

PORT COMMISSION OF THE PORT OF EDMONDS
MINUTES OF REGULAR MEETING

January 28, 2008

Commissioners Present

Mary Lou Block, Secretary
Marianne Burkhart
Jim Orvis

Staff Present

Chris Keuss, Executive Director
Marla Kempf, Deputy Director

Others Present

Bradford Cattle, Port Attorney
Karin Noyes, Recorder

Commissioners Absent

Fred Gouge, President
Bruce Faires, Vice President

CALL TO ORDER

Commissioner Block called the meeting to order at 6:45 p.m.

EXECUTIVE SESSION

The Commission recessed into an executive session at 6:46 p.m. to discuss personnel issues. Commissioners Burkhart, Orvis and Block were present, along with Chris Keuss, Marla Kempf, and Bradford Cattle. The executive session was adjourned at 6:50 p.m. No action was taken.

BUSINESS SESSION

The Commission reconvened to a regular meeting at 7:00 p.m.

PLEDGE OF ALLEGIANCE

All those in attendance participated in the Pledge of Allegiance to the American Flag.

APPROVAL OF CONSENT AGENDA

Item B was removed from the consent agenda.

COMMISSIONER BURKHART MOVED THAT THE REMAINDER OF THE CONSENT AGENDA BE APPROVED TO INCLUDE THE FOLLOWING ITEMS:

A. APPROVAL OF AGENDA.

- C. APPROVAL OF DECEMBER ELECTRONIC TRANSFERS IN THE AMOUNT OF \$237,527.00**
- D. APPROVAL OF CHECK NUMBERS 65240 THROUGH 65275 IN THE AMOUNT OF \$41,769.29 FOR PAYROLL.**
- E. APPROVAL OF CHECK NUMBERS 65276 THROUGH 65319 IN THE AMOUNT OF \$215,872.65 FOR ACCOUNTS PAYABLE.**
- F. APPROVAL OF CHECK NUMBERS 10531 THROUGH 10548 IN THE AMOUNT OF \$96,872.65 FOR ACCOUNTS PAYABLE.**
- G. APPROVAL OF VOIDED CHECK 10508 IN THE AMOUNT OF \$1,610.45 FOR HARBOR SQUARE ACCOUNTS PAYABLE.**

COMMISSIONER ORVIS SECONDED THE MOTION.

APPROVAL OF JANUARY 14, 2008 COMMISSION MINUTES (Item B on the Consent Agenda)

COMMISSIONER BURKHART MOVED TO APPROVE THE MINUTES OF JANUARY 14, 2008 AS CORRECTED. COMMISSIONER ORVIS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

PUBLIC COMMENTS – NON AGENDA ITEMS

Jack Bevan reported that the City Council recently agreed to tape their retreat meeting so that members of the public could review the proceedings. He suggested that the Port do the same since the public would not be able to travel out of town to attend the meeting. Commissioner Orvis clarified that the Port Commission's retreat would be held on Port property, and the meeting would be open to the public.

JACOBSEN'S MARINE LEASE AGREEMENT – ADDENDUM TO REVISE TIMELINE

Mr. Keuss reminded the Commission that they authorized the Executive Director to sign an agreement with POE Building LLC (Jacobsen's Marine) on August 27, 2007 to construct a building on Port property for the purpose of selling and maintaining yachts. Recently, Mr. Jacobsen requested the Port extend certain dates within the Lease Agreement, most specifically the dates whereby the Lease Agreement becomes effective for the purpose of determining the term of the lease and for commencement of construction. He pointed out that the extension request is a result of permit requirements by both the City and the State. He referred the Commission to the three amendments (Section 3.1, Section 4.1 and Section 8.1) dated January 28, 2008. He advised that the Property Committee has reviewed the changes and feels comfortable with Mr. Jacobsen's request. Staff recommends approval of the draft motion to extend the time limits as stated in the amendment agreement by nine months.

Commissioner Block pointed out that while the date that Jacobsen's Marine must take control of the property is November 30, 2008, they would not have to commence construction of the commercial building until November 30, 2009. She questioned if these dates are correct. Mr. Keuss said that while Mr. Jacobsen desires to start construction of the building before November 30, 2009, he asked that this date be extended for nine months, too. The Port Attorney emphasized that this extension would not have an economic impact on the Port since Jacobsen's Marine would have to start paying rent on or before November 30, 2008.

Commissioner Orvis recalled that at their last meeting, the Commission discussed Mr. Jacobsen's request to extend the lease dates. In addition, they considered his request to modify the rent payments to address financial issues. At that time, the Commission directed the Property Committee to review the request and make a recommendation to the Commission. He invited Mr. Keuss to provide information about how this issue was resolved. Mr. Keuss explained that when the rent abatement issue was first presented to the Commission on January 14th, it appeared that Mr.

Jacobsen was asking for some monetary amount from the Port to compensate for permitting issues, particularly the additional requirements necessary because of the existing soil conditions. These costs were outside of their budget, so it appeared as though Mr. Jacobsen was asking the Port to help pay for some or all of the additional work. However, when the Property Committee met with Mr. Jacobsen later that week, they learned that he was actually pointing out that the originally proposed 13,000 square foot building would have to be reduced in size in order to stay within the existing budget. He expressed his desire to reduce the size of the building to about 10,000 square feet. The Property Committee indicated their support for the smaller building, and the addendum language for Section 8.1.1 of the Lease Agreement changes the size of the building as per their request. Mr. Keuss emphasized that Jacobsen's Marine would still lease the same amount of land from the Port, so there would be no economic impact associated with the change.

COMMISSIONER ORVIS MOVED THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO SIGN THE LEASE AGREEMENT FOR THE POE BUILDING (JACOBSEN'S MARINE BUILDING). HE FURTHER MOVED THAT THE EXECUTIVE DIRECTOR BE AUTHORIZED TO MAKE MINOR CHANGES TO THE ADDENDUM ON BEHALF OF THE PORT OF EDMONDS IN CONJUNCTION WITH POE BUILDING LLC AND THE PORT ATTORNEY. COMMISSIONER BURKHART SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

HARBOR SQUARE QUARTERLY REPORTS

Mr. Keuss introduced Jan Connor, Harbor Square Property Manager, who was present to review the Harbor Square Fourth Quarter Reports.

Ms. Connor reported on the following items:

- They have experienced several service issues with ABM Janitorial. She has met with their representative to discuss and resolve the problems. However, if the service needs cannot be met, they will have to go to the next lowest bidder or rebid the job.
- There was a total of \$78,327 in lease extensions during the fourth quarter. One new lease for 600 square feet of space was brought to Harbor Square by Colliers, but this lease was not reflected in the quarterly report since rent did not commence until January 2008.
- Tenant improvements in Building 2 were completed during the fourth quarter.
- Conference room revenue increased from the previous quarter.
- There were two lease terminations. The Behringer/Comcast, AT&T lease of 4,685 square feet of space in Building 1 was terminated December 31, 2008. In addition, Electric Mirror terminated their lease of 8,634 square feet in Buildings 4 and 5 during the month of October.

Ms. Connor advised that the most significant event in the fourth quarter was the flooding that occurred during the December 3, 2007 storm. Although this was an emergency situation, she did send out to bid for items such as carpet and paint. The painting portion of the project commenced on January 28th, and this will be followed by the carpet shortly after. It is hoped that by the end of next week, all tenants would be relocated back into their space. She reported that FEMA inspectors have visited the site and have received all of the pertinent information related to the incurred costs. In addition, information was forwarded to the Port's insurance adjuster. Only one tenant has indicated a desire for rent abatement and the insurance adjuster has been notified of the request. All of the impacted tenants have indicated their desire to stay at Harbor Square.

Mr. Keuss advised that the original estimate for the flood damage was \$100,000, and the Port's insurance deductible is \$100,000. FEMA will pick up 75% of the first \$100,000. However, it appears the actual costs will be closer to \$125,000, and the Port should receive a reimbursement from the Port's insurance company for any amount over \$100,000.

Ms. Connor said the City has offered their thoughts on how to mitigate the problem, but no action has been taken to date. She said that if this type of flooding were to occur in the future, they would likely close off Harbor Square to vehicles and only allow foot traffic. She expressed her belief that the car traffic in the area compounded the problem.

Jack Bevan inquired how many square feet of space is currently vacant at Harbor Square. Ms. Connor answered that there is currently about 30,000 square feet of vacant space.

PORT QUARTERLY REPORTS

Mr. Keuss referred the Commission to four reports that were provided in addition to the Fourth Quarter Marina Operations Report. He reviewed each one as follows:

- **Park Lot Survey Comparisons 2004-2007.** Mr. Keuss summarized that the comparison indicates the Port has never maximized all of their available parking spaces during any of the weekends the survey was conducted. However, the available parking spaces might not have been close to the tenants' docks.

Commissioner Burkhart drew the conclusion that since parking lot data collected from 17 of the busiest weekends over the past four years indicates there is adequate parking space, perhaps they could discontinue the survey for the time being. Another survey could be done at the time of significant change, such as when the Edmonds Yacht Club Building has been completed. Mr. Keuss reminded the Commission that staff started collecting parking lot data several years ago when tenants complained that the parking lots were all full. The remainder of the Commission concurred that until there is a significant change on Port property, the parking survey should be discontinued.

- **2007 Safety Field Trip.** Mr. Keuss reported that members of the Port's Safety Committee went on their annual field trip last month to Cape Sante and Twin Bridges Marinas to review various elements of safety. He referred to the report that was prepared by Kevin VanVliet, Safety Committee Chair, which outlines staff's observations.

Commissioner Orvis expressed his support for the field trip program. He said that as he visits ports in the Puget Sound area, he has noticed numerous safety issues, and it is helpful for the Port staff to take note of these concerns. Commissioner Burkhart agreed. She pointed out staff's comment that the Cap Sante Marina Operations Office is very inviting. She questioned what could be done to improve the Port's Marina Operations Office. Ms. Kempf said she submitted a proposal to the Executive Director that would have included an office renovation project in conjunction with the proposed new restroom facility. This project would have rearranged the work area to better utilize space. However, the Port was unable to obtain the necessary funding for the restroom project.

Commissioner Orvis pointed out that staff spends a significant amount of time cleaning the ladders that are attached to the docks. He said that on a recent visit to the Naval Station, he noticed they use a type of spring-loaded ladder that could be pulled out of the water when not in use. He suggested staff research the option of replacing the Port's ladders with the spring-loaded design that would require less maintenance.

- **2007 Overtime Report.** Mr. Keuss referred the Commission to the overtime report that was prepared by staff. He pointed out that overtime in the dry storage and maintenance areas significantly exceeded budget. While the Port hired a full-time staff member who was familiar with the Port's dry storage facility, he was not able to work in the dry storage area as much as anticipated because he had to be trained to operate the travelift, as well. The dry storage and marina operations staff was also impacted by the seasonal labor situation. They were unable to get the seasonal employees on board as early as needed, and most of them had to leave early to return to school. This situation made it necessary for full-time, permanent employees to cover the shifts. The Port also experienced a lot of activity during the month of July, and the hours were extended as a result of the fishing season. There was a 30% increase in the guest moorage program, too.

Although overtime in the dry storage and maintenance areas exceeded budget, Ms. Kempf pointed out that this situation was offset by other areas. The net overtime budget overrun was only \$2,538, and this additional amount was covered by the Salaries and Wages area, which was under budget because the approved new staff member did not come on board until March.

- **2007 Cost Center Report.** Mr. Keuss reviewed the cost center report for 2008, which was compiled by quarters and identifies the total hours of staff time allocated to the various cost centers. He noted that 25% of the total staff time was allocated to the permanent moorage cost center. When comparing 2007 numbers with those from 2006, Mr. Keuss noted that more staff time was required for the guest moorage program, which experienced a significant increase in activity. More staff time was also required to address environmental issues associated with the workyard. The Harbor Square Property also had a significant impact on staff time, as did the Jacobsen's Marine Project.

Ms. Kempf reviewed the Fourth Quarter Marina Operations Report and specifically noted the following:

- Many areas of operations saw increases during the fourth quarter of 2007.
- Fishing activity was up and all related services experienced an increase. Activity at the public launch increased by 33% during the fourth quarter compared to 2006 numbers.
- Increased fuel prices do not seem to have had a negative impact on marina operations. Increased fuel costs may be one of the reasons for the increase in guest moorage, as boaters are staying closer to home. The Commission discussed that the Port often received comments from fuel dock customers that Elliott Bay Marina and Shilshole Marina offer lower fuel prices. However, it is important to note taxes are not included in the price that is advertised at their pumps. Ms. Kempf said the Port's fuel prices are never higher than Shilshole or Elliott Bay. However, Shilshole and Elliott Bay do offer quantity discounts, and the Port of Edmonds does not. The only discount offered by the Port of Edmonds is via the dock and pay program. She said she does not believe the Port distributes sufficient volume to allow them to offer a quantity discount.
- The number of guest moorage boats during fourth quarter increased by 20% over fourth quarter 2006. The number of nights increased, as well. The number of boats in 2007 increased by 22%, and number of nights increased by 14%.
- Moorage Office staff prepared data related to the waiting lists, terminations, and assignments. The data did not offer any conclusive information. However, staff did notice an increased demand for smaller spaces, and this could be a result of recent changes at Shilshole and Everett to provide spaces for larger boats.
- Activity at the workyard was down during the fourth quarter compared to the same period in 2006. Staff has noticed an every-other-year schedule for workyard activity, and the workyard vendors agreed with this trend. Staff believes the poor weather impacted the workyard in 2007, but the weather was unusually warm during the fourth quarter of 2006.
- During the fourth quarter the Port participated in a stormwater pilot project, and test equipment was installed in the workyard. Also during the fourth quarter, the Port was able to pass their copper test for the first time. There are several reasons this could have happened including resurfacing the workyard, low activity in the workyard, and drainage rerouting associated with the test project. She emphasized that the new system is not the only reason the Port passed their copper test because it currently only takes about 7.5 gallons of stormwater per minute from the yard. However, the initial numbers from the pilot project are encouraging from all three boatyards. It appears that technology can help boatyards get to a much better place, but they must remember they are only treating a small amount of water at this time.
- At the end of fourth quarter 2007, dry storage occupancy was strong at 94.64% compared to 89.29% at the end of fourth quarter 2006. This is the highest occupancy for the dry storage facility during fourth quarter in the past five years. Staff believes the Port's participation in the boat show has a significant impact on the dry storage program. In addition, fewer tenants are removing their boats from the facility during the winter months because they are concerned they would not be able to get a space in the spring.

Commissioner Block requested an update on the Port's program for requiring insurance and registration compliance. She asked if 2008 parking passes are being withheld until tenants provide the necessary documentation. Ms. Kempf

explained that, oftentimes, tenants forget they have to bring a copy of their new registration into the office each year. Also, staff was unable to send out the follow up letters during the third quarter as a result of the summer staff shortage. She emphasized that this program requires a significant amount of staff time, and staff must stay on top of the situation at all times. Mr. Keuss said he anticipates the second quarter report for 2008 will show a significant increase in compliance. Commissioner Block concluded that it would be helpful if this were a State requirement, rather than something the Port must enforce on their own.

Commissioner Orvis expressed amazement that the Port can be run so efficiently with such a small staff. Ms. Kempf agreed that the Port has a very dedicated and efficient team of staff members, and they accomplish a lot with just a few people. Commissioner Orvis said he received numerous compliments during his participation at the boat show about how well visitors were treated by the Port staff.

EXECUTIVE DIRECTOR'S REPORT

Mr. Keuss advised that the 2007 End of Year Financial Report is currently being put together by the Port's Finance Manager and would be presented to the Commission as soon as it has been completed.

Ms. Kempf announced that Edmonds would be the last derby of the year as part of the 2008 Coho Derby that is sponsored by the Puget Sound Anglers Association. That means all of the prizes would be given away in Edmonds. The event organizers anticipate selling 750 tickets for the event this year compared to 450 sold in 2007. In addition, they are planning other activities that would get children and others involved in the event. They have also requested more parking spaces, as well as an opportunity to reserve the guest moorage area. They are planning to create a wonderful festival atmosphere at the Port, and they plan to invite the restaurants at the Port to become sponsors of the event.

Commissioner Block suggested staff warn guest moorage visitors who are not affiliated with the derby so they are not caught by surprise when they arrive. Ms. Kempf pointed out that allowing the sponsors to reserve space for the derby would enable staff to cluster the participants into one area of the Port. Commissioner Block suggested that other guests be encouraged to utilize the loan-a-slip program so they are separated from the derby participants.

Mr. Keuss reported on the following items:

- A blood drive is scheduled for Friday, February 8, 2008 at Harbor Square. He encouraged interested Commissioners and public to contact Ms. Borth to reserve a time to donate.
- The Executive Director made a 30-minute presentation to the Edmonds City Council regarding the Harbor Square/Antique Mall Redevelopment Program on January 22nd. He provided a brief history of the project, and avoided identifying a preference for any particular design. He informed the City Council that he has made over 20 public presentations, with about 600 people in attendance. He left them with the message that the City has a great opportunity to do something positive in this area. Members of the public have expressed a concern about allowing overdevelopment on the waterfront, as well as their desire for a park feature, and he encouraged the City Council to work with the property owners to create a win/win situation for everyone. Unfortunately, the City does not currently have a good mechanism to address the situation and coordinate the concerns and wishes of the public. They will discuss the issue at their upcoming retreat, and Commissioner Burkhart has agreed to attend the session on behalf of the Port.
- The Executive Director made a presentation regarding the Harbor Square/Antique Mall Redevelopment Program to the Friends of the Library on January 24th.

Mr. Keuss invited the Commissioners to provide feedback regarding the future of the restroom project that has been identified in the 2009 Capital Budget with the understanding that staff would continue to seek grant funding opportunities. He explained that the ROC Board expressed concern that a significant amount of the proposed new building would provide restroom facilities for the general public. They noted that their focus was on facilities for

transient moorage. He suggested that future grant applications ask for only half the dollar amount, assuming that about half of the facility would be utilized by the general public. The Commission pointed out that all of the laundry and shower facilities would be utilized by guest boaters and not the general public. They suggested that future grant applications indicate that 70% of the proposed new facility would be utilized by guest moorage customers, and 30% would be utilized by the general public.

Mr. Keuss reviewed the following legislative items:

- A number of bills have been proposed as a result of the current situation at the Port of Seattle, and some of them could have an impact on all public ports.
- The Northwest Marine Trade Association (NMTA) and the Washington Public Port Association (WPPA) are keeping watch on a lighting bill that proposes all municipalities use the best technology available for exterior lighting in order to reduce energy consumption and protect the night sky. Staff responded to NMTA's request for feedback regarding the proposed legislation, which would exempt navigational lighting systems. He recalled that the Port currently has the brightest navigation lights allowed by the U.S. Coast Guard as a result of tenant comments about poor lighting at the entrance to the marina.
- Legislation has been proposed by the State Auditor's Office that would require all ports and municipalities to record executive sessions. The tape recordings would be held for two years, and access would require approval from the judicial system. As proposed, a judge would review an application and the tape to see if there is justification for releasing the information to the public. The WPPA is following this issue very closely.
- House Bill 3156 would require the Port of Seattle to deposit all tax levy money that is not used for debt service into a State account for Puget Sound clean up projects.
- House Bill 6290 would eliminate the tax levy authority for all ports and counties with a population over 250,000. It recommends the tax levy be ratcheted down over an 18-year period of time.
- Senate Bill 6235 would require four-year terms for all port commissioners. It also includes changes in the public works contract law, notably that all public consulting services would have to go out to bid. Right now, they are only required to advertise each year for architects, engineers, etc. who are interested in providing service, but they are not required to go out to bid for the service.
- House Bill 2180 would require districts for Port of Seattle commissioners. If this bill is approved, it could be expanded in the future to include all port districts.
- House Bill 2745 would require equal voting weight for all ports in the WPPA. It would also prescribe equal dues amongst all members.
- Legislation has been proposed that would eliminate the WPPA's lobbying authority.

Commissioner Orvis pointed out that much of the proposed legislation points to the Legislature's immature way of responding to the Port of Seattle's problems. Rather than working to solve the problem, they want to be the first to propose random bills. He suggested that it might be necessary for the Port Commissioners to personally contact their legislators and express their concerns and desires regarding the proposed legislation.

COMMISSIONER COMMENTS AND COMMITTEE REPORTS

Commissioner Burkhart announced that she would attend the Edmonds City Council's retreat session when they will discuss the Harbor Square/Antique Mall Redevelopment Program. She said she would also attend the February 4th Woodway Town Council Meeting. In addition, she and Mr. Keuss would attend the Snohomish County Economic Development Council's annual breakfast meeting. Commissioner Orvis indicated he would attend the breakfast meeting, as well. It was noted that the keynote speaker would be the new Executive Director of the Port of Seattle.

Commissioner Burkhart said she worked a half a day at the Port's booth at the Seattle Boat Show, which was very well attended. She said the only negative comment she received was that it is difficult to get Port of Edmonds staff to answer the telephone. She suggested that in addition to providing new telephone equipment, it would also be

appropriate to look at the problem more broadly and consider providing staff training to improve telephone service, as well as new approaches.

Commissioner Orvis reported on his attendance at the Sea Scout committee meeting where they discussed plans for the year. They have a healthy number of Sea Scouts, and Skipper Makin is looking forward to a good year.

Commissioner Orvis also reported that he attended the South Snohomish County Cities dinner meeting in December, and participants have provided positive feedback about the opportunity to meet with legislators and County Council Members. The County Council Members agreed it is important to meet with the South Snohomish County Cities group on a periodic basis.

Commissioner Orvis reported on his attendance at the Seattle Boat Show. He suggested it would be helpful to provide a chart or map to identify the location of the Port of Edmonds, since many people were from outside of the Puget Sound area and did not know where Edmonds was located.

Commissioner Block said she enjoyed working in the Port's booth at the Seattle Boat Show. She agreed it would be helpful to provide a map to identify the location of the Port of Edmonds. She said she received a lot of good comments about the Destination Port of Edmonds Program.

Commissioner Block said she would attend the WPPA Environmental Policy Committee Meeting at the Port of Olympia on January 30th.

ADJOURNMENT

The meeting was adjourned at 8:36 p.m.

Respectfully submitted,

Mary Lou Block
Port Commission Secretary