

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

May 12, 2003

CALL TO ORDER

President Pottle called the meeting of May 12, 2003, to order at 5:30 p.m. at the TCTV Studio in Olympia. Commissioners Van Schoorl and Telford were also in attendance.

President Pottle announced the Port Commission would be holding a joint work session with the City of Olympia on May 19th at 5:30 p.m. at the Phoenix Inn and with the City of Tumwater on May 27th at 6:00 p.m. at the Comfort Inn and a work session with Waldron & Company on May 20th at 8:00 a.m. at the Port offices.

Staff in attendance were: Executive Director Nick Handy, Administrative Manager Jeri Sevier, Finance Director George Fox, Property Director Heber Kennedy, Harbor Director Bruce Marshall, Public Works Director Andrea Fontenot, Marketing Director Kari Qvigstad, and Communications Manager Patti Grant.

Public in attendance were as follows. Representing Legal Counsel were Mick Phillips and Mark Erickson. Representing *The Olympian* was Scott Wyland. Others in attendance included Harold Chambers and Meta Heller.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PUBLIC COMMENT

Harold Chambers, resident of Yelm, asked when the commission would begin taking the ethics policy serious. He commented that commissioners have accepted campaign dollars from consultants.

Meta Heller, resident of Tumwater, asked the Commission what the Port plans to do with the Northpoint property. She indicated she is still working on trying to get a Jacob Lawrence Art Center on the Port of Olympia on the North Point.

President Pottle indicated that the contracts in work at the Marina are for new docks and not on the NorthPoint property. At this point no planning for NorthPoint has been done. Commissioner Van Schoorl suggested that Meta be involved in the State Street planning for the east side.

COMMISSIONERS REPORTS

Commissioner Telford reported he attended the Solid Waste Advisory Committee meeting and the Transportation Policy Board meeting on behalf of President Pottle.

President Pottle indicated he received a letter from LOTT regarding the State Street property process and their letter indicated an interest in being involved in the planning and that they are interested in obtaining more property.

EXECUTIVE DIRECTOR REPORT

- Mr. Nick Handy gave an update on recent activities at the Port including the activity at the Marine

Terminal. He noted that the log vessel Century Cypress was recently in port for two days. This vessel loaded close to 1mmbf from PLS and Formark. The Aloha Lumber Company brought a log barge in from Alaska, discharging almost .5mmbf of cedar logs to the Holbrook yard, and the aluminum vessel the Vasiliy Burkhanov departed from berth 2 on April 28th. The next aluminum vessel is expected to arrive around May 16th. Mr. Handy reported that to date approximately 43 railcars and 60 trucks of aluminum have been loaded out. This product is destined for Spokane, Malaga, The Dalles and cities in California.

Mr. Handy announced the Swantown Boatswap and Chowder Challenge are set for May 17th. The event will be from 10-4 at the Swantown Boatworks. He invited the community to come for a fun filled family event.

At the Marina, Mr. Handy reported the overall occupancy is now at 93 percent. The Boatworks had another record month, best April on record of 66 boats hauled.

Mr. Handy reported the Airport had 7,463 total operations for the month of April. That's nearly 1,000 more than last month's 6,496 operations, and last year's April count of 6,493. He also noted that Big Sky Airlines reported a total of 1,099 passengers for the month of April. There were 522 arriving and 577 departing passengers.

Mr. Handy noted that we have set the joint meeting with City of Tumwater for May 27th. The meeting will be at the City of Tumwater at 6:00 p.m. at the Comfort Inn in Tumwater. We are in the process of working with City staff to set the agenda. He commented that staff would like to hold a Port Meeting on May 27th to accommodate a short business agenda beginning at 5:30 p.m.

Mr. Handy announced that we have a confirmed date with the City of Olympia for May 19th at 5:30 at the Phoenix Inn. We are also working with city staff to set the agenda.

CONSENT CALENDAR

The Consent Calendar was approved as follows.

Minutes. The minutes from April 28, 2003 were unanimously approved as submitted.

Bills and Vouchers. The bills and vouchers in the amounts of \$452,919.47 for the period ending May 12, 2003, batch 14-17 was unanimously approved by the Commission. General Fund Checks Issued: 031365-031370, 031403-031413, 031414-031481, 031482-031493, 031494-031499, 031500-031504, 031505-031547, and 031548-031589 (check #031365-031370 printed out of sequence due to processing requirements - see March 2003). Capital Fund Checks Issued: 030026, and 030027-030028. 2001 Bond Fund Checks Issued: 030108-030114, 030115, 030116-030119, and 030120. Environmental Fund Checks Issued: 030136-030137, 030138-030157, 030158-030159, 030160-030161, 030162-030166, and 030167-030174.

ACTION CALENDAR

Approval to Solicit Bids for Marina Alarm System

Ms. Andrea Fontenot indicated that staff is asking the Commission to go out to bid for the installation of the fire alarm and security system infrastructure at the Marina.

Ms. Fontenot noted that she met individually with two commissioners to discuss more details on the project. She indicated that the fire department indicated they would not approve a stand-alone system for just DEF, they are requiring the entire Marina be upgraded to meet fire alarm standards. She indicated that this leaves the Port with very little options.

Commissioner Telford indicated that the amount of money that it will cost to scrap a current system is questionable from his point of view. He indicated that from a long term view, when the Marina Village comes on line that would be a really good place to put the Marina office, then we would have to re-do the system again. He commented that the hardware proposed for this project is far in excess of what other local marinas have. There is no long-term assessment of this project and what the benefits are. He indicated that he wonders what the problem is since it has not been quantified. The staff is suggesting spending \$75,000 on security gate locks. What is adequate, replacing locks on three docks and restrooms, after looking into competitive pricing, the gates on these marina docks are superficial anyways he commented. Commissioner Telford indicated that three new gates for \$50,000 in his estimates, is thousands more than it should be.

Commissioner Telford commented that regarding the fire alarms, after looking at other marinas, they only have pull alarms on the docks, and some of the other marinas have nothing, including the City of Olympia. The price tag on this project is \$160,000. He commented that driving the cost here is pulling all new wires, because of the cadillac monitoring system proposed for the dock gate locks that requires fiber optic cable. Commissioner Telford indicated that he really questions this project and what is appropriate. To fix the current problems, it should not cost this much, he commented that he figures \$35,000, but he always estimates low, so double that. We should fix the current problems now and then plan for the long-term future.

Commissioner Van Schoorl indicated that he personally toured the marina and looked at the fire alarm system and the security gates. He indicated that he understands the wiring needs to be replaced, it is old and in a salt water environment. In regards to the pull stations, it appears that we have adequate pull stations. He indicated that he did get the fire inspector report for the Port. He commented that the violations on the last report are unacceptable. It constitutes a liability if we do not upgrade the fire system. If there is a cheaper way, he commented, that is why we have competitive bids, we will find out. Commissioner Van Schoorl indicated that this system is 23 years old in a salt-water environment. He commented as far as the Security project, it appears that key cards work. This marina is the only one that he is aware of that has gates at the bottom of the gangway. It is very inconvenient for the boaters to have the gates at the bottom instead of the top. He commented that they are sinking the docks, they are way to heavy and they should be moved to the top. We should be able to structure the bids to get a per component bid. He commented that he is supportive of moving forward with both the fire alarm system and the security system; they are in the ten-year plan, and necessary to do. He asked staff to look at alternatives in the way this is structured when getting bids on this project.

Commissioner Telford indicated the issue here is the scope of work to get an adequate system, and one that will work with future developments such as Marina Village and MNO. Ms. Fontenot indicated it is hard to plan for something that we don't know where it will be. The plan is to put a J box in so it can be rerouted in the future. Mr. Rod Hudson indicated that when MNO is developed they would run conduit up the road and hook into this system.

President Pottle commented that we have to provide a new fire and security system for the new docks. He asked what it would cost to have a new system put in for new docks. Ms. Fontenot indicated that \$30,000 for the panels for the fire alarm and \$30,000 for the security panels would be required for DEF and that cost is not included in the DEF project. He asked about the \$50,000 for three gates. Ms. Fontenot indicated that the gates are estimated at \$15,000 each. Staff is planning on installing them. She indicated that the gates are covered.

Mr. Nick Handy indicated that the system staff is proposing has been recommended by the fire department. He noted that the proposal by staff is following the recommendation of the fire department. We are not trying to get around the law or current code.

Commissioner Van Schoorl moved approval to go to bid for the fire alarm system. Commissioner Pottle seconded the motion. The motion passed with a 2-1 vote. Commissioner Telford voted against the project. Commissioner Van Schoorl moved to authorize staff to move forward as a separate bid for the

security system for the marina. Commissioner Pottle seconded the motion. The motion passed with a 2-1 vote. Commissioner Telford voted against the project. President Pottle asked staff to examine the requirements and provide cost alternatives in the bid packages.

Resolution 2003-07 Authorizing the Sale of an Abandoned Vessel – M/V Teal

Mr. Bruce Marshall presented the Commission with Resolution 2003-07 authorizing the Harbor Director to conduct a public auction of the M/V Teal to the highest and best bidder. The resolution further authorizes the Harbor Director to bid all or part of the accrued port charges at the sale and the Port of Olympia may become a purchaser at the sale.

The Commission unanimously approved Resolution 2003-07 authorizing the Harbor Director to conduct a public auction of the M/V Teal to the highest and best bidder.

Resolution 2003-08 Authorizing the Sale of an Abandoned Vessel – Cruise-A-Home

Mr. Bruce Marshall presented the Commission with Resolution 2003-08 authorizing the Harbor Director to conduct a public auction of the Cruise-A-Home to the highest and best bidder. The resolution further authorizes the Harbor Director to bid all or part of the accrued port charges at the sale and the Port of Olympia may become a purchaser at the sale.

The Commission unanimously approved Resolution 2003-08 authorizing the Harbor Director to conduct a public auction of the Cruise-A-Home to the highest and best bidder.

Cascade Pole Contract Changer Order with RCI

Mr. Nick Handy reported to the Commission that two years ago, the Port issued a public works contract through the public bid process to RCI Environmental for a sediments remediation project at Cascade Pole.

The essential part of the contract called for removal of contaminated sediments from tideland and offshore areas adjacent to the Cascade Pole site. Contaminated material was to be removed from the tideland areas and placed in an upland containment cell then clean material was to be placed in the excavated areas to restore the area to its natural condition.

Mr. Handy reported that a critical part of the contract required deployment of a Gunderboom, an in-water curtain to be anchored outside the contamination area. In implementing the contract, RCIE deployed the Gunderboom on Labor Day weekend and the boom failed in the sense that it failed to allow the normal tidal cycle of water to pass through the boom. As such, the Gunderboom served as a “dam” rather than as a “sieve”.

Mr. Handy noted that the failure of the Gunderboom required changes that substantially altered the course of the contract. By prior action, the Port approved a change order in the amount of \$415,000 to RCIE to modify the Gunderboom so it could perform at the site. That work was done and RCIE has been paid for that work. In a lengthy claim filed with the Port following completion of the contract, RCIE submitted a claim for approximately \$1 million in “disputed work” performed on the contract RCIE claimed was caused by the failure of the Gunderboom. The Port did not accept this claim.

Mr. Handy reported that RCIE did not complete the contract in a timely manner and the Port assessed liquidated damages against RCIE based upon late performance. As a result of the liquidated damages, the Port did not pay RCIE for work RCIE performed on the contract. The parties have pursued this claim in a formal mediation process and have reached a proposed settlement of the claim subject to Port Commission approval.

Under the proposed settlement, the Port would agree to waive its liquidated damages claim, pay RCIE approximately \$707,493 for services both parties agree were properly performed on the contract, and

additionally pay RCIE \$142,507 on disputed work performed on the contract. Mr. Handy noted that this \$142,507 amount is set forth in a change order being presented to the Port Commission for approval at this meeting.

He reported that under this proposed agreement, the Port would pay RCIE \$850,000, consisting of the \$707,493 of withheld payments plus \$142,507 toward the disputed payments.

Mr. Handy noted the Port has previously paid RCIE \$3,044,758 on this contract. With this additional payment of \$850,000, the total amount paid by the Port to RCIE on this contract will be \$3,894,758. He commented that the engineer's estimate for this job at time of bid was \$4.6 million, the average bid of all the bidders for this job was \$5.6 million, and RCIE's bid was \$3.3 million. The approved Gunderboom change order of approximately \$400,000 brought the contract to \$3.7 million. Thus, the Port's final costs for this contract remain substantially under the Engineer's original estimate for the project.

Mr. Handy noted that the Port also has a claim pending against Gunderboom Inc based on the failure of the Gunderboom and associated costs. The Port and Gunderboom have been in mediation on this claim and are actively working toward a settlement.

Commissioner Van Schoorl moved to approve the change order. Commissioner Telford seconded the motion. The motion was unanimously approved.

Harold Chambers asked the Commission how much the Port has paid the legal counsel for mediation for this.

Commissioner Van Schoorl indicated that the legal counsel and staff have done an outstanding job in keeping costs down. The \$142,000 is a good outcome for this dispute. The project was successful.

Commissioner Telford commented that he came into this project late, he could see that this was a messy and difficult project in the first place, there was complications from day one. RCI appears to have left 30 percent of this project on the table in accordance to the other bids. He commented that his simple view of this project was \$3.9, the Port's engineers estimate was for \$4.6 million. He feels that this settlement is a good deal. It did cost over \$300,000 in legal fees, however, these negotiations have been going on for a long time. It seems that there should be a better way to manage legal costs. He commented that the Olympian reported the settlement cost was \$850,000, when actually the \$700,000 was owed to RCI and being withheld by the Port for liquidated damages.

ADVISORY CALENDAR

Marina Advisory

Mr. Bruce Marshall presented the Commission with a power point presentation on the Marina. He reviewed the Marina and Operational successes, the financial performance for 2002, and the future outlook of the Marina. Mr. Marshall reviewed the DEF Marina expansion project and the pre-lease program.

Mr. Marshall also gave the Commission an update on the marina sale or lease due diligence. He reported that staff contacted several marinas and ports on their prospective lessees' of privately converted public marinas in Washington State. He commented that of the four marinas that were port-owned and currently under private operation, they are in the process of being transferred back to the public operation. He noted that environmental and maintenance or lack thereof, is mostly the reason for being transferred back.

Other Business:

Commissioner Van Schoorl asked that in the future the abandoned vessel resolutions be placed on the consent calendar. The other commissioners concurred.

President Pottle announced the Port Commission would be holding a joint work session with the City of Olympia on May 19th at 5:30 p.m. at the Phoenix Inn and with the City of Tumwater on May 27th at 6:00 p.m. at the Comfort Inn and a work session with Waldron & Company on May 20th at 8:00 a.m. at the Port offices.

ADJOURNMENT

President Pottle adjourned the meeting of May 12, 2003 at 7:21p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer
