

**PORT COMMISSION OF THE PORT OF EDMONDS**  
**MINUTES OF REGULAR MEETING**

**May 13, 2013**

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**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

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

**OTHERS PRESENT**

Bradford Cattle, Port Attorney  
Karin Noyes, Recorder

**CALL TO ORDER**

Commission President Orvis called the regular meeting to order at 6:05 p.m., and the Commission subsequently adjourned to an Executive Session until 6:45 p.m. The regular meeting was reconvened at 7:00 p.m.

**EXECUTIVE SESSION**

Commissioner Orvis announced that the Commission held an Executive Session starting at 6:05 p.m., the purpose of which was to review the performance of a public employee. It was indicated that no announcements would be made and no action was anticipated. The Executive Session was terminated at 6:45 p.m. with an indication that the regular meeting would recommence at 7:00 p.m. No action was taken and no announcement was made.

**PLEDGE OF ALLEGIANCE**

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

**CONSENT AGENDA**

Item B was pulled from the consent agenda.

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

- A. APPROVAL OF AGENDA**
- C. APPROVAL OF PAYMENTS IN THE AMOUNT OF \$116,449.51**

**COMMISSIONER GOUGE SECONDED THE MOTION, AND THE MOTION CARRIED UNANIMOUSLY.**

**APPROVAL OF APRIL 29, 2013 MINUTES (Item B on the Consent Agenda)**

**COMMISSIONER FAIRES MOVED THAT THE COMMISSION APPROVE THE MINUTES OF APRIL 29, 2013 AS AMENDED. COMMISSIONER GOUGE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

### **PUBLIC COMMENTS**

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

### **PRESENTATION OF CERTIFICATE OF HONOR TO JEREMY MAKIN**

On behalf of the entire Commission, Commissioner Orvis presented a Certificate of Honor to Jeremy Makin for his outstanding leadership and exemplary contribution to the Port in training future maritime professionals, in recognition of his 16 years of service as Skipper of Sea Scout Ship 6 Kelcema, and in appreciation for his dedication, contributions and meritorious service to the Mount Baker Council of the Boy Scouts of America. Commissioner Orvis thanked Mr. Makin for his countless years of service to the young people in the community. He has influenced their future and the kind of people they grow to be. He noted that not many people serve so willingly, and Mr. Makin has contributed countless time, energy, love and expertise to lead the Sea Scout program.

Mr. Makin thanked the Port for providing the opportunity for the Sea Scouts to run what is essentially the Port's youth program. He explained that a charter partner is needed to provide an environment for the scouting program to exist. None of what he has been able to do would have been possible without the Port's partnership. Mr. Makin also thanked his predecessors, Jim Blossey and Mike Denton, for serving as chair and founding skipper of the Edmonds Sea Scout Program. He also thanked the leaders of the Sea Scout Program he participated in as a youth growing up in Tacoma. He said he appreciates the Commissioners' kind words and thoughts, and he thanked the Port again for all it does to make the program a success.

A short reception followed the presentation, which was attended by Mr. Makin's parents, Frank and Marsha Makin, and other family members, as well as members of the Edmonds Sea Scout Program.

### **UPDATE ON BOATYARD GENERAL PERMIT**

Ms. Kempf recalled that the current Boatyard General Permit was issued on March 2, 2011 and triggered a requirement for a Level III Response. She explained that, throughout the life of boatyard permits, many boatyards have been unable to meet the allowable copper discharge benchmarks and were placed in a holding pattern at the Department of Ecology's (DOE) guidance until details of the new permit were worked out. She noted that although the Port's copper discharge had improved in the previous five-year timeframe by 92%, lower benchmarks were being implemented making it challenging to meet the permit benchmarks with just Best Management Practices (BMPs) and Oil Water Separator technology. In addition to the copper benchmarks, the Boatyard General Permit also establishes a benchmark for zinc.

Ms. Kempf reviewed that stormwater sampling results for the period of October 2011 through May 2012 resulted in exceeding the copper benchmark value three times and exceeding the zinc benchmark value four times. As required by the Boatyard General Permit, following four sampling results of any parameter above the benchmark value, the facility must investigate all available and applicable stormwater treatment BMPs to reduce stormwater contaminant levels below the permit benchmark values. Staff concluded that further targeted water sampling, both influent and effluent, were needed to determine the percent removal of copper and zinc, whether the oyster shell is effective, what level of stormwater treatment improvements were needed, whether the oyster shell is saturated with metals and needs to be replaced, and whether street and parking areas that drain to the sampling outfall have the affect of diluting or increasing copper and zinc levels.

Ms. Kempf advised that with the assistance of Landau Associates, Port staff submitted an addendum to their original Level III Response Engineering Report, which resulted in a decision to replace the oyster shells that were originally installed in the trench drain and oil/water separator with more finely crushed oyster shell media to achieve improved treatment effectiveness. This replacement took place in March of 2013. She summarized that stormwater monitoring will continue to evaluate the overall effectiveness of the more finely crushed oyster shells in reducing zinc and copper concentrations below the benchmarks established in the Boatyard General Permit.

Ms. Kempf explained that previously approved funding for Landau Associates' services has been exhausted. She recommended the Commission approve the proposal from Landau Associates to provide continued on-call engineering and consulting service related to the Port's Boatyard General Permit compliance in an amount not to exceed \$11,000. She referred the Commission to the timeline attached to the Staff Report, which identifies important key dates of the Boatyard General Permit, as well as where the Port is at to date. She also referred the Commission to the Port's Stormwater Pollution Manual, which is a very large, living document. She explained that the Port must retain a copy of everything they submit to the DOE. The document also contains a copy of the permit. She noted that the Port also has two other binders with documentation related to the Boatyard General Permit. She summarized that a lot of work is involved in the environmental piece of the boatyard, and Landau Associates has been invaluable in helping the Port comply with the permit requirements.

Commissioner Faires asked if staff can pinpoint any unusual activities that would have caused the copper levels to spike in October 2011 and May 2012. Ms. Kempf reminded the Commission that the Port is trying to achieve the benchmarks using just BMPs and the oyster shell treatment. She also reminded the Commission that this approach resulted in an initial 92% reduction in the copper levels when the programs were initiated five years ago. With the exception of the Edmonds Yacht Club construction project and perhaps some construction on the Burlington Northern Santa Fe property, staff has not been able to trace the increased levels to any particular activity or situation. She explained that unless the Port collects samples from a number of locations, it will be difficult to pinpoint this information. She said that, in theory, the stormwater runoff from the street should help to dilute the water, resulting in lower levels of copper and zinc.

Commissioner Block pointed out that stormwater runoff from city streets has never met the DOE's required levels for discharge into Puget Sound. That means the Port is starting with a deficit that is difficult to make up. While there is some supposition that the ground oyster shells with more surface area will be better, they won't have actual test results for a year. Ms. Kempf explained that sinking in the boatyard has caused rainwater to puddle and bypass the trench, so there are questions about how much of the water is actually getting treated and for how long of a distance.

Commissioner Orvis asked if staff keeps track of when BNSF does major projects. Ms. Kempf said the Port has not tracked this information because it will not change the Port's requirement to meet the benchmarks. She said she does notify BNSF when they are creating a mess to let them know how critical it is for the Port to meet the benchmarks, but she has not tracked the activity to identify responsibility.

Commissioner Orvis asked what staff foresees in the future related to the Boatyard General Permit. Ms. Kempf answered that the next permit will likely require boatyards to test for zinc, as well; and the Port has already had four failures to meet that benchmark. To address issues related to zinc, Port staff is trying to educate tenants to switch from zinc to aluminum anodes, but there is not a lot the Port can do when the grates going over the trenches and vaults are all made of galvanized metal, which contains high levels of zinc. She emphasized that boatyards fought hard at the last permit to make sure that the copper and zinc levels identified in the permit were benchmarks and not limits. She said it is nearly impossible to reach the benchmarks, even with additional filtration. Commissioner Orvis asked when the next permit cycle would start. Ms. Kempf answered that the current permit goes through 2016.

Commissioner Faires asked where the Port is in relation to other boatyards. Ms. Kempf said the DOE provides this information on their website, but the spreadsheets are confusing and difficult to read so she hasn't spent a lot of time comparing the Port to other boatyards. However, she has heard that some boatyards that use filtration still have trouble meeting the benchmark, but others are getting close to meeting the benchmarks for copper. The Port of Edmonds has met the benchmarks all but one time through BMPs, and she commended staff for keeping the yard clean and insisting that people follow the rules. She noted that the Port does lose some customers because of their strict requirements.

Commissioner Preston asked about the primary sources of copper. Ms. Kempf answered that bottom paint is the main source of copper contamination in the boatyard. Brake pads on cars also result in a lot of contamination to stormwater runoff. She reminded the Commission that the Port has taken steps to educate their tenants about non-copper paint alternatives. Commissioner Orvis pointed out that while these alternatives do not have copper, they

contain significant amounts of zinc, which will be the next issue the Port must deal with. Ms. Kempf pointed out that treated wood is another significant source of copper contamination.

**COMMISSIONER GOUGE MOVED THAT THE COMMISSION APPROVE LANDAU ASSOCIATES TO PROVIDE CONTINUED ON-CALL ENGINEERING AND CONSULTING SERVICE RELATED TO PORT OF EDMONDS BOATYARD GENERAL PERMIT COMPLIANCE NOT TO EXCEED \$11,000.00. COMMISSIONER FAIRES SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

#### **ACQUISITION OF NEW FORKLIFT AT DRY STORAGE**

Mr. McChesney reviewed that on June 28, 2010 the Commission approved the purchase of a HOIST Neptune M200 from Toyota Lift Truck in accordance with the Port's bid specifications. The machine arrived by truck, but when the Port took delivery in August 2010, many exceptions and defects were noted. In order to facilitate the Port's acceptance, the dealer and factory agreed to an extended three-year full warranty. Since that time, the machine has performed poorly. He referred to the maintenance records that were attached to the Staff Report, which illustrate the incidence of repairs, even while under warranty.

Mr. McChesney explained that the issue is not about the cost of repairs, which have been covered by warranty. It is a matter of down time. The machine has been red tagged out of service for repairs over twelve weeks since delivery, and all of the repairs have been directly attributed to poor quality. This has severely compromised the Port's ability to provide service to their customers, which is not acceptable. He pointed out that the extended factory warranty will expire August 31, 2013. After that, the Port will be on its own to pay for the repairs. In addition, the machine has approximately 1,850 hours operating time, and scheduled maintenance will require new lifting chains and rollers after 2,000 hours. This estimated cost of \$23,737.35 will be the Port's responsibility. He expressed his belief that it is time for the Port to get beyond these issues. He noted that the fiscal impact of purchasing a new machine will depend on the cost of the new machine and the resale value of the HOIST. He said the request would be consistent with the Port's purpose of being a responsible financial steward and providing and/or fostering quality services and facilities for tenants and the boating community. He recommended the Commission authorize staff to go out for bid or request for proposals to purchase a new forklift machine to service the dry storage area.

Commissioner Gouge questioned if it would be appropriate to sell the machine if significant maintenance work will be needed in the near future. Mr. McChesney answered that replacing the chains and rollers is part of the scheduled maintenance plan, but the Port would not sell the machine just to pass the problem on to someone else. Anyone purchasing the machine would go through due diligence by reviewing the service records and identifying estimated future repairs. Commissioner Faires suggested that the machine would provide good service in a yard that has about one quarter the capacity requirement as the Port's dry storage facility.

Commissioner Faires asked the anticipated time frame for purchasing the new forklift. Mr. McChesney said staff plans to go out for bid or a Request for Proposals (RFP) right away, and some preliminary work has already been done. The goal is to have the new equipment on site in August so that the HOIST forklift can be surplus and sold before the warranty expires. However, it is highly likely that the process will take longer.

Commissioner Gouge asked if the Port will have to service the existing HOIST Forklift so that it can be operational during the entire summer season. Mr. McChesney answered that staff's strategy has been to put as much time on the Taylor Forklift as possible, and use the HOIST Forklift as a secondary machine to minimize the accumulated hours. The goal is to keep the hours low to avoid having to buy a new chain and rollers.

Commissioner Gouge asked what forklift staff likes best. Mr. McChesney said that, from an operating point of view, staff likes the HOIST the best. The issue is related to maintenance and reliability. When the HOIST forklift is running, it is a great machine and staff likes it. Ms. Kempf added that the HOIST Forklift is easier to learn than the Taylor Forklift and staff likes driving it better.

Commissioner Faires asked to what extent the Port will be tied into the lowest bidder. He noted there are differences in machines and in total cost of ownership. Mr. McChesney said that to avoid this issue, staff is recommending the Commission authorize him to either go out for bid or to request proposals for the purchase of a new forklift.

**COMMISSIONER GOUGE MOVED THAT THE COMMISSION AUTHORIZE STAFF TO GO OUT FOR BID OR REQUEST FOR PROPOSALS TO PURCHASE A NEW FORKLIFT TO SERVICE THE DRY STACK STORAGE OPERATIONS, AND CONDITIONED UPON FINAL PURCHASE APPROVAL BY THE COMMISSION UPON SUBMITTAL OF BIDS OR REQUESTS FOR PROPOSALS. COMMISSIONER FAIRES SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

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

### **YEAR-END FINANCIAL STATEMENTS**

Commissioner Orvis noted that the Commissioners reviewed the Year-End Financial Statements prior to the meeting.

Ms. Drennan reviewed that staff presented the draft 2012 Year-End Financial Statements at the February 25<sup>th</sup> Commission meeting. The final statements have been prepared in the format required by the State of Washington. After final Commission questions and/or comments, the documents will be submitted to the State Auditor's Office on May 17<sup>th</sup> and subsequently posted on the Port's website. She noted that some changes were made since the draft statements were presented in February:

- As per the Government Accounting Standards Board's (GASB) Statement Number 65, the Port was required to review its assets and liabilities and reclassify those that GASB has determined do not meet the definitions of assets or liabilities to Deferred Outflows of Resources and Deferred Inflows of Resources. In order to comply, the Port was specifically required to show the differences between the reacquisition price and the net carrying price of the 1997 Limited Tax General Obligation Bond (LTGO) when it was refunded in 2005 as a Deferred Outflow of Resources on the year-end financial statements. The Port was also required to write off the debt issuance costs for the 1998 Revenue and Refunding Bonds, the 2005 LTGO and Refunding Bonds, and the 2011 Opus Bank Loan, as GASB determined that debt issuance costs should be recognized as an expense in the period incurred. Debt issuance costs of \$84,045 were written off to Net Investment in Capital Assets in 2012.
- On the draft 2012 financial statements, the damage reimbursement amount did not take into account the Port's \$5,000 deductible. Damage reimbursement was reduced by this amount.
- 2012 invoices that were received after February 25, 2013 were recorded.

Ms. Drennan summarized that the difference between the February 25, 2013 net income and the final net income is an increase of \$14,191. She also advised that the financial statements include a Statement of Cash Flows, which shows the sources of cash in 2012. She pointed out that the cash flow statements are divided into four categories:

- Operating activities provided net cash of \$2,762,486.
- Non-capital financing activities provided net cash of \$117,101.
- Capital and related financing activities used net cash of \$2,125,249.
- Cash flow from investing activities included the maturity and purchase of the bond reserve certificate of deposit and interest from the Port's investments.

Ms. Drennan summarized that total cash increased in 2012 by \$784,628. As per the Cash Flow Model, staff will move this amount into the Capital Replacement Reserve in the 2<sup>nd</sup> quarter of 2013.

It was noted that the page after the "Title Page" should be changed to identify Commissioner Preston and not Commissioner Zagorski.

Commissioner Gouge said he receives questions about the Port's debt all the time, particularly debt related to Harbor Square. It will be helpful to provide the financial statements on the Port's website for the public's information. He specifically asked that staff highlight the graph provided on Page 5.

Commissioner Block asked how many years the Port has received excellent audit reports from the State Auditor. Ms. Drennan said the Port has received excellent reports for at least the past 16 audits. She explained that, for the

most part, the Port is audited every other year, but a yearly audit was required after the Port received funding from the Federal Emergency Management Agency (FEMA). Commissioner Block suggested that staff contact the State Auditor's Office to find out if the Port would be eligible to reduce the frequency of its audits based on its excellent record.

### **EXECUTIVE DIRECTOR'S REPORT**

Mr. McChesney recalled that the Commission has had some discussion about how the City's Shoreline Master Program (SMP) Update relates to Harbor Square. Recently, the Port engaged the services of Eric Lashever, an attorney with K & L Gates, on a limited scope of work to help the Port staff and Commission better understand the background materials and exactly where the Port stands in regard to Harbor Square and the SMP. He reported that staff has had several discussions with Mr. Lashever, who is currently performing research on a billable hourly basis.

Commissioner Block asked if Mr. McChesney has had discussions with Mr. Lashever regarding the City of Edmonds' recent decision to reclassify the Edmonds Marsh from an associated wetland to a shoreline. Mr. McChesney said this issue has been discussed, but the answers have not been fully discovered. That is the crux of Mr. Lashever's work and will be key information for the Port to have.

Commissioner Faires commented that the presentation by Mr. Lien, Edmonds Planning Department, was very helpful. He said it appears that the Port may have a bigger issue with the City's Critical Areas Ordinance (CAO) than the SMP update. He recalled that Mr. Lien stated that the CAO would preclude replacement of some of the Harbor Square facilities on the same footprint. He said he would like Mr. Lashever to address this issue, as well. Mr. McChesney explained that the first item of discovery is how the SMP has evolved and how it affects the Port's future redevelopment at Harbor Square. This will lead to a review of the CAO, as well.

Mr. McChesney reported that staff is working with a consultant to prepare the roof specifications for Building 2 at Harbor Square. The consultant is behind schedule as the project requires more detail than originally thought. Staff expects to go out to bid later this week, and the goal is to have the project completed as soon as possible and before inclement weather returns. Staff believes the project can stay on schedule overall.

Mr. McChesney reported that engineering specifications are being prepared for the public launch. The guest moorage electrical project is moving forward on schedule, with no significant issues. The power will be back on line by Memorial Day.

Mr. McChesney reminded the Commission that their next regular meeting is scheduled for Tuesday, May 28<sup>th</sup> at 7:00 p.m. The Commission meeting is the same evening as the Edmonds Yacht Club's meeting. He suggested that the Commission discuss an alternative date and/or time for the meeting. The Commission agreed to reschedule the meeting to a special meeting on Tuesday, May 28<sup>th</sup> at 3:30 p.m.

Commissioner Orvis requested that staff prepare an inventory or overview of the existing conditions at Harbor Square for the Commission to review and discuss in September. This information will provide a baseline for future discussions related to projects and improvements at Harbor Square.

Ms. Kempf reported that the Port has made offers to a full complement of seasonal workers. Two are on board now, and another three will start later in the week. One will just work weekends until June. She said it was difficult to find seasonal workers who could start by May 1<sup>st</sup>. Therefore, staff made the decision to not extend operational hours until June 1<sup>st</sup>. She said she would provide pictures of the new employees to the Commissioners as soon as possible.

Commissioner Orvis asked if there was a lack of applicants or a lack of qualified applicants. Ms. Kempf answered that they usually receive 40 to 50 applications, and this year they only received 18. She expressed her belief that staff has put together a good summer team, but it took longer than anticipated.

### **COMMISSION COMMENTS AND COMMITTEE REPORTS**

Commissioner Block said she recently received a notice that the City of Edmonds/Chamber Arts and Cultural Committee will meet on July 29<sup>th</sup> to start discussing next year's arts award program. She also received a notice from

Francis Chapin, Edmonds Cultural Services Manager, announcing a meeting on May 17<sup>th</sup> to discuss and plan the Mayor's Arts Summit that is scheduled for this summer. She noted that the two projects are not affiliated.

Commissioner Preston reported on his attendance at a meeting held at City Hall regarding "story of place." He said he also attended the Sea Scout meeting on May 8<sup>th</sup>. He said he brought his son with him, and he enjoyed watching the scouts put on their survival suits.

Commissioner Preston said he has tickets to the Edmonds SeaWolves first game on Saturday, May 18<sup>th</sup>, and he is unable to attend. He offered the tickets to interested Commissioners. He explained that the SeaWolves are a semi-professional soccer team, and their home games will be played at the Edmonds/Woodway High School field.

Commissioner Preston reported that "liquid arts" is a new type of arts program, and a new group has formed in Snohomish County called the "Craft Beverage Guild. The intent is to unify all businesses of this type (wine, beer and other spirits) in Snohomish County. The group will be offering tours of wineries, breweries and distilleries on June 1<sup>st</sup>. While he will not be available to participate, he suggested that a member of the Commission should participate to get an idea of what the Port will need to provide in order to attract one of these businesses. Mr. McChesney advised that he would be unable to participate in the tours because he will be attending the Chamber's Small Business Expo, which the Port is co-sponsoring. He reminded the Commission of the Port's desire to diversify the tenant base at Harbor Square and include a distillery, if possible.

Commissioner Gouge reported on his attendance at the event called "Land the 777X" on May 9<sup>th</sup>. Governor Inslee announced that he does not plan to dangle tax incentives in front of Boeing similar to North Carolina in order to bring more work to the area. Instead, he plans to put forward transportation education initiatives that are intended to accomplish the same goal. He noted that the event was political, and Everett Mayor Stephenson expressed his belief that transportation will be a key issue in Snohomish County and their staff will work on permitting issues to help Boeing out.

Commissioner Gouge said an article in today's EVERETT HERALD announced that the City of Stanwood landed a new company, Process Solutions, which provides 62 jobs. The article notes that the Stanwood City Council and staff were very responsive and supportive. For example, it was determined real estate excise tax from the property sale would offset the cost of water and sewer so the City Council agreed to a five-year utility waiver. In addition, the City's engineer and building official toured the building and suggested a solution to address a problem with the floor tile. The City of Stanwood also waived fees for its review of tenant improvements and sign permits. All of this support gave the business owner confidence to invest in the building.

Commissioner Gouge summarized that it is interesting to see what can happen when a community works together to bring in new businesses and jobs. He said it seems like every city in the state is working hard to bring in new businesses, except the City of Edmonds. Commissioner Preston pointed out that a new cancer and surgical center recently opened in Edmonds on Highway 99.

Commissioner Orvis announced that he, Mr. McChesney and Commissioner Preston will attend the Economic Alliance Snohomish County's Annual Meeting on May 23<sup>rd</sup>, and he will attend their board meeting on May 22<sup>nd</sup>.

## **ADJOURNMENT**

The Commission meeting was adjourned at 8:20 p.m.

Respectfully submitted,

David Preston  
Port Commission Secretary