

PORT COMMISSION OF THE PORT OF EDMONDS

MINUTES OF REGULAR MEETING

March 9, 2009

Commissioners Present

Bruce Faires, President
Mary Lou Block, Vice President
Marianne Burkhart, Secretary
Fred Gouge
Jim Orvis

Staff Present

Chris Keuss, Executive Director
Tina Drennan, Finance Manager

Others Present

Bradford Cattle, Port Attorney
Theresa Ocfemia, Student Rep.
Karin Noyes, Recorder

CALL TO ORDER

Commission President Faires called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

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

CONSENT AGENDA

The Commission pulled Item H (Approval of Waiver of Notice of Special Meeting Form) 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 AS AMENDED.**
- B. APPROVAL OF FEBRUARY 23, 2009 COMMISSION MEETING MINUTES**
- C. APPROVAL OF CHECK NUMBERS 5389 THROUGH 5395 IN THE AMOUNT OF \$1,334.98 FOR TENANT REFUNDS.**
- D. APPROVAL OF VOIDED CHECK NUMBER 67423 IN THE AMOUNT OF \$788.02.**
- E. APPROVAL OF CHECK NUMBERS 67465 THROUGH 67495 INCLUDING DIRECT DEPOSITS DD00344 THROUGH DD00355 IN THE AMOUNT OF \$61,630.92 FOR PAYROLL.**
- F. APPROVAL OF CHECK NUMBERS 67496 THROUGH 67548 IN THE AMOUNT OF \$40,691.26 FOR ACCOUNTS PAYABLE.**
- G. APPROVAL OF CHECK NUMBERS 10879 THROUGH 10890 IN THE AMOUNT OF \$13,910.91 FOR HARBOR SQUARE ACCOUNTS PAYABLE.**

COMMISSIONER GOUGE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.



APPROVAL OF WAIVER OF NOTICE OF SPECIAL MEETING (Item H on the Consent Agenda)

Commissioner Orvis expressed concern that, as written, the waiver would allow the Commission to hold a special meeting and not even attempt to notify a Commissioner who was out of town until he/she returns. Mr. Cattle noted that the proposed language is standard format for a waiver of notice, but the Commission could amend the document to address Commissioner Orvis' concern.

COMMISSIONER ORVIS MOVED THE COMMISSION MODIFY THE WAIVER OF NOTICE OF SPECIAL MEETING FORM TO ADD "WHEN THE COMMISSIONER IS NOT REASONABLY AVAILABLE TO RECEIVE NOTICE." COMMISSIONER BURKHART SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER ORVIS MOVED THE COMMISSION APPROVE THE WAIVER OF NOTICE OF SPECIAL MEETING FORM AS MODIFIED. COMMISSIONER BURKHART SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

PUBLIC COMMENTS

No one in the audience expressed a desire to address the Commission during this portion of the meeting.

SPECIAL PRESENTATION BY DEBORAH KNUTSON – SNOHOMISH COUNTY ECONOMIC DEVELOPMENT COUNCIL (EDC)

Mr. Keuss recalled that a certain amount of the Economic Development funds have been allocated to the EDC in each of the Port's recent operating budgets. One of the requirements for receiving the funds is that the EDC provides an annual report to the Commission regarding their accomplishments and goals. He introduced Deborah Knutson, EDC President, who was present to provide the report.

Deborah Knutson, EDC President, reported that the unemployment rate is certainly going up in Snohomish County, and as of today it is 8.5%. She pointed out that over the last ten years there have been peaks and valleys in the employment rate. In February of 2003 the unemployment rate was 7.7%, and the Boeing Facility was particularly hit hard during that time. The unemployment rate dropped to as low as 3.5% in October of 2007. She summarized that the EDC believes the County will rebound again.

Ms. Knutson referred to a graphic illustration of how much growth has occurred in Snohomish County over the last 10 years. She summarized that the population has grown by almost 21%, and household income increased by almost 30%. Housing prices were up 91%. In addition, employment and the number of businesses in the County have grown. She summarized that although they are currently facing a downturn, it is important to recognize the significant growth that has occurred over the past 10 years.

Ms. Knutson explained that the County's economy is significantly driven by the aerospace, life sciences and technology industries. She noted that despite the layoffs announced by Boeing, they are still hiring in certain programs. The EDC will continue to work to grow jobs in these three industries. She pointed out that new companies have or will come on line during the past year, including Primus (aerospace), T-Mobile (technology) and Korry Electronics (Aerospace). She advised that the Korry Electronics project received infrastructure funding of \$2 million from the Community Economic Revitalization Board (CERB).

Ms. Knutson reported that the EDC would continue to participate in federal and local business programs such as the Small Business Consortium, Procurement Technical Assistance Center, Small Business Transportation Resource Center, and Small Business Development Center. She noted that Edmonds continues to participate in the Procurement Technical Assistance Center program, and a few contractors in Edmonds are overseeing a military program with a contract worth several million dollars.

Ms. Knutson reported that Governor Gregoire recently appointed a new aerospace advisor to help the State focus on working with Boeing and the aerospace community to keep and increase commercial and military aircraft production in Washington. She said there is speculation that Boeing won't build its next new jet in Washington State, and the decision could be made as early as April of this year. Governor Gregoire has accelerated the process to analyze how Washington State could compete with other candidates. She summarized that the analysis would be done on a very accelerated time schedule to meet the deadline for legislative bills that need to be considered. She pointed out that, at this time, it is difficult for the County to compete with other locations because the State of Washington does not have an incentive program in place. She said it is important for people to understand that if the second line of the 787 is relocated, then the relocation of other airplane programs could follow.

Ms. Knutson announced that the Port of Edmonds was featured in the EDC's Annual Report. She reminded the Commission that the EDC is always interested in opportunities to promote Snohomish County as a quality place to live, and the Port of Edmonds provides numerous amenities, particularly at the executive level. She also announced that the EDC now has a real estate component, and the Port's properties are listed on the Northwest Property and CoStar websites.

Commissioner Burkhart requested an update on potential funding for Paine Field. Ms. Knudson reported that two airlines are currently negotiating with the County to begin using Paine Field for commercial flights. In addition, the Federal Aviation Administration (FAA) has notified the Snohomish County Council that funding is available to address restoration, maintenance and safety issues associated with Taxiway A. However, these funds would not be available if a decision is made to exclude commercial air service at Paine Field. She noted that Taxiway A is currently used by the Boeing Company and a maintenance, repair and overhaul company. The Boeing Company has notified the Snohomish County Council that they do not believe commercial air service would interfere with their programs. They concluded that this is a local issue and they were not interested in becoming involved at this time. However, they cautioned the County against relinquishing the FAA dollars because Taxiway A is in need of repair and upgrade.

Commissioner Faires asked Ms. Knudson to share her ideas about how the Port could identify current opportunities for the Harbor Square Business Complex. Ms. Knutson pointed out that the property is listed on the CoStar Real Estate website. She also recommended the Port send representatives to the Las Vegas trade show for shopping centers and mixed-use projects. She said the City of Everett participated in the last event, and they got some excellent developers to look at available sites. She expressed her belief that there are not many prime properties in downtown Edmonds that are available for redevelopment, but the real issue will be working with the City to address the height restrictions. She suggested the Port contact Lanie McMullin, Executive Director, City of Everett Economic Development, to learn more about her efforts to attract mixed-use developers to Everett. Commissioner Faires pointed out that the Harbor Square Business Complex is located within close proximity to the Sounder Station. He asked Ms. Knudson to share what type of development is taking place in the vicinity of the Everett Station that is unique to the transportation aspect. Again, Ms. Knudson recommended the Port contact Ms. McMullin for more information.

2009 WATERFRONT FESTIVAL ROTARY CLUB AGREEMENT

Mr. Keuss referred the Commission to the draft motion that would authorize the Executive Director to sign an agreement with the Rotary Club of Edmonds for use of Port property for the annual Waterfront Festival. He recalled that over the last few years the Port has worked with the Rotary Club to increase the maritime theme for the festival, which has included the Classic Yachts and Offshore Boats. This year's festival would include the addition of artwork from the Kirsten Gallery. Rick Kirsten would display maritime art in the Edmonds Yacht Club. The Rotary Club has agreed to advertise this new event and encourage people to attend.

Mr. Keuss pointed out that, as per the agreement, the Rotary Club would pay the Port \$1,000 per day for the three-day event. In addition, the Rotary Club would pay Port staff costs and other related costs as agreed to by the two

parties prior to the festival. The remainder of the agreement language is standard. He recommended the Commission authorize him to sign the agreement as presented.

Commissioner Block referred to the first line in the Indemnification language (Section X) and suggested that the word “of” be changed to “for.” Mr. Cattle agreed that change would be appropriate.

COMMISSIONER BLOCK MOVED THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO SIGN THE ROTARY CLUB OF EDMONDS 2009 WATERFRONT FESTIVAL AGREEMENT FOR USE OF PORT PROPERTY WITH ONE MINOR CORRECTION TO THE FIRST LINE OF SECTION X (PAGE 4), CHANGE “OF” TO “FOR.” COMMISSIONER ORVIS SECONDED THE MOTION.

Doug Purcell, President, Rotary Club of Edmonds, said it has been a great pleasure to be involved with the Port as part of the Waterfront Festival. Working with Mr. Keuss and Mr. Cattle in putting together the contract was pleasurable, as well.

THE MOTION CARRIED UNANIMOUSLY.

EDMONDS YACHT CLUB (EYC) LOAN AGREEMENT UPDATE

Mr. Cattle recalled that when the EYC’s Lender Security Agreement initially came before the Commission, it was in need of some edits to make it consistent with the existing lease agreement. He advised that he updated the document as per the Commission’s recommendation and forwarded it to Prime Pacific Bank for review. The bank’s attorney has reviewed the document and, after speaking with the Port’s Attorney, understood the basis for the edits that were made. However, he still has some questions and they are in the process of working through the rationale for the Port’s position as opposed to the bank’s position. He summarized that the loan agreement should be ready for Commission review and approval on March 30th.

Commissioner Gouge inquired if the loan agreement would circumvent the lease agreement that was already approved by the Commission. He noted that the lease agreement requirements are straightforward. He also inquired if the EYC would be required to put money down or if the bank would fund the project 100%. Mr. Cattle answered that the security agreement does not address what the down payment would be. Again, he reminded the Commission that the purpose of editing the initial loan agreement was to make it consistent with the lease agreement requirements.

Commissioner Gouge questioned the use of the term “reasonable” in Item 7 of the lease. He cautioned that while the purpose of the language is to protect the public asset should the EYC be unable to make their payments, the term “reasonable” could be difficult to interpret. He expressed concern that the bank would have control over who the next tenant would be and the Port would not have the ability to oppose inappropriate uses. Mr. Cattle responded that “reasonable” is standard language. Commissioner Orvis pointed out that the approved lease already documents the types of uses that would not be allowed, and the lease agreement would apply to the bank, as well. He said he did not see anything in the loan agreement language that would allow the bank to modify the terms of the lease agreement. Mr. Cattle agreed that the bank would also be subject to the terms of the lease. However, he agreed to reread the lease and loan agreement language to make sure Commissioner Gouge’s concern is adequately addressed.

Commissioner Burkhart said she believes the EYC is asking for a mortgage loan that would cover the full cost of the building. The loan would not only cover the construction costs, but it would reimburse the EYC for costs they have already incurred. She noted that the lease agreement does not require the EYC to make a down payment and it does not suggest the Commission would be opposed to the idea of having a loan for 100% of the amount.

Mr. Cattle left the meeting at 7:50 p.m.

DRY STORAGE HYDRAULIC LAUNCHER ON-CALL REPAIR AND MAINTENANCE CONTRACT

Ms. Drennan reviewed that on May 18, 2008, the Commission authorized the Executive Director to enter into a contract with Everett Hydraulics for on-call repair and maintenance of the dry storage hydraulic launchers. One of the requirements of the contract is that the contractor provides the Port with performance and payment bonds to guarantee satisfactory performance of the contract and to protect the Port in case the contractor does not pay its employees and vendors. Everett Hydraulics failed to provide these bonds, and the Executive Director terminated their contract with the Port. The Port requested new bids in February and received only one response from Northwest Legend Construction. Staff found that Northwest Legend Construction's rates were less than those quoted by Everett Hydraulics in 2008. She recommended the Port enter into a 1-year agreement with Northwest Legend Construction, with the option of four, 1-year renewals.

Commissioner Burkhart asked if staff sought information regarding the quality of Northwest Legend Construction's work. Ms. Drennan answered that they did not. Mr. Keuss agreed to research the reliability of the company. Commissioner Faires inquired if the Port received more than one response when the contract was bid in 2008. Ms. Drennan answered that only one proposal was received in 2008, as well. She suggested that potential contractors are discouraged by the State's licensing requirements. Mr. Keuss pointed out that the contract is for very specialized work that only a few companies can perform. In addition, most companies do not want to go through the process of meeting the State requirements.

COMMISSIONER ORVIS MOVED THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT WITH NORTHWEST LEGEND CONSTRUCTION FOR ON-CALL REPAIR AND MAINTENANCE OF THE DRY STORAGE HYDRAULIC LAUNCHERS SUBJECT TO THE EXECUTIVE DIRECTOR'S DETERMINATION THAT THEY ARE A REPUTABLE FIRM. COMMISSIONER GOUGE SECONDED THE MOTION.

Commissioner Orvis pointed out that many companies avoid government contracts because of the onerous rules that apply. Public entities assume a higher cost of doing business because they must work under a different set of rules than private businesses.

THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE DIRECTOR'S POSITION UPDATE

Mr. Keuss reported that after review by the Executive Director, the Screening Committee and the Commissioners, the field of applicants has been narrowed to six semifinalists. He said he would send letters to each of the semifinalists by the end of the week, including a form that must be signed to allow the Port to perform background checks. He would also send letters to those who were not selected as semifinalists. The Interview Panel participants have been confirmed and the panel is scheduled to interview the semifinalists on March 26th. The Commission would interview the finalists on April 3rd. He said his goal is to prepare a packet for the Interview Panel to reaffirm the meeting date and to provide other information that will be helpful as they participate in the interview process. He advised that he and Commissioner Faires would also work on an evaluation form to help the panel ask questions and evaluate applicants.

EXECUTIVE DIRECTOR COMMENTS

Mr. Keuss reported on the following items:

- The Executive Director signed a temporary construction easement related to the lift station project on Dayton Street. The line that crosses the parking lot from Dayton Street to Harbor Square Building 3 must be replaced, and the temporary construction easement would protect the Port. If anything goes wrong, the City would be required to make the situation right. The City has made a commitment to keep traffic open to the Harbor Square Business

Complex, with some parking available, as well. Harbor Square management has contacted tenants regarding the upcoming project.

- A few months ago the Commission approved a new policy for Travel Expenditures. At that time, a question was raised regarding a policy for promotional hosting expenses, and he made a commitment to research and make sure a policy is in place. He referred the Commission to Resolution 95-2, which establishes rules and regulations governing promotional hosting expenditures.
- Legislative Port Day is scheduled for March 24th and 25th and would be hosted by the Washington Public Port Association (WPPA). A reception will be held on the evening of March 24th in the Governor's Mansion. Events are also scheduled throughout the day on March 25th. Commissioner Orvis advised that he has already notified staff of his intent to participate.
- The Executive Director signed onto a letter to legislative representatives on behalf of Snohomish County's Committee for Improved Transportation. The letter asks that the legislature preserve funding for Snohomish County transportation projects. He noted there are a number of important County road projects that may be on the chopping block by the Governor. Many officials and CEO's from the throughout the County, as well as the president of the EDC, have signed the letter.
- Michael Campbell has resigned his position as President of the Northwest Marine Trade Association effective June 8th. They are currently seeking a new president.
- Pump Me Out, a vendor at the Port, has notified staff of their plans to terminate moorage. They currently have moorage at both Lake Union and the Port of Edmonds, and they are doing much better at their Lake Union site.
- The Deputy Director attended a meeting in Olympia with the Department of Ecology (DOE) to discuss the draft Boatyard Permit. She reported that it was a productive meeting and she felt there was some good conversation on both sides of the issues and concerns. The DOE has verbally agreed to hold off on issuing the permit until they have completed a small business economic impact study. She felt the DOE now has a better appreciation and understanding of some of the issues boatyards are faced with. She brought up that some boatyards are having to close their facilities because they cannot meet the new DOE requirements.
- An electronic version of the Edmonds Aquatics Facility Study was sent to each of the Commissioners. It is also available for public review.

Ms. Drennan reported that as of April 1st, sales tax would increase from 8.9% to 9.5%. One-tenth of the increase would be used for chemical dependency and mental health treatment services. The remainder of the increase is a Regional Transit Authority tax that would be used to expand transit services in King, Pierce and Snohomish Counties.

Ms. Drennan explained that the Public Deposit Protection Commission is a Washington State agency that protects government agencies and their funds. Until recently, Washington was one of the only states that had a requirement that they only had to ensure 1/10 of their deposits. However, because one bank failed, banks became concerned. As of July 1st, all public depositories have to collateralize their deposits to 100%. She said she recently spoke to one bank that will ask those customers they do not have a thorough relationship with to move their money elsewhere. Mr. Keuss said he spoke with a Vice President of Horizon Bank about this situation, and he surmised that in the future many of the banks may not want to hold as much in public deposits as they have in the past unless there is a relationship and other accounts that are being held for the customer.

Mr. Keuss referred the Commission to the most recent Legislative Report and noted that there is no longer legislation being considered that would consolidate all ports in Pierce, Snohomish and King County into one port authority.

COMMISSIONER COMMENTS AND COMMITTEE REPORTS

Commissioner Burkhart reported on her attendance at the March 2nd Woodway Town Council meeting. It was discussed that the nuns have announced they would leave Rosary Heights. The Town Council discussed the option of purchasing the facility and a variety of uses were considered, including a new city hall. It was noted that the public appears to be in support of the City purchasing the facility, as well.

Commissioner Burkhart reported that the Woodway Town Council also discussed that the current owner of the Point Wells site has a plan to accommodate as many as 3,500 people in the area. The significance of the project was a shock to the Town Council. The property owners have indicated they are ready to start the cleanup process within the next year, and it could take up to six years to finish the work.

Commissioner Block reported that she and Chris Keuss attended the Snohomish County Planning Commission's public hearing regarding the Point Wells Draft Environmental Impact Statement to speak about the importance of keeping marinas as a possible use for the Point Wells site. The concept was well-received by the Planning Commission. She reported that she also attended the Planning Commission's last meeting on March 3rd where they reacted to the comments that were provided at the public hearing. They indicated that a marina would be a great use for the property, and they wanted staff to make sure the adopted regulations would not prohibit the use. After the meeting she was approached by a representative of the property owner requesting an opportunity to discuss the concept further. The representative emphasized that they do not have any figures related to how many residential units would be constructed. He indicated that 3,500 is the maximum number of units that would be allowed on the site based on the current urban center land use designation.

Commissioner Block summarized that because the Planning Commission lacked enough voting members, they did not make a formal recommendation to the Snohomish County Council. However, the proposal was forwarded to the Council, indicating that the majority of Planning Commissioners were in favor of approval. The Commission felt it was important to get the site cleaned up so that redevelopment can occur. However, they expressed concern about transportation to and from the site. It was noted that as per Snohomish County code for urban centers, good transportation alternatives must be available.

The Commission agreed it would be appropriate for the Commission to meet with the Woodway Town Council to discuss the concept further. They also felt it would be appropriate to consider resurrecting the Point Wells Committee in some configuration. They asked Mr. Keuss to contact Denny Derickson, a representative of a Point Wells property owner, to make sure everyone is clear on what the owners are considering.

Commissioner Orvis announced that the Port's Audit Report is available on line. He noted that no findings have been identified in any of the Port's last 18 audits (36 years).

Commissioner Orvis reported on his attendance at the Washington Public Port Association (WPPA) Legislative Committee Meeting. He specifically noted the following:

- It is likely that funding from the Community Economic Revitalization Board (CERB) would be eliminated. There is discussion about the possibility of combining all funds into the general fund so the legislature can fund unpopular projects without a 2/3 vote. In the fall they may see the equivalent of a levy lift for some popular programs.
- The governor placed all of the local toxic waste cleanup money into the general fund to increase the State's bonding capacity. So far she has been unable to get it back.
- The Puget Sound Partnership came up with a huge, multi-year agenda, but they have no money or authority to implement the program.
- The prevailing wage bill died, but it could be resurrected if the leadership of either house decides they want to reconsider. The bill's sponsor informed the union that he won't talk about the proposal again until they bring all stakeholders, business interests and other entities to the table.

- The sponsor of the land use bill really had intended it to be a voluntary thing, but it was written differently. The WPPA is working to modify the proposal with an amendment to remove ports from the bill. While ports would have to inventory, commissions would be able to determine if a property is suitable for low-end affordable housing. Tax credits would be offered to those who participate in the program.
- He attempted to learn more information about potential legislation that would require high-density development around transit centers. He learned that the concept is part of the Cascade Land Conservancy's agenda. Council Member Wambolt agreed to forward information about the proposed bill to Mr. Keuss.
- The bill related to ethanol gas for marine uses died because of conflicting testimony and lack of support from those who would be impacted.
- Legislation that would have required entities to record executive sessions died. However, it could come forward next year in the form of required training, which is something the Commissioners should all participate in.
- Legislation to consolidate ports in Pierce, Snohomish and King Counties died. It was discussed that no one focused on the new language, which was much different from what was originally proposed. The most current proposal would have required the Port of Edmonds to be part of the consolidated port authority. He said he expects the concept would come up again next year.
- Federal funding would be less than anticipated, and most would go towards WSDOT projects rather than counties, cities and local communities.

Commissioner Orvis referred to an article that was published in *THE SEATTLE TIMES* regarding the oil companies' resistance to paying for tugs at Neah Bay. He clarified that the oil companies currently pay for the existing tug that is at Neah Bay, but they are resistant to paying for a super tug or two tugs.

Commissioner Gouge referred to legislation that would have combined the ports in Pierce, Snohomish and King County and asked if all taxpayers within these three counties would have been required to pay port taxes. Commissioner Orvis answered affirmatively. The current language would have set up a single port commission that was partially elected and partially appointed by the Governor. The commission would set the tax rates and policies for all ports within the three counties. The Commission agreed they should pay careful attention to any similar legislation that comes up in the future. It was noted that all cities in Snohomish County would have been impacted by the proposal. The Commission suggested it might be appropriate to request resolutions from the Town of Woodway and City of Edmonds to support the Port's position on the matter.

Mr. Keuss asked Commissioner Orvis to share the WPPA's position on the legislation related to a combined port authority. Commissioner Orvis responded that the WPPA was not necessarily excited about the proposal, but there was some ambivalence on their part given that the Port of Seattle was in favor of the proposal and the Port of Tacoma was not. However, the WPPA was under the impression that the proposal would only impact the Ports of Tacoma, Seattle and Everett. They did not realize that the Port of Edmonds would have been included. The Commission agreed they need to be ready when this issue comes up again next year. Commissioner Orvis said he has already brought the matter to the attention of South Snohomish County Cities.

Commissioner Gouge reported on his attendance at the Edmonds City Council Meeting of March 3rd where they conducted a public hearing on a proposed ordinance that limits the storage of recreational vehicles in setback areas of residential zones. The proposed ordinance was approved 5 to 3. Mr. Keuss said he contacted the City to find out how the ordinance would impact the Port's workyard shelters, and he was informed that the ordinance would not be applicable to the Port's shelters.

Commissioner Block announced that she would attend the Puget Sound Regional Council's Transportation Policy Board Meeting on March 12th. The topic of discussion would be how to use the anticipated stimulus funds.

ADJOURNMENT

The meeting was adjourned at 8:37 p.m.

Respectfully submitted,

Marianne Burkhart
Port Commission Secretary