolph indicated that on January 22, 2009, the FAA requested that the Port submit the formal grant application so that the grant process could begin. The grant application was submitted on January 23, 2009. He reported that the FAA issued and the Port accepted a Grant Offer Letter in the amount of \$68,073 during the week of February 2, 2009. The Port 5% matching share is \$3,583. Mr. Rudolph indicated that the FAA anticipates funding the remainder of the grant requested later this year. The Master Plan update requires a consultant selection process in accordance with FAA Advisory Circular 150/5100-14D.

Mr. Rudolph reviewed the consultant selection process including the RFQ and scope of services, establishment of a selection board, development of selection criteria and selection procedures to provide a recommendation to the commission to award the contract.

Commissioner Barner asked to involve the citizens and the City of Tumwater in the process. Mr. Rudolph indicated that this will be a very public process and will include a technical advisory committee as well as a citizen advisory committee.

ADJOURNMENT

President McGregor adjourned the meeting of March 23, 2009 at 7:29 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer