

**PORT OF OLYMPIA COMMISSION
MINUTES OF SPECIAL MEETING**

December 22, 2003

CALL TO ORDER

President Pottle called the meeting of December 22, 2003, to order at 3:00 p.m. at the Port offices in Olympia. Commissioners Telford and Van Schoorl were also in attendance.

President Pottle announced the Commission held an executive session on December 22, 2003 prior to the meeting at 1:30 – 3:00 p.m. at the Port office for the purpose of discussing pending litigation in accordance with RCW 42.30.110(i). The executive session was scheduled to end at 2:00 p.m. President Pottle came from executive session to the special meeting to announce the executive session would be extended to 3:00 p.m.

Staff in attendance was: Executive Director Nick Handy, Operations Director John Wolfe, Accounting Customer Service Representative Connie Staley, Accounting Manager Susan Buck, Marine Terminal Foreman Mike Crawford, Administrative Assistant Jennie Foglia, and Administrative Manager Jeri Sevier.

Others in attendance were Chris Clough, representing *The Olympian*, Al Gibbs representing *The News Tribune*, Jim Wright, Wendy Holden, Keith Bausch, Meta Heller, Elie Halpern, Beth Halpern, George Darkenwald, Holly Mason, Russ Carstensen, Harold Chambers, Kathy Garrett, and Chris Lane.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PUBLIC COMMENT

No public comment was given on items not on the agenda.

ACTION CALENDAR

Executive Director Handy Contract Discussion

Mr. Nick Handy asked the Commission if he could have a few minutes to present his interests and perspectives and possible solutions regarding this issue. Mr. Handy summarized what he felt was his understanding of the Port's views on this issue. He indicated that he understood the Port wanted to minimize the cost to the Port, the willingness to pay the full incentive contract, the intent that the incentive pay was not to be included in the retirement calculation, and that this is a business decision of the Port and the need for termination.

Mr. Handy indicated that his views of this issue are very similar to the Port's and he also shares the concern about litigation and the cost to the Port. However, he indicated this is not only a business decision, but also a political decision and defines what values are important to the Port. He indicated he disagreed that the incentive pay – at least the last two years – were not to be included in the retirement calculation. He indicated that even though the agreement specifically stated that, during the negotiations of the agreement, the language was taken out that indicated the last two years would be included as compensation. Mr. Handy indicated that this is an entitlement as an employee and is based upon state law and not what the Port wants to do. He commented that he signed the agreement and has honored that agreement. It is now that the Retirement system is determining what is to be included, not the Port or

himself.

Mr. Handy submitted a solution to the Commission indicating that he has asked the retirement system to reduce the benefit to only include the last two year portion of the incentive pay, which would reduce his retirement benefit from \$82,000 to \$67,000 a year. This would cost the Port approximately \$120,000.

Public Comment

The following individuals provided public comment encouraging the Commission not to fire Mr. Handy. Russ Carstensen, Chris Lane, George Darkenwald, Kathy Garrett, Nat Jackson, and Wendy Holden. Harold Chambers provided public comment, but not clear on his support for or against this issue.

Commissioner Telford moved to terminate Mr. Handy. President Pottle seconded the motion for purposes of discussion. The Commission discussed the motion.

Commissioner Telford commented that he has agonized and struggled to look at every possible alternative, but unfortunately, to no avail. He said according to Mr. Handy, there is no room for negotiation. Commissioner Telford indicated that he represents the interests of the taxpayers and feel that the agreement clearly states the intent and that the compensation was not to be included in any retirement calculation. He indicated that the Commission all agrees that the \$80,000 is owed to Mr. Handy and they have tried to find ways of paying the \$80,000 without the excess compensation included in his retirement benefit, but Mr. Handy will not agree to that, he wants the compensation included in his retirement. Commissioner Telford commented that they have gone through every possible scenario to figure this out. He noted that this is a defining moment and defending the public's pocketbook is important.

President Pottle indicated that he has not yet made his decision on how he plans to go on this issue. He indicated he too has values and principles, however, the Commission is in a disagreement on this issue with Mr. Handy and Commissioner Pottle commented that he has operated under certain assumptions for six years. The agreement states that the Port only pays the \$80,000 and it would not be considered as excess compensation. He indicated the Commission has tried to negotiate, maybe not to Mr. Handy's satisfaction, but they cannot agree. Commissioner Pottle noted that either way, he will not be pleased with this decision and his final decision will be based on the overall costs associated with this issue.

Commissioner Van Schoorl indicated this has been a very emotional issue. The Commission has put five alternatives on the table and can't get anywhere with those. He noted that we should be celebrating Nick's retirement and the success of a great comprehensive plan and how we have taken the Port in the past ten years to success. Commissioner Van Schoorl said that defending the public's pocketbook means much more than the \$100,000 in question here. He commented that the economic impact is much larger, regardless of the tactics used in this situation; the termination brings to high of a cost to the Port and to the community. Commissioner Van Schoorl commented that he would like to recoup the costs through the insurance carriers, but whether we do or not, the cost to the Port is too high. He noted that the ultimate decision is to move the Port forward and we need the community support to do that. He indicated he would like to cut our losses and move forward to the bigger picture.

President Pottle suggested the Commission place Mr. Handy on administrative leave through the end of the year, keep the dollars to the \$100,000 that Mr. Handy has indicated, limit future liabilities, and proceed with a case against the attorneys insurance carriers.

President Pottle called for the motion to terminate Mr. Handy. The motion died with a 2-1 vote. Commissioners Van Schoorl and Pottle voted against the motion, Commissioner Telford voted for the motion.

President Pottle made a motion to put Mr. Handy on administrative leave through December 31, 2003. The motion passed unanimously.

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Executive Director Interim Agreement

Commissioner Van Schoorl moved to appoint John Wolfe as acting executive director through December 31, 2003. The motion passed unanimously.

Executive Director Appointment

Commissioner Van Schoorl moved to appoint John Wolfe as the Executive Director for the Port of Olympia effective January 1, 2004, setting his salary at \$95,000 per year with four weeks of vacation and a \$550 a month car allowance. The motion passed unanimously.

ADJOURNMENT

President Pottle announced adjourned the meeting at 4:17 p.m. on December 22, 2003.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer