

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

November 13, 2006

CALL TO ORDER

President Pottle called the meeting of November 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, Business Development Sally Alhadeff, Airport Director Rudy Rudolph, Finance Director Steve Davis, Marine Terminal Director Jim Amador, Harbor Director Bruce Marshall, Controller Kim Peterson, and Property Director Heber Kennedy. Bob Goodstein and Carolyn Lake, 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: Jerry Dierker, Arthur West, Bob Jacobs, Patrisa DiFrancisca, Anne Buck, Steve Mason, Clydia Cuykeodall, Harold Clark, Bill McGregor, D. Montgomery, Dr. Zita, Gerald Hodge, Peggy Benton, Drew Hendricks, Bill Pilkey, Mark Williams, and Don Melnick.

APPROVAL OF AGENDA

The agenda was approved as presented.

CONSENT CALENDAR

Minutes Approval. The Commission unanimously approved the minutes from the October 23, 2006 meeting. Commissioners Van Schoorl and Telford approved the minutes from the October 18, 2006, October 19, 2006, and the October 26, 2006, as Commissioner Pottle was not in attendance at those meetings.

Bills and Vouchers Approval. The Commission unanimously approved the bills and vouchers in the amount of \$2,198,982.83. General Fund Checks Issued: 041466-041688. Project payments to Grading and Excavating for the Northpoint Restaurant project, Kappert's Waterfront Construction for the Marina Upgrade, and Tri-State Construction Inc. for the Northwest Cargo Yard Reconstruction in the amount of \$1,544,608.02 was also approved.

Lease Amendment: J/4 Associates

J/4 Associates holds two leases at the NewMarket Industrial Campus. This Lease Amendment deals with the property that is the headquarters for Big Toys. Since the initial building was completed and the lease commenced in 1988, J/4 has added a number of improvements to the building. These include a 700 sf increase in the production area; a 3,360 sf expansion of the warehouse, 3,725 sf increase in office additions as well as other improvements such as an additional kitchen.

Big Toys and J/4 have agreed to a new lease that requires 7,880 sf to be added to the warehouse to accommodate Big Toys growth and expansion.

In view of this continued commitment to the property by J/4 and Big Toys, J/4 is requesting an option extension of 15 years that would provide them a more attractive financing package and the opportunity to realize on these improvements.

The Commission unanimously ratified the Lease Amendment with J/4 Associates.

ACTION CALENDAR

Airport Line of Sight SEPA 06-03 Appeal Decision Process

Ms. Carolyn Lake indicated to the Commission that the purpose of this agenda item is twofold 1) to provide the Commission with the background of an appeal of the Port's State Environmental Policy Act decision No. 06-3, for the Olympia Regional Airport Line of Sight Improvements and Runway Rehabilitation Project, and 2) outline the appeal options for Commission consideration and action.

In summary, she indicated that runway 17/35 at Olympia Regional Airport currently does not meet FAA standard line-of-sight criteria due to a high point in the runway profile on the southern portion of the runway. In addition runway 17/35 pavement surfaces are in need of asphalt rehabilitation. The scope of paving is strictly within the scope of the existing runway 17/35 footprint.

Ms. Lake noted that the purpose of the project is to comply with FAA runway line-of-sight criteria, rehabilitate the existing runway surfaces to accommodate the existing fleet mix including 94,000 lb dual wheel aircraft that currently operate at the airport, and upgrade the runway lighting. The proposed work is not changing the general facility configuration but only rehabilitating and correcting safety with the existing runway.

She provide a summary of key milestones on this project:

January 20, 2006, Port staff prepared a SEPA checklist requesting environment review of the Olympia Regional Airport Line of Sight Improvements and Runway Rehabilitation Project.

January 24, 2006, the Port issued a SEPA determination of MDNS (Mitigated Determination of Non-significance (06-1), for Olympia Regional Airport Line of Sight Improvements and Runway Rehabilitation Project (Line of Sight Project).

January 10, 2006, seven comment letters were received.

January 20, 2006, three appeals were received.

March 18, 2006, Port withdrew SEPA determination 06-1 to evaluate the fleet mix and forecast update.

July 10, 2006, the Port issued a SEPA determination of MDNS (Mitigated Determination of Non-significance (06-3), for Olympia Regional Airport Line of Sight Improvements and Runway Rehabilitation Project (Line of Sight Project).

July 24, 2006, six comments were received.

July 31, 2006, a Reconsideration Request was timely filed by Jerry Lee Dierker, Jr., Walter R. Jorgenson, Arthur West, Christ Johnson, EJ Zita, and Janet Witt.

September 7, 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. The meeting was attended by Requestors: Jerry Lee Dierker, Jr., Walter R. Jorgensen, Arthur West, EJ Zita and Janet Witt.

September 14, 2006, the SEPA Responsible Official allowed the Requestors additional time to submit

additional information.

October 5, 2006, the Port Responsible Official concluded the MDNS 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.

October 12, 2006, an appeal of SEPA 06-3 was timely filed by E. J. Zita, Walter R. Jorgensen, Christi Johnson, Janet Witt, Arthur West, and Jerry L. Dierker, Jr., who had requested reconsideration. Copies of the appeal were distributed to each Commissioner upon receipt, October 12, 2006. Copies of the background documents were also provide for Commission review.

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

- (2) Commission, 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.

She noted 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 Telford disclosed to he made contact with staff to get two documents from the Bernard Dunkelberg report from March redid the estimates of the noise profiles. He noted that he contacted Rudy Rudolph for those documents. The documents were referenced in the FAA environmental review and was part of the consideration of the original SEPA determination. This restudy was done after the first determination was withdrawn.

Commissioner Telford commented that he would like to know whether or not the Port commission would hear this or send this appeal to a hearings examiner. Bob Van Schoorl indicated there is a third option of declining to hear the appeal and the appellants can go straight to superior court.

President Pottle indicated that the intent of the new policy is to speed up the process and get through this quickly. Commissioner Telford indicated he was comfortable doing that on the last one but this one he has some questions on and would like the information before he can make that decision.

Commissioner Van Schoorl made a motion to approve Option C, decline to hear the appeal and adopt the Decision of the Responsible Official as the Port's Final Decision. President Pottle seconded motion.

Jerry Dierker, resident of Olympia, reminded the commission of what occurred on November 14th 2005 at which time the commissioners talked about having an outside counsel for the Port commissioners instead of using the Ports' staff counsel. He objected to the use of the staff's attorney also advising the commissioners. He noted that she (Carolyn Lake) should not act as the attorney for the commissioners. Commissioners Van Schoorl and Telford both indicated that if this were to go to a hearing by the Port Commission, then the Commission would obtain separate legal counsel.

Mr. Dierker also indicated that by adopting the findings of fact by the responsible official, Legal counsel should also be given separate legal counsel for the executive director. Mr. Dierker indicated that this project is really to bring in larger airplanes.

Harold Clark, resident of Tumwater, commented that this all sounds interesting, but to his knowledge and he has been around this airport for a long time, we have never had a large airplane at this airport.

Jim Wright, resident of Olympia, commented that we do not need an outside counsel to make a decision such as this, the report is clear and specific, make a decision and get it on its way. The port has already been overcome with legal fees.

E.J. Zita, resident of Tumwater, indicated that she agrees that we should not waste time on additional legal counsel, this should not be heard by the commission but by an outside independent hearings examiner. She noted that the port continues to side step environmental reviews, unless held accountable by the citizens. She reported that she is concerned that there is a piece meal expansion of the airport. The 94,000 aircraft are unusual and do not happen often. However, if the Port moves forward with the expansion project, it will negatively impact the community with noise and endangerment to the environment and habitat. She indicated that she favored Option B.

Arthur West, resident of Olympia, commented on the appeal procedure to the responsible official. He indicated that he would hope that what decision is made that there is an official transcript that can be used with the Superior Court. Since there was not recorder present at the meeting with Mr. Galligan, then there is no official transcript that can be sent to Superior Court. He also advised the Port that they should coordinate with the FAA because a NEPA document will also be required.

Christy Johnson, resident of Tumwater, asked the Port to hold informal meetings during other hours than business hours because it does not accommodate her schedule. She is concerned about the projects at the airport and the fact that we are inviting more air traffic to our airport. That action does not add to quality of life to the residents surrounding the airport. She commented that she was very disappointed with administrative appeal process.

Walt Jorgensen, resident of Olympia, commented that it seems obvious from the discussion tonight how convoluted this process is. This process asks too much of the executive director and the commission to be unbiased in judging on these cases. He indicated that he would like to move right on to Superior Court, get a real judge and a real hearing. He also commented that he felt it was unrealistic for the appellants to be required to submit two boxes of paper and the commission doesn't even read it. He commented that he was stunned that there are no minutes of the reconsideration hearing.

Ms. Carolyn Lake indicated for the record that she and the commission have not had any contact outside this meeting.

Commissioner Telford spoke to the motion, he did read the file and indicated that he is prepared to hear in a formal setting or else refer to a hearings examiner. He commented that he spent at least 8 hours and is not comfortable with moving this right to court. Commissioner Van Schoorl indicated he was divided on whether to go to a hearings examiner or whether to go to court. If had some belief that if we sent it to a hearings examiner this would be the end of it, do not have that level of confidence and therefore would prefer to move this directly to court.

The motion to approve Option C, decline to hear the appeal and adopt the Decision of the Responsible Official as the Port's Final Decision passed with a 2-0 vote. Commissioner Telford abstained.

ADVISORY CALENDAR

2007 Operating and Capital Budget Advisory and Public Hearing

- Mr. Steve Davis, Finance Director, provided the Commission with an advisory on the 2007 Operating and Capital Budget proposal. Following his advisory, the Commission discussed proposal and listened to public comment.

Mr. Ed Galligan gave closing statement. He commented that the adoption of a Budget does not give staff the license to spend, however as new opportunities arise we would bring back for consideration. He commented that his goal is to see revenues grow on a competitive business market, and marketing is an important factor in growing revenues. He noted that the projections for 2006 shows to be a disappointing year. He commented that next year staff would be providing the commissioners with a quarterly basis financial report.

Commissioner Telford, asked Mr. Davis to explain the compensation component, what is incorporated? Mr. Davis responded, the consultants are currently looking at the entire compensation package; this budget includes a dollar amount as a placeholder until we receive the final report from the consultants. He noted specifically, \$106,000 is spread out throughout budgets as the placeholder.

President Pottle asked how much not having Weyerhaeuser has cost us? Mr. Davis responded that loss has been \$650,000 net loss for 2006. The next 6 months will cost us another \$650,000 loss to the port.

Jerry Dierker, resident of Thurston County, indicated that he was glad to see in the budget some consideration environmental factors. However, he noted that for some of the environmental reviews that have been done and in the future may cost more than what the Port is projecting. He noted that the Port would potentially be liable for the clean up of the property the City is interested in purchasing. Also indicated that the port needs to change its way of doing environmental reports, there may be more environmental appeals.

Arthur West, resident of Olympia, asked that the commissioners to review the harbor facilities plan and make sure that all the developments are in compliance with the growth master plans of the city. The port has adopted a master plan of it's own and not sure the port is legally able to do that. Commissioner Van Schoorl responded that the Port does not only have the ability, but the duty to do so.

Bill Pilkey, resident of Lacey, commented that this budget is hard to read and understand. It appears that the public access referred to is not being improved, but is being eliminated at the second meeting of every month when the Commission does not allow public comment. He also noted that \$110,000 is not enough to balance a budget. The increase of 21% in G & A is a concern. He indicated that the detailed budget needs to be released to the public.

Walt Jorgensen, resident of Olympia, asked three questions. Are you going to be able to pay all of your bills this time around without dipping into tax money? If you do, are you going to admit that you are not making a profit? If you are making a profit, share the tips with me.

Bob Jacobs, resident of Olympia, indicated that he comes once a year and says the same or similar statements. The presentation is designed to mislead the public about what is going on here financially. The operations are shown with out G&A, 42% of the budget and not showing. The budget also shows no depreciation with a capital-intensive budget, depreciation needs to be accounted for. He stated that this budget is misleading to the public and the Port is also hiding the subsidy to the customers. He advised the Commission to put the ports assets into an investment fund and make the county residents money. He asked for a wholeistic financial impact to our county. You're a business, but don't act like a business, you get bailed out all the time.

Commissioner Telford commented that the 2006 budget is a disaster; the Port turned an \$800,000 positive budget to an \$800,000 loss. He commented that he has heard all the stories of why. He commented that when he compares 2006 to 2007, it shows real optimism on the Marine Terminal, but he is not sure what is going to change greatly. He commented that \$110,000 surplus is 2/10 of 1% return on what the port has consumed in the last decade. It is all in the G&A increases, which are out of control. He commented that there is a 40% increase from 2004 for G & A costs. Not sure what they are really accomplishing. Staff needs to go back and scrub the expenditures and seriously examine the budget proposal and bring back an improved bottom line better than \$110,000.

The Commission asked Mr. Davis to make a footnote on other non-operating revenue on page 3 of 7. He should make a note when something is out of the ordinary, like the sale of property.

The Commission also asked Mr. Davis to correct the numbers in the 2007 budget levy amounts listed on page 5 of 7.

Commissioner Telford indicated that he is concerned about berth 3 maintenance dredging not including berth 2 at the same time. He commented that it makes sense that you either do both at the same time or none at all. Commissioner Van Schoorl indicated that this is placeholder, and agree that it makes sense to do both at one time; we are long way away from knowing the final numbers.

Commissioner Telford commented that from the workshop to today's presentation, he does not see any differences, only G & A going up, it didn't look like much was incorporated from the workshop.

Commissioner Telford commented on the following capital projects:

He noted that the Bank erosion project should only be done north of Boatworks. He did not want any work done on the south end where East Bay is being developed.

He commented on the Maffi trailers and asked staff to buy used rail cars if that solves the problem.

He commented on the Marina and public work Maintenance building and the \$200,000 for design and planning in the budget. He noted that you should be able to get it built for that. He also commented that he would like the Marine Terminal Maintenance to be combined with this project as well.

The Commissioners asked for a listing of changes from the workshop.

Commissioner Van Schoorl commented that this budget is not perfect, the presentation is improved year over year and it is very clear what you are trying to accomplish. He commented that as he looks at budget, is it serving the mission and where we are trying to go. The issues around environmental, these are all positive steps, we have been doing for a number of years and hopefully we will be soon done with cascade pole and then will just have maintenance of that program.

He commented that he was very pleased with the compensation program and looking forward to moving forward with making changes in that program. We have a placeholder in the budget and will look at the results of that report when that comes forward. He commented that it was definitely time for new direction. He commented that staff needs to cut costs and bring up the operating margin more than \$110,000 surplus. The G & A needs to be reduced and we need to do a better job of communications and environmental reporting. He congratulated staff on all the grants staff has pursued other means of funding for these projects. He indicated that he would like to see placeholder in the budget for grant anticipations. If matches are required for a grant that needs to be brought forward in a report before we pursue that grant.

President Pottle commented that staff has done an excellent job of making the budget more user friendly. What this budget is in many cases is miss characterized. Just because it is in the budget doesn't mean that it gives the authorization to spend, but a placeholder for these projected projects. In all cases, the final estimation of a project will come back to the commission for final approval. He commented that placeholders in the budget for grants are a good idea. He noted that the legal battle to bring Weyerhaeuser here has cost us a lot of money in lost revenues and increased legal fees. To indicate that we don't know what happened this year is a misstatement, we know that Weyerhaeuser is not here and therefore the resulted in a loss of revenues.

The Commission indicated that the look forward to looking at financials on a quarterly basis and would also like to look at the progress on priority projects on a quarterly basis.

Update on Commission Recruitment Process

Commissioner Van Schoorl indicated that one candidate will interviewed this Thursday at 1:30. He noted that they have interviewed one withdrew, interviewing final candidate.

PUBLIC COMMENT

Jerry Dierker, resident of Olympia, spoke regarding the clean up of environmental issues in the Port area and commented that eh Port may not be selling that piece of property to the city as the Port thinks. That site will be found to have dioxins on it.

Bill Pilkey, resident of Lacey, asked about the \$2 million on the new restaurant at Northpoint. The Commission responded that the Port has invested in the foundation as a part of the insurance settlement and the ports investment will be recovered by a one-time payment from Anthony's and from annual rents. Mr. Pilkey also noted that Pottle should be excluded from the voting on the budget, he was not at the workshop, will not be here to put budget in to effect.

Drew Hendricks, resident of Olympia, indicated that the Coast Guard falsely reported that several people were throwing rocks. Mike Crawford called and apologized.

Arthur West, resident of Olympia, indicated there is a conflict of interest by Commissioner Van Schoorl; he is the budget director of DNR, president of WPPA, and port commissioner. He commented that he holds three jobs and he is concerned that this violates port policy and the executive conflict of interest act.

COMMISSIONERS REPORTS

Commissioner Van Schoorl indicated that he attended the capital lake area management plan meeting and is very concerned. The sediment study shows if the dam were removed, over two meters of sand and silt would be deposited in front of the marinas and the Marine Terminal. That would be almost three times the amount we are looking at dredging currently. There would be an immediate flushing out of capital lake into the bay. He commented that he would like to have a presentation that was given to CLAMP at the second Port Commission meeting in January. He noted that he would also like to invite commodore of the yacht club, the three marinas, and the city. The City will be impacted with Percival landing and the other marinas in the inlet will be useless.

President Pottle commented that he attended budget meetings with staff this past week.

EXECUTIVE DIRECTOR REPORT

Mr. Galligan reported that he and Commissioner Van Schoorl met with East Bay Neighborhood Association in October.

He noted that staff is working with DOE to do some additional testing at Cascade Pole and will submit a plan to assure that the water levels are not going over the slurry wall.

He indicated that the Appeal on taxilane is being heard this Friday.

He noted that East Bay development has hired an outside consultant for traffic study and will engage the city once we have preliminary results and doing soil testing and characterization on the entire 17 acres.

ADJOURNMENT

President Pottle recessed the meeting on November 13, 2006 at 8:19 p.m. to executive session to discuss

two property issues with staff and legal counsel. The executive session was adjourned to public session at 9:10 p.m. at which time the Commission announced that no decisions were made.

President Pottle announced that Commissioners Van Schoorl and Telford would hold a special meeting on November 16, 2006 at 1:30 for the purpose of interviewing candidate Don Melnick. The meeting will be held at the Port offices.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer