

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

September 11, 2006

CALL TO ORDER

President Pottle called the meeting of September 11, 2006, to order at 5:34 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, Business Development Sally Alhadeff, Harbormaster Bruce Marshall, Airport Director Rudy Rudolph, Public Works Director Andrea Fontenot, Marketing Program Assistant Maureen Malahovsky, Facilities Project Manager Rod Hudson, and Property Director Heber Kennedy. Bob Goodstein, the Port's Legal Counsel was also in attendance.

Public in attendance were as follows: Representing *The Olympian* was Jim Szymanski. Others in attendance included: E.J. Zita, Jerry Dierker, Drew Hendricks, Sue Danver, Gary Fair, Tom Howdeshell, Bill Pilkey, Bill McGregor, Don Melnick, Carlos Perez, Jeff Berryhill, Ted Pintero, Mark Williams, Jeff Brigham, Harold Clark, Arthur West, Miriam Calkins, Len Trautman, William Parker, Jennifer Kerry, Dan Cathers, Jeff Powell, Larry Stranz, Richard Wolf, Kevin Partlow, Joe Downing, Steve Chamberlain, Meta Heller, Wally Cutterford, and Michael Kerry.

President Pottle announced that the Commission held an executive session with legal counsel to discuss a mid year evaluation of the Executive Director on September 10, 2006 at 6:30 p.m. at the Port offices.

APPROVAL OF AGENDA

The Commission called for a moment of silence in recognition of September 11, 2001.

The agenda was approved as revised. Mr. Ed Galligan requested the agenda be changed to accommodate Ms. Fontenot and Ms. Lake, who needed to attend another meeting at 6:30. The action calendar was changed to accommodate their schedules.

CONSENT CALENDAR

Minutes Approval. The Commission unanimously approved the minutes from the August 14, 2006. Commissioners Telford and Van Schoorl approved the minutes of the August 16, 2006 meetings. President Pottle abstained from voting, as he was not in attendance at that meeting.

Bills and Vouchers Approval. The Commission unanimously approved the bills and vouchers in the amount of \$765,194.61. General Fund Checks Issued: 040896 – 041188. Project payments to Coast Rail for the Marine Terminal On Dock Rail and to Reid Middleton for the Runway Line of Sight project in the amount of \$137,896.56 was also approved.

Lease Amendment – United States Postal Service

The United States Postal Service lease commenced in October 1996. Tenant is on a 20-year lease with two 10-year Options and two 5-year options. Tenant has a 6.69-acre site and the rent is adjusted every 5 years. The attached Lease Amendment No. 5 reflects a monthly rent adjustment from \$2,422.50 to \$2,902.25 effective October 1, 2006 to September 30, 2011, based on the latest value from the Thurston County Assessor. The Commission unanimously ratified the lease with the United States Postal Service.

Lessor's Consent: Olympia Airdustrial Park Associates

Tenant has secured financing for their project at NewMarket and this agreement, which is Exhibit "C" in all Port leases. This agreement is the pledge of the tenant's assets to the Lender and permits the Lender to realize on their collateral and assume the Tenant's position in the event of a default. The Commission unanimously ratified the lessor's consent for Olympia Airdustrial Park Associates.

ACTION CALENDAR

Taxilane Rehabilitation SEPA 06-02 Appeal Decision Process

Ms. Carolyn Lake, Port's legal counsel indicated that the purpose of this agenda item is to provide the Commission with the background of an appeal of the Port's State Environmental Policy Act decision No. 06-2, for a Taxilane Rehabilitation project, and outline the appeal options for Commission consideration and action. The purpose of this Taxilane Rehabilitation project is to rehabilitate two existing taxi lane surfaces at the Olympia Regional Airport. The existing pavement is in failed condition and in need of repair.

She gave the Commission a summary of key milestones on this project:

On June 27, 2006, a SEPA checklist was filed, requesting environment review of the Port's Taxi Lane Paving Rehabilitation Program for Taxi lanes No 15 and 23.

On June 28, 2006, the Port of Olympia issued a SEPA determination of DNS (Determination of Non-significance) for the Port's Taxi Lane Paving Rehabilitation Program for Taxi lanes No 15 and 23.

On or about July 19, 2006, a Reconsideration Request was timely filed by Jerry Lee Dierker, Jr., Walter R. Jorgensen, Arthur West, Christi Johnson, and Janet Witt ("Requestors") regarding the Port's planned Taxi Lane Rehabilitation Project for Taxi lanes No(s) 15 and 23.

On August 10th, 2006, as part of the Reconsideration process, a meeting was held between the Port's Responsible SEPA Official and the Requestors. The Port's 2006 adopted SEPA policy provides that the Reconsideration precedes any appeal, and is intended as a format for parties to informally meet and resolve any issues related to the Port's SEPA decision, if possible. Requestors attended the meeting: Jerry Lee Dierker, Jr., Walter R. Jorgensen, Arthur West, and Janet Witt.

On August 24th, 2006, the Port Responsible Official concluded the DNS should remain undisturbed and denied the Reconsideration Request, based upon review of the entire record, including the Request for Reconsideration and supporting material supplied by the Requestors and Port Staff.

On August 31, 2006, an appeal of SEPA 06-2 was timely filed by the same parties who had requested reconsideration. Copies of the appeal were distributed to each Commissioner upon receipt, on August 31, 2006. Copies of the background documents were also provide for Commission review.

Ms. Lake reviewed the Commission SEPA Policy. She indicated that if a Request for Reconsideration decision is appealed, the Port's adopted SEPA policy provides as follows:

A Commission or Hearing Examiner Appeal. If an appeal is filed after the Request for Reconsideration process is complete, the Commission, at its discretion, may:

- (a) elect to hear the appeal, and after a public hearing, issue a Final Decision;
- (b) forward the appeal to the Hearing Examiner, who would hold a public hearing and issue a Final Decision; or

- (c) decline to hear the appeal and adopt the Decision of the Responsible Official as the Port's Final Decision.

Ms. Lake indicated that a Final Decision rendered under any of the above three processes is appealable to Superior Court within 21 days of the date the Final Decision issues. Only the parties to the appeal have standing to appeal to Court.

Commissioner Van Schoorl indicated his inclination is to accept the Decision of the Responsible Official as the Port's final decision. Commissioner Telford indicated after reading the appeal he is in the opinion that this project is being used to open up a larger issue by holding up this project. He indicated that this project should have been included in the line of sight project and not have two SEPA's and two appeals. Commissioner Telford noted that if he thought for a moment that the appellants would be satisfied with a decision from a hearings examiner or the commission decision, he would be more inclined to hear the appeal, however, in this instance a judge will better resolve the appeal. He noted that the appellants have been heard by the reconsideration hearings officer and are not satisfied. Commissioner Telford agreed with Commissioner Van Schoorl and noted that he too is also inclined to decline to hear the appeal and adopt the Decision of the Responsible Official as the Port's Final Decision.

President Pottle asked why the two projects were split up. Mr. Rudy Rudolph indicated that the Taxilane project was a separate project because it was not eligible for funding from the FAA. The line of sight project was pushed out by the FAA until 2007 and staff was trying to move forward the taxilane project in 2006.

The Commission encouraged staff that anytime these can be combined as opposed to separated; the staff should to eliminate separate SEPA appeals on projects.

Jerry Dierker, resident of Olympia, favored the decision for the Commissioners to not hear this appeal, therefore it will move this forward quicker. He accused the Port of the "real" plan to expand the airport and bring in larger planes. The larger hangars and taxilanes are designed to fulfill the plan. He also indicated that he did not get the notice for the meeting.

E.J. Zita, resident of Tumwater, indicated that she represented the Salmon Basin Neighborhood, she is an appellant on the appeal and she agrees that these projects should have been combined. The same 6 copies of the documents have had to be submitted twice; she noted was a waste of resources. The projects are all part of the airport expansion, the FAA website does have the Olympia Airport expanding by 2009. The expansion will have more environmental impacts on the community. She indicated that an independent hearings examiner and not the Port's Executive Director should decide the case. She asked for a revision of the Port's SEPA policy and a thorough SEPA review to include all projects.

Jeff Powell, resident of Tumwater, developer that produced the new set of hangars at the airport and is expecting a new taxilane, has submitted for permits, he noted that he has spent \$1 million on the infrastructure at the airport which included installing a composting feature that is environmentally friendly. He indicated that he has made the investment in the Port and the Port as a partner has a duty to fulfill the goal to use his hangars at the Airport. He commented that he is very concerned about delay of the final overlay of the taxilane – which is 50 years old plus, the potholes are right in the centerline of the existing taxilanes. He indicated that he would like to encourage the Port to proceed.

Arthur West, resident of Olympia, indicated that he agrees with the Commission in regards to asking staff to reevaluate projects and look at combining projects when appropriate. He indicated that this appeal is about the process. This appeal is challenging the decisions of the Port. He commented that he would like the Port to issue a determination that is solid and that no one could challenge.

Sue Danver, representing Black Hills Audubon Society, indicated that she is concerned that the Port needs a species management plan for the airport and as the airport develops. She indicated that there are endangered species at the airport.

The Commission unanimously voted to decline to hear the appeal and adopt the Decision of the Responsible Official as the Port's Final Decision.

Commissioner Telford commented on this project indicating that this is simply a repaving of something similar to a driveway. He also noted that it seems that the process worked if the Port received comments from the public on the first environmental review and then withdrew it.

Marine Terminal Potable Water Backflow Prevention, Contract No. 304 – Bid Award

Ms. Andrea Fontenot indicated that the purpose of this agenda item is to request Commission bid award of the Marine Terminal Potable Water Backflow Prevention Contract No. 304 to Tri-State Construction Inc. Four bids were opened on September 6, 2006. Below is a summary of the bids and the engineer's estimate. Ms. Fontenot indicated this project is a health and safety project.

Bidder	Bid Amount (including WSST)
Tri-State Construction	\$124,660.00
Pivetta Brothers Construction	\$135,148.78
DLB Earthwork Co.	\$146,173.06
Grading and Excavating, Inc.	\$173,234.04
<u>Engineer's Estimate</u>	<u>\$169,532.18</u>

Ms. Fontenot indicated that the approved budget is \$143,490, which was a planning level cost estimate. Ms. Fontenot requested that the Commission increase the budget amount to \$195,956. Commissioner Van Schoorl noted that the estimate included sales tax twice.

Drew Hendricks, resident of Olympia, asked why the Port is now doing this project. The Commission responded that there is a new state law that requires this.

The Commission unanimously awarded Contract No. 304. to Tri-State Construction, Inc., in the amount of \$124,660.

The Commission unanimously increased the budget for this project to \$187,000.

Washington State Patrol Hangar Repair Capital Expense Authorization

Mr. Rudy Rudolph reported that the Port of Olympia owns the original hangar building on the north end of the Olympia Regional Airport. The hangar building was constructed in 1937 by the then Works Progress Administration. In 1996 the Port Commission voted to have the building placed on the Tumwater Register of Historic Places. The Washington State Patrol has been a tenant in the building since 1967.

Mr. Rudolph indicated that during the 2005/2006 winter rainy season, water intrusion around the upper floor windows reached unacceptable levels requiring external plastic sheeting to be placed over the windows. Public Works has determined that the building siding needs to be replaced to correct the problem. This problem was identified after the completion of the 2006 capital budget, thus the project was not budgeted for 2006. Mr. Rudolph indicated that this project would be done with the Port's construction crew.

Mr. Rudolph noted that staff is requesting the Commission approval of a Capital Expense Authorization in the amount of \$38,500 to complete the Washington State Patrol building siding replacement. President Pottle asked why preventative maintenance for this building is not budgeted on an annual or bi-annual basis. Mr. Rudolph responded that the lease is through 2010. However, the State Patrol has a proposal to the legislature for a new building. Commissioner Pottle asked if the legislature did not approve the proposal what would be the option for the tenant. Mr. Rudolph indicated that this building would need to

be assessed for future use.

Commissioner Telford indicated that since it is a historical building we would need to keep investing in the building to keep it.

The Commission unanimously approved the Capital Expense Authorization in the amount of \$38,500.

KGY Tower Lease

Mr. Heber Kennedy reported that the current lease agreement between the Port and KGY terminates 12/31/09. As part of the NorthPoint Planning process relocation alternatives were reviewed and KGY and the Port have agreed upon use of the Cascade Pole containment area as a new tower location as show in the attachment. He indicated that staff is working with Department of Ecology to ensure that this lease meets with their approval. This lease covers the relocation of the tower. The Port and KGY are still exploring options for relocation of the studio.

This site was chosen due to the ability to install the tower ground array and the limited use of the containment cell as a parking lot.

Mr. Kennedy noted that the Port is assisting KGY in this project by covering up to \$94,278 in expenses in the permitting process of their new tower and providing the substructure for the tower and the guide wires. These funds will be recaptured in the rent at the rate of \$750.00 per month (\$9,000 per year). KGY is paying for the new tower and its installation, ground support building and other fees plus removal of their existing tower upon installation and operation of the new tower.

Jennifer Kerry and Mike Kerry thanked the Port and the community for the support that has been shown to the family during the transition. Encouraged with the Port's help in moving the tower. She indicated that they look forward in moving forward with the relocation of the studio and looking at the alternatives.

Commissioner Van Schoorl indicated that he values KGY as a very important tenant and would like to keep KGY as a long-term tenant at the Port.

President Pottle thanked Jennifer and her family for the meeting a few months ago where the discussion was around the intent for the Port to develop Northpoint and to find a solution to keep KGY as a tenant.

Tom Howdeshell, resident of Olympia, asked if the Port would be strengthening the bulkhead along the waterfront. President Pottle indicated that during future development, those bulkheads would be improved.

Jerry Dierker, resident of Olympia, commented on the tower located on the cascade pole site and the contaminates underground may cause an explosion if not grounded properly. He also did not think that the Department of Ecology would allow pilings being driven in the containment cell.

The Commission unanimously ratified the lease with KGY for a tower.

ProLogis Option Agreement Amendment

Ms. Sally Alhadeff indicated that this is the third amendment to the ProLogis Option Agreement, the original of which is dated July 20, 2005. The first two amendments extended the term of the due diligence period.

Ms. Alhadeff reported that this third amendment 1) creates a formula to determine the leasable area for industrial land based upon charging the tenant no more than 12.5% of the leasable area for stormwater; 2) documents the fair market values for each property type; 3) creates a process for determining the fair market value, upon which the renewal term rent is based; 4) documents the legal description based upon

the land survey and 5) attaches the Form Lease approved by the Commission August 14, 2006.

1. Stormwater – The industrial property is located in a high groundwater area. Our appraiser advised us that the “normal” range for the area devoted to stormwater in this county is 10-15%. The amount of total leasable area that may need to be devoted to stormwater could be in excess of 15%. Therefore, the rent calculation shall be based upon 112.5% of the buildable square footage of the property. In the event that more than 12.5% of the buildable land is devoted to stormwater, the Port will provide the additional land required with no additional rent.
2. Fair Market Value - The original Option Agreement included estimates of the fair market value for each property type. Since that time, fair market values have been established via the appraisal process and those values are reflected herein.
3. Renewal Term Rent – If the Tenant does not agree with the Port’s appraised value, upon which the renewal term rent is based, and then the Tenant may retain their own appraiser. If the parties cannot agree on a fair market value based upon those two appraisals, then the Tenant’s appraiser and the Port’s appraiser may select a third, neutral appraiser to review the other two appraisals, and the neutral appraiser’s decision will be final and binding.
4. Legal Description. Since the parties signed the original Option Agreement, the legal descriptions have been finalized.
5. Form Lease. Since the parties executed the original Option Agreement, the parties have agreed to a Form Ground Lease. The Port Commission approved this Form Lease on August 14, 2006.

Jerry Dierker, resident of Olympia, indicated that the ProLogis deal is part of the larger scheme to expand the airport. He also commented that leases are subject to SEPA as well.

E.J. Zita, resident of Tumwater and representing the Salmon Basin Neighborhood, indicated that ProLogis has learned that they will need enormous stormwater ponds and it is no wonder that they want their lease rate decreased for the stormwater. ProLogis stands to profit from this project and the Port should make the developers pay and bear the risk and the cost for excess storm ponds.

The Commission unanimously approved the third Amendment to the Option Agreement with ProLogis.

PUBLIC COMMENT – PARKING GARAGE

Gary Fair, business owner in Olympia, indicated that there is tremendous support for a parking garage downtown and business owners are looking to the Port as the last hope. The Olympia Parking Advisory Committee recently conducted a parking survey and he was very surprised by the results of a survey and the overwhelming need for parking. A parking garage at the Farmer’s Market would be heavily used particularly because of the DASH Shuttle that stops at the Farmer’s Market. He indicated that he fully supports the parking garage at the Port. He also indicated that he thinks the size of the garage proposed would be to small and should be expanded.

Drew Hendricks, resident of Olympia, indicated that he supports a five story parking garage so he can have that high of a building to film the military operations at the Port.

Tom Howdeshell, resident of Olympia, indicated that he is also in favor of a high rise parking garage at least 5 stories in the Market District and would like a connection with IT and place for bikes.

Jerry Dierker, resident of Olympia, indicated that a high-rise structure on the Port property would be to heavy to withhold since this site was once water and is all landfill.

Commissioner Van Schoorl commented that this last week there has been debate on the parking structure

and feels that the Olympian has done a fairly good job of reporting on the issue. He indicated that the Commission gives staff approval to move forward on a project, get stakeholder feedback, and then bring a proposal to the Commission for approval.

In this instance, the Farmer's Market handed out flyers opposing this project at step one and this proposal had never come to the Commission for approval. Charging tenants for parking was never a consideration nor has it been talked about. Commissioner Van Schoorl noted that the Port was in an exploratory stage, unfortunately, there was a communication breakdown and the Farmer's Market chose to move forward with a protest. He commented that it is the Port's commitment to work with everyone for a parking solution in the Market District.

PUBLIC COMMENT

Drew Hendricks, resident of Olympia, the Port's security guards have told him that it is illegal for him to film the Port and have told him to turn off his video camera. He indicated that the Port needs to tell the Security that he has the right to film anything he wants. Commissioner Telford indicated the Executive Director would look into this matter.

Jerry Dierker, resident of Olympia, commented on the dredging project. He indicated that the Port told congress that we needed funding for dredging to 30 feet and now the project is at 30-45 feet. He indicated that you shouldn't tell congress something that is not correct.

Sue Danver, representing Black Hills Audubon Society, indicated that in July the Audubon Society testified at the Port meeting regarding the South Sound Logistics Center. In August Mr. Galligan met with the Audubon Society where no agreements or decisions were made. The Audubon Society requests that and EIS be done globally for the Port, including the Harbor, the Airport and Maytown. She also requested the Port include a citizen vote on decisions.

Wally Cutterford, indicated he was a proud protestor. He indicated that the Port is against peace and justice and he wanted to know what the Commission is for. He spoke against having to pay restitution for the damages at the Port protests.

Bill Pilkey, resident of Olympia, spoke in favor of the military at the Port. He indicated the issue is protecting our family members fighting in the war. We need to get them the best protective equipment to help save lives. He indicated that the Port should not waiver. He also suggested that we have American flags at the Port Commission meetings.

Carloz Perez, resident of Rainier, indicated he also supports the Port not wavering in the decision to ship military equipment at the Port.

Jeff Brigham, resident of Tumwater, also agrees that the military get the support and equipment that they need as quickly as possible. Our Port means the entire Thurston County and the vast majority of the county do support military shipments.

Bill McGregor, resident of Lacey, indicates he also supports the military shipments.

Ted Pinero, resident of Olympia, encouraged the Port to make sure that the apprentice language is in the bid packages and monitor the public works to make sure the prevailing wage is being paid.

Tom Howdeshell, resident of Olympia, wanted to remind everyone that there are also women in the military that should not be forgotten.

COMMISSIONERS REPORTS

Commissioner Telford noted he attended the dedication of the Thurston Chamber Incubator Project last

week as well as the Thurston Regional Transportation Council. He was disappointed to learn that the Regional Council sabotaged his effort over the past months to get the transportation policy board to act on a request to accept the Port as a member. At the request of the TRPC chair, Commissioner Telford wrote a letter reflecting the comments he made.

EXECUTIVE DIRECTOR REPORT

Mr. Ed Galligan reported that the Port Plaza has been a temporary fix to the steps, painting -- permanent solution, and will be getting a risk management assessment from the insurance company.

Mr. Galligan noted that we have a new cargo loading out from last week that is very exciting. The project is called the Oil Sands Project located in Alberta Canada, and it involves taking oil out of sand. The ship is from India stopped in Korea to pick up this project cargo that will be shipped to Canada and used in this project. This project can produce 1 million barrels of oil a day and 175 billion barrels recovered, making this the 2nd largest oil reserve after Saudi Arabia.

Mr. Galligan also noted that staff would be holding a workshop on the Adopt-A-Garden program, this Thursday at the Olympia Center at 6:00 p.m.

ADJOURNMENT

Vice President Telford adjourned the meeting on September 11, 2006 at 7:51 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer