

PORT COMMISSION MEETING – January 27, 2010

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

Present: Commissioners – Collins, Thompson, Erickson
Executive Director – Crockett
Deputy Director – Pivarnik
Auditor – Taylor
Attorney – Goodstein
Substitute Recorder - Nelson
Excused: Senior Accountant/Recorder – Hawley

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

The meeting was called to order at 6:30 PM.

II. APPROVAL OF AGENDA:

Added to New Business, Item G – Environmental Compliance Officer. An Executive Session was added for discussion only on a legal issue, duration approximately twenty minutes.

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

III. CONSENT AGENDA:

- A. Approval of Minutes – January 13, 2010
- B. Resolution No. 532-10 – Updating Commission Meeting Procedures
Resolution No. 533-10 – Authorizing Sale of Abandoned Vessel

**Commissioner Thompson 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. WPPA Legislative Port Day:

Mr. Crockett reported that Commissioner Collins would attend the WPPA Legislative Port Day conference in Olympia on February 1. Focus on certain issues need to be brought to the attention of our legislators and Representatives. One issue is the Prevailing Wage subject. For instance, when the Port has a public works project, we are required to pay prevailing wages for Jefferson County. These are based on the same wages paid in King County. The proposal is to require anyone hired to work on public property be paid prevailing wages. For instance, a local marine trade business leasing space from the Port who needed to hire a contractor to perform a building job would be required to pay prevailing wages.

Ginger Eagle of WPPA will provide an update on other pertinent legislative topics at the Legislative Port Day. Mr. Crockett advised there may be a need for the Commissioners to write letters to our Representatives if these issues proceed.

B. Port Newsletter:

Mr. Pivarnik talked of the success we had communicating to the public with the Port's Newsletter in 2009. The Newsletter Committee recently met to discuss cost saving options. In 2009, \$17K was spent on the Newsletter. Options discussed were all-electronic distribution vs. cutting back in the frequency of distribution of the paper newsletter. In 2009, four newsletters plus one Community Report were distributed. For the year 2010, the Committee liked the idea of cutting back to two issues plus one Community Report. This would reduce the budget by one-third. We would continue to post the newsletter on the Port's website. The newsletter can also be used as a vehicle to announce specials offered at times by the Port. Commissioner Collins would like to see the newsletter distributed in larger amounts to the local community centers, the libraries, etc. Mr. Pivarnik also added we might ask to leave some issues with retail businesses who are Port tenants. Mr. Collins asked about the possibility to have our newsletter linked to The Leader's new website. Mr. Pivarnik replied that he has talked with Scott Walker and this could be a possibility.

C. Landfall Quit Claim:

Mr. Pivarnik explained that Port attorneys prepared this Deed in order to terminate the Landfall lease. This will allow the Port to take over assets in the building. Approximately \$8000 is owed on the lease, these assets will be declared surplus and then sold to try to recoup some of that money owed. Both the Harrimans and Browns have agreed to sign this Deed. Commissioner Collins asked for reaffirmation from

Attorney Goodstein that this is a prudent business course and the Port has no donative interest in the process. Mr. Crockett added this process is to recapture money owed which will all the Port to move ahead. The Port is not liable for the money owed to the State by the former tenants.

Commissioner Collins moved to proceed with the Quick Claim Deed process as an effective and prudent way to terminate the lease with the Brown party.

Motion carried by unanimous vote.

Mr. Crockett added that he received a letter from Rick Seppler stating the City cannot start discussions until the demolition permit has been received from the Port. He also added that we recently received a hand written proposal to redevelop the site. We expect more to come. Mr. Crockett proposes we submit the demo permit and find out what the City will allow. Once this is clarified, we can publicly ask for proposals.

Mr. Pivarnik added that we have so far received three proposal letters and we will notify these parties when our request is formal.

Commissioner Collins asked about a pre-app conference with the City. Mr. Pivarnik responded stating it will be a different type of meeting since the Historical Preservation Committee (HPC) is involved. There has been talk that a small portion of the restaurant may be historic. He will be meeting with John McDonagh from the City and the President of the HPC soon and this meeting will take place in the Landfall building. After this meeting, a pre-app conference will be scheduled to discuss the necessary permits needed. Answering a question from Commissioner Collins on the process of liquidating assets, Mr. Pivarnik reminded that items would be surplus first then most likely auctioned off. He has received interest from two different parties on picnic tables.

VI. NEW BUSINESS:

A. Boat Ramp Plan:

Mr. Crockett explained that he has had meetings with Steve Tucker of the Boat Ramp Committee and believes that this item would be a good Workshop agenda item; inviting two or three Committee members to meet with the Commission and staff, with hopeful resolutions on Boat Ramp issues. Mr. Crockett reminded there is no grant money available for boat ramps, again, this year. Boaters have said they would like to use the Fort Worden ramp more, however, it is not maintained regularly. The Port would like to take over maintenance of this ramp, but there are legal issues involved. Some Committee members have recommended the Port walk away from the Port Hadlock boat ramp and apply these funds elsewhere. Mr. Crockett explained that we have permits in hand for the Mats Mats ramp, but do we have \$40-50,000 available in the budget? Mr. Crockett plans to develop a ramp assessment plan that would include financial intake vs. costs. He would like to continue to explore the Fort Worden ramp issue with Kate Burke of Fort Worden and Rex Derr of WA State Parks.

Commissioner Collins observed that the County Plan does not recognize boat ramps in the SMP, which was recently adopted. Can the ramps be rebuilt or do they all need to be elevated? Mr. Crockett explained that each ramp has different problems due to where they are located. He also added that in 2004, the Port received a \$490,799 grant for the Port Hadlock ramp. However, this did not included money for upland parking. This was six years ago, and now it would cost around $\frac{3}{4}$ of a million dollars to rebuild the ramp alone. Grants need to recognize parking issues.

Commissioner Collins asked if the Brinnon Fish & Wildlife ramp issue was still alive. Mr. Crockett advised he has been in contact with Fish & Wildlife and restated that the Port would like to take it over, rather than passing it on to the State Parks. Mr. Tucker believes this ramp takeover would be a good asset for the Port. It has quite a bit of activity and the ramp is new.

Gordon Neilson talked about highway programs using volunteers to pick up litter. He stated that the tribes are dependent on boat ramps and possibly the Port could call on the tribes for volunteers. He proposed the Port explore collaborating with the tribes - maybe there would be possible Federal funding available if working with tribes, and possibly money for parking at ramps.

Commissioner Thompson added that possibly there could be help with the New Day Fisheries dock, where over 180 tribal fisher people deliver their fish to this dock. Mr. Neilson recommended the Commission visit tribal councils to discuss.

Again, Mr. Crockett added that this all leads to his ramp assessment. Upon completion, staff will meet with the Boat Ramp Committee to discuss.

B. New Charter Operation at Point Hudson:

Mr. Pivarnik reported that since the Northwest Maritime Center (NWMC) has relocated, we now have 40' more of additional dock space. Port policy reserves Commercial Space on the Center Dock. The NWMC has been discussing the possible move of up to 90' more of their boats to be located closer to the new NWMC. Mr. Pivarnik introduced Jeff Kendall, owner of the charter sailing vessel, Pleiades, who currently has his charter operation running off the linear dock at the Boat Haven, inconveniently located for a charter operation. Mr. Pivarnik added that we may need to jockey a few tenants around, in order to fully accommodate the boat, and he has talked with two of these tenants who would be willing to help out.

Mr. Kendall explained that his sails are two-hour trips and sells longer privately chartered trips, as well. He is licensed as a 100-ton operator. He has been in the charter business for years, mostly on the East Coast, but now owns his own charter boat. In the past, he has had mostly local customers but would like to market toward the visitors walking through town and Point Hudson would be an ideal location for this.

Commissioner Collins added, after looking over Mr. Kendall's proposal, it is consistent with the Port's Commercial policy at Point Hudson and shows to be an active charter.

Mr. Crockett recommends this operation.

Mr. Neilson added that a lot of local sweat has gone into this boat, involving many of our local marine trades' people.

Commissioner Erickson added that Mr. Kendall hires local people and we have the space available for his operation. Commission unanimously approved of this plan.

C. A/B Dock Construction:

Larry Crockett informed that an idea was posed a few months ago, that what if the Port had the floats built locally, rather than it being part of a contract. Legal issues still need further exploring. RCW allows for temporary help with single purpose projects, but staff is not ready to discuss details, as further investigating is needed. Mr. Crockett advised this is an option that would provide local jobs. A project manager would need to be hired to run the project, and the engineering firm, PND, would need to make routine checks to make sure docks are built to specs. The downside of this would be that the docks would not have a warranty. The cost would probably be about the same; however, the money would be spent locally. Commissioner Thompson likes this idea and Commissioners Collins and Erickson agreed. Commissioner Erickson commented that we have the local ability and talent for this type of project and has heard comments in the past about projects not going to the locals. Mr. Crockett explained the legal bidding process and surmises that some small companies don't have the abilities to comply with governmental regulations, for instance, paying their subs prevailing wages, etc.

Attorney Goodstein explained to the Commissioners that there is nothing in the law that would prevent the Port from hiring temporary employees for the job; he does not think it will be a money saver though. The issue would be coordinating how much work Port staff could perform vs. a hired contracting firm. It could become problematic as he sees it. Commissioner Collins asked if the hired workers need to be to union members. Mr. Crockett is researching this since it would be temporary employment, rather than full time.

Mr. Pivarnik said, on the optimistic side, this could give the Port more control of the job, compared to hiring a general contractor who would take control of the subcontractors. This issue needs to be researched and resolved quickly, due to the short time frame allowed for the project with the fish window rules. Commissioner Erickson inquired as to the final project cost estimate, which should be here by the end of the month. The most recent engineer's cost is at \$4.5 mil.

Tike Hillman explained that the fish window time frame is the driving force. The project needs to be started by September 15 and completed by February 15, 2011. A main concern is that the float installers' contract goes out as a separate bid. If this is delayed, we could be penalized by the contractor. However, a contractor will foresee this and would probably add that penalty into their bid price. The bid process needs to begin now so that the permits are ready in March/April timeframe. The contract should be in place by late May, giving a 30-60 day time frame for the bidding process. This does not give a fabricator much time to build the floats. If Port staff and locals build the floats, the Port will need to hire a mechanical and electrical contractor. Mr. Crockett advised that the Port would need money in hand if hired out

this way, and we would need to find space in the yard to build and store these floats. Mr. Crockett asked the Commission if we should pursue this. The Commissioners favor this idea and gave their approval to move forward.

D. Year End Financials Update:

Mr. Taylor passed out draft copies of 2009 Year-end financial statements, explaining that there may still be a few minor changes before the final numbers are available.

He reviewed the graph which summarized the Port's Revenue, Expense and Net Income for the past 10 years, and which shows that 2009 ended with all key indicators, including Gross Revenues, Income From Operations, Net Income, and Year-end Cash, all lower than previous years. Income From Ops ended at (\$310K), down (\$122K) from 2008. He continued by saying that the decreased Net Income figures can be traced right to the down-turn in Work Yard & Ship Yard activity, where total gross revenues for 2009 were down \$237K from 2008 and \$388K compared to 2007, and which translates directly into decreased Net Income from those operations, which decreased \$226K from 2008 to 2009 and by \$443K from 2007 to 2009.

Overall, most other sources of revenue stayed relatively constant, and there was a reduction in overall Operating Expenses of \$178K from 2008, and which was attributable to almost all expense categories decreasing.

Overall Net Income for 2009 was \$97K, down \$248K from 2008, where Net Income was \$345K.

Discussion continued regarding the state of work yard activity and environmental issues, with all yards in our area, and that it may be several years before we know how much, if any, our yard activities will rebound.

Additionally, as we move forward into the proposed new bond issues, there will be extensive additional financial discussions.

E. 2010 Bond Financing Update:

Mr. Taylor reminded that this subject has been discussed a number of times as well as with the Port's Financial Advisor Alan Dashen, who updated the Commission last March, and who recommended that we go through a selection process for the underwriting firm, for our proposed new Bond issue. Commission and Staff have scheduled a Special Commission Meeting on Tuesday, February 9. Two Bond Underwriting firms will be at the meeting to present to the Commission their qualifications, comments on our upcoming financing needs, etc. At 9:30 a.m., Alan Dashen will present an overview. At 10:00 a.m., D.A. Davidson Company will give their presentation and at 11:00 a.m., Seattle-Northwest Securities follows with theirs. Mr. Crockett informed that both firms have experience working with Ports.

Commissioner Collins reminded all that this will be a public meeting.

Mr. Taylor stated that by the end of the meeting, we should have a decision on which firm to work with. The selected firm will need about 60 days to put the Bond issue together.

Mr. Crockett has hopes that the meeting will stay in session in order to make a selection during the meeting, so that staff can proceed with the A/B dock process.

F. Approval of Warrants:

Electronic Debit – Frontier Bank in the amount of \$2,361.94 for the December, 2009 Washington Stated Combined Excise Tax

Warrant #043566 through #043591 in the amount of \$39,064.30 for Payroll

Warrant #043592 through #043603 in the amount of \$38,484.65 for Payroll Benefits

Warrant #043604 through #043651 in the amount of \$154,901.94 for Accounts Payable

Commissioner Thompson moved to approve the warrants as presented.

Motion carried by unanimous vote.

G. Environmental Compliance Officer

Mr. Crockett explained that he had a discussion last week with Commissioner Erickson regarding an episode with a vessel owner who was not complying with environmental and Port regulations. Much discussion has taken place on environmental compliance issues over the past years. Mr. Crockett had a discussion recently on this matter with Dave Griswold of the Port Townsend Marine Trades Association. Mr. Griswold agreed that it is everyone's duty to enforce the BMPs.

Mr. Crockett expressed his opinion that we are at the point where the Port needs to have a full-time staff member dedicated to the environmental effort. Mr. Pivarnik added that the Port has personnel on staff that is able to fulfill this position, with literally no additional staff costs. It would only involve reassigning staff. This person

would deal with live aboard issues, and would be an enforcer of rules with tenants in-water and out-of-water, as well as making sure Port staff is working in compliance with environmental rules & regs. This person would also be able to work with airport regulations.

Commissioner Collins inquired as to the Port's role in enforcing sanctions. Mr. Crockett replied that we would need to update the Port's Rules & Regulations, incorporating the rules and penalties when failure to comply. He spoke with Mr. Goodstein earlier regarding what to do when staff warns a person of a violation. What is our suite of options? Can a special purpose district levy fines? After the third warning, can we issue fines?

Mr. Goodstein added that the Port is not a general-purpose government, and do not have our own court system and ability to enforce. However, the Port can carefully contract with the person we are doing business with. We can charge fines per the wording in the contractual agreement. The wording should list penalties enforced when environmental damage is caused to Port property. If Federal, State and Local laws are violated, the Port can issue a Stop Work Order, as long as this is worded in the contract. If a person ignores the Stop Work Order, the Port may obtain a Restraining Order with the courts. Contracts need to be carefully rewritten, showing violations when BMPs are not followed.

Rick Petrykowski told of a recent incident when he and his partner, Diana Talley, encountered. While charging the batteries prior to a sail, they heard loud clunking noises coming from the boat. It turned out that the boat had sucked up a large bag of garbage that a boater had dumped overboard. This bag contained a radio, clothing, etc. A diver was hired to check for damage. Yard staff advised them to fill out a complaint form.

Gordon Neilson said the worst violations occur on holidays, weekends when there is no Port staff around. He suggested this new staff position work closely with our security staff. The main responsibility of this officer would be to protect the permit that allows the Port to remain open and allows Marine Trade businesses to continue to do their work on Port property.

Mr. Crockett informed the Commission that staff would develop and post the job description and staff would review the enforcement of policies and rework contracts signed by boaters.

VII. STAFF COMMENTS:

Mr. Pivarnik stated that he had passed out copies of a recent letter he received from the Army Corps of Engineers on the Quilcene dredge project to the Commissioners. The Corps apologized as they reviewed the project without using a sediment trap, which Department of Fish & Wildlife pointed out, was wrong. The Corps informed that it would be another three months until permits are issued. With the fish window closing on February 15, the project will not start until late summer, which will be peak boating season.

Mr. Crockett reminded that it has been a two-year process just to have 3500 cubic yards of sediment removed.

Mr. Crockett explained that he would be giving a class this Saturday on the Port's environmental practices and stormwater to 18 students & 3 professors from the University of WA along with Kees Kolff.

On a side note, Mr. Crockett informed that the Port should be receiving the Clean Marina designation soon; this is only for the Boat haven Marina. Commissioner Collins confirmed that both Boat Haven and Point Hudson have the EnviroStar designation. Mr. Crockett added that we would issue a public notice when the Clean Marina certification has been received.

Mr. Crockett advised he will be in Olympia on Jan. 28 for legislative reasons and also will be at the WPPA office transferring the Treasurer account, as Mr. Crockett is now that officer for WPPA. Friday the 30th, he will be working the Seattle Boat Show and then from February 2-5, 2010, he will be out of town on personal business. He has written a Designation of Authority letter for Jim Pivarnik to make decisions on his behalf, while he is out of town.

Mr. Crockett spoke of a letter to the editor in today's edition of The Leader. The letter is filled with misinformation and he is contemplating responding. The letter, written by a Mr. Stevens, wrote about the taxpayers funding the Make Waves Rec Center and about how the Port keeps raising taxes, which is incorrect, as we have lowered assessments in the past six years. Mr. Crockett is asking the Commission to share their thoughts on this in the next few days.

Commissioner Collins inquired about any updates with the City on Kah Tai issues. Mr. Crockett reported that with the Port and City meeting on other issues, there is the possibility of the doors opening and moving on with the Kah Tai issues. On another thought, the Port has not heard back from the Jefferson Land Trust on the Kah Tai matter. Rosemary Sikes added that she has spoken with Owen Fairbanks of the Land Trust and the board met on January 19 and approved to take on the conservation easement for the Port. Their board will work on scheduling a meeting with the Port within the next few weeks. Ms. Sikes stated that in her opinion, it is very critical the the Make Waves group and the Land Trust work parallel together so that this land is preserved in perpetuity. Protection of the wildlife habitat is a very important matter.

VIII. PUBLIC COMMENTS:

Rosemary Sikes added that she has spoken with Owen Fairbanks, President of the Land Trust, explaining the board met on January 19 and approved to take on the conservation easement for the Port. Their board will work on scheduling a meeting with the Port within the next few weeks. Ms. Sikes stated that in her opinion, it is very critical that the Make Waves group and the Land Trust work parallel together so that this remaining land is preserved in perpetuity. Protection of the wildlife habitat and preserving of the park are very critical issues. Ms. Sikes is concerned about the preliminary Letter of Intent that went out in December and is concerned that the Port is moving towards a final Conservation Easement Agreement by April 1st, and this does not allow much time. Commissioner Collins asked Ms. Sikes to submit her comments in writing. Mr. Pivarnik stated that he would like to see a group of 3-4 people, including Ms. Sikes, to work on drafting this conservation easement document.

Eric Toews added that his experience working with the Land Trust in crafting conservation easements, these agreements are mostly crafted by the Land Trust in terms of very carefully worded documentation and monitoring of restoration and maintenance of the land easement. Mr. Crockett added that they monitor easements annually.

