

PORT COMMISSION OF THE PORT OF EDMONDS

MINUTES OF REGULAR MEETING

April 14, 2014

COMMISSIONERS PRESENT

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

STAFF PRESENT

Bob McChesney, Executive 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 7:00 p.m.

PLEDGE OF ALLEGIANCE

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

CONSENT AGENDA

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

- A. APPROVAL OF AGENDA
- B. APPROVAL OF MARCH 31, 2014 MEETING MINUTES
- C. APPROVAL OF PAYMENTS IN THE AMOUNT OF \$399,759.99

COMMISSIONER GOUGE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY, WITH COMMISSIONER ORVIS ABSTAINING.

PUBLIC COMMENTS

Natalie Shippen, Edmonds, said that while it is a necessity for businesses to concentrate on economic development, it is not appropriate for it to be a government's sole occupation. Governments can do numerous other things that benefit the community and make it a pleasant place to live, and she commended the Port for successful Sea Jazz events. She distributed a flyer from the recent Sunday music event held at the Methodist Church that featured a variety of performances by members of the Cascade Symphony. She encouraged the Port to consider opportunities to expand the music programs in Edmonds, perhaps by inviting members of the Cascade Symphony to perform at the Port once the Sea Jazz program is well established. She expressed her belief that programs of this type add a lot to the character of Edmonds.

Commissioner Block thanked Ms. Shippen for her kind words regarding the Port's Sea Jazz Program. She noted that the Port also sponsors the Artists in Action Program during the summer months. She agreed that events of this type provide a real service to the community, and she hopes more people will take advantage of them.

ANNIE CRAWLEY – DIVE INTO YOUR IMAGINATION

Mr. McChesney introduced Annie Crawley, founder and owner of Dive Into Your Imagination in Edmonds. He noted that Ms. Crawley is a local underwater photographer, filmmaker, and educator. She contacted the Port of Edmonds to help a local high school student who wanted to do a harbor clean up event as his senior project. He reported that the event took place at V Dock on the morning of April 12th, and he was present to observe the dive. He found the event to be very well organized, well managed, and successful. He invited Ms. Crawley to brief the Commission on the event.

Annie Crawley, Dive Into Your Imagination, said she is passionate about the underwater world, and she feels blessed to be able to see that part of the world. She explained that when the student approached her with the idea of doing a cleanup, she suggested he contact the Port of Edmonds. He did the research and discovery and ground work necessary to make the dive successful. She noted that divers from throughout the Puget Sound area, and particularly the Edmonds community, participated in the event.

Ms. Crawley said it is important to understand that wherever there are people, there is trash; and this is true for the ocean, as well. She commended the Port Commissioners and staff for their efforts to be good environmental stewards, noting that they have received an award for being a "green marina." She pointed out that every piece of plastic that makes its way to the ocean is still there. It has a shelf life of between 500 and 1,000 years although it does eventually break down into smaller pieces. She said studies have shown that the amount of trash going into the ocean is equal to the resources that are being taken out.

Ms. Crawley provided several pictures to illustrate the types of trash that were removed as part of the project. She indicated that she would provide a PDF version of pictures to Port Staff, along with a list of the items found. She noted that pictures can say a thousand words, and raising public awareness drives policy changes. She expressed concern that the community can become desensitized to what is actually happening, and they sometimes do not know what they can do to make a difference. She said she has had discussions with Port staff about opportunities to work together to raise public awareness, and she is anxious for the Port to become involved as a partner in efforts to clean up the shoreline.

Ms. Crawley said she is the Camp Director for the Beach Camp at Sunset Bay, which takes place along the beach just north of Edmonds in unincorporated Snohomish County. She invited the Commissioners to visit the camp and see what the program does for youth in the community. In addition to the camp programs, she also speaks at local schools regarding her work to clean up the shoreline. She stressed the importance of educating the youth to be good environmental stewards.

Mr. McChesney said the Port staff has been impressed with the work that Ms. Crawley has done and continues to do, and they have discussed various opportunities such as providing content for the weather center when it is rebuilt, providing demonstrations at the Port's National Marina Day event, and scheduling several dives each year. At this time, staff is working with Ms. Crawley to formulate a program.

Commissioner Faires encouraged the staff to continue to work with Ms. Crawley to formulate a program that other marinas in Puget Sound can use as a model. Commissioner Gouge suggested that the pictures provided by Ms. Crawley could be sent out electronically to tenants and made available on the Port's website as an educational tool.

Ernie Collins, Edmonds Yacht Club, asked Ms. Crawley to keep the Yacht Club in mind in forward planning. Their members could serve as dock keepers to keep boats at bay during the clean up events.

HART CROWSER LEASE REPORT

Mr. McChesney reviewed that on March 17th, the Commission approved a new lease at Harbor Square with Hart Crowser for 5,443 square feet of office space in Building 1 and 728 square feet of lab space in Building 5. The lease term is five years, with an option to extend for an additional five years. The lease obligates the Port to contract and construct tenant improvements as specified by Hart Crowser and their space planning architect. As per the agreement, the lease would commence upon substantial completion of improvements or June 1st, whichever occurs later.

Mr. McChesney reported that Port staff and Jan Conner met with Hart Crowser representatives and their space planner on April 2nd to begin the project and confirm oversight responsibilities and schedule, but it is not likely the specifications will be ready for two to three weeks. Because the bid process for contracting the tenant improvements cannot begin until specifications are provided and the process for bidding public works will take another four to six weeks, it now seems most unlikely the space will be finished by June 1st. Due to these open schedule factors and the time for construction, all the parties are in agreement to extend the timeframe. Hart Crowser has indicated they would be prepared to accept occupancy if the improvements could be finished for them by an August/September timeframe. He noted that the bid documents are ready to go out as soon as the specifications are provided by the tenant.

Commissioner Faires asked if the delay would invalidate the lease or give Hart Crowser the ability to decide they do not want the space after all. Mr. McChesney said he believes that the lease is air tight to prevent a situation of this type. Commissioner Orvis suggested that Port staff reaffirm Hart Crowser's intentions to make sure the tenant improvements will meet their needs before the project moves forward. The remaining Commissioners concurred.

PUBLIC LAUNCH

Mr. McChesney reminded the Commissioners that the Public Launch has not been accepted as complete. Specifically, the crane rail was delivered out of spec and out of sequence. Consequently, it was not installed correctly as per the contract specifications and engineer's recommendations. The result was unacceptable because the crane rail joints were not within the manufacturer's tolerance.

Mr. McChesney reported that IMAC has accepted responsibility to re-work the crane rail to meet the contract requirements, and they have developed a plan to achieve this goal. Both the manufacturer and engineer have signed off on the plan, and he fully expects it to be successful and finished within 30 days or sooner. He advised that IMAC will start their work on April 15th, which will require the launcher to be shut down for four days. By Friday, the launcher should have a much better crane rail apparatus that is ready to be accepted as complete.

Mr. McChesney reviewed that isolating the problems and getting everyone on board has been difficult. While the launch was operational during this time period, staff chose to shut it down until the contractor came up with an acceptable re-work plan.

Commissioner Faires asked if it would be advisable for the Port to keep the state agency involved in the process. Mr. McChesney explained that the entire project file would be forwarded to the Washington State Recreation and Conservation Office (RCO) when the Port submits paperwork for reimbursement. At this stage, there is no reason for the RCO to get involved in the process. The Port wants the job done properly and they are on track to accomplish that goal this week.

WEBSITE REDESIGN AND DEVELOPMENT SERVICES UPDATE

Mr. McChesney recalled that at their January retreat, the Commission discussed the Port's website and plans for redesign. Upon recommendation by the Commission, a Web Site Design Committee (comprised of Commissioner Gouge, Commissioner Preston, Chris Osterman, Marla Kempf, and Bob McChesney) was formed. The committee met on February 12th to develop design parameters, desirable features and the process for selecting a qualified web design consultant. He reported that a Request for Proposal (RFP) was published and advertised to the public on March 20th, in addition to 17 requests to various developers. The deadline for submittals was April 9th. One addendum was published addressing 21 follow-up questions. Seven submittals were received by the deadline, with responses from five developers who declined the request to submit.

Mr. McChesney explained that a review committee will be scoring the applicants and making a selection of the top three candidates to request demonstrations and follow-up questions to make the final determination. It is anticipated that a selection will be made and brought before the Commission for contract approval at the May 12th meeting, and development is expected to begin the first week of June.

PORT OF EDMONDS POLICY NUMBER 3.55.40.05, INFORMATION, TECHNOLOGY, AND SECURITY

Ms. Drennan reviewed that the Port originally documented its policy governing the access and use of the Port's computer equipment in 2007. In 2010, the policy was updated to include the security and control of the Port's assets, resources, and electronic information. In early 2013, staff asked the Port Attorney to put together an information technology policy. Unfortunately, that document left out some of the requirements the Port must follow to comply with VISA and Master Card policies that were implemented in 2010. The attached document combines the Port's 2010 information technology policy with the Port Attorney's 2013 information technology policy. Wherever possible, the Port Attorney's language was used. She reviewed the following changes:

- Adding Commissioner computer use to the policy, now that some Commissioners have been issued Port computer equipment.
- Clarifying the definition of acceptable computer use.
- Clarifying public disclosure requirements related to computer use.
- Defining misuse or inappropriate use.
- Dividing information security duties between the Finance Manager and the Port Computer Technician.
- Defining proper email usage.
- Discussion of the Open Public Meetings Act regarding emails to and from the Port Commissioners.
- Defining hardware.
- Warning users of hackers.

Ms. Drennan advised that the draft policy is on the agenda for Commission review. Port staff will incorporate the changes and bring the policy back for approval at a future meeting.

Commissioner Faires said he uses the I-Pad supplied by the Port for all of his Port business. He asked if the proposed policy would allow him to also use the device for personal uses, such as a personal book reader when he travels. Mr. Cattle said the Port's policy could allow a modest amount of personal usage on a Port-owned device. For example, allowing the device to be used as a personal book reader would not likely be problematic. However, problems are created when the 10% or 20% de minimus personal use gets into personal email and other uses of the device. He cautioned the Port to think long and hard before making changes to allow de minimus personal uses. If they decide to take that approach, they should have a good tracking device in place.

Commissioner Faires said he would like the Port's policy to include a reasonable statement to allow for some categories of personal use. Mr. Cattle agreed to research how other jurisdictions deal with this issue and report back to the Commission. He cautioned that drawing a bright line between what is and is not allowed will place the Port in a better position.

Commissioner Preston asked if it would be possible for the policy to include a process by which Commissioners could get permission to bookmark some websites as "favorites" or download certain apps, software, etc. Ms. Drennan said this could be a problem because the policy, as written, would apply equally to Commissioners and staff. Mr. McChesney suggested the policy could include a clause that talks to specific areas of use that apply to just the Commissioners.

Commissioner Preston referred to Item 10.F and questioned if it would be reasonable to expect the staff and Commissioners to have the ability to identify suspected viruses that are sent to them via email. Ms. Drennan explained that, in many cases, emails with viruses are easy to spot. Commissioners and staff should avoid opening email and attachments that are suspicious. Commissioner Orvis pointed out that the provision does not require the staff and Commissioners to identify all suspected viruses. It simply asks them to be on the lookout and to notify the Port staff of suspected problems.

Commissioner Preston requested clarification of Item 1.C.ii. Ms. Drennan stated that this item is primarily directed towards staff. To add more clarity, Commissioner Orvis said the provision would not prevent a Commissioner from using a Port device to conduct Port business when attending outside meetings such as City Council Meetings. However, Commissioners should seek approval to use the devices for other volunteer work outside of their Commission assignments.

Commissioner Preston referred to Item 1.C.viii and asked if he has the ability to delete emails from his Port account. Ms. Drennan answered affirmatively. However, the provision would prevent him from deleting emails that belong to other Commissioners or Port staff.

Mr. McChesney suggested that Commissioner Preston forward his lists of comments and questions to staff for further evaluation as they prepare the final policy for the Commission's review and approval.

Commissioner Block referred to the provision in the policy that would require Commissioners to change the password on their Port email accounts every 90 days. She asked if this provision would apply to the password that allows her to access her Port account from her personal computer. Ms. Drennan said a password is required for Commissioners to log into the Port's system to access their email accounts, and the policy would require that the passwords are changed every 90 days.

Commissioner Preston asked if an employee or Commissioner could be automatically logged off of the Port's server if they leave the network for more than 10 minutes. Ms. Drennan agreed to look into this option.

Commissioner Gouge recalled that he was not in favor of Commissioners having Port-issued devices. He said he uses one device for all of his work-related business, and he uses his I-phone to access the Port's server for Port business. Commissioner Block recalled that in an earlier discussion, the majority of Commissioners indicated they did not want a Port-issued device. Mr. McChesney recalled that the Commission agreed to leave the decision to each individual Commissioner. Updating the policy became necessary when a few of the Commissioners indicated they wanted a device.

Commissioner Orvis pointed out that Item 2.C.ii requires the Information Security Officer to communicate information security policies to employees and contractors. He suggested that if the policy is going to be updated on an annual basis, then training should also take place on an annual basis.

Commissioner Orvis asked staff to find a better word to replace "belief" in Item 3.C.ii.

Commissioner Preston asked if it is possible for him to send an email to all Commissioners without allowing them to all respond. He said he understands that if Commissioners respond to his email, it could result in a quorum or a meeting, which would violate the Open Public Meetings Act. Mr. Cattle cautioned that all email communications amongst Commissioners should be sent through Port staff, with a request that they be distributed to Commissioners. Commissioners should forward their responses to staff rather than to each other.

JACOBSEN'S LEASE/PERMIT

Mr. McChesney reviewed that on October 24, 2013, the Port entered into a ground lease with POE LLC2 (aka Jacobsen's Marine). The lease is for 30 years, with two, 10-year options to extend. It contemplates that Jacobsen's would construct a 10,000 square foot marine retail and service center, and the commencement of the lease is contingent on them obtaining the necessary building permits from the City of Edmonds. Because the lease parcel and footprint of the new building will be partially within the City's critical area boundary surrounding the marsh, the City has required the Port to submit a Critical Area Enhancement Plan for project mitigation as a pre-condition before issuing the building permit. The Port engaged the services of Earth Corps to prepare the scope of work and budget for wetland buffer improvements along the north perimeter of the marsh adjacent to Harbor Square. The cost of the improvements is \$11,016.95. The Port will pay project mitigation fees directly to the City's mitigation account, and the City will be in charge of all aspects of the buffer enhancement project.

Mr. McChesney explained that the cost of the improvements (\$11,016.95) will come from the Port's Operating Budget and equates to less than 0.4% of the 50-year lease payments with lease extensions, or approximately \$220 per year. While the expense was not budgeted, it would be offset by the lessee's 2014 lease payments of approximately \$22,000, which were also not budgeted. He advised that the economic purpose of the proposal is economic development, fiscal management and environmental stewardship. He recommended the Commission approve the Port to pay \$11,016.95 to the City of Edmonds for project mitigation as specified in the Critical Area Enhancement Plan. He further recommended that the Commission authorize him to transfer the funds directly to the City of Edmonds for that purpose.

Commissioner Faires asked if the area in question is considered a wetland or shoreline. Mr. McChesney responded that the area is currently classified as a wetland buffer under the City's Critical Areas Ordinance. He reminded the Commission that the City's Shoreline Master Program has not yet been approved by either the City Council or the Department of Ecology (DOE).

Commissioner Preston referred to the photograph in the Staff Report of the area that would be enhanced as per the proposed plan and recalled that volunteers have previously worked in this area to remove invasive species and plant native vegetation. Mr. McChesney said it is difficult to qualitatively discuss the work that has been done by volunteers working with Earth Corps, Friends of the Edmonds Marsh, etc. The proposed plan would be a more organized effort based on scientific and technical information. He explained that the City requires a 1:1 buffer enhancement, based on the square footage of the proposed building that would be located within the critical area boundaries. Working with Earth Corps, they were able to identify the area where improvements would result in the "best bang for the buck." He noted that the plan requires maintenance and monitoring for a period of time after the improvements have been completed.

Commissioner Faires said that after reviewing the letter from the City and considering the requirement further, he has concluded that the Port, acting as a developer, must meet the same requirements as any other developer who builds a structure within a critical area boundary. Commissioner Gouge said he would like to know if the City required a Critical Area Enhancement Plan for the Edmonds Yacht Club building. Mr. McChesney noted that the Yacht Club's building is not located within the marsh's critical area buffer.

Commissioner Orvis voiced concern that the buffer enhancement plan was submitted in February, but the Port was not notified of the changes and new requirements for maintenance and monitoring until April 9th. While he is not opposed to the Port paying for the plan and the subsequent improvements, the late notice typifies the City's permit process. The City staff has never indicated a sense of urgency for issuing permits for this important project, and they have demonstrated their inability to work in parallel instead of a series of reviews. He suggested that developers do not like doing business in Edmonds because permit issuance seems to be at the convenience of City staff rather than getting the job done.

COMMISSIONER FAIRES MOVED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO PAY \$11,016.94 TO THE CITY OF EDMONDS FOR PROJECT MITIGATION RELATING TO THE JACOBSEN'S LEASE AND BUILDING PERMIT TO FUND THE EDMONDS MARSH BUFFER ENHANCEMENTS AS SPECIFIED IN THE CRITICAL AREA ENHANCEMENT PLAN AND REQUIRED BY CITY ORDINANCE NUMBER 3935. COMMISSIONER PRESTON SECONDED THE MOTION.

Commissioner Gouge said he would vote against the motion, not because he is opposed to funding the required buffer improvements, but because of the way City staff has treated both the Port and Jacobsen's Marine.

THE MOTION CARRIED 4-1, WITH COMMISSIONER GOUGE VOTING IN OPPOSITION.

EXECUTIVE DIRECTOR'S REPORT

Mr. McChesney did not have any new items to report.

COMMISSION COMMENTS AND COMMITTEE REPORTS

Commissioner Gouge announced that he and Commissioner Orvis would attend the State of the Station address at the Everett Naval Base on April 16th. The event is sponsored by the Snohomish County Economic Alliance to celebrate the naval station's 20th anniversary in Snohomish County.

Commissioner Block recalled the Commission's discussion at a previous meeting about requiring people who provide incidental services at the Port, such as washing boats, to have insurance. She noted that some Commissioners expressed concern that this requirement would prohibit some providers from working at the Port, and providers with insurance typically charge more than those without insurance. Mr. McChesney acknowledged

that could be the case, and it is difficult to identify what the incremental cost delta would be. However, he emphasized that the requirement is intended to address issues related to the Port's liability and risk exposure. Although the Commission asked staff to benchmark the cost of the insurance policy, obtaining quotes from insurance companies for activities that are vague has been difficult. The Commission also asked staff to post an article in the next tenant newsletter, soliciting feedback on the insurance requirement. Staff is proposing that a better approach is to poll other marinas to learn more about their policies related to insurance so they have a practical benchmark from an industry point of view. Staff hopes to bring this item back to the Commission in the future with better information.

Commissioner Orvis announced that he and Commissioner Faires would attend the Washington Public Port Association's (WPPA) Spring Meeting in May. He noted that the WPPA's legislative report was brief because not a lot was accomplished during the last session. He noted that legislation related to derelict boats was passed. While the new requirements will have a significant impact on some marinas, the impact to the Port should be minimal given that its current practices are compliant. He noted that the legislation requires boaters to display proof of insurance on their vessels. Because marinas would be obligated to notify boaters of the requirement and verify insurance at the time a boater signs up for moorage, boaters would no longer be able to say they did not know about the requirement.

Commissioner Orvis recalled that elected public officials are required, by law, to participate in training on the Open Public Meetings and Public Records Acts. He noted there are several options for meeting the requirement. For example, the WPPA has offered several sessions at their meetings. Ms. Drennan said that Enduris also offers online webinars for elected public officials.

Commissioner Preston said he met Ms. Crawley about a year ago at the Waterfront Festival, and was impressed with her willingness to work with local students to clean up the shoreline. He suggested that, by utilizing Ms. Crawley's motivation, a program could be launched out of the Edmonds Marina that could serve as a model for other marinas in Washington State and nationally.

Commissioner Preston announced his plan to attend the WPPA Spring Meeting in May.

Commissioner Faires announced that he would attend the Edmonds Economic Development Commission meeting on April 16th. He expressed concern that the organization has not put any teeth into its activities over the past year, and it is losing its major proponent and leader in Stephen Clifton.

ADJOURNMENT

The Commission meeting was adjourned at 8:30 p.m.

Respectfully submitted,



Bruce Faires
Port Commission Secretary