

## **PORT COMMISSION MEETING – January 8, 2003**

The Port of Port Townsend Commission met in regular session at the Point Hudson Marina Room, Port Townsend, WA.

Present: Commissioners – Beck, Pirner and Sokol  
Executive Director – Crockett  
Auditor – Taylor  
Facilities Manager – Pivarnik  
Attorney – Harris

Absent: Operations Manager – Radon

### I. CALL TO ORDER / PLEDGE OF ALLEGIANCE:

### II. APPROVAL OF AGENDA:

**Upon motion of Commissioner Sokol, the agenda was unanimously approved with the following additions:**

- V. Old Business
  - B. Pt Hudson Recreational Vehicles
- VI. New Business
  - C. Conservation Futures Funds
  - D. Wills House Lease

### III. ELECTION OF OFFICERS:

Commissioner Pirner moved to elect the following slate of officers: Commissioner Sokol as President, Commissioner Beck as Vice President, and Commissioner Pirner as Secretary. The motion carried by unanimous vote. Commissioner Sokol thanked Commissioner Pirner for his leadership and efforts as President over the last year.

### IV. CONSENT AGENDA:

- A. Approval of Minutes – 12/30/02
- B. Approval of Warrants
  - #27252 through #27276 in the amount of \$28,523.24
  - #27277 through #27284 in the amount of \$31,860.36
  - #27285 through #27334 in the amount of \$20,111.13
- C. Resolution #388-03 – Authorizing the Sale of Abandoned Vessel

**Upon motion of Commissioner Pirner, the Consent Agenda was unanimously approved.**

### V. PUBLIC COMMENTS: (not related to Agenda) – None

### VI. RECESS TO A MEETING OF THE INDUSTRIAL DEVELOPMENT CORPORATION

The Commission recessed into a meeting of the Industrial Development Corporation at 3:18 PM and reconvened at 3:22 PM.

Mr. Crockett explained that the annual meeting of the IDC is a requirement for those districts also formed as industrial development corporations. The IDC has authority to provide a pass-through service for bonding.

### VII. OLD BUSINESS:

#### A. Demolition Permit Update

Mr. Crockett reviewed that the Port had, per its December 19 meeting, requested from the City a pre-application meeting to discuss the requirements of demolition permits for selected buildings at Point Hudson. He also attended a meeting of the new Demolition Prevention Task Force at which it drafted a revised Demolition Ordinance that would make it nearly impossible to modify any of the Point Hudson structures over the coming year. The Port's recent deliberations regarding

Point Hudson were cited as a reason for such an ordinance. In order to preserve its options, the Port sought to vest these buildings under the current ordinance. By applying for the permits now, the intent was to ensure this flexibility as the Comprehensive Planning process and master planning process for Point Hudson are developed. The pre-application meeting was set for Tuesday, January 14 at 10:00, at which time the City and Port staff would continue discussion of the permits. Council had directed Manager Timmons to work with the Port to organize an immediate meeting of elected officials on this issue. Mr. Crockett is uncertain why the Council feels a meeting as soon as January 10 or 13 is necessary and invited the City Manager and Attorney to explain the Council's urgency on this matter. He feels a Staff-level discussion is needed prior to a meeting of elected officials.

Commissioner Pirner noted that in watching the Council meeting, there seemed to be an assumption that the Port intends to demolish buildings, but no mention that the Port wanted to apply for permits under the old law because it would be less expensive for the Port. Any demolition would only occur 3-4 years after the Port completes its comprehensive planning

Commissioner Sokol said that while there has otherwise been good newspaper coverage on this topic, headlines about a "demolition plan" were inaccurate, since there is no plan.

Commissioner Beck said his main concerns relate to the health hazards due to the creosote in the building material of the current structures.

(Discussion was tabled until City Manager and Attorney were present)

B. Point Hudson RVs

As discussed in today's workshop, Staff is receiving many reservation requests for RV sites, including some from groups also looking to use the event facilities. Although there was maintenance and upgrading of the loop RV sites last year, sites on the point still need electrical post and water spigot repair and general maintenance. While the Port had originally intended to begin clearing RVs off the Point, it is uncertain that the Port could retain their grandfathered status if the spaces were moved to another location in Point Hudson. This matter may be discussed further in the City/Port staff meeting Tuesday but Port Staff recommends that sites be left where they are and upgraded in consideration of the revenue they will produce in the approaching 2003 season.

**Commissioner Beck moved to direct Port Staff to upgrade the RV sites on the point at Point Hudson as soon as possible, including any necessary electrical and water spigot upgrades and the installation of cable as Staff determines necessary.** During discussion of the motion Commissioner Pirner suggested Staff get estimates on the removal of poles and burying of electrical cable which is currently overhead, but pursuing the least expensive alternative.  
**The motion carried by unanimous vote.**

VIII. NEW BUSINESS:

A. Operations Report – Month of December

Mr. Crockett reported that the Port in 2002 performed a record 108 heavy lifts. He also noted that the feature on the marine trades in *The Leader's* business section had good photos of last year's boating activity. Despite the sagging economy, there is a lot of activity in the Boat Haven.

Commissioner Pirner pointed out that 60 and 70-ton lift movements were up 15%, back to where they were two years ago. Also, the moorage wait list is now 241, down from 266 boats a year ago. Staff said that while we averaged 383 permanently assigned slips in 2002, that number was down from the 406 in 2001 because the Port retained more slips for monthly guests and transients. The number of permanent slips is now over 406 and many have been moved off the waiting list.

Noting that the moorage report reflects free nights down from 28 to 5, Commissioner Sokol asked if this is a result of policy changes. Mr. Taylor noted that there was a policy change that provided a free day in the yard with a haul out as opposed to a free night's moorage and suggested that this change in policy may warrant a footnote in the report.

B. Washington State Auditor's Office Accountability Audit Report

The Port's two-year audit was just completed and the exit briefing attended by Staff and Commissioner Pirner. A draft copy of the initial report was distributed, with an official copy expected soon. Results stated that "The Port complied with state laws and regulations and its own policies and procedures in the areas we examined. Internal controls were adequate to safeguard public assets. We also noted the Port's financial statements were complete and accurate." Staff noted that the auditor spent roughly 225 hours on the audit, with significant time spent looking at current procedures and internal controls, which changed with the takeover of Point Hudson, as well as the new accounting programs and marina management system.

C. Conservation Futures Fund

Mr. Crockett noted that the Jefferson County Conservation Futures program is seeking proposals for projects enhancing open space land preserves. In reviewing the criteria outlined in a *Peninsula Daily News* article, he saw in this funding an opportunity to purchase higher-grade wetland areas to be used as mitigation for using lower grade areas for hangar construction. Applications need to be submitted before March 30, so he has asked Mr. Pivarnik to do a quick survey of parcels surrounding the airport and the Quilcene property.

Commissioner Beck noted there must be a willing seller. He reviewed that \$325K exists in the fund, which accumulates about \$150K a year. The Commissioners were supportive of Staff pursuing a portion of these funds.

D. Wills House Lease

Mr. Pivarnik reported on the request by Port Townsend resident and attorney Richard Suryan to rent the middle portion (300 sq. ft) of the Wills House for his law practice. Absent an aviation-dependant tenant, there is no FAA law prohibiting the granting of a month-to-month lease. Staff would propose renting this space to Mr. Suryan at a rate of \$200 per month plus \$50 in utilities.

**Commissioner Beck moved to approve the lease to Richard Suryan at a rate of \$250 per month including utilities plus taxes. The motion carried by unanimous vote.**

IX. STAFF COMMENTS:

Mr. Harris:

Dates related to the County UDC appeal adoption are as follows: the document would be introduced to the Planning Commission on January 8, the presentation by the Port and Al Scalf would be given January 15, and the Planning Commission hearing would be on February 5, to be followed by the Planning Commissions deliberations on February 19.

Mr. Taylor:

After September 11, 2001 the Port received terrorism exclusions on their insurance policies. On November 26, 2002, the President signed the Terrorism Risk Insurance Act, which nullified these exclusions and gave 60 days for the insurance companies to offer the insured the opportunity to buy back terrorism coverage. Since the law apparently does not require pools to offer this coverage the Port, with its primary coverage through the Washington Government Entity Pool, remains exposed. However, the provider of the airport general liability policy is now offering terrorism coverage for international terrorist events, protection that would exclude all the buildings, which are insured by the pool. The premium for this policy, which renews April 9, would be \$9,200 a year. Since the Port is meeting all current FAA guidelines, Staff does not believe this coverage is necessary. Staff noted that domestic terrorism coverage may soon be

offered for an additional premium and that future policy renewals may include terrorism coverage for which the Port would need to opt out. As of January 1<sup>st</sup>, the Port has contracted professional security services for Point Hudson and Boat Haven but not the airport. The security company is willing to provide extra coverage, should the FAA come down with more stringent security requirements.

Mr. Pivarnik:

New tables and chairs were purchased for Point Hudson.

It is nearly time to renegotiate leases at Point Hudson. A report will be available at the next meeting and Staff will be requesting Commission direction.

Mr. Crockett:

The Port Townsend Noon Day Rotary Club may be interested in holding regular meetings at the Point Hudson facility.

X. PUBLIC COMMENT: None

XI. COMMISSIONER COMMENTS:

Commissioner Pirner:

He expressed appreciation for the cooperation as Chair he received over the last year from both the Port Staff and the public. He recognized that it has been a good year and is pleased about the positive audit.

Commissioner Beck:

He is unaware of any projects that have applied to utilize the 0.08% infrastructure fund. Commissioner Pirner said the County is in the process of picking representatives of the three districts for the Community Investment Fund Board. Commissioner Sokol suggested the use of this fund might be discussed at the Intergovernmental Meeting under the Port's topic of "Jobs."

Commissioner Sokol:

Noting that a recent Letter to the Editor in *The Leader* said it was too bad that the BOCC meetings are not on television, he said he believes televising the Port meetings might also provide the public with a different perception of the Port's business.

He recommended that Port workshops begin at 9:00 AM instead of Noon to allow for a break before convening for the regular 3:15 meeting. Staff agreed to add this item to the next agenda.

*City Manager Timmons, City Attorney Watts, and Port Attorney Winters joined meeting.*

VII. OLD BUSINESS:

A. Demolition Permit Update (Continuation)

Responding to the Commission's request for a better understanding of the Council's sense of urgency on this matter, Manager Timmons explained there was general concern on the Council about the Port seeking demolition permits in the absence of completion of a plan or a vision for Point Hudson. They considered whether to adopt an interim ordinance that would place a moratorium on applications until such time as the final ordinance is completed in the next 3-4 months. The draft currently underway is similar to other seaport communities with similar historic landmark designations. There is heightened concern about the future of Point Hudson as a landmark on the Port Townsend waterfront. The review at the last Council meeting was considered the first reading of the ordinance. City Staff invited the Port Commissioners to meet with the Council prior to the second reading. If adopted there would then be a public hearing.

Port Staff reviewed efforts to have open meetings with the Building and Community Development (BCD) staff about the Port's process. They consider Council's response to a request for a pre-application meeting somewhat drastic. The Port is simply being prudent, not knowing what will unfold in the Comprehensive Scheme, in wanting to preserve its options, including the

flexibility to demolish and rebuild. Through the Comprehensive Scheme Advisory Group, a clear alternative is that over the next 20 years the Port should consider expanding the Point Hudson marina. If this were eventually done, it would impact the existing buildings. The Commission has been clear about its desire to retain the Sail Loft, Cupola House and the Commanders House. They proposed that the City Council tour the Point Hudson facilities to get an idea of the liability the Port is facing.

Mr. Watts said that language in the ordinance requiring the Port to bear the cost of additional engineering assessments is currently being revised. If the City requests a second review it would be at the City's expense unless it can show that the applicant's analysis was substantially inaccurate or incomplete.

Mary Winters said the Port has made it clear when they voted to submit the demolition permit that there would be no razing in the next six months, and in fact it would be potentially years away after a public process. So any concern in the moratorium that there would be demolishing of buildings needs to be dispelled publicly. The only issue is vesting and if the moratorium is intended to stop the vesting, then that needs to be clear. Mr. Timmons responded that the Council did not want the vesting to occur without the benefit of the revised changes they have been working on for the last six to nine months. The Council sees this as a public responsibility.

Commissioner Sokol noted that even though the Port has gone to BCD about submitting a permit there was no attempt to go around the Council. The first the Port knew of the emergency ordinance was Monday of this week. No one involved in creating this ordinance talked with the Port, even though the Port was the target. The Port first learned about it through *The Leader*. Those buildings identified as having architectural significance by the preliminary engineering studies were excluded from the Port's motion to seek demolition permits. He is more than willing to meet with the City Council to tour these buildings and offered to arrange for small groups of citizens to accompany them.

Mr. Harris said the Port is questioning whether this is a clash of authorities. Does the City have authority to regulate the management of a property owned by another government entity, which has different functions under the statutes, a different tax base? Should the Port have to pay the costs imposed by this ordinance? He believes the ordinance needs to consider these issues. He believes the Commission shares the goal of historic preservation, but not to the extent that they would be required to maintain buildings that are unsafe and cannot be made safe without a huge expense to taxpayers. Such proposals may be economical and unreasonable. Mr. Crockett added that the City had passed a resolution to ensure Point Hudson is financially self-sufficient.

John Watts noted that the draft ordinance does not prohibit the demolition of any historic structure, nor is there any requirement to maintain a building. It simply raises the level of analysis that would be required before demolition of significant buildings, much of which may have already been accomplished by the Port. Mr. Watts talked about the City's various levels of review and noted that the issues of takings, etc. would need to be addressed.

