

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

June 9, 2003

CALL TO ORDER

President Pottle called the meeting of June 9, 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 Commission would go into executive session following the meeting to discuss with counsel a possible real estate lease at the Marine Terminal.

Staff in attendance were: Executive Director Nick Handy, Administrative Manager Jeri Sevier, Finance Director George Fox, Property Director Heber Kennedy, Harbor Director Bruce Marshall, Marketing Director Kari Qvigstad, Olympia Regional Airport Manager Doug Sandau, and Communications Manager Patti Grant.

Public in attendance were as follows. Representing Legal Counsel was Mark Erickson. Representing *The Olympian* was Scott Wyland. Others in attendance included Harold Chambers, Dave Clark, Jan Witt, Shirley Fricke, James Fricke, and Jim Smego.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PUBLIC COMMENT

Jan Witt, resident of Olympia, commented that the time of the meetings should be changed to accommodate the public's schedule. She also commented she was concerned about the meeting held on May 27th because that meeting was not recorded and it should have been. It also occurred to her that there has been a lot of planning with the City of Tumwater and the officials of the Cities of Olympia and Lacey should be involved in those planning meetings as the results also affect Olympia and Lacey.

She also commented that the information given to the public on the airport is misleading and the impacts are being avoided. She said that in reality, the airport continues to be expanded without the Port saying that. She commented that the Commission indicated back in 2002 that there was not a plan to accommodate jets at the airport, when in reality, we are. She commented that Mr. Sandau is already talking about an expansion of the airport runway to 6000 feet, which would have a considerable impact on the community.

Ms. Witt indicated that there is not place for the public to complain about the airport noise, when the public calls in, they get a run around as to where to file a noise complaint. She commented that she is also concerned that we continue to expand the airport without doing EIS on the impacts.

Harold Chambers, resident of Yelm, indicated that he has been reading in the paper about Big Sky. He indicated that he does not think that 911 is hurting Big Sky, besides the fact that we have spent over \$100,000 on Big Sky and he does not think we should be doing this forever, at sometime we cut the strings and let them sink or swim. He commented that the only one benefiting from the airline is the state worker travelers.

COMMISSIONERS REPORTS

Commissioner Van Schoorl commented that he has been involved in the planning for the Conference and Arts Center. He noted that the city has a hearing scheduled for tomorrow night. He wanted to confirm the support of the Commission for this project and issues related to this project. He asked the Commission to send a letter of support.

Commissioner Telford indicated he would rather stay out of this issue. President Pottle indicated that he continues to be in strong support of the Conference Center. He commented that since we do not have a unanimous support, we could send a letter on behalf of the two Commissioners.

Commissioner Van Schoorl commented that in the past the Port has been supportive of this project as an economic development project. It increases the Port's property values and brings more customers to Port properties. It also enhances our ability for future growth on the Port Peninsula.

President Pottle indicated he attended a meeting with staff with Big Sky on June 3rd in Spokane. He commented that they met with Kim Champney and Craig Denny for a six month check in meeting. He noted that Mesaba Holdings now owns Big Sky and a contract airline that guarantees revenues. Big Sky cannot guarantee revenues since the Olympia route is not an essential air service that is government funding. Mesaba is more interested in the government-funded routes that guarantee the revenues.

President Pottle indicated that at the meeting they discussed opportunities for passenger service. Big Sky is still the only service that fits our markets. What we found by previous surveys, that this service is working and working well. It is and continues to be efficient, economical, and convenient.

President Pottle commented that we are currently working on a federal grant for funding for air service. We will try to get political help to get this grant. President Pottle reported that Ridership went down 20 percent when the war with Iraq started, all airlines are suffering from 911 and the war. Big Sky is under great pressure by Mesaba to cut expenses and to make this economically viable. If we can add 3 people to each flight, they will at a break-even point. He noted that we found out that the noon flight has not been successful and we discussed removing the service that is not being used and that will help the bottom line. Another item discussed was having the flight originate from Olympia and reverse the Spokane/Olympia service.

He commented that we are hearing that travel agents are reporting that they have not heard about the Olympia service. He commented that we need to get more people on the flights and reduce the overhead for each flight. The Port has done almost everything that we can do; we will continue to work with Big Sky in getting the word out. Big Sky will also have a plane at the Olympic Flight Museum Fly-In scheduled for June 13-15 to talk to the public and show their metroliner.

Commissioner Pottle indicated that staff would continue to work with Big Sky to increase the ridership, perhaps modify the noon flight, originate the morning flight from Olympia, and do what we can to make air service to Spokane successful.

Shirley Fricke, Capitol Airporter, asked what Phase II is of the Air Service Marketing. Ms. Kari Qvigstad responded to Ms. Fricke and indicated that staff has been out talking with travel agents and addressing issues and educating them. Phase II marketing is increased marketing, finding ways to increase awareness, build partnerships with travel agents and others in the business such as the Airporter. Ms. Fricke also commented that working as a partnership with air and ground transportation is necessary and they look forward to that partnership. However she warned that we need to be cautious of using public funds to support a business.

Jan Witt, resident of Olympia, pointed out that the grant for federal money is also public money. The Port should consider subsidizing the airporters instead. President Pottle responded that we are not subsidizing Big Sky and it is unfair to continue to characterize it that way.

EXECUTIVE DIRECTOR REPORT

Mr. Handy reported that at the Marine Terminal all of the aluminum from the Vasiliiy Burkhanov, has been shipped out by truck and railcar, the longshore are now busily loading out T-Bars and ingots from the Russian vessel Kapitan Man. With the help of the Tri-City and Olympia Railroad, approximately 10 railcars per day are being loaded out.

He indicated that the garnet vessel Alexandergracht discharged over 2,000 MT of bagged Australian garnet over the Memorial Day weekend. The operation went very smoothly with the vessel in and out in little over one day.

Mr. Handy reported the partnership with Tri-City and Olympia Railroad is going very well and outbound railcar shipments have been moving out quickly. To date we have shipped out over 70 boxcars of aluminum. In addition to pipe and glass being shipped out of the marine terminal, longshore will begin staging for another log vessel next week.

Mr. Handy noted that the Marine Terminal is well ahead of budget for the year, we have had a lot of activity at the Terminal and this has been the strongest year in many years.

At the Marina and Boatworks, Mr. Handy reported the Marina is at 97 percent occupancy, which we expect to continue to rise as summer comes upon us. The Dry Storage is at 66 percent occupancy. Mr. Handy indicated that the DEF upland construction is proceeding well with few operational concerns to date. The shoreside construction broke ground and the docks are being constructed off site.

At the Boatyard, they hauled 100 boats in May. This far exceeded our all time previous record of (June 2001) of 84 vessels. Mr. Handy noted that the Boatworks is also substantially ahead of budget projections for the year.

Mr. Handy reported the Airport had 7,678 total operations in May. That's 200 more than last month, but less than last year during the month of May when the Airport had 8,290 operations. He commented that Big Sky Airlines reported a total of 1,140 revenue passengers for May, with 554 inbound and 586 outbound passengers. Their revenue passenger loads averaged 41.3 percent. Mr. Handy noted that Big Sky usage continues to grow, but it is still not enough. We need 3-4 more passengers per flight to break even.

Mr. Handy announced the Fly-In scheduled for this coming weekend on June 13-15 at the Olympia Regional Airport Olympic Flight Museum. The event features aviation history, airplane and helicopter rides, and military displays.

CONSENT CALENDAR

The Consent Calendar was approved as follows.

Minutes. The minutes from May 12, 2003 were unanimously approved as submitted.

Capital Expenditure Approval. The capital project expenditures for the DEF Shoreside construction to Christensen Inc., was unanimously approved in the amount of \$124,827.22.

Resolution 2003-09 – Authorizing the Sale of an Abandoned Vessel – S/V Romp. The Commission unanimously approved Resolution 2003-09 authorizing the Harbor Director to conduct a public auction of the S/V Romp to the highest bidder.

Lease Amendment – Mark Helland. The Commission unanimously approved the lease amendment with Mark Helland. The amendment memorializes the Port's consent to extend the tenant's lease through December 31, 2003. This is an agricultural use south of the Airport that will be impacted by the

relocation project. Delay on this amendment was based on the project schedule. Now that we know the relocation project will not commence until after 2003, we recommend the lease extension. New rent is \$450/year plus lease hold taxes.

New Lease – Fish and Wildlife Facility. The Commission unanimously approved the lease amendment with Fish and Wildlife. The lease provides tenancy to the Department of Fish & Wildlife for an additional year at the rate of \$1,764.00 per month. This lease is being extended on a year-to-year basis due to the fact that it is part of a future co-location program with other agencies at the Airport.

ACTION CALENDAR

Planning and Advisory Committee Appointments

Commissioner Telford indicated that we received 11 applicants with five positions to fill. The PAC Review Committee has completed the process of reviewing applicants and developed recommendations for the PAC membership.

The PAC Review Committee consisted of Commissioner Paul Telford, Executive Director Nick Handy, Public Works Director Andrea Fontenot, and PAC Chair David Clark. Commissioner Van Schoorl also reviewed and scored the applications.

Commissioner Telford indicated that the PAC Review Committee unanimously recommends the following five candidates to the Port Commission.

Lyle Morse. Lyle Morse was founder and president for 30 years of Norse Furniture. He is currently President/CEO of Fish Brewing Company. He is also a founder and organizer of South Sound Bank and manages his own property holdings in Olympia, Tumwater, Thurston County, and Seattle.

Drew Phillips. Drew Phillips is a 4th generation Olympia contractor with Bershauer Phillips Construction Company and is an owner and senior executive with that company. He is a parent, soccer coach and avid sailor.

Len Trautman. Len Trautman served in the military for 20 years retiring as Major. He then worked for Washington State for 18 years in telecommunications. He has a commercial airplane pilots license and a U.S. Coast Guard operators license. He also has a strong background in environmental issues having participated for 10 years on the Nisqually River Citizens Advisory Committee.

Rebecca Christie. Rebecca Christie has served as Chair of the Olympia Heritage Commission (appointed by the City Council) and is also a member of the City's Economic Development Committee. She is a founding member of the Olympia Historical Society. Her professional career is as a reference librarian and she worked in the DNR geology division for a number of years as a librarian for technical materials. She lists 25 publications in various issue areas on her resume.

Bill Garson. Bill Garson is a former Republican legislator in the 22nd legislative district and former owner of Pacific Powder, an explosives company located in the Tenino area. Bill sold his business to a multi-national company and worked with the new company for 11 years before retiring. Bill currently lives in one of the condominiums at Percival Plaza overlooking Fiddlehead Marina and the Port of Olympia so we can properly characterize his neighborhood as "Market District."

Commissioner Telford indicated that the Committee also recommends that Patti Moore be selected as "first alternate" in the event of an unexpected vacancy on the PAC.

Patti Moore. Patti Moore is chair of the Olympia Arts Commission and was an early organizer of Arts Walk. Patti is a member of the Olympia Downtown Association and has volunteered in many school and community organizations. She works as a property manager for Law Properties and as a House Manager

for Harlequin Theatre. She worked as a Family Health educator at Providence St. Peter Hospital for 12 years.

All 11 applicants have been advised of the outcome of the process thanked for their interest in the Port of Olympia. Commissioner Telford indicated that the recommended action is to appoint Lyle Morse, Drew Phillips, Len Trautman, Rebecca Christie, Bill Garson, and Patti Moore as a first alternate in the event of a vacancy.

The Commission unanimously approved the recommendation for the appointments.

Timber Management – Acceptance of Bid

Mr. Doug Sandau presented the Commission with a recommendation to award the Timber Bid to Tree Source Industries, Inc./Tumwater Lumber. Mr. Sandau reported that since 1967 the Port has contracted to have its 225 plus acres of forest professionally managed to ensure the health and longevity of its timbered land. The method by which this has been accomplished is through programmed thinning, a process that has taken place approximately every 5 to 7 years since 1972. The trees removed are either diseased, damaged, obstructions to aircraft, choking adjacent trees, or are considered hazardous and prone to falling in the vicinity where the public may be passing.

Mr. Sandau reported that the fall of 1996 was the last time such a harvest was conducted. Several months after that particular thinning took place, our area was hit by an unusually hard ice storm which damaged many trees. Part of the thinning that is scheduled to occur this year will be directed towards the removal of those damaged trees. In total 2,014 trees have been marked for removal. Additionally \$1,007.00 will be placed in escrow for deposit into the city of Tumwater's "Tree Replacement Program".

Mr. Sandau reported that all merchantable timber would be processed domestically; none would be exported. He commented that the Port received only one bid for the removal of the aforementioned trees during this scheduled cycle. The bidder was Tree Source Industries Inc. / Tumwater Lumber . Their bid came in at \$42.20 per ton, which, depending on the market price at time of harvest, could net the Port between \$70,000.00 to \$80,000.00 in 2003.

The Commission unanimously approved the recommendation to award the bid to Tree Source Industries Inc./Tumwater Lumber.

Legal Services Contract

Mr. Nick Handy reported that earlier this year, the Port Commission authorized a Request for Proposals from Law Firms interested in serving as Port Counsel. Seven firms submitted proposals and the Port's Legal Counsel Review Team interviewed three finalist firms and recommended that the Port enter into a one-year contract with Owens Davies. At a prior Commission meeting, the Commission directed staff to negotiate a one-year contract for legal services with Owens Davies.

The Legal Review Committee made the following recommendations to the Commission to improve Port oversight of its legal services delivery.

1. Port should exercise greater oversight of its legal services with a stronger focus on preventative practices.
2. The Port should move to a fixed monthly fee as a cost control measure.
3. The Port should more actively manage its potential litigation and actual litigation by seeking early opportunities to resolve disputes out of court and to save costs.
4. The Executive Director and Port Counsel should meet monthly to review billings, assess progress of

legal matters, and devise strategies for early resolution of pending matters.

5. The Port does not always need Port Counsel at Port Commission meetings and should have counsel appear only upon request.

Mr. Handy indicated the contract reflects the following:

Port Counsel. Port Counsel from Owens Davies will be Mark Erickson, longtime former City Attorney for City of Olympia. Mr. Erickson will work closely with the Executive Director in managing the Port's legal affairs.

Routine Legal Matters. The contract provides that Owens Davies will provide routine legal services to the Port on a monthly basis for a fixed fee of \$6000 per month, for an annual total of \$72,000. This will include advise on leasing matters, advise to the Port Commission, and other advice on request to Port staff. This fee assumes approximately 30-40 hours of service will be provided monthly at \$175 per hour, although the arrangement understands that while the fee will remain fixed, hours of effort will vary depending on circumstances. This fee arrangement is designed to accomplish two purposes: (1) provide a predictable fee arrangement for the Port and (2) create incentive for the efficient delivery of Port legal services by Port Counsel.

Litigation. The contract provides that Owens Davies will be paid \$200 per hour for litigation services. The Executive Director and Port Counsel are working at this time to resolve all outstanding litigation matters. The only significant outstanding matter at this time relates to the Gunderboom claim for Cascade Pole. The Port is seeking to recover monies in this claim.

Extraordinary Civil Matters. The contract includes a provision for "extraordinary civil matters" that are not litigation. The contract provides a means whereby, with prior consent of the Executive Director, an extraordinary civil matter consuming substantial legal time may be paid at the rate of \$200 per hour for those hours expended in excess of the 30 hours anticipated for the month under the fixed fee arrangement. This provision is intended to ensure an equitable fee to counsel but with strong Port oversight. Under the contract, the prior written consent of the Executive Director is needed to invoke this provision. Further, the contract authorizes the Executive Director to meet monthly with Port Counsel to review these situations and make appropriate equitable adjustments. Any equitable adjustments must be reported in writing to the Port Commission at the time of the adjustment.

Mr. Handy noted that the primary tool for more aggressively managing legal services will be a monthly meeting between the Executive Director and Port Counsel to review the Port's ongoing legal affairs. At that time, the monthly billing will be reviewed and discussed. Discussion will also focus on resources being allocated to various legal matters with strategies developed for early resolution.

Commissioner Van Schoorl thanked Mr. Handy and Owens Davies for the contract. He indicated that the fixed monthly fee is the least expensive from all those interviewed. He indicated that economically, this is a good fit for the Port, but most importantly, the oversight provision of this contract is so important. Commissioner Van Schoorl noted that the review team found that the oversight was lacking in the past so he was very pleased to see this included in the contract and to include preventative practices and monthly meetings to manage the legal fees.

Harold Chambers, resident of Yelm, commented that Owens Davies has received over two million dollars over the past years. Staff at Owens Davies has continued to contribute to Commissioner Van Schoorl's campaign fund in the amount of \$760. He asked Commissioner Van Schoorl to abstain from voting on this issue.

Mr. Handy indicated that the amount of money paid out to Owens Davies has been in the millions, however, most of that was spent for the Cascade Pole clean up. Owens Davies recovered \$8.5 million dollars to the Port. Commissioner Van Schoorl commented that he is tired of the personal attacks from

Mr. Chambers; this is about continuous personal attacks and has nothing to do with quality legal services. Commissioner Pottle indicated that Mr. Chambers's comments are politically motivated and he only attend meetings that are on TV. We recently had two meetings with the City of Tumwater and City of Olympia, but were not televised and therefore he did not show up.

Commissioner Telford indicated that he is still opposed to the contract with Owens Davies; however fully supports the objectives of the contract. He indicated that he does not see advantages for the Port the way this contract is structured. What if we do not use the 30-40 hours per month is there a discounted monthly rate? The incentives are for the legal firm to hold the services to less than 30 hours so they can make their money anyway.

Mr. Handy indicated that this contract is structured for both parties to have a fair and equitable agreement. Litigation will be at \$200 per hour and everything else would be billed at the \$6000 monthly rate.

Commissioner Telford commented that this doesn't specify the level and quality of services that this will get us. Commissioner Van Schoorl indicated that the RFP specifies the services that will be provided and should be an addendum to this contract.

President Pottle indicated that he is comfortable with this contract because it does decrease costs and increases oversight of legal usage.

Commissioners Van Schoorl and Pottle approved the recommendations for the contract. Commissioner Telford abstained from voting. The contract was approved with a 2-0 vote.

ADVISORY CALENDAR

Olympic Flight Museum Fly-In, June 13-15

Mr. Doug Sandau briefed the Commission on plans for the Fly-In scheduled for June 13-15, 2003. Mr. Sandau indicated the Port is a financial and in-kind advertising and promotion sponsor of Olympic Flight Museum events this year and has allocated \$3,000 in the Port's 2003 budget.

The Museum will use the Port Advertising and Promotion financial support to promote the 5th Annual Gathering of Warbirds Fly-In, June 13-15. Most of the funds will be used for the production and distribution of a professionally designed poster inserted in the Olympian (45,000 circulation) one week before the event. This event hosts 60-75 visiting aircraft, draws an anticipated 10,000 people to the airport, and features rare and historic aircraft. The Port and the Olympia Regional Airport are recognized on the poster as well as other printed materials. In addition, the Port will be provided space for a tent outside. A Port representative will be part of the opening ceremonies program on June 14 at noon.

Mr. Sandau noted there would be a small air show as a part of this event and some additional aircraft at the event.

ADJOURNMENT

President Pottle adjourned the meeting of June 9, 2003 at 7:15 p.m. to executive session for 45 minutes.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer