

PORT COMMISSION OF THE PORT OF EDMONDS

MINUTES OF REGULAR MEETING

February 8 2010

COMMISSION PRESENT

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

STAFF PRESENT

Bob McChesney, Executive Director
Marla Kempf, Deputy Director
Tina Drennan, Finance Manager

OTHERS PRESENT

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

CALL TO ORDER

Commission President Block 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

COMMISSIONER ORVIS MOVED THAT THE CONSENT AGENDA BE APPROVED TO INCLUDE THE FOLLOWING ITEMS:

- A. APPROVAL OF AGENDA AS AMENDED.**
- B. APPROVAL OF JANUARY 25, 2010 COMMISSION MEETING MINUTES.**
- C. APPROVAL OF CHECK NUMBERS 5529 THROUGH 5539 IN THE AMOUNT OF \$680.21 FOR TENANT REFUNDS.**
- D. APPROVAL OF CHECK NUMBERS 69178 THROUGH 69220 INCLUDING DIRECT DEPOSITS D00605 THROUGH D00614 IN THE AMOUNT OF \$40,072.14 FOR PAYROLL.**
- E. APPROVAL OF CHECK NUMBERS 69201 THROUGH 69205 IN THE AMOUNT OF \$28,528.74 FOR PAYROLL.**
- F. APPROVAL OF CHECK NUMBERS 69206 THROUGH 69262 IN THE AMOUNT OF \$23,726.47 FOR ACCOUNTS PAYABLE.**
- G. APPROVAL OF CHECK NUMBERS 11142 THROUGH 11151 IN THE AMOUNT OF \$16,471.41 FOR HARBOR SQUARE ACCOUNTS PAYABLE.**
- H. APPROVAL OF SURPLUS DECLARATION RESOLUTION NUMBER 10-01.**

I. AUTHORIZATION FOR EXECUTIVE DIRECTOR TO WRITE OFF \$1,763.53 AND SEND ACCOUNT TO COLLECTIONS.

COMMISSIONER FAIRES 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 STEPHEN CLIFTON, CITY OF EDMONDS COMMUNITY SERVICES AND ECONOMIC DEVELOPMENT DIRECTOR

This item was postponed to a future meeting.

POLICY REVIEWS

Mr. McChesney advised that a routine annual policy review has indentified two areas that warrant fine tuning and minor revisions:

- **Legal Holidays (13.00).** Mr. McChesney expressed his belief that the existing policy is too broad and allows Port employees to work on designated holidays and bank that time to be taken later at the employee's discretion. This has resulted in situations where employees use holidays to increase their vacation time, and some employees are able to take a month off at a time. This confuses the work planning and is disruptive to the usual conduct of critical job responsibilities. He explained that the proposed new language would require employees to take time off on the recognized holidays. In situations where it is necessary for employees to work on holidays, the proposed change would only allow the holiday accrual to carry forward for 30 days after the actual holiday occurs.

Commissioner Zagorski asked if the proposed changes would make it difficult for the Port to schedule employees to work on holidays when necessary. Mr. McChesney said the Port does not have difficulty scheduling employees to work on holidays, as long as they do not lose the holiday. He observed that some employees have chosen to work on holidays when there is little supervision and then take a day of vacation at another time. This has caused some problems with being able to get the required work done. Again, he recommended that employees be required to take holidays on the recognized days whenever possible. He noted that the Port would still have control and discretion in scheduling employees. Exceptions could be granted if necessary, but in the legal course of work, legal holidays should not be used to extend vacations.

Commissioner Orvis noted that the current policy could create problems with the Department of Labor and Industry rules.

- **Work Performance Evaluations (18.00).** Mr. McChesney advised that current policy prescribes employee performance evaluations twice yearly. While performance reviews are a valuable tool for both management and employees, it would appear the value of twice yearly evaluations is marginal and may not be justified by the time and effort required to prepare, meet and complete the process. He suggested that twice yearly evaluations are excessive except where there may be issues with individual employees, in which case those types of management interventions could be undertaken as necessary. He recommended a yearly employee evaluation cycle.

Mr. McChesney asked that the Commission approve the proposed policy changes as presented.

COMMISSIONER FAIRES MOVED THE COMMISSION APPROVE THE SUBJECT POLICY REVISIONS AS PRESENTED. COMMISSIONER ORVIS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

HARBOR SQUARE LANDSCAPE MAINTENANCE SERVICES CONTRACT

Ms. Drennan reminded the Commission that on August 14, 2009 the Port went out to bid for Harbor Square landscape maintenance service, but no bids were received. With the assistance of the Port Attorney, staff modified the bid specifications and contract terms and went out to bid a second time on January 4, 2010. Bids were due on January 22nd and 16 bids were received, ranging from a low of \$4,161 to a high of \$52,560. The lowest responsive bidder was Oliver's Landscape Maintenance. Staff has verified that it is a responsible company and the references were contacted. Staff spoke with Mr. Oliver to verify he understands the project specifications. Mr. Oliver indicated his rate was very competitive because he has other jobs in the area, and this decreases his mobilization costs.

Ms. Drennan recommended the Port enter into a 1-year contract with Oliver's Landscape Maintenance, with options for two, 1-year renewals, in an amount not to exceed \$50,000 per year. She explained that once Oliver's Landscape Maintenance has the Harbor Square Property on a regular maintenance schedule, the Port would like to add other tasks at their hourly labor rate. These potential projects include renovation of the corner of SR 104 and Dayton and pruning and spraying for weeds west of the train tracks. She noted that annual rate escalations are not to exceed the Consumer Price Index for Seattle-Tacoma-Bremerton or the percentage change in the applicable prevailing wage categories, whichever is greater.

Commissioner Zagorski questioned the spread between the contractor's bid price of \$4,161.00 and the requested approval amount of \$50,000. Ms. Drennan said the intent was to place a maximum cap on the labor rate for any future projects the Port adds to the contract. She estimated it would cost about \$10,000 to prune and spray for weeds, and \$20,000 to renovate the corner of SR 104 and Dayton. Mr. McChesney explained that the actual contract is for landscape services at Harbor Square. However, the Port anticipates some cost efficiencies by not having so many different contractors to perform the various landscape duties on Port property. However, at this time, they do not know what the magnitude of the additional projects will be. Ms. Drennan is recommending the Commission authorize approval of the contract at a not-to-exceed amount to cover the extra project costs.

Commissioner Faires expressed concern that while staff is confident they have the best price for a qualified vendor to provide landscape services at Harbor Square, they would not have any control over the costs associated with other projects. Mr. McChesney explained that the current proposal represents a way to approve a contract and anticipate extras without going through another bid process. It would approve the basic bid and recognize that the Port plans to use the contractor for extra work as needed. While they do not know the cost of the additional projects at this time, the contract would be capped at \$50,000.

Mr. Cattle suggested that in light of the significant spread between the actual bid amount and the proposed contract amount, it would be more appropriate to focus on the basic bid and award the contract on that basis. Additional projects could be dealt with on a case-by-case basis as they come up. He expressed concern that the current proposal could raise some concern from other bidders if it appears the low bidder came in with a \$4,000 bid and then a contract is awarded for \$50,000. Again, he encouraged the Commission to make the award based on the amount of the basic bid. Additional projects could be approved within the Executive Director's Administrative Authority or brought before the Commission in the form of a change order.

Commissioner Faires suggested that the contract also include a contingency fund to cover unanticipated minor changes. The remainder of the Commission concurred.

COMMISSIONER ZAGORSKI MOVED THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT WITH OLIVER'S LANDSCAPE MAINTENANCE FOR ANNUAL LANDSCAPE MAINTENANCE SERVICES OF THE HARBOR SQUARE PROPERTY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000) PER YEAR. COMMISSIONER GOUGE SECONDED THE MOTION.

Commissioner Faires asked if the proposed motion would give the Executive Director the latitude necessary to manage the Port's landscaping needs throughout the year. Mr. McChesney answered affirmatively and added that projects that exceed the contract amount would be brought before the Commission for review and approval.

THE MOTION CARRIED UNANIMOUSLY.

REPAIR AND REPAINT WORKBOAT CONTRACT

Ms. Drennan reviewed that Port staff hauled out the Port's 18-foot aluminum workboat for pressure washing and maintenance in late summer 2009 and discovered corrosion damage with several small holes in the bottom. Staff contacted Dick Troberg of Marine Corrosion Surveys for further examination and a recommendation on how to fix the problem. Mr. Troberg indicated that the damage was caused by poultice corrosion, which occurred when the oil boom and other items were resting on the bare aluminum with salt water trapped between. He recommended repairing the holes, if possible, or replacing the bottom of the boat. Due to the number and size of the holes, Port staff decided that replacing the bottom of the boat would be the best approach.

Ms. Drennan announced that the Port went out to bid in January and received two bids. She referred to the bid tabulation that was attached to the Staff Report and recommended the Commission authorize the Executive Director to enter into a contract with Latitude Marine Services in the amount of \$19,512.90. She noted that it is estimated the project would take approximately three weeks to complete.

Commissioner Orvis inquired if the epoxy coating would prevent this same situation from happening in the future. Ms. Drennan answered that the plastic floor board would help prevent the problem in the future.

Commissioner Faires inquired if staff has had any experience with Latitude Marine Services in the past. Ms. Drennan answered that the company provided a list of jobs they have done in the recent past, including a 160-foot barge for the United States Navy and other large projects. The boat will be taken to the company's workyard in LaConnor for the needed repairs.

COMMISSIONER ZAGORSKI MOVED THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT WITH LATITUDE MARINE SERVICES FOR REPAIRING AND REPAINTING THE PORT'S WORKBOAT IN THE AMOUNT OF \$19,512.90, INCLUDING SALES TAX. COMMISSIONER ORVIS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

MR. CATTLE LEFT THE MEETING A 7:25 P.M.

HARBOR SQUARE QUARTERLY REPORT

Steve Lyon, Northwest Country Management, was present to review the Harbor Square 4th Quarter Report. He specifically noted the following items:

- Both occupancy and revenue improved for the 4th quarter compared to the same time in 2008.
- Ten late notices were sent out totaling just over \$2,600 in assessed late fees.
- Adjustments to the year-end rent roll include a tenant who had an outstanding balance of over \$1,200, and a tenant with bad debt of about \$136 who vacated eight months before the end of the lease. In three other situations, outstanding balances were cleared using security deposits.
- The Port received a security deposit from Animal Dermatology.
- There was rate abatement per a lease in Building 3, which totaled \$1,390.17 for October.
- There was rate abatement in Building 2 of \$12,697.67 for October, which was applied in November. While this was a significant rate abatement, it is important to note that the tenant currently leases approximately 25% of the entire building and rate abatement was part of the lease agreement.

- The Port received a sizeable payment last week (\$11,000) from Clear Cover's guarantor and they will continue to work with the guarantor to get the payments caught up.
- There were five new lease and lease extensions during the 4th quarter, all of which were non commissionable. A lease in Building 3 was extended for 2 years and will bring in just over \$76,000. A lease was extended in Building 5 that would result in approximately \$28,000 in revenue, and a new lease in Building 5 was signed for a total of \$941.31. There were two lease extensions in Building 1, one for approximately \$44,545 and another for \$3,544.
- No improvements were made during the 4th Quarter.
- The conference room was rented 11 times in the 4th quarter, resulting in net revenue of \$1,467.79.
- The roof patch project is continuing, and patches to Building 2 are being made on an on-going basis. They are making good progress.
- Ms. Connor met with the City of Edmonds Fire Inspector, American Sprinkler, and Alarm Panel Company on October 28, 2009 to discuss a solution to resolve the water flow and reset alarm situation. Bids will be submitted in the near future to resolve the problem.
- Total combined 4th quarter revenues in 2008 were \$335,593 compared to \$356,285 in 2009. This represents a 6% increase.
- Overall, occupancy increased by more than 3% across the board.

Commissioner Faires asked Mr. Lyon to share his ideas about why occupancy improved in 2009. Mr. Lyon explained that during the first part of 2009, many tenants down sized their space. While the Port was able to retain the tenants, the occupancy rate went down. There was one new tenant during the 4th quarter, but not a lot of lease activity typically occurs in the first quarter of the year. All leases that expired in the 4th quarter were renewed. He pointed out that it is less costly to reassign tenants than find new tenants. Mr. McChesney added that the Port currently has a few offers out for office space at Harbor Square.

Commissioner Orvis requested more information about the problems with the fire alarm system. Mr. Lyon responded that, at this time, even a small drop in the City's water pressure triggers the Harbor Square Property's fire alarm system. Mr. McChesney added that when the City runs the nearby fire hydrant, it affects the water pressure at Harbor Square and the alarm is triggered. He explained that the ultimate solution could be costly, so they are approaching the situation incrementally.

Commissioner Gouge asked Mr. Lyon to share comments the property manager has received from tenants regarding the condition of the buildings at Harbor Square. Mr. Lyon said they have not received any negative comments, and the tenants appreciated the landscaping and painting projects that have occurred recently. The roof repairs are appreciated, as well. In addition, the Port has been proactively replacing the windows in the unoccupied spaces. He summarized that, generally, they have received positive comments on the steps the Port has taken recently to improve the property.

PORT OPERATIONS QUARTERLY REPORT

Ms. Kempf referred to the 2009 4th Quarter Report, which is different than previous quarterly reports prepared by staff. She recalled that at a previous meeting, the Commission directed her to look at trends over the last five years in the various activity centers. She said that upon reviewing the numbers, it became apparent that 2007 was a banner year in most areas. The Port's activity tends to be on an every-other-year cycle and is very dependent on fishing, weather, and fuel prices. She said she was surprised that the one area where activity was up in 2009 was the public launch. While staff is not clear about why this occurred, there was a positive bottom line at the public launch during the 3rd quarter of 2009.

Ms. Kempf referred to Page 11 of the report, which provides a table to identify the waitlist trends. She observed that the majority of vacancies are in the slips that are under 30 feet. At the end of the 4th quarter there were 43 vacant slips compared to an annual average from 2005 to 2009 of about 20. Commissioner Faires pointed out that the vacancy percentages were based on slip count rather than actual percentage of vacant space. Ms. Kempf said the numbers in the

report are based on the last day of the 4th quarter in each of the years and are intended to provide a snapshot rather than an actual count of what happened throughout the quarter. She advised that the Port currently has a wait list for all slips over 30 feet, but the lists are only half as long as in previous years. They are currently seeing a lot of movement in all slip sizes, and a reduction of the number of people on the wait list.

Ms. Kempf reported that dry storage was at 82.5% occupancy at the end of the 4th quarter, which is the lowest it has been in the last five years. The five year average is 93.3% occupancy. She said she is optimistic the Port will have several new tenants as a result of the 2010 promotion.

Commissioner Orvis observed that more than half of the Port's slips are in the size category where they are seeing increased vacancies in the market. He said he has received comments from large boat tenants in other marinas who are interested in moving to Edmonds. Some of these individuals have purchased homes in Edmonds and want to be close to their boats. He commended Ms. Wade for doing such an excellent job of selling the Port to prospective tenants and guest boaters, particularly at the boat show.

Commissioner Faires also commended staff for the good service they provide to the Port's tenants and guests. He encouraged them to continue to provide the best customer service possible so the Port can retain their existing tenants. Commissioner Block added that many people who attended the boat show commented about the good experiences they have had at the Port of Edmonds.

Ms. Kempf reported that the workyard numbers were significantly lower in the 4th quarter of 2009 compared to 2008. However, it is important to keep in mind that in 2008 three vessels were in the workyard throughout the entire quarter. If those vessels were removed from the calculations, the workyard activity would only be down 1%.

EXECUTIVE DIRECTOR'S REPORT

Mr. McChesney reported that he and Ms. Kempf met with Bob Beckman, Executive Director of the Puget Soundkeepers Alliance. They shared information about the Port and also gained a better understanding of the Alliance's position related to boatyards and the lawsuits they have filed in recent months. They learned that the Citizen's Lawsuit Provision of the Clean Water Act gives the Alliance the power to file the lawsuits. Mr. Beckman said their intent is to be the enforcement agent for the Department of Ecology by settling issues out of court. He said whatever amount they settle for is used to pay their legal fees, as well as other worthy environmental projects. He emphasized that none of the money goes into the Alliance's budget.

Mr. McChesney advised that, during the meeting, he asked Mr. Beckman why the Alliance was not suing the Department of Ecology when there are issues related to permit compliance. Mr. Beckman did not provide insight into this question, and it appears the Alliance is interested in pursuing their current arrangement.

Ms. Kempf said she has worked with the Puget Soundkeepers Alliance for 25 years and participated on one of their first committees. In general, they have been a great organization from an environmental standpoint, and she is disappointed that they are now heading down a path of becoming adversarial with people who have worked well with them in the past to make important environmental strides.

Commissioner Faires asked if Mr. McChesney and Ms. Kempf got the sense that in the future, the Alliance would go after the real source of the problem rather than focusing their efforts on workyards, which create only a minute portion of the copper. Ms. Kempf said that Mr. Beckman assured them that they are pursuing others, as well. Commissioner Orvis observed that the Alliance Board is now made up primarily of attorneys, and they tend to solve problems by suing people.

Commissioner Faires summarized that the focus has become adversarial and it is easy to pick up the sword and fight. However, they should also keep in mind that the Port must do everything reasonably possible to address environmental issues independent of the current animosity. Ms. Kempf advised that during their meeting with Mr.

Beckman, she and Mr. McChesney shared the Port's story, using graphs to illustrate water samples and show how the Port has done well over the last three to five years. They met every benchmark in 2009 and turned in all the required paperwork. They emphasized what the Port has done and will continue to do to ensure their activities have minimal impact on the environment.

Commissioner Orvis expressed concern that boatyards still do not know what the actual permit requirements will be. If the Port is serious about cleaning up Puget Sound, they need a coherent program that is different than just staying under the horizon of the Alliance. Many boatyards are going out of business and jobs are being lost. There will be significant backlash as a result of how the Department of Ecology and the Alliance are currently operating. While the legislators are currently talking about laying off teachers, there has been no mention of changes to the bureaucracy that currently exists in the Department of Ecology. Attorneys for the Alliance are playing an extortion game, and this has got to stop if they want to make true progress towards a cleaner Puget Sound. He summarized that everyone wants a headline about what they are doing to clean up Puget Sound, but nothing useful is really being done.

Mr. McChesney said he did a walk through with the Edmonds Yacht Club on February 1st, and they have turned over the keys for their old space and moved into their new facility. He said he is still trying to market the space for a marine retail use, which he believes is the most appropriate use for the space.

Ms. Kempf reported that staff is working to get the Lady Washington and the Hawaiian Chiefton to the Port during the Waterfront Festival. She spoke with representatives from the Classic Yacht Club, and they indicated they would be willing to share their space.

COMMISSIONER COMMENTS AND COMMITTEE REPORTS

Commissioner Faires announced that he would attend the WPPA Legislative Committee Meeting on February 12th. He said the primary focus of the legislature is the budget, but there are a few items on the floor that might be a problem for ports, and he hopes to have a better view of the situation after the meeting.

Commissioner Faires reported that he attended portions of the Edmonds City Council's Retreat on February 5th and 6th, at which the Citizens Economic Development Commission (CEDC) reviewed the presentation they made previously to the City Council. The CEDC's report specifically recommended the City Council support the process to redevelop Harbor Square with public involvement and with assurance that there would be a balance between creating revenue and environmental concerns. This recommendation calls attention to the Port's public process, which must be real and give all stakeholders an opportunity to present their ideas and have some influence on the end results. He reported that several City Council Members commented about the report. For example, Council Member Peterson expressed his belief that the City Council needs to support redevelopment of Harbor Square if the Port can ensure the public process is real and truly effective. Council Member Bernheim said the City Council must cooperate with the Port in the context of economic development. Commissioner Faires summarized that in light of the financial issues currently facing the City, the City Council appears to be willing to entertain a redevelopment scheme for Harbor Square that is in the appropriate context for the City.

Commissioner Zagorski announced that she and Commissioner Faires would make a presentation to the Alliance for the Citizens of Edmonds (ACE) on February 11th relative to Harbor Square Redevelopment.

Commissioner Orvis reported that he and Commissioner Gouge attended the WPPA Port Day 2010 with the Legislature on February 1st. While it was a long day, they were able to speak with all of their local representatives except Senator Darlene Fairley. However, they were able to meet with her chief legislative aid. They talked about the boatyard permit issue and the prevailing wage bill that has been modified. They are all waiting to see the outcome of the proposed budget, which is anticipated to be nearly \$3 billion short. It was discussed that because the governor negotiated with the unions after the last legislative session, there will be no jobs cut and wage reductions except for teachers, who were not part of the negotiation.

Commissioner Orvis announced that he received an invitation to attend the first round of 2010 Community Transit Business Leader Roundtables on February 18th and 19th, but he would be unavailable. Commissioner Gouge indicated that he would attend one of the sessions on behalf of the Port.

Commissioner Gouge reported on his attendance at the WPPA Port Day 2010 with the Legislature, as well. He noted that the WPPA put on an excellent presentation this year. He and Commissioner Orvis had a discussion with Representative Marko Liias regarding the current boatyard permit situation. They asked him to arrange a meeting with representatives from the Port of Edmonds, David Dicks from the Puget Sound Partnership and representatives from the Department of Ecology to address the issue further. He said that he and Commissioner Orvis would meet with Mr. McChesney and Ms. Kempf to prepare a white paper of information regarding the boatyard issue and forward a copy to each of their local representatives. He said he recognized that they would not likely take up the issue until after the current legislative session has concluded. He expressed his belief that the next step is in the Port's court. They intend to follow up as appropriate to move the issue forward. Commissioner Orvis added that the Ports of Seattle and Tacoma have indicated that they would be joining forces to show how ports are at the forefront in taking steps to address environmental issues.

Commissioner Gouge said that while he was at the WPPA Port Day 2010 he spoke with representatives from the Port of Everett and learned that they have prepared a 1-page paper outlining their port's positive economic impact on the community. He suggested the Port consider doing the same.

Commissioner Block announced that she and Commissioner Gouge would attend the Puget Sound Regional Council Meeting on February 11th. In addition, she, Commissioner Orvis and Mr. McChesney would attend the Prosperity Partnership Meeting on February 26th.

Commissioner Block observed that there was significant interest at the Port's booth at the recent boat show. She asked if the show had good attendance. Ms. Kempf answered that they won't have the final numbers until tomorrow, but the Northwest Marine Trade Association estimates that the attendance was at least 10% greater than last year. Commissioner Block commented that the Port had a great location amongst other public ports and marinas.

Commissioner Faires announced that City Council Member Buckshnis has been assigned as the Council's liaison to the Citizens Economic Development Commission, which was one of the CEDC's recommendations. He observed that the more the CEDC can get the City Council Members involved in the process, the better. Council Member Buckshnis reported that the City Council is trying to be smarter and kinder. They also intend to start acting and moving forward.

ADJOURNMENT

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Fred Gouge
Port Commission Secretary