



PORT COMMISSION OF THE PORT OF EDMONDS

MINUTES OF REGULAR MEETING

September 8, 2014

COMMISSIONERS PRESENT

Jim Orvis, President
David Preston, Vice President
Bruce Faires, Secretary
Mary Lou Block
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 7:00 p.m.

PLEDGE OF ALLEGIANCE

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

Mr. McChesney introduced two new Port employees. Daniel Vaughn is the Port's new Security Officer, working the swing shift on Mondays, Tuesdays, Thursdays and Fridays. Kelby Brown is the Port's new Moorage Coordinator and started just a little over a week ago.

CONSENT AGENDA

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

- A. APPROVAL OF AGENDA**
- B. APPROVAL OF AUGUST 25, 2014 MEETING MINUTES**
- C. APPROVAL OF PAYMENTS IN THE AMOUNT OF \$416,746.77**

COMMISSIONER GOUGE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

PUBLIC COMMENTS

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

UPDATED BUDGET MEETING SCHEDULE

Ms. Drennan referred the Commission to the updated 2015 Proposed Budget Meeting Schedule and explained that, by law, the Port is required to hold one public hearing before approving the annual budget. At their August 11th meeting, the Commission discussed that there is no need for the formality of a public hearing more than once. Therefore, instead of a public hearing on October 13th, the Commission will hear public comments on the budget. On October 27th, the Port will hold the only public hearing on the budget. While the public will be given an opportunity to comment prior to the Commission taking final action on the budget on November 10th, there will not

be a second formal public hearing. The Commission agreed that if a public hearing is held at the meeting in which the Commission takes final action on the budget, the public comments become less relevant than they should be.

Ms. Drennan reported that staff met with the Finance Committee on August 19th and is in the process of working on the preliminary operating and capital budgets. The Commissioners will have an opportunity to discuss the budget baseline conditions, property tax levy and economic development budget later on the agenda. The preliminary 2015 Operating and Capital Budgets will be presented to the Commission on October 13th.

Commissioner Faires recalled that in previous years, the Commission has conducted more than one public hearing before approving the budget. Commissioner Orvis reviewed that the Commission discussed the preliminary schedule on August 11th and agreed that having a public hearing on the night the Commission takes action on the budget gives the impression that the Commission has already made up its mind and the hearing is meaningless. He summarized that, although there would only be one formal public hearing, the public would have an opportunity to comment regarding the budget at three separate meetings, and the formal hearing would be held in sufficient time for the Commission to make appropriate adjustments to the budget, if needed.

Mr. McChesney advised that the Finance Committee needs to meet again to review the preliminary budget in advance of it being presented to the full Commission on October 13th. The Committee agreed to meet on September 29th, ideally in conjunction with the exit interview with the State Auditor. Commissioner Orvis agreed to attend the meeting on behalf of Commissioner Faires.

2015 BUDGET BASELINE CONDITIONS

Ms. Drennan reported that the Finance Committee discussed the 2015 budget baseline conditions and Cash Flow Model at their August 19th meeting. She reviewed that the Commission approves operating and capital budgets on an annual basis. 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 changes in the condition of facilities or equipment, priorities and economic environment. For example, the Port signed a lease agreement with Hart Crowser in 2014 that required to the Port to complete tenant improvements of approximately \$215,000. These were not anticipated in the 2014 budget process. In addition, some projects have been postponed until 2015.

Ms. Drennan reviewed that the Cash Flow Model is the basis for the 2015 budget. At their April 8, 2013 meeting, the Commission recommended a moorage and dry storage rate increase of Consumer Price Index (CPI) plus 1%, and the Finance Committee reaffirmed this recommendation at their August 19th meeting. CPI for the year ending June 30, 2014 is 2%, which calculates to a moorage and dry storage rate increase of 3%.

Commissioner Gouge asked if it is possible to identify the estimated costs of litigation related to the City's proposed Shoreline Master Program (SMP) Update. Mr. McChesney said he anticipates that resolving the issue may require ongoing legal and professional fees in 2015, and staff has proposed \$25,000 in the 2015 budget for this purpose. Commissioner Faires asked if it would be possible for the staff and legal counsel to bracket what the costs will be. Mr. McChesney responded that it would not be possible to do in any meaningful way at this time. The situation is beyond the Port's control, and it is possible that the Port's concerns can be addressed without requiring litigation. However, they need to be ready to move forward as the circumstances dictate.

Commissioner Orvis said he anticipates the litigation process will drag on for months, and there will be time lapses between expenditures. Commissioner Faires asked how long it would take for the Port to work its way through the litigation process. Mr. McChesney said he could not provide a definitive answer now, but he anticipates the issue is unlikely to be resolved in 2014 unless there is some kind of agreement between the Port and the City. Commissioner Orvis pointed out that the Department of Ecology and Growth Hearings Board could also end further litigation by dictating a decision regarding the matter.

Mr. Cattle agreed that it is not likely the SMP hearings appeal process will be resolved in 2015, and it will likely extend into 2016. The best approach would be for the Port to budget for the litigation on a year-to-year basis.

While the Port could identify a not-to-exceed number, it would be large and meaningless because they do not know the time period or the machinations of the process at this time.

Mr. McChesney explained that the City Council is currently considering an expansion of the setbacks, even though the current buffers meet the “no net loss” criteria and there is no science to support the expanded buffers or setbacks beyond what currently exists. If the City Council adopts the expanded setbacks, the Port would file an appeal with the Department of Ecology (DOE) prior to considering potential litigation.

Commissioner Orvis expressed concern that the City could drag out the interim process indefinitely without any consequences. This will allow the DOE and the City to adopt the SMP without resolving the issue of buffers. Mr. McChesney agreed that is a possibility, but the notion of interim would be part of the whole appeal.

The Commission agreed that the Finance Committee should discuss whether \$25,000 in 2015 is sufficient to cover the costs of potential litigation. Mr. McChesney advised that, at some point, the Port will need to do a cost analysis to determine if it will be worthwhile to continue with litigation beyond the initial appeal, if that should become necessary. However, these decisions cannot be made now. The City Council may decide, upon further review and consultation with City staff and the DOE, that the existing buffers are sufficient to satisfy the community and protect the critical area.

2015 TAX LEVY

Ms. Drennan explained that this item was placed on the agenda so the Commission could have a policy discussion about property taxes. She reviewed that the millage rate for 2014 was approximately \$.1096. Based on the assumption that property tax values have increased by approximately 12%, if the 2015 tax levy is \$400,000, the millage rate would be approximately \$.0978. She referred to the attachments in the Staff Report, which illustrate the tax levy history, assessed values, tax levy amounts, and tax levy rates for each year from 1985 through 2015. A chart also illustrates the cost to residents based on the value of their homes.

2015 ECONOMIC DEVELOPMENT BUDGET

Ms. Drennan referred the Commission to the Economic Development Summary showing actual results for 2010, 2011, 2012 and 2013, projected expenses for 2014, and the proposed budget for 2015. She also referenced the Economic Development Guidelines the Commission approved on August 23, 2002. She reviewed that the proposed Economic Development Budget for 2015 is \$18,000, including \$5,000 for the Economic Alliance Snohomish County, \$9,500 for the Destination Port of Edmonds Program, \$2,000 for the Sea Jazz Program, \$1,000 for the Artists in Action Program, and \$500 for Birdfest. She reminded the Commission that the Boat Show costs were transferred to the marketing budget in 2014.

Commissioner Faires recalled that the Commission adopted informal guidelines relative to economic development several years ago. His recollection is that the guidelines included a policy of allocating 1% of total revenue for economic development. Ms. Drennan agreed, but said the guideline changed when the Port assumed operation of the Harbor Square Business Complex. While he is not necessarily recommending a 1% allocation for economic development, Commissioner Faires suggested the Commission should revisit the issue and discuss whether it is appropriate to have guidelines for future economic development budgets. The Commission agreed to have this discussion at their retreat in January 2015. Commissioner Preston pointed out that there are good definitions and guiding principles in the current Economic Development Guidelines, and the Commissioners should keep these in mind when considering how best to allocate the economic development dollars.

FUEL SYSTEM UPGRADE

Ms. Drennan reminded the Commission that the Port currently owns and operates its own fuel dock, and the current dispensers were installed in 1999. Shortly thereafter, the Port installed a new point-of-sales system and pay-at-the-pump system made by Applied Technology. The system allowed the Port to provide 24-hour fueling services, which was implemented after the Port received permission from the U.S. Coast Guard and the City of Edmonds fire Marshal. The understanding was that a training program would be required for all users. At that time, the Commission decided that users of the pay-at-the-pump system would receive a \$.10-cent per gallon discount on fuel.

Ms. Drennan reported that, although the Applied Technology system sounded great, it had numerous issues. It was exceedingly unstable and often crashed during the busy season, leaving customers unable to purchase fuel. Customer support was slow and ineffective. Many of the issues were never completely resolved and each update seemed to fix something while breaking something else. She advised that in 2009, the Port replaced the Applied Technology system with two systems: Verifone Ruby processes point-of-sale transactions by check, cash and credit card. Gilbarco Gasboy processes pay-at-the-pump transactions that are charged to tenants' accounts. Port staff has been unable to find one reliable system that will allow the Port to restrict unattended credit card sales only to properly trained tenants. For off the shelf, industry-used point-of-sale systems like Ruby, the credit card processing function is either on or off, and it cannot be restricted to certain cards.

Mr. Drennan advised that the Port has passed all of the Department of Ecology's (DOE) inspections of the fuel dock equipment, but the inspector recently expressed great concern about the condition of the fuel pipes leading from the underground storage tanks to the dispensers. He instructed the Port to make several improvements on the fuel dock equipment, including updating the fuel tank monitoring system, replacing the rusty fuel lines, and replacing the rusty and antiquated dispensers. The fuel tank monitoring system was replaced in April 2013, and the remaining upgrades are budgeted in the 2014 Capital Budget at a cost of \$186,000.

Ms. Drennan reported that the package went out for bid on September 4th, and bids are due September 19th. Staff will return to the Commission with a contract for approval after that time. The project includes replacing the supply line from the head of the dock, replacing the four dispensers and accessories, replacing or adding system controls, and connecting to the fuel monitoring system. Alternates include upgrading the water service on the dock, adding hose reels, and replacing the Ruby point-of-sale and Gasboy pay-at-the-pump systems. Work will be completed no later than February 28, 2015, and the fuel dock will need to be closed for one or two weeks for project construction. Staff will notify tenants as appropriate.

Commissioner Preston questioned why the Port continues to operate the fuel dock. Commissioner Faires said the Commission has had several discussions over the years about whether or not it should continue to operate the fuel dock and workyard, and these discussions should be repeated every so often. Historically, the Commission has determined that both the fuel dock and the workyard are needed in order for the Port to remain a full-service marina.

Commissioner Gouge asked if tenants would be able to continue to self-fuel. Ms. Drennan answered that tenants who are trained to use the new system would be issued "prokees" that must be inserted into the system prior to tenants swiping their credit cards. The system would charge tenants accounts directly and the Port would no longer bill for fuel sales. Commissioner Gouge asked if staff has contacted the fire marshal to reaffirm that the Port can continue to allow tenants to operate the system. Ms. Kempf answered that the fire marshal still certifies Port employees to train tenants to use the fuel dock, and no concerns have been raised to date.

Commissioner Preston questioned if it would be more economical to have staff available to fuel boats instead of paying a 2% fee for credit card transactions. Commissioner Orvis emphasized that the current system allows tenants to fuel their boats 24-hours a day, which is a nice amenity for the people who are paying the freight to keep the marina going. Offering tenants the ability to fuel late at night or early in the morning is worth the expense. Ms. Drennan pointed out that the Port already accepts credit card payments, and the estimated additional fee is between \$7,000 and \$9,000 per year. Commissioner Faires commented that tenants have gotten used to having the ability to fuel their boats 24 hours a day. The amenity is appreciated by tenants, and he is willing to entertain any alternatives that will allow the Port to maintain the service.

Commissioner Gouge asked if the \$.10 per gallon tenant discount would be eliminated when the new system is installed. Ms. Drennan said that is not staff's intent, but this would be a policy decision made by the Commission. Mr. McChesney recalled that a few years ago, the Commission took action that eliminated the discount, but it was reinstated nine months later after a number of tenants complained.

Again, Commissioner Orvis observed that if the Port wants to remain a full-service marina, they need to take care of their tenants. The Port should continue to operate the fuel dock and offer a \$.10 discount to tenants. This would be a bigger concern if the Port sold significantly more fuel each year. He expressed his belief that the fuel dock is more of a service than anything else, and it shows tenants that the Port values and appreciates their business.

HARBOR SQUARE BUILDING 1 ROOF COMPLETION

Mr. McChesney reviewed that the Commission entered into a lease agreement with Hart Crowser for Harbor Square Building 1 at 190 West Dayton on March 17, 2014. As part of the responsibilities of the landlord, it was agreed that a new roof overlay would be installed. The Port went out to bid on June 12th, and a pre-bid meeting was held on June 18th. The Port received three bids, and the low bidder was Scholten Roofing.

Mr. McChesney reported that the contractor began work after the HVAC mechanical installation was completed in early August. The work was substantially completed and accepted by the Port's Maintenance and Facilities Manager, Brian Menard, on August 22nd. No rot was discovered and installation was completed without issues. Upon acceptance by the Commission, the Port will arrange to release the contractor's retainage once the approvals by the State agencies have been received as part of the public works completion process.

Mr. McChesney advised that the fiscal impact of the project was \$64,753.00, plus sales tax of \$6,151.54 for a total cost of \$70,904.54. He recommended the Commission accept the Harbor Square Building 1 roof overlay contract with Scholten Roofing, Inc. as complete.

Commissioner Faires recalled that the contract was approved with a contingency clause. Mr. McChesney said there was some unit pricing on contingency built into the bid, but it was not utilized. Commissioner Faires commented that there were no change orders or contingencies associated with the project.

COMMISSIONER FAIRES MOVED THAT THE COMMISSION ACCEPT THE HARBOR SQUARE BUILDING 1 ROOF OVERLAY CONTRACT AS COMPLETE. COMMISSIONER BLOCK SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

EXECUTIVE DIRECTOR'S REPORT

Mr. McChesney reported that staff is working to get the Hart Crowser tenant improvements completed, and the project is moving forward on schedule. There are a few remaining issues to resolve, but the tenant expects to begin moving in on September 20th.

Mr. McChesney reported that he and Commissioner Preston attended the September 2nd City Council meeting where City staff once again presented the Shoreline Master Program (SMP) for Council consideration and approval.

Ms. Kempf announced that the Northwest Marina and Boatyard Conference is scheduled for November 6th and 7th at the Kitsap Conference Center in Bremerton, Washington. Commissioners Orvis and Preston indicated a desire to attend the conference.

Ms. Kempf announced that tenants have been invited to attend a marine corrosion class on October 8th from 6:00 to 9:00 p.m. The class will be taught by Jack Wilken, who has been in the marine industry for 50 years and has a college background in oceanography.

Mr. Kempf reported on her attendance at the Northwest Marine Trade Association's (NMTA) Boatyard Committee Meeting. Brad Dahl from James Tupper Attorneys at Law explained that the Department of Ecology is in the process of drafting the new permit, which should be out in the spring of 2015. At this time, they are watching the fish consumption numbers, which is a component of the net equation that is used to come up with the numbers in the boatyard permit. Commissioner Orvis announced that Governor Inslee recently established a fish consumption goal that is quite high. He explained that the DOE's compromise was to increase the amount of salmon and the carcinogenic ingestion that is allowed. It is an onerous requirement, but not as high as the tribes wanted. He advised that he and Mr. McChesney met recently with Representative Ryu and pointed out that there are too many environment and ecology professionals on the committees and not enough of the people who have to meet the requirements and foot the bill. She agreed that the committees are not balanced.

Ms. Kempf reported that David Gearing from CorePlus attended the committee meeting and shared how they are working with other groups to create hands-on training at community colleges and high schools. The program was

originally sponsored by Boeing and the aerospace industry, but they are finding that about 90% of the abilities taught are transferable to the marine industry. Seattle Central Community College has expanded its marina technology program in connection with CorePlus, and it is believed that the program will help address the issue boatyards are having in finding and keeping skilled people.

Ms. Kempf announced that the Edmonds Coho Derby was held on September 6th, and the Port received an email from organizer, Doug Campbell thanking the Port for its support and help in making the derby a success. The largest fish was caught by Port tenant Daniel Lennieks. A total of 331 fish were weighed and 953 tickets were sold.

COMMISSION COMMENTS AND COMMITTEE REPORTS

Commissioner Faires said he recently had an opportunity to visit a number of marinas. He found that while most offered Wi-Fi service, it did not work well. However, the Chemainus and Anacortes marinas offered faster internet service for an additional fee of \$5 per day. He suggested that this seemed to be a rational solution the Port should consider at some point in the future.

Commissioner Faires announced his plan to attend the Washington Public Port Association's Small Ports Seminar on October 23rd and 24th.

Commissioner Preston reported that he attended a bridge film about wild salmon runs in Leavenworth where he learned that hatcheries were constructed for mitigation when the dams were built.

Commissioner Preston suggested that the Port contact the Edmonds Arts Commission with a request that they include the Sea Jazz events on their poster of local events.

Commissioner Preston reported that while picking up his packet for tonight's meeting, he noticed two families who crossed Admiral Way without even looking for oncoming cars. This is a congested and dangerous area, and there are no crosswalks. He asked what it would take for the city to stop making excuses and address this problem. It needs to happen before someone gets injured or even killed.

Mr. McChesney said he and Commissioner Orvis have been meeting with City staff for three years to encourage the City to address the problem. The City has indicated that if they install a cross walk it would have to be ADA accessible, and there would be other costly requirements, as well. At this time, the City is not interested in spending money to address the situation. He reported that a letter was sent to the Mayor several months ago stating these exact concerns and illustrating the potential hazards. In terms of following up with action, the best the City could offer was a few signs. The Port would have to pay for any additional work that is done.

Commissioner Orvis noted that the Port even offered to paint the crosswalk, but the City turned them down. Mr. McChesney explained that there are strict, rigid guidelines for where crosswalks can be placed. Commissioner Preston asked why the traffic mitigation fee the Port paid for the Hart Crowser project was not being used to address the situation. Commissioner Orvis said he and Mr. McChesney raised this question with the City and were told that the fees are not tied to any specific traffic project.

Commissioner Orvis summarized that the Commission's concerns will be clearly stated in the meeting minutes, the Port sent a letter to the City outlining its concerns, and he and Mr. McChesney will continue to discuss the matter with the Mayor and the Public Works Director. There is nothing more the Port can do at this time.

Commissioner Gouge said he was present at the Coho Derby when the winning fish was weighed. On behalf of the Port Commission, he thanked Anthony's for serving chowder all day to anyone who wanted it. He also thanked the organizers of the derby for doing such a professional job. He noted that the launcher was busy all day long. Ms. Kempf reported that staff launched 220 boats over the weekend.

Commissioner Gouge announced that the Technology Committee would meet on September 9th to review the status of the website redesign project.

Commissioner Orvis agreed with Commissioner Faires' comments related to Wi-Fi service. However, while some marinas advertise a faster internet service, they are not always able to deliver. He cautioned that if the Port is going to charge an additional fee, they must make sure they can actually deliver a faster service.

Commissioner Orvis announced that Jacobsen's Marine has scheduled their grand opening on November 1st to coincide with the Grady White fishing derby.

Commissioner Block advised that she was unable to print her certificate after completing the Open Government training course. Mr. Cattle has printed the document for her and recommended she submit it to Port staff for inclusion in her personnel file.

Commissioner Gouge reported that many businesses on the Seattle waterfront will close while the seawall is being rebuilt. He asked if the Port regularly inspects its mid marina breakwater. Mr. McChesney answered affirmatively and said everything appears to be intact.

EXECUTIVE SESSION

Commissioner Orvis adjourned the regular meeting to an executive session to discuss with legal counsel the prospect of potential litigation and a potential real estate matter, which is a possible sale, the discussion of which in public would disadvantage the Port. The Executive Session would last until approximately 8:40, at which time the Commission would return into regular session and the meeting would be adjourned. There would not be any announcement and there would be no action taken.

At 8:40 pm, the Port Attorney opened the door to the public to let them know that the meeting would be extended to 8:50 pm. There were no public present. At 8:50 pm, the Port Attorney opened the door to the public to let them know that the meeting would be extended to 9:00 pm. There were no public present.

ADJOURNMENT

The Commission meeting was adjourned at 8:52 p.m.

Respectfully submitted,

Bruce Faires
Port Commission Secretary