There was further discussion about how to relax this process until there could be further discussions either between the staffs or the Commission and City Council directly.

The City explained their ordinance adoption and hearing process. Mr. Watts again stated that this issue has raised a lot of concern at the City Council level. The issue is that the Port, for legitimate reasons, appears to be trying to vest under regulations that are under consideration for possible revision. He suggested that a withdrawal of the Port's application would eliminate the need for an interim moratorium ordinance and create the opportunity for discussion. Ms. Winters agreed that the City and Port could spend a lot of time on vesting and moratoriums unless a better solution is found, such as a demolition/historic preservation ordinance with which the Port could live. She talked about the unnecessary restrictions imposed on the Port by this ordinance. There is also

nothing in the ordinance that looks at treating another public entity differently than a private developer. Some of the requirements make no sense when talking about tax dollars and a government entity that would have to go out for bidding and has a completely different process. She has not heard from Staff or the Land Use committee that those are valid issues.

Mr. Timmons said he has seen projects where there is a different standard for one entity over another and that process got exploited. When asked how he could reconcile treating a public entity differently than a private entity, Mr. Harris noted the different guiding mandates of the City and Port. Mr. Timmons said he is struggling with the idea that the Port has a lesser standard as a trustee of a historic building than a private owner. Mr. Crockett corrected that no structure at Point Hudson is a registered historic building. Mr. Timmons summarized that the Council wanted to preserve the status quo until it could resolve the issue of equality and equal treatment under the law and have something in place that we, as a community, can live with. In acknowledging that desire, Mr. Harris stated that the Port also wants to preserve its right to challenge the ordinance in its entirety.

Ms. Winters proposed there be an agreement that there be no moratorium and that the Port would not demolish pending the Comp. Scheme and further master planning at Point Hudson. She did not want the Port's planning process to go forward and for a Master Plan to be developed that would then be either prohibited or made extraordinarily expensive by an adopted demolition code. That is why she had advised the Port to vest – not because of the desire to raze, but because of the further planning needed and the desire for that planning to have a chance of being implemented.

The Commissioners and Port staff talked about conditions the Port learned about only after gaining control of Point Hudson that make leasing the old buildings problematic. Restoration of many of the buildings is impossible due to the serious structural deficiencies, which is why the Council, Historical Preservation Committee (HPC) and any interested citizen should be able to go inside and tour these buildings. It is certainly unfair to portray the Port as irresponsible.

Following discussion there was support for holding a tour of Point Hudson – or two tours if needed to accommodate the scheduling of councilmembers – and a workshop meeting for further discussion of these issues. There was further discussion about Mr. Watts' suggestion that the Commission authorize the Executive Director to enter into a Memorandum of Agreement (MOA) that there be a standstill agreement between the entities. Mr. Harris noted that there is no need for an emergency ordinance, given that the Port is not ready to demolish. Asked if the City's passing of the moratorium ordinance would cease the Port's pre-application, Mr. Watts said that it would suspend the right to apply.

It was clarified that the City Council is invited to come to Point Hudson for a 2:00 PM informative tour of Point Hudson, to be followed by a special meeting of the City Council at 5:00 as well as a special meeting of the Port Commission. The summit would be held in the Point Hudson Marina Room. It was understood that both entities should notify the press in the event there could be a decision to suspend action. It was further understood that by "standing still" the Port means it would agree not to proceed with the final application process. It was suggested that a separate tour be scheduled for the Historic Preservation Committee.

Mr. Watts noted that a subgroup of the HPC would be meeting tomorrow to talk about the demolition ordinance.

B. Noise Ordinance

Mr. Timmons reported that as a courtesy, the Commission had received copies of the draft ordinance now under review by the City Council committee. The Port was asked to withhold comment until after this review is completed and presented to the Port Staff and Attorney. Mr. Watts recognized that the Port would be providing comment after its meeting on January 22. The Committee would take the matter up again at their February 5 meeting.

XII. NEXT MEETING:

Monday, January 13, 2003 at 5:00 PM would be a Special Meeting in the Point Hudson Marina Room, Port Townsend, WA.

Wednesday, January 22, 2003 at 7:00 PM the Tri-Area Community Center, Chimacum, WA.

XIII. EXECUTIVE SESSION:

At 5:20 AM, the Regular Meeting recessed into Executive Session for approximately 30 minutes to discuss real estate and legal issues, with expected decisions.

XIX. ADJOURNMENT:

The meeting was adjourned at 5:55 PM, there being no further business to come before the Commission.

ATTEST:

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President

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Secretary

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Vice President