



PORT COMMISSION OF THE PORT OF EDMONDS

MINUTES OF REGULAR MEETING

September 14, 2015

COMMISSIONERS PRESENT

David Preston, President
Bruce Faires, Vice President
Mary Lou Block
Jim Orvis

STAFF PRESENT

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

OTHERS PRESENT

Bradford Cattle, Port Attorney
Karin Noyes, Recorder

PARTICIPATING BY PHONE

Fred Gouge, Secretary

CALL TO ORDER

Commission President Preston called the regular 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.

COMMISSIONER GOUGE'S PARTICIPATION VIA PHONE

Mr. Cattle explained that it is permissible for Commissioner Gouge to participate in the meeting via telephone, but it is important for him to speak up so that everyone in the room can hear him and that he be able to clearly hear the Commissioners, staff and members of the audience who speak.

CONSENT AGENDA

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

- A. APPROVAL OF AGENDA**
- B. APPROVAL OF AUGUST 31, 2015 MEETING MINUTES**
- C. APPROVAL OF PAYMENTS IN THE AMOUNT OF \$294,864.81**
- D. AUTHORIZATION FOR EXECUTIVE DIRECTOR TO WRITE OFF \$3,876.81 AND SEND ACCOUNT TO COLLECTIONS**

COMMISSIONER BLOCK SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

PUBLIC COMMENTS

No one in the audience indicated a desire to comment.

COMMERCIAL CATCH BOATS AND FISH BUYERS

Ms. Kempf explained that, for many years, commercial catch boats have come into the marina for overnight moorage and to offload product and gear. The Port allows them to moor in the guest moorage areas and pay the same fee after four hours of no-charge moorage as other guest moorage patrons with no additional fee for commercial enterprises. However, Port staff may direct catch boats to a different moorage area to consolidate use and accommodate a variety of activities. She advised that commercial catch boat personnel are allowed to sell their product to vendors while on Port property, but they are not allowed to sell to the public or to advertise as such. Commercial catch boats and their personnel are otherwise subject to following all the Port's rules and regulations.

Ms. Kempf pointed out that the majority of the commercial catch boats that utilize the Port's facilities are owned and operated by tribal members, and the relationship between Port staff and tribal members is good.

Ms. Kempf reviewed that the total number of guest boats in guest moorage during the 1st quarter 2015 increased by 169% compared to 1st quarter 2014 (215 more boats), and the number of nights increased by 143% (319 nights). During the 1st quarter 2015 there was a constant tribal presence due to increased fish openings for the tribes, which has never happened before. Although the increase in activity and revenue is welcome during 1st quarter, the quantity of buyers utilizing land facilities and services also increased, causing some ingress and egress issues that affected Port operations and public access when the guest moorage season and recreational fish openings arrived. In addition, the amount of time that staff spent mediating issues increased substantially. She explained that the Port is not apprised in advance of tribal fish openings, so their presence at the facility usually happens without advance notice. Staff has observed buyers utilizing electrical and water utilities at whichever location they land and some buyers do not leave the facility in the condition they found it, requiring staff to perform cleanup.

Ms. Kempf referred to Section 17 of the Port's Rules and Regulations, which outlines certain requirements for businesses and/or individuals performing activities for boaters on Port property. They are required to provide the Port with a Certificate of Insurance showing General Liability Insurance in an amount not less than \$1 million per occurrence and listing the Port as an additional insured by endorsement; execute a Port-approved Hold Harmless Agreement; maintain the appropriate City business license; and follow all Port, local, state and federal requirements appropriate to their business. Those businesses that do not comply with the Port's Rules and Regulations may be prohibited from conducting business on Port property.

Ms. Kempf said staff is proposing that "Fish Buyers" be added to Section 18.2 of the Rules and Regulations, under what is currently titled "Guest Moorage, 18.2.2 Commercial Enterprise." Staff will gather information and establish a list of fish buyers and their personnel who have met the requirements as outlined for businesses operating on Port property. Procedures would be established that would require buyers to check in with Port staff before setting up their operations and require them to provide tickets showing total tonnage of product purchased at the conclusion of each day. Staff is also proposing that the Commission discuss inclusion of a facility and services fee as part of the 2016 budget process that would compensate the Port for use of the facilities and services by buyers who are conducting for-profit business on Port property.

Commissioner Orvis asked if the staff has notified the tribes and solicited feedback relative to the proposed changes. Ms. Kempf answered that staff has not contacted the tribes yet, but she agreed this contact should be made before any regulation changes are implemented. She explained that the intent of the Fish Buyers List is to communicate ahead of time that there has been a change and what will be expected.

Commissioner Faires observed that there has not been a significant problem with fishing boats using the guest moorage area; the problems are associated with the buyers. He asked how many buyers use the Port on a regular basis, and Ms. Kempf answered that she does not have these numbers.

Commissioner Gouge asked if it would be possible to create a specific zone for the trucks so they stay out of the high traffic areas. Mr. McChesney answered that there are some practical limitations on what the Port can offer in terms of facilities because the product comes off the boats at the guest moorage dock. However, he agreed that there are numerous options for addressing the situation. The main point is to identify a suitable area and develop a better working relationship with the fish buyers. Because the cargo operations mostly use 2 to 4-ton refrigerated box

trucks, it is important to better manage the activity, and he felt that a facilities and service charge might be appropriate.

Commissioner Faires cautioned that the Commission does not have enough data to identify the specific problems and figure out what really needs to be done to address them. For example, he would like to know how many trucks and buyers are using the Port. He agreed that the Port experiences extra costs and there is commercial activity taking place that the Port does not have control over right now. However, more information is needed in order to identify the best solution.

Commissioner Preston suggested that the tribes could provide input on the number of vendors. They should also be able to provide advance notice to the Port before the commercial catch boats arrive. Ms. Kempf agreed that the Port could request this information from the tribes. The intent is to have a procedure in place that works for both the tribes and the Port. The Port has activities that require a lot of guest moorage space, and advance notice of when the commercial catch boats and fish buyers will be present is important.

Commissioner Orvis agreed that the Commission needs additional information in order to ascertain the extent of the problem. Once they have a clear understanding of how much activity is occurring, they can put a procedure in place to deal with commercial off-load and cargo movement on the pier. Ms. Kempf said she contacted other marinas and found it was difficult to find other facilities that allow this type of operation. Many have large fish processing plants at their facilities so anyone who comes in has to go through the already-established businesses.

Commissioner Faires said he does not have an issue with allowing this particular type of commercial activity, but the Port needs to have enough control to ensure that the Port does not suffer any negative consequences. Other than that, he would like the Port to encourage the use.

Ernie Collins suggested that the Port implement a registration process for the boats and trucks that come in. A very simple registration form could be used to provide the Port with baseline data. Commissioner Preston noted that the tribes could likely supply helpful data, as well.

2016 BUDGET BASELINE CONDITIONS

Ms. Drennan reported that staff is working on the 2016 Operating Budget and 2016 Capital Budget. The Finance Committee met on August 13th and the Executive Director and Finance Manager met with Commissioner Faires on August 31st to discuss the 2016 budget baseline conditions and the Cash Flow Model. She reminded the Commission that they approve the operating and capital budgets on an annual basis. She reviewed that the budget is a plan that identifies resources for operations and capital projects; communicates the sources of revenue and costs of services; and allows the Commission and staff to review and prioritize repairs, improvements, and other projects. She explained that actual results may differ from the budget due to changed facilities or equipment conditions, changed priorities, and/or changed economic environment.

Ms. Drennan reviewed the 2016 budget baseline conditions, noting that the Cash Flow Model is the basis for the 2016 budget. She recalled that on April 8, 2013, the Commission recommended a moorage and dry storage rate increase based on the Consumer Price Index (CPI) plus 1%, and the Finance Committee reaffirmed this recommendation at their August 13th meeting. CPI for the year ending June 30, 2015 is 1.6%, which calculates to a moorage and dry storage rate increase of 2.6%. On the expense side, the Port's Wages, Salaries and Pay Dispersal Policy is that staff will receive an annual pay increase of CPI plus a merit increase. Employee benefits include health insurance and contributions into the Public Employees Benefits System (PERS). While the 2016 health insurance premiums will remain approximately the same in 2015, PERS increased the employer's contribution from 9.21% of pay to 11.18% of pay, effective July 1, 2015. This will result in an increase to employee benefits of approximately \$31,500.

Commissioner Preston asked why there was such a significant increase in the PERS contribution. Ms. Drennan explained that the program has not been funded in accordance with the stock market and now they need to catch up. Commissioner Faires asked if there has been any discussion at the state level about changing the defined benefits plan to a defined contribution plan. Ms. Drennan said she has not heard of any discussion in this direction.

However, she noted that PERS 3 includes a defined benefit plan and a defined contribution plan, which gives employees an opportunity to contribute to a fund similar to a 401K.

2016 BUDGET – PROPERTY TAX LEVY

Ms. Drennan advised that this item was placed on the agenda to allow the Commissioners to have a policy discussion about property taxes. She reminded them that the 2016 Preliminary Operating Budget will be presented to the Commission on October 12th. She reviewed that the millage rate for 2015 was approximately \$.0990. The 2016 property tax valuation is based on preliminary assessed value provided by the Snohomish County Assessor's Office. If the 2106 tax levy is \$400,000, the millage rate would be approximately \$.0921. She referred the Commission to the attached tax levy history, the list of programs supported by property taxes, a graph illustrating property taxes compared to CPI increases and 1% increases for the years 2008 through 2016, and a graph illustrating the value of property taxes in 2008 dollars for the years 2008 through 2016.

Commissioner Orvis observed that the Port is at the point of paying off bonds, and they are looking forward to paying off the Harbor Square loan in the next six or seven years. In addition, the Commission has had numerous discussions about the need to lay aside reserves and maintain the ability to bond in anticipation of the need to replace the marina at some point in the future. They have also had numerous discussions about spending tax revenue only on things that provide a public benefit or eliminating the tax altogether. However, he cautioned that eliminating the tax would not be feasible in the foreseeable future given the economy, rates the Port can realistically charge tenants, and the fact that they have to live with Harbor Square as it currently exists for a lot of years. Harbor Square will not likely ever be a significant revenue source for the Port, and the maintenance costs will continue to increase over time. He suggested that next year's budget talks should include a more in-depth discussion relative to property taxes with a realistic eye to the future and what will be needed for capital replacement.

Commissioner Gouge said he requested that staff provide the graph that illustrates the value of property taxes in 2008 dollars. He observed that the graph indicates that, due to inflation, the Port is falling behind by simply collecting \$400,000 in property tax revenue each year. He agreed that the Commission must have a more in-depth discussion about property taxes in 2016 so they can be addressed appropriately in the 2017 Operating Budget.

Commissioner Faires acknowledged that the Port District tax is not a significant burden to the community. His concern is more philosophical. He expressed his belief that, when originally imposed, the property tax was to be used for the initial capital investment, as well as subsequent capital investments necessary in order to maintain the existing facilities. Tax revenue should not be used to cover operating costs. The people who live in the Port District paid for the marina once and intended it to be a money-making enterprise, and the dividend they get from their investment is the fact that their properties are worth a little more because of the marina. While it is easy to tax the public to avoid having to make some hard decisions, he would rather make the hard decisions now. He wants to be able to look the citizens in the eye and let them know that the tax revenue will be used for capital investment, maintaining the existing facilities, and other activities that provide a benefit to the public. He said he would be opposed to a tax increase for any other reason.

Commissioner Gouge commented that the Commission has tried to create something at Harbor Square that will bring in additional revenue, and the City Council has stopped them from implementing their Master Plan. The Commission must look to the future and help citizens understand that if the Port is not allowed to do economic development at Harbor Square, additional tax revenue will be needed.

Commissioner Orvis reviewed that the Commission has been extremely carefully about taxation. They have not simply raised taxes as an easy revenue source. They have found ways to generate additional revenue and cut costs, and they must continue to find more ways to make the Port attractive and provide value back to the public via programs such as Sea Jazz, the new patio, landscaping the City property in front of Harbor Square, etc. These projects will make the property more valuable to the public and should be done with tax revenue. Just as they tell the taxpayers that they will not have to subsidize marina tenants, the tenants should not have to fund improvements that are intended for the general public's benefit.

Commissioner Orvis emphasized that because the Port is a public facility, they must pay significantly more for goods and services based on State Law. The taxpayers elected the people who voted for the laws that add extra cost.

When they voted, they were basically saying they were willing to pay more taxes to pay for the extra requirements. There are certain things the Port will need to use tax revenue for, and the Commission needs to have this discussion next spring as they look towards the future.

Commissioner Faires reminded the Commission that, for the past several years, they have adopted resolutions that allowed the Port to bank their taxing capacity. If the need arises in the future, this action allows the Port to raise taxes to the level they would have been at if the Port had increased taxes each year to the maximum allowed. Commissioner Preston asked what the Port's maximum levy amount is, and Ms. Drennan answered that it was approximately \$551,000 in 2015.

Ernie Collins requested more information about the formula the Port uses to calculate tax revenue each year. Commissioner Faires said the Port sets the amount of tax revenue to be collected each year, and the Snohomish County Assessor's Office establishes the millage rate necessary based on property values. When property values decrease, the millage rate increases, and when property values increase, the millage rate decreases.

2016 BUDGET – ECONOMIC DEVELOPMENT BUDGET

Ms. Drennan referred the Commissioners to the Economic Development Summary showing actual results for 2011 through 2014, projected expenses for 2015, and the proposed budget for 2016. She also referred to the Economic Development Guidelines that were approved on August 23, 2002 and the Port of Edmonds Resolution 95-2 that established rules and regulations governing promotional hosting expenditures. She noted that in addition to the economic development budget, there are also line items for advertising, marketing and promotional hosting.

At the request of Commissioner Preston, Ms. Drennan explained that "promotional hosting" is providing something to a guest that increases business at the facility. Mr. McChesney added that "promotional hosting" is essentially a marketing tool contained in the Revised Code of Washington (RCW) and is typically used by ports to promote their facilities. An example would be hosting a perspective client. There are strict limitations on the amount of promotional hosting a port can do, but it is common for ports to include the expense in their budgets as a line item. He noted that the Port of Edmonds does not do a lot of promotional hosting. Commissioner Faires commented that, as per State Law, in order to expend promotional hosting funds, they must be allocated as a line item in the operating budget at the beginning of the year. Mr. McChesney agreed that is correct. The Commission had a brief discussion of the types of promotional hosting the Port might engage in.

Commissioner Orvis pointed out that the Economic Development Guidelines were adopted in 2002 and the rules and regulations governing promotional hosting expenditures were adopted in 1995. Neither of the documents have been updated since that time. He suggested that it would be appropriate for the Commission to review the two documents and update them as appropriate. The remainder of the Commission concurred.

The Commission discussed that in previous years the economic development budget was used to provide funding for the Snohomish County Economic Alliance, the Edmonds Alliance for Economic Development, and TEAM Edmonds. It was noted that none of these organizations were particularly successful, and they no longer exist. Since that time, the Commission has been very conscientious about how the economic development funds are spent. Funding is currently provided to the Economic Alliance of Snohomish County, which is doing great work to bring new business to the County. As an upscale bedroom community, Edmonds benefits when people who are hired by the new businesses choose to live in the City. Commissioner Orvis and Mayor Earling participate on the Board to represent the Edmonds community.

APPROVAL OF REVISED LIVEBOARD REGULATION AND APPLICATION

Mr. McChesney reviewed that the Commission discussed the Port's Liveboard Agreement and Regulations on May 11th and raised specific concerns related to security deposits, credit reports and termination procedures. Several issues regarding their adequacy were identified, and it was recommended that the Commission and Port staff form a committee, including legal counsel, to evaluate the Liveboard Regulations and the Liveboard Agreement. The proposed revisions to both documents were attached to the Staff Report, with the changes highlighted in red. He specifically noted that Section 9.1.1.A was amended to prohibit short term rentals such as "AirBNB." He also emphasized that, as proposed, the changes to the regulations and agreement will not affect current liveboard tenants

and will only impact tenants applying for liveaboard status going forward. He summarized that the proposed changes are consistent with the Port's mission statements of providing and/or fostering quality services and facilities for tenants and communicating openly, freely and consistently with Port tenants. He recommended the Commission accept the revisions as proposed.

Commissioner Preston pointed out that Section 9.6.1 of the Liveaboard Regulations prohibits liveaboards from keeping animals or pets unless they have obtained permission from the Executive Director. However, the proposed Liveaboard Agreement specifically states that one pet is allowed. Mr. Cattle suggested that the Liveaboard Agreement should be amended to read, "One pet is allowed upon approval of the Executive Director or his/her designee." The Commission agreed that would be appropriate.

Commissioner Faires reported that he and Commissioner Gouge participated on the committee that reviewed the Liveaboard Regulations and Agreement, along with staff and the Port Attorney. He said he endorses the documents as proposed. Commissioner Gouge noted that it is particularly important to note that none of the existing liveaboard tenants would be impacted by the proposed changes. The changes would only apply to new tenants.

Commissioner Orvis noted that, as per the proposed language in Section 9.7, a liveaboard tenant would be prohibited from discharging waste of any kind into the waters of the marina. He asked if this includes dish water, too. Mr. McChesney answered affirmatively. Commissioner Orvis expressed his belief that this regulation would be difficult to enforce. Many tenants discharge grey water while they are using their boats in the marina. Ms. Kempf agreed but explained that, as per Department of Ecology regulations, nothing but rainwater can go into the marina waters. Commissioner Orvis again expressed his belief that the regulation is unenforceable. He suggested that the words, "of any kind" should be removed, and the remainder of the Commission concurred.

Ernie Collins asked if the Port will limit the number of liveaboard tenants that are allowed in the marina at any given time. Mr. McChesney noted that Section 9.1.1 establishes a limit of 15.

Commissioner Orvis questioned if limiting moorage tenants, who are not liveaboard tenants, to nine nights in the marina per month is necessary or even enforceable. Ms. Kempf explained that security officers are on the docks several times per night, and they keep track of boats that are occupied. Tenants who stay on their boats for more nine nights in a given month are contacted by staff and asked if they are interested in liveaboard status and paying the appropriate fees.

COMMISSIONER BLOCK MOVED THAT THE COMMISSION ACCEPT THE REVISIONS TO THE PORT'S LIVEABOARD REGULATION AND LIVEABOARD AGREEMENT, WITH THE PROPOSED REVISIONS IN SECTION 9.1.1.A AND 9.7. COMMISSIONER ORVIS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

EXECUTIVE DIRECTOR'S REPORT

Mr. McChesney announced that the Port applied for building permits for the new restroom facilities last week. Although he is not sure how long the permit process will take, the goal is to have the restrooms done before the end of 2015. He explained that, in addition to the permit that is required for the site work to prepare the site for the building, a building permit is required to show how the building pieces will fit together and how the building will be attached to the ground. Specifications for the site work have been done, and no specifications are needed for the building because it is a modular unit that is covered under Labor and Industries (L&I). Staff is in the process of soliciting bids for the site work.

Mr. McChesney reported that the Port has experienced a number of equipment issues at the dry storage facility. Last Friday morning two sewage pumps failed and staff had to order new ones. In the meantime, staff was able to purchase two temporary pumps from Home Depot to keep the facility operational. In addition, the hydraulic pump on the north launcher failed the day before Labor Day (September 6th). A new pump was installed but the seal blew out the very next day. It appears that air entrapment does not allow the pump to operate as smoothly as it should. It is able to handle small boats, but it has problems with larger ones. He commended staff for doing a great job of keeping the equipment running and servicing customers.

Ms. Kempf reported that the Edmonds Coho Derby was held on September 12th. It was reported that 287 fish were weighed in, and the largest was just 7.48 pounds. A record 970 tickets were sold, and Anthony's served chowder. The derby chair was pleased with the participation and the event was a success.

Ms. Drennan announced that the Port retired its 1998 Revenue and Refund Bonds on August 1st. The Port's arbitrage consultant completed the final calculations and advised that the Port does not owe any additional funds to the Internal Revenue Service and they do not have to submit a report.

COMMISSION COMMENTS AND COMMITTEE REPORTS

Commissioner Orvis reported that he attended the Economic Alliance of Snohomish County (EASC) Military Affairs Committee where the discussion focused on cutbacks in military duty strength. It was reported that the cuts would not be as deep as originally anticipated. He advised that Governor Inslee's Military Affairs Committee has developed an app that allows you to put in a location anywhere in the state and it will tell how many contractors are there, the amount of jobs that are created, etc.. The app will be available in mid September.

Commissioner Orvis recalled that at their last meeting, Farrell Fleming, Executive Director, Edmonds Senior Center, advised that Burlington Northern Santa Fe (BNSF) would not take any more of the roadway than absolutely necessary to do the double track and there would still be space for a robust roadway to access the senior center. He said he recently spoke with a representative from BNSF who suggested that BNSF will likely use every inch of property that is available to accommodate the double track. He said Mr. Fleming also talked about providing parking for senior center patrons in the parking area at the corner of Dayton and Railroad Avenue. However, the first two rows of parking is already reserved for patrons of the fishing pier via an agreement between the City, the Port and the Department of Natural Resources. The remainder of the parking area is used by Port tenants and patrons of Arnies all the way to the Edmonds Yacht Club Building.

Commissioner Orvis announced his plan to attend the annual Washington Public Port Association (WPPA) annual meeting in November.

Commissioner Faires reported that he continues to participate on a Chamber Committee that is working to define and prepare for the local candidates forum on October 12th. The committee agreed to allow the two Port Commissioners who are on the ballot to speak first so they can also attend the Port Commission's regular meeting that is scheduled for the same evening. However, it may be necessary to postpone the start time for the Commission meeting.

Commissioner Preston announced that he will attend the September 16th meeting of the Edmonds Economic Development Commission as the Port's representative. He will also attend the Northwest Marine Trade Association's (NMTA) Boatyard Conference in Bremerton. He said he recently had a discussion with a representative from the NMTA about his concern that youth are being underserved in developing them to have an interest in marine trades and boating. While he does not know the answer at this time, he would like more thought given to this problem. He suggested that the Port and the Edmonds Yacht Club could help in this endeavor. They need to figure out how to draw the youth out to participate in the numerous local resources that are already available.

Commissioner Preston reported on his attendance at the September 8th City Council Meeting where there was a good discussion about the City's Economic Development Commission (EDC). A representative from the EDC provided a review of the EDC's activities and reminded the City Council of their mission relative to economic development, population retention, tax enhancement and quality of life. He said he was surprised to learn that at least one City Council Member did not know what the EDC's mission was. There was some discussion about the future of the EDC, which is scheduled to sunset at the end of 2015. Some felt it should continue, and others suggested that it could be divided into subgroups.

Commissioner Gouge advised that he is planning to present a brief report to the City Council regarding the Port's summer activities. Mr. McChesney agreed to meet with him to prepare the report.

EXECUTIVE SESSION

Commissioner Preston announced that the Commission would adjourn to an executive session at 8:18 p.m. for the purpose of discussing the performance of a public employee as per RCW 42.30.110(1)(g). At the conclusion of the executive session, the Commission would return to the regular session, at which point the meeting would be adjourned without any announcements and without any action being taken by the Commission. The executive session concluded at 8:58 p.m.

ADJOURNMENT

The Commission meeting was adjourned at 8:58 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Fred Gouge".

Fred Gouge
Port Commission Secretary