

**PORT OF OLYMPIA COMMISSION
MINUTES OF REGULAR MEETING**

February 13, 2006

CALL TO ORDER

President Pottle called the meeting of February 13, 2006, to order at 5:30 p.m. at the LOTT Board Room in Olympia. Commissioners Telford and Van Schoorl were also in attendance.

Staff in attendance were: Executive Director Ed Galligan, Administrative Manager Jeri Sevier, Communications Manager Patti Grant, Harbor Director Bruce Marshall, Public Works Director Andrea Fontenot, Marine Terminal Director Jim Amador, Marketing Director Kari Qvigstad, Marketing Program Assistant Maureen Malahovsky, Airport Director Rudy Rudolph, Property Director Heber Kennedy, Marine Terminal Foreman Mike Crawford, Special Projects Coordinator Jennie Foglia-Jones, and Finance Director Steve Davis.

Public in attendance were as follows. Representing *The Olympian* was Jim Szymanski. Others in attendance included Harold Clark, Patricia DiFrancesca, Tom Howdeshell, Phyllis Booth, Arthur West, Virginia Howe, Bob Luxg, Richard Wolf, Marleen Jackmond, Mike Edwards, Keith Bausch, Sherman Will, Gary Sobol, Michael Cade, Robert Rose, and Rick Song.

APPROVAL OF AGENDA

The agenda was approved as presented.

PUBLIC COMMENT

Phyllis Booth, resident of Olympia, commented that she read that Port Commissioners are planning a trip to China and it will cost about \$5000. She wanted to know why it would cost \$5000 for such a trip. She indicated that she researched a similar trip and found it to be less. President Pottle indicated that one commissioner is going. The Port is working through Saint Martins University and they are doing the travel arrangements. He indicated that we would have more detailed information at the next commission meeting. He asked staff to get that information for next meeting.

Arthur West, resident of Olympia, indicated he would like to comment about the Port's airport project. He commented that the Port is trying to incrementally expand without doing a SEPA on the full project. He indicated the Port is doing the same thing at the Marine Terminal. He commented that this Commission is corrupt.

Keith Bausch, resident of Olympia, representing the longshore, indicated there have been claims made at this meeting and previous meetings that are not true. He indicated that Mr. West calling the commission corrupt is in appropriate and should not be allowed. Mr. Bausch showed a picture from 1979 showing more property being used for logs 20 years ago, more acreage of logs than what Weyerhaeuser will be using. The allegation that Weyerhaeuser is an expansion of the marine terminal is untrue. Weyerhaeuser will bring family wage jobs to this community.

Commissioner Telford asked for an update on the two lawsuits. Ed reported the two records request suits would be held at a hearing at end of February. The SEPA appeal in the courts is to be heard in March.

COMMISSIONERS REPORTS

Commissioner Telford noted he attended the SWAC meeting where they had a report on the “Green Building” And he would pass the information on to staff. He noted that he attended the TRPC meeting last week where they gave an update on the Buildable Lands Report from 2002. He shared the TRPC Annual report with Commissioners and Ed Galligan.

Commissioner Telford indicated he requested a copy of the Tumwater City Council meeting on December 20, 2005 regarding the moratorium. He shared his observations with the Commission. He noted that they call for a cooperative assessment of stormwater problems. He noted that The Commission recently approved and RFP for a consultant for us look at storm water issues at in Tumwater at the last meeting. He indicated that he questioned whether there was adequate traffic planning and has made a request to Thurston Regional Planning Council (TRPC) for a briefing on transportation planning in the county.

President Pottle asked about the participation of TRPC. Commissioner Telford responded that Mr. Galligan is working with Lon Wyrick to develop scope of a contract that will further the study effort on truck/rail transportation as an alternative route and off site facility for storage and rail into port. Commissioner Van Schoorl indicated that if we were going to reengage with TRPC would like to see what options and opportunities are to work with the Regional Planning and would like this put on a future agenda for discussion. Commissioner Telford indicated we need support from representatives of the council to pay more attention to the bigger world of moving goods and services throughout the county. Commissioner Van Schoorl indicated the Commission should have another discussion regarding our relationship with TRPC, he asked that the Commission provide input to Ed and he can bring a recommendation to a future meeting for the Commission to discuss.

President Pottle reported that he has been working with the City of Olympia to plan for a Commission/City work session March 21st at city hall at 6:00 or 7:00 p.m. He commented that this would be a work session for the Commission and the city council – not a meeting where we would take public testimony. This would be an opportunity to communicate and find out where we agree and where we do not on several issues. He noted the format would be not so focused on staff presentations, but the Commission and the Council Members facilitating the discussion.

President Pottle also reported on the legislative strategy for congress. He noted that he and Ed would be traveling to DC this week to meet with the congressional delegation.

EXECUTIVE DIRECTOR REPORT

Mr. Ed Galligan reported we had six or seven complaints about excessive smoke coming out of the ship in Port. He indicated we had an air quality specialist review the situation and he has talked with the captain and issued a citation for excessive smoke. The ship owner has 30 days to meet with agency to reconcile. Mr. Galligan indicated that he has asked Mr. Amador to find out what has caused this. Mr. Galligan noted that this is the first time this ship has called here at the Port of Olympia.

Consent Calendar

The Consent Calendar was approved as follows.

Minutes. The Commission unanimously approved the minutes from the January 23, 2006 meeting.

Capital Expenditures Approval. The Commission unanimously approved the Capital Expenditures in the amount of \$250,531.99 to Coast Rail for the on-dock rail system and to Reid Middleton for the runway line of sight project.

Lease Option : TEC Construction

Mr. Rudy Rudolph indicated that in 2005 TEC Construction completed a single line of condominium T-hangars on 1.44-acre parcel on the General Aviation side of the airport. The lease provided for a

1.29-acre option parcel directly south and adjacent to the existing condominium hangars. TEC Construction has exercised their option by the published deadline. They plan to construct a second row of condominium T-hangars in 2006. The Commission unanimously ratified the lease option with TEC Construction.

ADVISORY CALENDAR

Response to Commissioners on Truck Traffic in Tumwater

In response to Commissioner Pottle's question at the last Commission meeting seeking clarification of trip generation of the Pro Logis project, Mr. Heber Kennedy indicated that staff has researched this matter and will report the information to the Commission.

Mr. Kennedy noted that the trip generation number has been traced to the December 20, 2005 Tumwater City Council public hearing on the warehousing moratorium. Mr. Jay Eaton, Tumwater's Public Works Director responded to a question as to potential trips generated by the Pro Logis development. He selected three categories from the Institute of Transportation Engineers (ITE) Trip Generation Manual and quoted from the manual that the peak PM range (4:30 – 5:50) would be between 200 and 1200 trips per hour depending on use, of which between 35 percent and 70 percent of the trips are truck traffic. However, Mr. Eaton went on to say that early in the permit process, the proponent would define its actual use based on existing facilities.

He reviewed a chart with the Commission that shows the three categories selected and trip generation based on square footage, acreage, and loading bays. Mr. Kennedy indicated that the highest peak PM count we heard at the Commission meeting applies to truck terminals, which is not part of the Pro Logis project and is therefore not applicable. Warehousing and high cube warehousing are proposed uses and have considerably lower trip generation.

President Van Schoorl indicated according to the chart we have a range of 63 trucks to 285 trucks per hour at the peak time (4:30 – 5:30), the worst-case hour of the day.

Prepared Response Advisory

Mr. Jim Amador provided the Commission with a presentation on Prepared Response. He indicated that Prepared Response is a company that has created a software program called Rapid Responder. Rapid Responder gives companies a powerful emergency planning and preparedness tool to aggressively respond to any situation. Rapid Responder is currently used at every school in Washington State and is now being marketed to other companies. Mr. Amador noted that Prepared Response came to the Port of Olympia with an idea of doing a pilot program using the Port's Marine Terminal, as they would like to get into the Port business.

Mr. Amador indicated that Rapid Responder is essentially an electronic version of the Port's Emergency Response Plan. The program goes into very detailed items such as, utility shutoff locations, egress, ingress, sprinkler system locations, etc. The plan would be available online utilizing passwords and would also be carried by our local first responders. This would be done through jump drives that our first responders would carry at all times. The system is 128-bit encrypted, so it is very unlikely that it would be hacked into.

Mr. Amador reported that Prepared Response had secured grant monies from the State and they are utilizing those monies to product the pilot program. The product they have created for us is worth \$20,000. Prepared Response has worked with Jennie Foglia-Jones and Mike Crawford for numerous hours to get the photos they need, the structural information as well as emergency contact information for each structure. Three years on their server for no cost. After that \$2 or 3,000 for year if they host or we can get it moved to our server.

Dave Johnson, representing the Thurston County Sheriffs department commented that this program has been installed in all police cars for about a year. He indicated that this gives immediate information to the scene, diagrams; it takes the thinking out of what to do in an emergency situation.

Harold Clark indicated that this is a very interesting topic and would like to see all the Port's businesses included in this plan.

Economic Development Council Advisory

Mrs. Kari Qvigstad reported to the Commission that the Port of Olympia has contracted with the Economic Development Council of Thurston County (EDC) over the past years for services that promote economic vitality and diversity throughout Thurston County. The Port of Olympia benefits from the knowledge and resources of the EDC for business development marketing, business expansion and retention, and small business assistance. She noted that the services provided by the EDC include technical service for site selection consultation, case management, market research, and support to Port staff and Commission on economic development initiatives.

Ms. Qvigstad noted the 2006 service agreement with the Thurston County EDC incorporates several of the Port of Olympia's priority projects into the scope of work. These include: Warehousing and Distribution; Rail Strategies; Airport Market Research; Marine Market Research; Marine Terminal Recruitment Strategies; Property Development; Tourism Development; Foreign-Trade Zone Outreach; Regional Economic Development; International Market Development; and Business Retention.

In addition to Ms. Qvigstad's presentation of work plan elements, Michael Cade, EDC Executive Director, highlighted how the EDC promotes and develops investment opportunities that will generate quality communities and lead to a local economy that is vibrant and sustainable. Specifically, he reviewed the basic efforts for the Council's work program and showcase results from our 2005 agreement.

Ms. Qvigstad noted that the Thurston County EDC's efforts complement the work of the Port staff and when viewed together are consistent and supportive of the effort to create a vital economy. The Port of Olympia budgeted \$27,500 in 2006 for contract services by the EDC. Port staff looks forward to continued coordination on Port and EDC economic development initiatives in the coming year.

Mike Edwards, President of the EDC, indicated on behalf of board, he wanted to thank the Port of Olympia for their participation.

Commissioner Telford asked why the EDC is not a member of the TRPC? Ms. Qvigstad indicated at the Summit, that question was asked. It would be helpful to have the EDC at the table. Michael Cade indicated they work with TRPC on several issues and work well together. As the EDC develops proposals, they do partnership with their staff on specific projects.

Phyllis Booth asked how many businesses he has brought into the county over the past two years. Mr. Cade responded seven, and he would be happy to give her a full briefing on those.

President Pottle thanked the staff and the EDC staff for their continued partnership. He commented that the businesses in this community help contribute to a healthy economic environment and making this a great place to live.

SEPA Policy Advisory

Ms. Andrea Fontenot provided the Commission with a presentation with the purpose of soliciting Commission feedback on two key policy amendments to the Port's State Environmental Policy Act policy. She indicated that the Commission has discussed amending the SEPA policy at two prior meetings. This is the third time that this item has been before the Commission.

Ms. Fontenot indicated that Commission feedback on these key policy areas would aid staff and legal counsel in efficiently focusing our efforts before we proceed to amend the policy and work out details. She reported that Staff would bring a revised policy for Commission consideration at a subsequent Commission meeting. Environmental review of amendments to SEPA policies is not required.

Ms. Fontenot outlined the key policy amendments are as follows:

Proposed Key SEPA Policy Amendments

Comment and Appeal sequencing. Ms. Fontenot indicated the draft policy included a 14-day comment period followed by 7-day appeal period.

Appeal Process. Ms. Fontenot indicated that she is recommending the appeal process to be a two-step process.

Step #1 – Request for Reconsideration

Mandatory step prior to filing an appeal to next level, considered by the Responsible Official.

A. If Reconsideration denied - there is a 7-day appeal period running from the date the Reconsideration decision issues.

B. If Reconsideration is granted - there is no additional reconsideration required or allowed. There is a 7-day appeal period running from the date the reconsideration decision issues.

Step #2 Commission, Hearing Examiner, or Decline to Accept Appeal

The Commission, at its discretion, could (a) elect to hear the appeal, and after a hearing, would issue a Final Decision, (b) could decline to accept the appeal and forward it to a Hearing Examiner, who would then hold a hearing and issue a Final Decision, or (c) could decline to accept the appeal and issue notice to that effect (Final Decision).

A Final Decision rendered under any of the above three processes would be appealable to Superior Court within 21 days. Only the parties to the Final Decision have standing to appeal to Court.

Fees. Ms. Fontenot indicated staff is recommending an appeal and reconsideration fee be charged. Staff recommends \$300 for Request for Reconsideration, and \$500 for Commission or Hearing Examiner Appeal.

Ms. Fontenot reported that in addition to the above key policy amendments, staff is preparing three Guidebooks as follows: Staff Guidebook, Citizen Guidebook, and a Commission Guidebook. These guidebooks will address gaps in procedural information that will be helpful to all three groups identified.

Commissioner Telford asked what happens when we get comments back? Ms. Fontenot indicated the comments are read and entered into the record. She noted that it is not a requirement for a response to comments, however, sometimes we will respond. Commissioner Telford commented that this procedure needs to be clear in the process. He commented that there should be a response to the comments then the person can determine whether or not they should appeal. He noted that if staff answered the comments, maybe we could work through their issues through the comment period.

Commissioner Van Schoorl indicated we do have an obligation to respond with receipt of their comments and that we are taking them into consideration. However, he noted that the degree to which we respond to the comments might be a legal issue. The written comment may be used against us later in a legal case. Commissioner Telford indicated he thinks they are entitled to a response. President Pottle asked for feedback from the attorney on the pros and cons of responding to comments.

Commissioner Telford indicated he is concerned about the length of this process. The request for reconsideration is a good idea and should be reviewed prior to it coming to the commission. An objective look at what we have done may make some of the appeals go away. He commented that he liked the case-by-case basis letting the commission decide at the time. He noted that we need to have prearrangement with a hearings examiner. The Commission indicated they would like a pool of hearings examiners to use for this process.

Commissioner Telford indicated that it should not cost someone to have the Executive Director review during the Reconsideration Hearing. Ms. Fontenot indicated we would be occurring legal counsel for the first step; therefore, that is the justification for a fee. Commissioner Telford indicated that the comment and reconsideration phase and should not require legal counsel.

Harold Clark, resident of Olympia, commented that he would like acknowledgement of his comments if he were to provide them.

Matt Jackmond, resident of Tumwater, heard earlier the comment about drainage issues in the Salmon Creek area. He made comments that the Port should not be building on flat swampy areas and need to do something with their storm water when they do developments.

Jan Witt, resident of Olympia, indicated that citizens appeal an SEPA determination because they have a concern about the environment. She asked if the attorney is considering the corporate interest or the community's interests? She commented that the Port should consider getting a non-biased legal opinion rather than a point of view that defends the corporation.

Walt Jorgensen, resident of Olympia, asked that in the case of the SEPA appeals, if the appellant prevails would the appeal fees be refundable? President Pottle indicated that we could look at refunding the fees, however he asked if the appellant were not successful, he asked if they would pay the full cost of the appeal to the Port. Commissioner Van Schoorl indicated we would have to be careful, we may be accused of ruling against just not to have to pay back the fees.

Arthur West, resident of Olympia, indicated he is happy to see the Port is looking at revising the Ports SEPA process. He agreed with Commissioner Telford about response to comments. Would like to see the new policy have a fairness component. He commented that it is not fair to charge a fee when you take the project and break it up into smaller projects and then charge each time for it.

ADJOURNMENT

President Pottle adjourned the meeting on February 13, 2006 at 7:45 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer