



PORT COMMISSION OF THE PORT OF EDMONDS

MINUTES OF REGULAR MEETING

June 8, 2015

COMMISSIONERS PRESENT

Bruce Faires, Vice President
Fred Gouge, Secretary
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

COMMISSIONERS ABSENT

David Preston, President

CALL TO ORDER

Commission Vice President Faires called the regular meeting to order at 6:30 p.m. The meeting was immediately adjourned to an executive session.

EXECUTIVE SESSION

The Commission met in an executive session to discuss real estate matters as per RCW 42.30.110(1)(c), the discussion of which in public would disadvantage the Port District. Those in attendance included Commissioners Faires, Gouge, Block and Orvis, as well as Mr. McChesney, Mr. Cattle, Ms. Drennan and Ms. Kempf. No decisions were made and no action was taken. The executive session was adjourned at 6:55 p.m.

RECONVENE REGULAR SESSION

Commission Vice President Faires called the regular meeting back to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

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

CONSENT AGENDA

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

- A. APPROVAL OF AGENDA**
- B. APPROVAL OF MAY 26, 2015 MEETING MINUTES**
- C. APPROVAL OF PAYMENTS IN THE AMOUNT OF \$1,162,065.00**
- D. RESOLUTION NUMBER 15-03 – AUTHORIZING THE SALE OF TWO ABANDONED BOATS**
- E. SALE OF TUFF SHED BUILDING TO PUGET SOUND EXPRESS**

COMMISSIONER GOUGE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

PUBLIC COMMENTS

No one in the audience indicated a desire to address the Commission.

HART CROWSER TENANT IMPROVEMENTS CONTRACT ACCEPTANCE

Mr. McChesney recalled that the Port entered into a lease with Hart Crowser in 2014 that included tenant improvements the Port would provide. The tenant improvements were completed several months ago, but bringing closure to the actual contract was a bit challenging due to change orders and the contractor's failure to provide the required documentation. He emphasized that Hart Crowser is happy with their space and the improvements have worked out very well.

Ms. Drennan reviewed that on June 9, 2014, the Commission authorized the Port to enter into a contract with All Phase Interiors LLC for tenant improvements for new Harbor Square tenant, Hart Crowser, in the amount of \$143,733.87 plus sales tax. There were five change orders (three were additive and two were deductive). The final cost of the project was \$165,790.06 plus sales tax for a total of \$181,540.12. She further reviewed that work began the week of June 16, 2014 and was due to be substantially complete by September 15, 2014. The contractor felt he had completed the punch list items in November of 2014, but the last subcontractor's Affidavit of Wages Paid was not approved by Labor and Industries (L&I) until May 18, 2015.

Ms. Drennan explained that, upon acceptance of the project by the Commission, staff will file the required paperwork with the Department of Revenue, Department of Labor and Industries, and Employment Security. Upon receiving the releases from the three state departments and lien releases from the subcontractors, the Port will release the contractor's retainage. She recommended the Commission accept the Hart Crowser Tenant Improvements contract as complete.

Commissioner Faires recalled that the change orders, plus the initial cost of the tenant improvements are covered under the contract with Hart Crowser, and the Port will recover all costs. Mr. McChesney said the contract identifies a budget for the improvements, with a contingency. It was agreed that any escalation would be capitalized in the lease. The project stayed on budget, so there are no issues with cost overruns that cannot be capitalized. The project turned out well, and both Hart Crowser and the Port are happy with the improvements. Although working with the contractor to close out the project was difficult, there are no issues relative to the terms of the lease.

COMMISSIONER GOUGE MOVED THAT THE COMMISSION ACCEPT THE HART CROWSER TENANT IMPROVEMENTS CONTRACT AS COMPLETE. COMMISSIONER BLOCK SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

COMMERCIAL/CHARTER OPERATIONS – PUGET SOUND EXPRESS

Mr. McChesney reviewed that on January 26, 2015 the Commission approved Business Moorage for Puget Sound Express (PSE) for the purpose of doing high-speed wildlife excursions from the Port of Edmonds to the San Juan Islands between the months of May and September. At that time, they also authorized him to proceed with finalizing the agreement with PSE. The initial start-up operations began in March with familiarization trips and gray whale tours. Since that time, PSE and the Port have worked together to refine the operations. For example, the moorage location was changed from the end of C Dock to the end of D Dock, which proved to work better from a boat handling perspective. They also worked out details for an on-site kiosk for ticket sales. PSE originally proposed using a recreational vehicle (RV) or trailer, which the Port did not support. Ultimately, it was agreed that the Port would purchase a Tuff Shed at a cost of about \$6,700 and PSE would lease it from the Port. At the request of PSE, the Port also provided tenant improvements (electrical wiring, painting, shelves, landscaping, etc.) that resulted in a multi-purpose building that serves PSE's needs well.

Mr. McChesney said it was initially agreed that PSE would collect \$6.00 from each passenger that parked a vehicle on Port property and remit monthly to the Port. In addition, there would be a passenger fee of \$1.00/passenger in 2015, \$1.10/passenger in 2016, \$1.20/passenger in 2017 and CPI + 1% increases annually in 2018 and beyond. Garbage would either add \$0.25 per passenger or be handled directly by PSE through the local garbage service. As PSE's targeted marketing took place and operations unfolded, many more than several trips were organized, and the

overall response to whale watching was better than anticipated. In an effort to reduce administrative reporting, retain maximum utilization of available parking space, respond to observed actual impacts during start-up voyages, and accommodate the mix of uses in that area, the Port offered PSE an alternative option of an all-inclusive passenger fee and PSE made an offer to purchase the Tuff Shed rather than rent it. As part of the Consent Agenda, the Commission authorized the sale of the Tuff Shed to PSE in an amount of \$11,190.03 plus sales tax. He advised that the new agreement between the Port and PSE for the 2015 season includes the following:

- **Moorage.** The Chilkat Express will operate from D Dock, which works better from a boat handling perspective than C Dock did.
- **Ticket Office.** PSE purchased the Tuff Shed from the Port to be used as an office and ticket sales space. A ground lease will be signed for the current market value, which is approximately \$26 plus leasehold excise tax per month.
- **Garbage.** PSE will be renting their own 90-gallon tote from the disposal company and handling its own garbage.
- **Restrooms and Potable Water.** PSE will track restroom and water usage. Currently PSE customers use the restrooms at dry stack on a case-by-case basis. This discussion will be held in abeyance until after the first season and next year the Port expects to have a new restroom in place.
- **Passenger Fees.** For the 2015 season, the passenger fee will be revised from the original agreement of \$1.00/passenger and \$6.00 per day for parked vehicles to an all-inclusive \$2.25/passenger fee for the first season. The passenger fee will be reviewed at the end of the first season based upon actual operating results, and PSE can then choose between Option 1 (passenger fee per passenger plus current daily parking rate per vehicle) and Option 2 (all-inclusive passenger fee).

Mr. McChesney reported that PSE has managed its passengers' embark, debark and parking very well and will continue to issue parking permits and direct its passengers to park in the white visitor parking spaces in Lot 9. The number of estimated vehicles per voyage has dropped due to group bookings that are coming in by bus. Port staff has increased enforcement signage in the south end parking lot to insure that park goers and visitors do not overflow into the yellow tenant parking spaces. Both the Port staff and PSE have done an excellent job of assisting customers.

Mr. McChesney advised that a remaining issue to be resolved is related to creating a level playing field that is fair for everyone with no competitive advantage to one commercial operator over another. When the whale watching excursions were announced, a few existing charter boat operators decided to do some excursions, as well. The problem is that the Port does not have an agreement with these operators to provide whale watching activities. Port staff is recommending that a single rate scheme be established for all commercial operations that create greater than personal recreational use impact on the facility. He emphasized that staff is unable to finalize a recommendation to address the issue at this time due to the many variables that exist. Once PSE's operation stabilizes and operation impacts and economic variables can be fully comprehended, staff will be able to make a determination as to which fees are conducive to these types of operations and propose refinements to the Port's established rates. Again, Mr. McChesney said the goal is to create a level playing field for everyone, and it is not the Port's intent to push certain businesses out of the marina by creating an unreasonable cost burden.

Mr. McChesney said that, while it is difficult to measure the fiscal impact of PSE's operation, a conservative estimate is \$30,000 annually, including revenues from moorage and passenger fees. It is also anticipated that approximately 45,000 gallons of fuel will be purchased by PSE annually. He reminded the Commission that is the mission of the Port to operate the Port in a fiscally sound manner and provide and/or foster quality services and facilities for tenants and the boating community, as well as play a leadership role in ensuring that the waterfront is a vibrant, active centerpiece for the Edmonds and Woodway communities. He expressed his belief that the proposed PSE agreement supports this mission. He recommended the Commission approve Option 2 (passenger fee of \$2.25/passenger) for the 2015 year, with the understanding that Port staff will return to the Commission prior to March 1, 2016 with a proposed passenger vessel policy and passenger fees applicable to all commercial operations for 2016 and beyond.

Commissioner Orvis asked if the passenger vessel policy and passenger fees would apply to all businesses that operate out of the marina. Mr. McChesney answered affirmatively. Commissioner Gouge asked if the Port has agreements with tenants who operation commercial fishing charters from the marina. Ms. Kempf explained that

current regulations simply require that the tenants obtain approval for business moorage. Business moorage is typically approved by the Executive Director. However, because PSE is a larger operation, staff presented their proposal for business moorage to the Commission for approval. All business moorage tenants sign the same moorage agreement as other moorage tenants, but there are different insurance requirements.

Commissioner Gouge expressed support for a single rate scheme for all commercial operations, as proposed by staff. While this may be a concern to charter boat operators who have done business from the marina for a number of years, times have changed and it is important to create a level playing field for everyone. He said he prefers Option 2, which establishes an all-inclusive passenger fee, since it would be easier to administer.

Commissioner Orvis observed that this has not been an issue in the past because the commercial operations were smaller and created less impact. Now that the opportunities are expanding to include other services and significantly more customers, it is important to have a policy that is fair for everyone. In addition to a per person fee, it is also important to have insurance requirements in place. As long as the long-term commercial operations remain small, the change should not have a significant adverse impact. He also voiced support for Option 2, as he felt it would have the least impact and could be applied fairly.

Commissioner Faires also endorsed the proposal to create a level playing field for all commercial operations, and he felt Option 2 would be the simplest approach. He asked if the Port's current agreements with fishing charter boat operators are renewed on an annual basis. He also asked if the agreements are limited specifically to fishing or if they allow all marine-related activities. Ms. Kempf explained that, currently, commercial operators sign the same agreement as everyone else that has moorage at the Port. However, they have to comply with the rules and regulations that require certain licenses, insurance, etc.

Commissioner Faires asked if the Port could simply create a policy and procedure specifically for tourism related commercial operations. Ms. Kempf said it would depend on how "tourism related commercial operations" is defined. She advised that the United States Coast Guard license has specific definitions based on the type of charter and how many people they can carry. The Port could create a policy that is based on the number of passengers a vessel is allowed to carry. Rather than an agreement that sunsets, the policy could be enforced as part of the Port's rate structure.

Commissioner Faires requested more information about where the bus loads of PSE customers originate. Mr. McChesney said PSE has done a great job of marketing their service, and they have specifically worked with tour companies to arrange tours that deliver people by bus. In addition, companies, such as Microsoft, arrange tours for their employees. Commissioner Faires asked if the people who arrive by bus leave immediately after the tour or if they have an opportunity to stay in Edmonds for a while. Mr. McChesney answered that those who arrive by bus are often allowed an opportunity to visit restaurants and businesses along the waterfront and in downtown Edmonds. For example, the group from Microsoft held a business meeting at the Beach Café following the tour. He said he has also heard from a number of Edmonds residents who have brought visitors to do the tour and then visit the restaurants.

Mr. McChesney clarified that at the end of the 2015 season, the Port will have discussions with PSE regarding the 2016 rate structure. At that time, PSE can choose either Option 1 or Option 2 as outlined above. Ms. Kempf explained that Option 1 would be more unpredictable for both PSE and the Port. Parking rates are approved each year during the budget process, and it is possible that the rates could increase at some point in the future. Option 2 is the most predictable approach.

The Commission agreed that staff would work to draft a passenger vessel policy and passenger fees applicable to commercial operations for the Commission's review. The new policies could be implemented in 2016. Ms. Kempf reminded the Commission that the goal is to tighten up the policies and create a level playing field.

COMMISSIONER ORVIS MOVED THAT THE COMMISSION APPROVE OPTION 2 PASSENGER FEE OF \$2.25 PER PASSENGER FOR THE 2015 YEAR WITH THE UNDERSTANDING THAT PORT STAFF WILL RETURN TO THE COMMISSION PRIOR TO MARCH 1, 2016 WITH A PROPOSED PASSENGER VESSEL POLICY AND PASSENGER FEES APPLICABLE TO COMMERCIAL OPERATIONS FOR 2016 AND BEYOND. COMMISSIONER GOUGE SECONDED THE MOTION.

Mr. Cattle clarified that the Port's current contract with PSE only identifies the Option 1 fee schedule. The Commission's action, as phrased in the motion, would not substitute Option 2 for Option 1. It would add Option 2 in addition to Option 1, which means PSE would have the ability to choose between Option 1 and Option 2.

THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE DIRECTOR'S REPORT

Mr. McChesney reported that he received an email from Ken Reid, Edmonds Arts Festival Foundation. He reminded the Commission that the Port sponsors the Edmonds Arts Festival in the amount of \$1,000 and allows them to use the Port's parking lot for the event. In return the Edmonds Arts Festival Foundation organizes an Artists in Action Program that takes place at the marina during the summer months. As a sponsor of the event, the Port receives two complimentary tickets to the preview party on June 17th. Mr. Reid requested the Port inform him of who would attend on behalf of the Port. It was agreed that Commissioner Faires and his wife would attend the event.

Mr. McChesney said Commissioner Preston has asked that the Commission consider a \$1,000 donation to the Edmonds Chamber of Commerce to support the 4th of July Parade. Commissioner Gouge said he discussed the request with Commissioner Preston prior to the meeting and advised that he would not be in support of providing monetary support for the parade in 2015. However, Commissioner Preston could bring the issue up again as part of the Commission's annual budget discussions later in the year. He noted that the Port already supports the Chamber via Mr. McChesney's participation on the Board. Commissioner Orvis noted that the Port sponsors the Edmonds Arts Festival and other community events, but the contributions are discussed and agreed upon as part of the budget process. If he thought the parade was in jeopardy because of lack of funding, he would be more inclined to support the donation. However, that is not the case. Commissioner Faires summarized that the Port frequently receives requests for funding, and the Commission has made it a practice to sponsor activities that are directly associated with economic development or that provide a return to the Port. He does not believe the 4th of July Parade would meet either of these criteria, and he is not in favor of approving a donation. The Commissioners agreed that the request could be reconsidered as part of the 2016 budget discussions.

Mr. McChesney referred to the public relations document that was prepared by Megan Barnes. He recalled that the Commission discussed the document at their retreat earlier in the year. He advised that Ms. Barnes will be preparing a final draft, and Commissioners should submit their comments as soon as possible. He noted that the document will be a good handout for people who want to know what the Port is about. He commended Ms. Barnes for her efforts. Commissioner Faires also commended Megan on her initiative, as well as the quality of her work.

Mr. McChesney announced that the Port has obtained the required Shoreline Permits for the new restrooms. Staff will meet later in the week with CXT, the building supplier, and Reid Middleton, the project engineer, to get started on the next phase of planning. In advance of submitting a building permit application, specifications for the site work will need to be prepared. He advised that the building permit application would not be submitted until the Port has placed a firm order with CXT. He expressed his hope that the project could be completed this year.

As an illustration of how difficult it is for citizens to work with the City's Public Works Department, Commissioner Orvis shared that he attended an open house with his neighbors nearly a year ago relative to a sidewalk project near Madrona School that is identified on the City's Master Plan. At that time, staff advised that another open house would be held and that the project would be completed in 2015. However, the neighbors heard nothing further from the Public Works Department until they were recently notified that the project would be delayed because of a property rights dispute between the City and the School District. He said he finds it ironic that the people who are most responsible for ensuring children are safe have been unable to solve the problem. He said he remains hesitant to think the Port will obtain the necessary building permit to complete the restroom project in 2015. Mr. McChesney advised that Port staff is moving forward as quickly as possible with the supplier, engineer and City staff, and he remains cautiously optimistic that the Port will be able to start the project in 2015.

Commissioner Faires asked if staff knows of any outstanding issues associated with the building permit. Mr. McChesney said no, but that does not mean they won't come up. He recalled that the Port staff met in a pre-

development meeting with the Building Department staff, and they have been in discussions with the building supplier. Everyone knows what is expected, and the Building Department is mostly concerned with how the building will attach to the foundation, how the two pieces of the building will be joined, and how the utilities will be hooked up.

Mr. McChesney announced his plan to attend the Washington Public Ports Association's (WPPA) Executive Director's Seminar in Walla Walla on July 16th and 17th.

COMMISSION COMMENTS AND COMMITTEE REPORTS

Commissioner Gouge announced that he would attend the Community Transit Roundtable luncheon on June 23rd. He also reported on his attendance at a public hearing before the Edmonds Planning Board regarding the draft Tree Code. There were a significant number of citizens present to speak against the draft code. At the conclusion of the hearing the Planning Board recommended the City Council table the draft Tree Code and that staff consolidate the existing tree regulations that are scattered throughout the Development Code into one section as part of the code re-write process. He said he plans to attend the public hearing before the City Council on June 9th, as well. He said it is important to protect the Port from having to obtain a permit to prune trees, as the cost would be prohibitive and likely require the Port to raise taxes.

Commissioner Orvis recalled that in an earlier discussion he and Mr. McChesney had with the City of Edmonds Public Works Director, they were told that the City did not have funding to install pedestrian crossings on Admiral Way because it would require curb cuts to meet the American's with Disabilities Act (ADA) requirements. He noted that there are currently two crossings on the west side of Railroad Avenue at Dayton Street, but it appears that the lines have been obliterated and they were never operational. He reported that at a recent WPPA Conference, he had a conversation with the Director of Public Development for BNSF and learned that there is supposed to be a telephone at the crossings in case of emergency. There are emergency phone numbers people can call to lock the trains in place in order to get emergency vehicles across the tracks. Commissioner Orvis suggested that this issue be brought to the attention of the Edmonds Police and Fire District 1.

Commissioner Faires recalled that, at their last meeting, John and Sharon Bohner, Port tenants, voiced concern that the pump out stations were not working properly. While he was not in attendance at the last meeting, he also had a discussion with the Bohners. He expressed his belief that the Port has an environmental responsibility to ensure that the pump outs are functional and that the dock in front of the north pump out station is clear. Mr. McChesney reported that Port staff met with the Bohners the day after the meeting and inspected the pump out stations and found them all operational. Staff spent some time showing them how to operate the equipment for optimal performance. He acknowledged that the pump may be somewhat undersized and not have enough draw during certain tidal conditions, but there is nothing the Port can fix that is broken.

Commissioner Faires reported on his attendance at the May Edmonds Economic Development Commission (EDC) meeting where the following was discussed:

- The EDC reached a consensus that Darrel Haug would review the present status of the City's fiber optic opportunities as a business attractor. He was also charged with finding out how useful a consultant would be in implementing some of the activities he envisions. Commissioner Faires reminded the Commission that fiber optics was installed across SR-104 to the corner of the Port property, and they have had previous discussions about how to use this opportunity to attract potential leases at Harbor Square. He suggested the Port stay abreast of the situation as the EDC progresses with its review. Mr. McChesney said the Port has worked with Mr. Haug in the past to bring fiber optic capability to Building 2 at Harbor Square to serve Maverick, which uses a lot of band width. However, there have been no further discussions. Commissioner Faires suggested it might behoove the Port to look into the matter further.
- The EDC also discussed whether or not the City should do something to encourage and promote redevelopment at Firdale Village and Westgate in light of the recently approved zoning changes. They agreed to continue their discussion about whether or not it would be appropriate for the City to become involved; and if so, how the City might go about it. Commissioner Gouge expressed his belief that one of the most important things the City can do is streamline their permit process. Developers do not want to put

money on the line only to wait a lengthy amount of time to obtain the necessary permits. He pointed to the City of Shoreline as an example of how the City could improve their permit system.

- The EDC also discussed what their role should be in implementing the Strategic Action Plan that was adopted by the City Council in 2014.

Commissioner Faires reported on his attendance at the WPPA Annual Spring Conference where he participated in the following discussions:

- As per state law, ports can pursue mixed-use development opportunities as long as it includes some commercial or industrial components. It can include residential, but an entirely residential development could be problematic.
- The suggestion was made that when budgets are passed annually, ports should also revisit and update their Scheme of Harbor Improvements (Master Plan) and their Capital Budgets. Even if no changes are made, it is wise to review and reaffirm the plan that is in place.
- There was some discussion about how ports can be involved with organizations that are not associated with economic development, such as the Edmonds Sea Scouts. He mentioned that the Port supports a Sea Scout troop and receives in-kind effort. He was informed that this approach would likely be okay, but it might become litigatable in the future. It was also suggested that the Port should cover the Sea Scouts under L&I when they are working at the Port. He asked Port staff to take this option under advisement with the Port Attorney and report back.
- It was also discussed that ports can enter into interlocal agreements with public and private entities and provide funding for studies related to economic development or anything in the public domain that might lead to or support economic development.

Commissioner Gouge announced that a public hearing on the Edmonds Comprehensive Plan Update is scheduled for June 10th. He asked if the EDC has reviewed and provided comments relative to the plan. Commissioner Faires said they have only reviewed the Comprehensive Plan as it relates to the Strategic Action Plan. Commissioner Orvis noted that although the City's current Comprehensive Plan supports mixed-use, transit-oriented development, the City Council voted the policy down when they denied the Port's request to allow mixed-use development, including residential, at Harbor Square. Commissioner Faires pointed out that mixed-use development at Harbor Square is also listed as a priority in the Strategic Action Plan. However, the policy is not implementable at this time because the City Council has not offered its support.

Commissioner Gouge announced that the Finance Committee would meet on June 11th at 10:30 p.m.

ADJOURNMENT

The Commission meeting was adjourned at 8:15 p.m.

Respectfully submitted,



Fred Gouge
Port Commission Secretary