Michael Francis, a local pile driver, expressed his interest in applying to work with the pile driving on the A/B dock project. He asked when the packet might be available. Mr. Pivarnik said to look for it towards the end of April. We will advertise in the local papers as well as the Seattle Daily Journal of Commerce and the Port's website.

Rick Petrykowski asked for clarification on the "temporary worker" clause (referring to A/B Dock project) and how local people could be involved. Mr. Crockett responded that details are still being worked on, including how many "temporary workers" would be needed, job skill requirements, application and interview process, etc. Mr. Pivarnik again stated that this job would most likely begin in May and need completion by the beginning of September.

IX. COMMISSIONER COMMENTS:

Commissioner Thompson announced that he had attended this morning's WPPA "Port's Day" conference. The presentation included talks on Port histories, link format, etc. Talks are to use parts of this project as a lobbying aid for port districts. He will continue as a representative for the Port of PT. Mr. Crockett added that our Port has paid a \$1500 fee towards this historical project. In addition, we may need to come up with our own historical data at some point. 2011 is the Port Centennial; the Ports of Seattle and Grays Harbor were formed in 1911.

Commissioner Erickson asked for opinions on how much effort the Port should put into the Jefferson County Growth Management and Steering Committee work within the next two weeks, due to the Boat Show. Commissioner Thompson asked if this is an effort to modify existing documents. Mr. Crockett replied with an affirmative. He explained that many of the issues that are being discussed at the Steering Committee meetings are actual issues that may lead into other types of committee meetings between the City, County, Port and PUD. He added that the City and County passed a resolution to form the Steering Committee, which allowed only one seat for the Port on this committee. Commissioner Erickson asked again how much work we want to perform on this Committee. Mr. Crockett advised that some of this might be discussed in Executive Session. Personally, he feels that there should be a resurrection of the Intergovernmental Committee, which stopped meeting about 2 or 3 years ago. This committee gathered the elected officials together to discuss mutual interest projects and to share with the other government entities the different projects

each was undertaking, with no decisions made. Senior staff was also present at these meetings.

Commissioner Collins explained that he had met with City Council Member, David King, and Mayor Sandoval earlier today. They discussed where to go next on collaborating on the broader economic development vision. It was discussed to have a prior meeting (to the Steering Committee meeting) with officers of the three bodies of government in attendance to discuss issues

Mr. Goodstein stated that in his opinion, the significance of the Growth Management Act was an exercise undertaken by counties where the counties and cities establish the zoning and codes and ports are subject to these local codes. If ports do not participate on Steering Committees, than issues that are important to ports may not be recognized. His recommendation is for the Port to fully participate on this committee so that the Port's needs be recognized. Mr. Crockett added that if policies need reworking, these topics would be discussed.

Commissioner Collins advised that he will be attending tomorrow's Peninsula Development District meeting, with joint efforts combined by Jefferson and Clallam Counties and their governments.

Mr Toews wanted to touch on the Steering Committee subject. Countywide panning policies shape the City and County Comp Plans. What are in these plans winds up in the zoning and planning codes and two policies in particular are of great importance to the Port. One is Essential Public Facilities, which is the airport and the second is the Economic Development Policy. These directly impact Port operations and he expressed the importance of the Port being involved in the shaping and crafting of these policies.

X. NEXT MEETING: Next regular meeting will be held Wednesday, February 10, 2010 at 3:30 PM in the Port Commission Chambers, 375 Hudson St, Port Townsend.

XI. EXECUTIVE SESSION: The regular meeting recessed into Executive Session at 8:47 PM for discussion of a legal matter, which ran over the approximated twenty minutes suggested. At 9:10 PM, Mr. Crockett checked to see if any public was waiting outside for the session to end, and with no public waiting, the session resumed with no action taken.

XII: ADJOURNMENT: The regular meeting reconvened at 9:30 PM and adjourned at 9:31 PM there being no further business to come before the Commission.

ATTEST:

John N. Collins, President

Leif W. Erickson, Secretary

David H. Thompson, Vice President