

PORT COMMISSION MEETING – December 9, 2009

The Port of Port Townsend Commission met in regular session in the Commission Chambers, 375 Hudson St, Port Townsend, WA

Present: Commissioners – Beck, Collins, Thompson
Executive Director – Crockett
Deputy Director – Pivarnik
Attorney – Goodstein
Senior Accountant/Recorder – Hawley

Excused: Auditor – Taylor

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

The meeting was called to order at 1:00 PM.

II. APPROVAL OF AGENDA:

Item B – Incentive Program Extension was added to New Business. An Executive Session was added for discussion of two topics: real estate and legal, duration total twenty minutes, decision possible on legal issue.

**Commissioner Collins moved to approve the Agenda as amended.
Motion carried by unanimous vote.**

III. CONSENT AGENDA:

- A. Approval of Minutes – November 23, 2009
- B. Write-off Register
- C. Operations Reports – November 2009

Commissioner Collins informed that he would like to be able to ask questions regarding the November 2009 Operations Reports, it was agreed that he could bring up the topic during Commissioner Comments.

**Commissioner Collins moved to approve the Consent Agenda as presented.
Motion carried by unanimous vote.**

IV. PUBLIC COMMENTS (Not related to agenda):

None.

V. OLD BUSINESS:

A. Power Trip Energy Presentation:

Mr. Crockett provided background on the topic by saying that discussions between Port staff and the Power Trip Energy folks had been ongoing for several months. The presentation to follow, he stated, was to bring forward the idea of installing a solar power array at the Jefferson County International Airport that would power the runway lights, etc, and perhaps the new beacon light out there. He advised that at the end of the presentation staff would like a motion from the Commission to direct staff either to keep moving forward with the concept – or not.

Andy Cochran President and founder of Power Trip Energy and a member of the Jefferson Solar Group informed the Commission via a power point presentation about his company and how installing a solar power array panel at JCIA would interrelate and contribute to the electrical energy usage and savings to the Port over the next ten years. He offered details and information regarding both the Power Trip Energy and the Jefferson Solar Group.

After a thorough discussion that included the cost to the Port for the solar array (\$35K at the end of year ten) and other details:

Commissioner Beck moved to direct staff to continue exploring the concept and begin development of the various needed agreements.

A short discussion followed which included the aspect that that the proposed project was in concurrence with one of the major goals of the Port's Strategic Plan in that it would take a leadership role in environmental stewardship. Secondly, as a member of the Climate Action Committee, the Port was committed to reducing its carbon footprint over the next twenty-five years and that this was a big step in reaching that goal.

Motion carried by unanimous vote.

B. Boat Ramp Discussion:

Steve Tucker had prepared and submitted for inclusion in the Commission packet a report entitled "Port Townsend Area Launch Ramp Issues and Solutions". The article outlined problems (in Mr. Tucker's opinion) encountered by citizens using the boat ramp at Boat Haven. It also addressed the lack of adequate numbers of ramps in Jefferson County and Mr. Tucker's idea for a possible solution to part of the

problem, that of partnering with Fort Worden for use of their underused boat ramp as well as other ideas. He offered a verbal presentation to the Commission.

After a thorough discussion of the topic, the Commission and staff agreed that staff would approach Kate Burke of the Fort Worden State Park and attempt to reopen the dialogue between Fort Worden and the Port regarding the boat ramp at Fort Worden.

Chelcie Liu offered that, in his opinion, there was a great need in Boat Haven or Point Hudson for a hoist for trailer boats to facilitate launching vessels that required something more than just a ramp. It would also aid citizens who found off loading and reloading their trailer boats physically challenging for one reason or another. He suggested that, in his opinion, the best location for a trailer boat hoist would be in Boat Haven at the proposed new travelift site. As he understood it, the Point Hudson marina had not been designed to encompass a small hoist, otherwise that would be an excellent location. In his opinion, with the loss of small slips in the redesign of A/B Dock, the need for additional boat ramps made a small boat hoist more and more necessary. He offered several solutions and ideas for Commission consideration.

Mr. Pivarnik informed that the idea, although worthy, was not something he would recommend to incorporate into the new 70-ton travelift unless it was planned to totally redesign the lift. He advised that the Point Hudson pier was actually designed with a small hoist in mind. It had been estimated the cost of such a hoist would be \$85K and, he stated, the Port and Sea Marine had planned to partner for the project. However, with the downturn in the economy, the proposed project had stalled, for now. He informed that Point Hudson was the better choice, instead of Boat Haven, for a small boat hoist and explained his opinion. To follow up on Mr. Liu's question about the viability of having it at Point Hudson, Mr. Pivarnik reiterated that the dock was engineered but that the Port did not have \$100K (the expenditure would, most likely, not be recouped by boat ramp fees) to move forward with the envisioned project.

Mr. Crockett advised, after a thorough discussion between staff, the Commission and Mr. Liu that the topic should be scheduled for a workshop session.

C. Airport Rezone:

Mr. Crockett offered that on Monday, December 7, 2009, the Jefferson County Board of County Commissioners had held a formal Public Hearing on the topic. He advised that further discussion of what had occurred during and after that meeting should be discussed in Executive Session.

D. Leasehold Excise Tax (LET and Department of Revenue (DOR) :

Mr. Crockett provided background on the two letters with attached worksheets, received from the Washington State Department of Revenue, Leasehold Excise Tax Division, one dated 4/16/09 and the other dated 11/5/09, reminding that the topic had been discussed earlier in the year. He informed that he (representing WPPA) and representatives from several other port districts were going to join into a teleconference with the Department of Revenue at 3:30 PM today. He advised that the problem was not just with us, but also with many other ports within Washington State, because the language in the RCW said, essentially, that the leasehold excise tax collected should be the lesser of either the leasehold tax or property tax if the property was privately owned. How the ports implemented and handled this was the big question especially when the County Assessors could not keep current values on publicly owned property. He offered that one suggestion for a way in which to maneuver around the issue was to change the RCW language to allow the market rate that the port was charging to substitute for the assessed value so that, de facto, the leasehold tax would always be what the property tax would have been.

Mr. Goodstein offered that he had a slightly different "take" on the leasehold excise tax matter and related that some years ago there was some legislation passed concerning who had liability of payment of the leasehold excise tax and in that exercise the liability for payment of leasehold excise tax fell to the ports. There were, he informed, ports that had been audited by the Department of Revenue to determine if the Port was properly collecting the leasehold excise tax and the port was at some risk in that regime since if it was found during the audit that the amount of leasehold excise tax had been under collected the port district would be responsible to make up the difference after the fact. He suspected that any Legislative effort to simply say that whatever the port was charging was the proper leasehold excise tax would not sit well with the Department of Revenue from the

collections point of view because, he advised, ports were always under pressure to cut “skinny deals” in their role as economic development entities, and one had to be very careful about the issue to avoid any allegation from the Department of Revenue that the port was undercharging and under collecting the leasehold excise tax.

Additionally, offered Mr. Goodstein, leasehold excise tax was, supposedly, in lieu of property tax so if the property was owned by a private entity the County Assessor would be responsible for determining what the basis for the taxation was, so a port was always exposed to the argument that if the property was private property, it might be valued higher than the port was electing to charge and on which to collect leasehold excise tax.

A very lengthy, complex discussion followed between staff, the Commission and Mr. Goodstein about the topic, with the result that Mr. Crockett offered to participate in the teleconference phone call with the Department of Revenue and then update the Commission.

VI. NEW BUSINESS:

A. Approval of Warrants:

Warrant #043269 through #043297 in the amount of \$39,804.71 for Payroll

Warrant #043298 through #043306 in the amount of \$46,351.29 for Payroll Benefits

Warrant # 043307 through #043379 in the amount of \$122,430.22 for Accounts Payable

Commissioner Thompson moved to approve the warrants as presented.

Motion carried by unanimous vote.

B. Incentive Program Extension:

Mr. Pivarnik stated that he had received a request from a citizen to extend the Hoist Incentive program into 2010, because he wanted to bring his 110-foot submarine chaser (the owner planned to turn the vessel into a yacht) presently located in Gig Harbor, to Port Townsend but could not do so until January 15, 2010. He wanted to take advantage of the 50% haul out fee discount and was willing to prepay the hoist fee in order to do so, if necessary. Mr. Pivarnik informed the gentleman that he would bring the proposal to the Commission’s attention but also advised him that the likelihood of the 50% discount carrying over into January was highly unlikely. Prepayment was not an option, either, he advised, as it would open the door to others asking for the same accommodation.

After a brief discussion, agreement was unanimous to leave the policy as originally formed meaning that the 50% haul out discount would end on 12/31/09 as scheduled.

Mr. Crockett stated, additionally, that there had been some discussion of extending the lay day rate discount further into the year, and he advised, in staff’s opinion, it would be far easier to administer if the Commission lowered the lay-day rate to a flat rate instead of offering an extension to the discount.

VII. STAFF COMMENTS:

Mr. Pivarnik informed that the new beacon light at the airport was now installed. He advised that the contractor, Ebenal General from Bellingham, had performed flawlessly, keeping on time and budget.

Discussion followed which included that the FAA had been notified and would prepare a Notice to Airman noting that when they came to Jefferson County International the beacon light had been moved to the south side of the airfield (it had been located on the north side). Also discussed was if there was any historical value (no) to the old beacon (a plain telephone pole) which was installed over thirty years ago and had, in fact, been approved by Commissioner Beck.

Mr. Crockett related that the Weeping Atlas Cedar tree relocation project was successful. The specimen tree, which had a 4 to 4.5 foot tall trunk and a completely horizontal evergreen spread of 25-feet, had been previously located leaning against the fence at the Landfall Restaurant site and Mr. Crockett had been asked if the Port could help move the tree to another location. The tree was relocated near the Wheeler Theatre in Fort Worden last week by the Port maintenance staff.

Mr. Crockett informed of a recent meeting he had attended along with representatives from the City of Port Townsend, Jefferson County, Indian Island and the community regarding Federal Stimulus money available to bring to or improve existing Broadband service to rural communities. He advised a second meeting was planned for December 15, 2009 and would

be hosted by the Port in the conference room. The follow up meeting was to discuss ways in which to move forward to the end goal of a grant application submission.

He informed that an open government forum was scheduled for this evening at 6:00 PM at the Port Townsend High School auditorium. The forum was intended to educate the public on how to use the Open Public Meetings Law to obtain copies of government documents. He informed of an additional meeting on the subject with the State Attorney General stating that the meeting was scheduled for a Saturday in January, in Seattle, and was an all day event costing \$25.00.

VIII. PUBLIC COMMENTS:

None

IX. COMMISSIONER COMMENTS:

Commissioner Collins asked several questions regarding the November Operations report. A discussion followed regarding the Operations Report included in the December 9, 2009 Commission Packet.

Commissioner Collins revisited the issue brought up during the recent tour of the Boat Haven facility by the Clean Marina Committee about whether the liveaboards (but not only the liveaboards) were actually using the port pump out facilities. He suggested engaging the Moorage Tenants Union to help develop ideas and possible solutions for the problem for which he would like to see a policy that provided better assurance of compliance developed and implemented as quickly as possible.

Mr. Crockett responded that, as other Marinas were doing, that the liveaboard boater would need to demonstrate that they were actually using the pump outs and if they were not they would lose their liveaboards status. The only way to be absolutely sure of compliance, he advised, was to have Port staff go on board each liveaboard vessel, seal the heads, put in a dye tablet, and place a security band around it.

After discussion in which it was agreed that the issue was still a problem whether or not the Port received the Clean Marina status and one that needed to be dealt with proactively. It was felt that monitoring the problem (as in hiring a diver to go into the marina) was not enough and that a strong policy needed to be in place to actually stop the illegal pumping altogether.

Mr. Crockett suggested contacting the liveaboards in Boat Haven, set up a meeting time with them, discuss the issue and give them a certain amount of time to become compliant with the regulations to use the pump outs.

Commissioner Collins questioned whether there was a weekly RV rate available at Point Hudson.

Mr. Pivarnik informed that there was not, currently. There was a monthly rate, but not a weekly rate. In addition, he suggested that he was a proponent of somehow giving staff more flexibility to give discounts and offer pricing advantages (say someone came in and said I'd stay five days if you would give me a \$10.00 discount), on a case by case basis to individuals, instead of being absolutely tied into and being limited by, the Port Rate Sheets.

Discussion followed in which included that the idea was one worth further investigation and possible development. Mr. Pivarnik stated he would discuss it with Mr. Goodstein and bring a draft back for the next meeting for Commission review.

Mr. Crockett informed that private marinas have more options than did the Port.

Commissioner Collins suggested that perhaps some sort of "enabling" policy would provide the needed flexibility.

Commissioner Beck provided information regarding the recent WRIA 17 meeting he had attended and advised that the meetings would probably cease on December 31, 2009 due to a lack of funding.

X. NEXT MEETING: Next regular meeting will be held Monday, December 28, 2009, 1:00 PM, in the Port Commission Chambers, 375 Hudson St, Port Townsend, followed by an Open House thanking Herb Beck for his 36 years as Port Commissioner, at 2:00 PM in the Port Administration Building Conference Room.

XI. EXECUTIVE SESSION:

The regular meeting recessed into executive session for twenty minutes at 3:08 PM for discussion of two topics, real estate and legal.

XII. ADJOURNMENT:

The regular meeting reconvened from the executive session at 3:28 PM. Commissioner Beck offered the following two motions.

Commissioner Beck moved to direct staff to prepare a Letter of Intent with Make Waves in Port Townsend memorializing the Commission's intent to proceed with a development agreement for the locating of a public pool on the Port's Kah Tai property.

This letter would be presented to the Commission for possible adoption during the December 28, 2009 Commission Meeting.

Motion carried by unanimous vote.

Commissioner Beck moved to direct staff to begin negotiations with the Jefferson Land Trust for a possible Conservation Easement on the remaining 21 acres of the Kah Tai Lagoon property.

Motion carried by unanimous vote

The regular meeting adjourned at 3:40 PM there being no further business to come before the Commission.

ATTEST:

David H. Thompson, Secretary

Herbert F. Beck, President

John N. Collins, Vice President