CALL TO ORDER

Commission President Preston called the special meeting to order at 6:00 p.m.

EXECUTIVE SESSION

Commissioner Preston announced that the Commission would recess into an executive session pursuant to RCW 42.30.110(1)(b) to consider the selection of a site or the acquisition of real estate by lease or purchase and RCW 42.30.110(1)(i) to discuss with legal counsel representing the agency potential litigation to which the agency may be likely to become a party. He advised that the Executive Session would last approximately 60 minutes, at which time the Commission would resume the public portion of the meeting. He further advised that no action would be taken after the Executive Session. The Executive Session was adjourned at 6:57 p.m., and the business portion of the special meeting was reconvened 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
B. APPROVAL OF JANUARY 8, 2018 MEETING MINUTES
C. APPROVAL OF PAYMENTS IN THE AMOUNT OF $317,922.70

COMMISSIONER JOHNSTON SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.
PUBLIC COMMENTS

Marjie Fields, Edmonds, voiced concern about the use of Roundup on Port property. The Port has acknowledged that the product is still being used in landscaped areas on the west side of the tracks, and she is curious about whether or not it is being used at Harbor Square, as well. Although the Port has assured her that care is being taken with the product’s use, it is not really possible to keep it out of the adjacent waterways. Anytime it rains, herbicides and pesticides are washed into the storm drains and discharged into Puget Sound. There is ample evidence of the damage done to the environment, and the Port should make every effort to move away from its use rather than justifying it.

James Murray, Edmonds, said he has been a tenant of the Port for 35 years. A good portion of the time, he had in-water moorage, but he has been a tenant at dry storage for the past 10 years. He voiced concern about the new dry storage rules. He said that, in general, he has been happy being a tenant in the dry storage, but the latest rules are making it almost unbearable for him. He explained that, under the new scenario, the pre-launch area would be very limited, which will significantly impact the tenants who want to use their boats in the early morning hours prior to the opening of the normal business hours. The majority of boaters are fishermen who like to get out early in the morning, and the pre-launch capability is a pre-requisite during the Chinook season. Under the new rules, B dock would no longer be available for overnight moorage and pre-launch. Very few tenants would be able to take advantage of the pre-launch program given the limited space on A Dock, and this is particularly frustrating given that B Dock would be empty.

Mr. Murray also voiced concern that tenants who want their boats to remain in the water overnight will be required to go to mid marina. However, he anticipates that mid marina will be full during the busy season and will not be an option for the dry storage tenants. He pointed out that a boat is probably the second largest investment a person makes, and they want to be able to use them. He added that the whale watching boat will also take up some of the space at mid marina, and the only option left to the dry storage tenants will be V Dock, which is at the very end of the marina and currently occupied by the Sea Scouts. Mooring at V Dock will require dry storage tenants to walk all the way to the other end of the marina to get in their vehicles to go home, and they will have to walk all the way back the next morning. In his view, the new rules eliminate the tenants’ right to overnight moorage, and this does not make sense given that B Dock would remain empty.

Mr. Murray said he has noticed a gradual degradation of services at dry storage over the last 6 to 7 years. There are fewer staff hours, less staff available to launch boats, and security issues have only been cosmetically fixed. At the same time, their storage rates have continued to increase. He concluded that the Port made promises to him when he signed his lease, and there have been some very large takeaways that he is not happy about. He suggested the Commission consider the following:

1. The new rules should be tabled and tenants should be given back what they previously had. The Port should then work with the tenants to establish rules that will work for everyone. He understands there have been some complaints from tenants who haven’t had a place to return to in the evening, but he felt that was a small number compared to those who are impacted by the new rules. It is likely that the problems can be solved by making the tenants aware of the rules and then enforcing them. He voiced concern that if B Dock is not used, it might eventually be opened for general moorage.
2. Look at extending A Dock. If the issue is not enough dock space, the Port could create more by extending A Dock and putting in power and water.
3. Avoid using platitudes about making choices and thanking the tenants for being at the Port. They need to be respected and they want what was promised them in their original lease agreement.

Richard Hanna, Edmonds, said he and his father have been tenants in dry storage for 30 years, and he feels they are being punished for using their boat. He said he has paid a lot of money (over $100,000) over the past 30 years to store his boat, and he feels that the Port has broken numerous promises. He asked why the Port did not work with the dry storage tenants to come up with solutions to the perceived problems. The tenants are the ones who know what actually goes on there. He emphasized that fishermen have about 60 days in the summer to fish (last two weeks of July, first two weeks of August, and the month of September). He voiced concern that the new rules will end up being more of a phone call race rather than him waking up at 4:30 a.m. to launch his boat first.
Mr. Hanna said he foresees a major exodus of tenants if the new rules remain in place. The Washington State Department of Fish and Wildlife will likely move because they need to be out on the water early to get fish counts. Charter operators will likely leave, too. He voiced concern that, since the Port has allowed the large boats into dry storage, there have been numerous problems with the forklifts. These problems did not exist when boats were limited to 22 to 25 feet. He also voiced concern that the forklift operators are not trained adequately and are not comfortable moving the larger boats, and this creates a safety and liability hazard. The larger boats also take up more dock space when they are in the water. He summarized that he does not see anything positive about the new rules, as they appear to be punishing the tenants who use their boats. If they are not changed, he will likely move to another marina because fishing is very important to him.

Steven Shimamoto, Edmonds, said he has been a tenant of dry storage for 13 good years, but he agrees with the concerns raised by Mr. Hanna and Mr. Murray. Conditions at dry storage have gone downhill rapidly in the last few years, starting with the ethanol fuel, which was finally resolved but not before he had to replace his engine. He expressed his belief that the new rules were not very well conceived, and no one asked the tenants for input. He noted that A Dock is only half as long as B Dock and can only accommodate a half dozen boats. Also, there are no utilities on A Dock to help him protect his investment. He expressed his belief that the Port needs to do a better job of enforcing the rules.

Mr. Shimamoto voiced concern about requiring dry storage tenants to go to V Dock or guest moorage for overnight moorage. Unless guest moorage spaces are reserved for dry storage tenants, it is likely there will not be space for them during the busy season. Dry storage tenants will have to haul their boats out of the water every night if there is no place to put them. He agreed with Mr. Hanna’s concerns about the larger boats. He also agreed with Mr. Murray’s point about a boat being the second largest investment a person will make in his/her lifetime. He noted that no driver’s license is required for boat owners in Washington State, and some are dangerous. When boats are coming in and out of the marina there is very little room to maneuver and his boat has been hit numerous times. The larger boats make the situation even more hazardous.

Mr. Shimamoto summarized that he does now know how the Port formulated the new rules, but it seems as though the dry storage tenants are being treated like second-class citizens. If the Port does not reconsider the rules, he and many others will likely end up relocating.

Mike Shaw, Edmonds, said he has lived in the Port District his entire life. He referred to Ms. Fields comments about the use of Roundup. He voiced concern that although the Port, itself, might not be spraying Roundup on Port property, the product might be used by companies the Port hires to do work in the landscaped areas. He suggested that if the Port is going to claim to be environmentally sensitive, they should pay attention to the products that are used. While they do a good job east of the tracks, they could do better on the west side. They need to keep Roundup off of Port property.

Bob Smith, Edmonds, said he has been a dry storage tenant since it was created in 1984. He agreed with the concerns voiced by previous speakers. Those who fish for Chinook have to be out on the water before daylight, which in July is 4:45 or 5:00 a.m. It is imperative that the Port provide a means for the tenants to be out on the water early during the Chinook season. Timing is not as critical when fishing for Coho. He felt that the previous system was good. As long as tenants requested pre-launch service, their boats were in the water when they arrived the next morning. He is not sure why the rule change was necessary, and he voiced concern that the Port never asked for feedback from the tenants. He understands that the situation can be difficult on busy fishing days, but it only lasts for a short time. If the reason behind the new rules is to clear out the wash down area, he does not believe they will be effective. Instead, the Port simply needs to move boats out of the washdown area quicker.
Mr. Smith said he would support going back to the previous rules until they find a solution that works for everyone. He knows there have been times when there were so many boats on B Dock that people coming in and out of the marina did not have a place to tie off. Maybe they need to leave a little space on B Dock for this purpose, but why change the entire system.

**Darren Emerick, Edmonds**, said he has been a tenant at dry storage for a year, and he fished 90 days over the past year. He is on the water at dawn as often as possible. He is concerned that, based on the new rules, tenants can ask, but are not guaranteed, the Port will put their boats in the water so they are ready to go the next morning. Commissioner Orvis said his interpretation of the rules is that the Port will put boats in the water the night before if a tenant makes the request the day before. Mr. Emerick pointed out, based on the new rules, if all the tenants in the room asked to have their boats launched the night before there would not be enough room to moor them overnight on A Dock. And this does not take into account that many more tenants will make the same request, particularly during fishing season. He concluded by expressing his frustration that the new rules will decrease the services he receives. Denying the tenants the ability to launch their boats the night before is ludicrous. The Port needs to work with the tenants to figure out a solution that will work for everyone.

Commissioner Preston thanked the tenants for their comments. He suggested that a few Commissioners and staff members should meet with the tenants to discuss the options and come up with a solution. He suggested that all dry storage tenants be invited to provide feedback. Ms. Kempf agreed to coordinate the meeting.

Ms. Kempf commented that the Port staff is trying to provide the best service possible. She cannot think of a time when staff couldn’t put someone’s boat into the water upon request, and she does not foresee this happening with the new system, either. The idea of leaving B Dock open is to accommodate tenants who come back to the marina after hours and need a place to dock for the night. Tenants who want to stay in the water at night can moor at V Dock and Port staff can shuttle them back and forth to their cars. The intent is to take boats out of the water and put them on the racks as quickly as possible so there is more space for people returning to the marina in the evening. The new system is not meant to take away any of the current services. The Port enjoys having a happy customer base and she believes that staff is doing a good job. But dry storage operations are constantly changing and it is difficult to describe the changes adequately in a newsletter. It is very possible that if a tenant calls ahead to have his/her boat launched the night before, it will be moored temporarily on B Dock if there is no room on A Dock. However, the intent is for B Dock to be open at the end of the day so people have a place to go when they return.

**PERSONNEL POLICY MANUAL CHANGES**

Mr. McChesney explained that, as part of regular housekeeping, Port staff, under the Direction of Karin Michaud, Office Manager, has reviewed the current personnel policies and identified several areas that need to be updated. Some of the proposed changes are minor changes to clarify potential ambiguities and to reference the primary intent, some are in response to changes in current Washington State Law, and some are in response to changes made in 2017 regarding the Port of Edmonds Invest in People Program. He referred to the proposed changes, which are outlined in the Staff Report. He advised that the proposed changes have been reviewed by legal counsel and are ready for Commission discussion and approval.

Port Attorney Brad Cattle advised that the proposed revisions include provisions related to the Family Medical Leave Act (FMLA). At this time, staff is asking that the provisions be removed from the draft update prior to Commission approval. Mr. McChesney explained that it was determined that the Port does not meet the threshold (number of employees) to require FMLA provisions. However, staff believes there are some benefits that protect the employees against family-related illnesses that may come about. Even though the Port is not required to meet FMLA, he would recommend that the Commission adopt new language that would provide similar benefits. Staff will bring draft language back to the Commission at a later time.

Commissioner Preston referred to Section 15.64 (Supplemental Insurance) and asked if “supplemental insurance programs” include supplemental disability insurance. Ms. Michaud answered that this type of insurance is offered, but no employees currently participate. Commissioner Preston also referred to Section 15.65 (United Way) and suggested that the language use a more generic term rather than singling out United Way. Ms. Michaud advised that many Port employees have participated in United Way for a number of years. They are not participating this year.
because United Way did not contact the Port in time for them to participate. Again, Commissioner Preston suggested they pull the name out and make the provision more generic.

**COMMISSIONER ORVIS MOVED THAT THE COMMISSION APPROVE THE UPDATED PERSONNEL POLICIES AS PER THE DOCUMENTS ATTACHED TO THE STAFF REPORT, BUT DELETING THE FMLA PROVISIONS SUBJECT TO FURTHER REVIEW. COMMISSIONER JOHNSTON SECONDED THE MOTION.**

Commissioner Harris indicated she is still not clear on what staff is recommending relative to the FMLA provisions. Mr. McChesney clarified that, as per the motion, the FMLA provisions would be removed from the updated Personnel Policies subject to further review. The understanding is that staff would bring back alternative language that would substitute for the explicit benefits of FMLA so that employees are made whole.

**THE MOTION CARRIED UNANIMOUSLY.**

**RESOLUTION 18-02 – UNPAID LEAVE FROM EMPLOYMENT FOR REASONS OF FAITH, CONSCIENCE OR RELIGION**

Ms. Michaud reviewed that the Washington State Legislature amended the definition of holidays to now provide two unpaid days off to public employees per year for reasons of faith or conscience or organized religious activities. The Port’s current policy has been modified to include this and develop some guidelines for its usage. The Revised Code of Washington (RCW) also requires that these changes be adopted by resolution of the Port Commission. She recommended the Commission approve Resolution 18-02 as presented in the Staff Report.

**COMMISSIONER FAIRES MOVED THAT THE COMMISSION APPROVE RESOLUTION 18-02, PROVIDING FOR UNPAID LEAVE FROM EMPLOYMENT FOR REASONS OF FAITH, CONSCIENCE OR RELIGION. COMMISSIONER ORVIS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.**

**2018 COMMITTEE ASSIGNMENTS**

Commissioner Preston referred the Commissioners to the proposed 2018 Committee Assignments, which were attached to the staff report. He recommended the Commission approve the assignments as proposed.

**COMMISSIONER JOHNSTON MOVED THAT THE COMMISSION ADOPT THE 2018 COMMITTEE ASSIGNMENTS AS PRESENTED. COMMISSIONER FAIRES SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.**

**PROJECT REPORT**

Mr. McChesney reported on the following projects:

- **Parking Lot Re-alignment.** This project includes grading, a new layer of rock, and wheel stops. In the past, the Port hasn’t had to do too much with the lot, but over the last few years there have been new tenant-driven demands and less parking overall. In order to make the lot operate efficiently, a different layout was needed. Once the project is completed the number of parking spaces dedicated to commuters will increase from 10 to 17, and these spaces are fully subscribed at the rate of $130 per month. In addition, 3 stalls will be allocated to Recreational Vehicle parking ($182 per month), and 20 stalls will be allocated to Anthony’s employees ($89 per month). The annual revenue from the lot is expected to be $34,756. If the number of commuter spaces is increased, the total revenue would be about $55,000. The cost of the improvements will be about $15,000.

- **Restroom Remodel.** This project is going well and is on schedule. One additional change order is anticipated to install a new entrance door to Marine Operations. The total cost of the change order will be less than $5,000, so Commission approval will not be required. The work to provide greater leak protection.
protection is moving along well, and he believes the public and the Commission will be very happy with the end project. The intent is to complete the project on or about March 3rd.

- **SR-104/Dayton Street Landscape Permit.** The permit application and drawing were submitted to the Washington State Department of Transportation last week, and he expects to hear back from them within the next few weeks. Commissioner Orvis asked if City permits would also be required, and Mr. McChesney answered no. He said he has talked to various City staff, and they seem to be in support of the project. He does not anticipate any problems.

**EXECUTIVE DIRECTOR’S REPORT**

Mr. McChesney reported that there was staff-wide harassment training on January 10th, which was mandatory for all employees. Vickie Norris from Anderson Hunter was the instructor and facilitator, and the event went well. At the request of the Commission, he agreed to forward materials from the training event.

Commissioner Orvis asked if the Port Commissioners will receive additional training on the Public Records Act to address recent changes. Ms. Drennan noted that no changes were made to the basic rules of the act. Mr. Cattle added that the Commissioners are supposed to receive yearly training, and Ms. Drennan advised that money has been set aside in the 2018 budget to provide this training for everyone. Commissioner Harris noted that she recently completed the training.

Mr. McChesney reported that he, Commissioner Preston and Commissioner Harris attended Port Day in Olympia, an event sponsored by the Washington Public Port Association (WPPA). It was a good day, and they had an opportunity to speak with local legislators regarding two pieces of legislation the Port is working to advance. The first piece of legislation would establish a $40,000 threshold for public works contracting, below which ports would not have to go through all of the bidding process. This is a matter of improving efficiency in government. Some of the jobs are so small that it is difficult to find contractors to bid on them. The second piece of legislation would create an enablement under the Public Works Contract rules that would allow ports to do unit price contracting. This would allow ports to use a contract to repair equipment. He noted that some of the Port’s equipment is very specialized. For example, there is only one company that can fix the sling launch. This proposed legislation would improve government efficiency and also allow ports to keep equipment operational and costs down. He said staff will continue to keep an eye on these two pieces of legislation.

Ms. Kempf reported that the Boat Show started on January 26th. They went into the show with 51 wet moorage slips, and there are currently 4 sign ups and 10 slips on hold. It appears that attendance is lower than last year, but the cake the Port served to celebrate its 70th Anniversary was a hit.

Ms. Kempf further reported that the Washington Fish and Wildlife Commission has advised state fishery managers to strike a better balance between conservation and harvest opportunities. On December 1st, state and treaty tribal co-managers submitted a proposed plan to the National Oceanic and Atmospheric Administration (NOAA) Fisheries that would reduce and place substantial restrictions on state and tribal fisheries in Washington. Despite the restrictive nature of the plan, NOAA has already informed the state and treaty tribes that it is insufficient. However, NOAA has indicated its review process will take 18 months once the federal agency deems the plan is sufficient for a full review. That makes it likely the 10-year plan won’t be in place until the 2020-2021 fishing season. Brad Smith, Chair of the Commission, has recommended that the Washington Department of Fish and Wildlife (WDFW) should explore other salmon recovery options. Specifically, the Commission has asked the WDFW to explore: increasing habitat restoration efforts; improving hatchery operations, including increasing production to support salmon recovery efforts; and reducing populations of predators, such as seals and sea lions. She said she is hoping to have George Harris, President of the Northwest Marine Trade Association, provide an update to the Commission.

Lastly, Ms. Kempf advised that Dr. Jim Unsworth has resigned his position as Director of the Washington Department of Fish and Wildlife effective February 7th.
COMMISSIONER’S COMMENTS AND COMMITTEE REPORTS

Commissioner Faires commented that the Commissioners typically work hard to address issues as they are presented to them. However, he acknowledged that they could have done a better job working with the dry storage tenants before approving the changes. The intent of the changes was to accommodate the tenants in the best way possible.

Regarding the public comments about Roundup, Commissioner Faires said he does not know that Roundup, in all circumstances, is bad. While he does not use it at his home anymore, it may be an appropriate solution if used appropriately. He cannot categorically say it is bad, but he can say that neither the Port nor its contractors use Roundup at or near Harbor Square. However, it is used on the west side of the tracks where appropriate and consistent with City regulations. This is consistent with what the City does, as well.

Commissioner Faires reported on his attendance at the January 17th Edmonds Economic Development Commission (EDC) meeting where the Commission approved a recommendation to the City Council to change the ground floor ceiling height requirement in the Downtown Business (BD-1) zone from 15 feet to 12 feet. It was discussed that the current requirement precludes development of three stories. Lowering the required ceiling height to 12 feet would still result in adequate commercial space and would allow development of up to three stories in many cases. The intent of the proposed change is to encourage redevelopment. Other issues discussed by the Commission include downtown parking and the City’s revenue forecast. The EDC is recommending that the City conduct a study to determine the sustainability of its revenue.

Commissioner Johnston reported that he met with staff members regarding a variety of issues, including Puget Sound Express and Harbor Square leasing status, which is close to 100%.

Commissioner Johnston advised that he and Commissioner Harris received emails from tenants, voicing concerns, and one tenant indicated he had left the marina. He said he is working to respond to each of the tenants.

Commissioner Johnston said he participated in the Port’s booth at the Seattle Boat Show. Many people expressed concern about the 2018 fishing season, but many indicated they are looking forward to future boating opportunities. Commissioner Orvis said he attended the boat show, as well.

Commissioner Orvis advised that he received an invitation from the City of Edmonds to join the Waterfront Connector Stakeholders Group. While he would be happy to serve on the group, Chair Preston must make the assignment. He explained that the group is a follow up to the At Grade Crossing Alternatives Analysis Task Force, which he participated on. The first meeting is scheduled for February 7th and the group will consist of 3 Edmonds residents, as well are representation from the City Council, Washington State Department of Transportation, Burlington Northern Santa Fe, Community Transit, Sound Transit, Washington State Ferries, and the Port. A number of people have expressed opposition to the project because it will be costly.

Commissioner Orvis announced that the Washington Public Port Association’s (WPPA) Legislative Affairs Committee will meet on February 9th, but neither he nor Commissioner Faires will be available to attend. He reminded them that the Port is interested in two pieces of legislation that appear to be moving forward at this time.

Commissioner Orvis announced that he would attend the Economic Alliance of Snohomish County’s (EASC) economic forecast event on February 21st from 7:30 a.m. to 11:00 a.m., and it is not too late to sign up to attend the event.

In addition to attending Port Day with Commissioner Preston and Mr. McChesney, Commissioner Harris said she is continuing to meet with Edmonds City Council Members. She also attended the State of Everett Address where Mayor Cassie Franklin outlined her plans to reorganize the city’s economic development efforts.

Commissioner Harris reported that she met with Ms. Drennan to walk through the Port’s 2018 budget. She also met with Ms. Williams, who shared her ideas about marketing and provided a lot of background information about Harbor Square. In addition, she met with Carrie Hite, Edmonds Parks, Recreation and Cultural Services Director, to discuss various issues including the use of Roundup. The City of Edmonds is responsible for maintaining the area
around the marsh walkway, and they are not using Roundup. She also learned from Ms. Williams that neither the Port nor its contractors use Roundup at Harbor Square. The Port has acknowledged that some Roundup is used on the west side of the railroad tracks, and she felt the Commission should look into the issue further. The remainder of the Commission concurred.

Commissioner Harris advised that she will be meeting with Phil Williams, Edmonds Public Works Director, to gather more information about stormwater. In her meetings with City Council Members she has also raised the issue of a cross walk at the intersection of Dayton Street and Admiral Way. Commissioner Orvis advised that a comment was made at a recent City Council meeting that the crosswalk would be for the “rich boaters.” It is important to note that the boaters do not need the crosswalk because they can park on the west side of Admiral Way. The people who need the crosswalk are those who park on the other side of the street to walk to the park, fishing pier, restaurants and boardwalk.

Commissioner Preston said he enjoyed Port Day with Commissioner Harris and Mr. McChesney. He particularly enjoyed their meeting with Senator Chase, who indicated strong support for the Port’s two legislative items. In addition, he plans to attend the Seattle Boat Show on either January 30th or 31st.

Commissioner Preston announced that Jeremy Makin has resigned as the skipper of the Edmonds Sea Scout Program. He further announced that the two boats will be removed from the marina by the Scout District, and others have expressed a high-level of interest in helping to move the program forward in a different manner.

Commissioner Preston said he recently spoke with Patrick Doherty, Edmonds Economic Development Director, about marketing ideas. He asked what he felt the Puget Sound Express meant to the City of Edmonds. While he was unable to quantify the benefits to the City, he agreed there are some. Commissioner Preston said he suggested that he be invited to attend a Business Improvement District meeting to talk about how the City could capitalize on the benefits provided by Puget Sound Express.

Commissioner Preston said he spoke with an electrician about converting all Port lighting to LED, and he learned that the Snohomish County Public Utility District (PUD) has a program that pays up to 60% of the cost of the conversion. Mr. McChesney noted that the Port has utilized the PUD’s program in the past, and he agreed to research potential opportunities moving forward.

**ADJOURNMENT**

The Commission meeting was adjourned at 8:29 p.m.

Respectfully submitted,

Jim Orvis
Port Commission Secretary