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**Port of Port Townsend
2nd Monthly Meeting Agenda
Wednesday, May 27, 2015, 5:30 PM
Port Commission Building
333 Benedict Street, Port Townsend, WA**

- I. Call to Order / Pledge of Allegiance
- II. Approval of Agenda
- III. Consent Agenda
 - A. Approval of Meeting Minutes – May 11, 2015.....1-2
 - Approval of Special Meeting Minutes – May 19, 2015.....3
 - B. Approval of Warrants
- IV. Public Comments (not related to Agenda)
- V. Second Reading (action items)
- VI. First Reading (discussion only)
 - A. Bob Cunningham.....4
 - B. Townsend Bay Termination Agreement.....5-10
- VII. Potential Immediate Action Items (unanimous Commission approval required)
- VIII. Staff Comments
- IX. Public Comments
- X. Commissioner Comments
- XI. **Next Meeting: Wednesday, June 10, 2015 at 1:00 PM, Port Commission Building, 333 Benedict Street, Port Townsend, WA.**
- XII. Executive Session – (if called)
- XIII. Adjournment

PORT COMMISSION MEETING– May 11, 2015

The Port of Port Townsend Commission met in regular session at the Commission Building, 333 Benedict Street, Port Townsend, WA

Present: Commissioners – Tucker, Clinefelter and Hanke
Executive Director – Crockett
Deputy Director - Pivarnik
Planning Analyst - Toews
Attorney –McCarthy
Minutes – Nelson
Excused: Auditor - Khile

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Commissioner Tucker called the meeting to order at 1:00 PM.

II. APPROVAL OF AGENDA:

Commissioner Tucker moved to approve the Agenda as presented.

Commissioner Clinefelter seconded the motion.

Motion carried by unanimous vote.

III. CONSENT AGENDA (0:44):

- A. Approval of Meeting Minutes – April 22, 2015
Approval of Workshop Minutes – April 22, 2015
- B. Operations Reports – March 2015
- C. Approval of Warrants

Warrant #054472 through #054490 in the amount of \$98,903.73 for Payroll & Benefits
Electronic Payment in the amount of \$40,515.53 for Payroll & Benefits
Warrant #054491 through #054577 in the amount of \$185,799.89 for Accounts Payable
Electronic Payment in the amount of \$6,927.81 for Washington State Department of
Revenue Combined Excise Tax Return for March 2015

Commissioner Tucker moved to approve the Consent Agenda as presented.

Commissioner Hanke seconded the motion.

Motion carried by unanimous vote.

IV. PUBLIC COMMENTS (Not related to agenda) (1:03):

V. SECOND READING (Action Items):

A. Port Townsend Shipwrights Lease (1:09):

Mr. Crockett reported staff has had many meetings with Co-op members on the new lease. He added they have been a very professional group to work with.

Mr. Toews highlighted the changes made to the previously presented draft lease including the risk of loss of structures; potential for casualty; and, setting provisions that would permit early termination of the lease.

Commissioner Tucker moved to authorize the Executive Director to execute the lease with the Port Townsend Shipwrights Co-op, as presented.

Commissioner Hanke seconded the motion.

Motion carried by unanimous vote.

Mr. Toews added the date of the lease is dependent on the closing of the Townsend Bay sale to the Co-op.

VI. FIRST READING (Discussion Only):

A. Jefferson County International Airport – Engineer RFQ (6:45):

Mr. Crockett reported that only one firm submitted their packet in response to the RFQ and that was Reid Middleton, who has been on contract with the Port the past five years. He explained the FAA requires that the engineering contract is updated every five years. Staff will draft a contract, which will be presented by the end of the year, as there are no active projects at this time. Discussion occurred on the future paving project and FAA requirements.

B. Commission Building – Use Policy (12:05):

Mr. Crockett informed there have been many requests by different groups to use the Commission Building and staff would like direction from the commission on how they would like the building used. After discussion, the commissioners agreed the building may be used only by groups where a Port commissioner or staff member is a participant.

C. March 2015 Financials (18:55):

Mr. Crockett explained Ms. Khile was excused from this meeting. He added the Port is ahead in revenues and asked if there were any questions.

The commissioners asked questions and for clarification on guest moorage and boatyard numbers, and yard revenues.

VII. POTENTIAL IMMEDIATE ACTION ITEMS):

VIII. STAFF COMMENTS (22:54):

Mr. Toews provided an update on Capital Planning and the Capital Facilities Plan based on inspections performed by the Port's engineer, Harold Andersen. He explained in a few months a more refined facilities plan will be presented to the commission that will include initial cost estimates and staffs attempts to utilize the Strategic Plan and matrix.

Mr. Pivarnik reported he just received the engineer's drawings for the boat ramp and the project should be out to bid this week, with bids due sometime towards the end of June.

Mr. Crockett stated he recently had a conference call on bond ratings with Moody's and should have those results in Tuesday or Wednesday.

He discussed the airport briefing he gave at the airport May 2.

Last, he announced he and Mr. Pivarnik are giving briefings at this week's WPPA Spring Meeting in Spokane.

Mr. Toews added he is in the process of submitting a follow-on grant application to the Boating Infrastructure Grant. The Port was encouraged to re-apply during the 2015 grant cycle, to request funding for the gap between the original requested grant amount and the amount awarded to the Port from the 2014 process.

IX. PUBLIC COMMENTS (35:32):

Bill Putney thanked Larry Crockett and Pete Hanke for their presentation at the airport.

George Yount discussed the Hood Canal Coordinating Council meeting he recently attended where the focus was climate change and adaptation. He expressed his concerns on the effects of sea level risings and storm surges on the Port. He also commented on the PT Moorage Tenants Union postings and the Auditor's Report.

X. COMMISSIONER COMMENTS (43:07):

Commissioner Clinefelter asked for an update on BMP enforcement actions. He then asked who the person was representing the Port of PT who was collecting fees at the Quilcene Yacht Club boat ramp during this past weekend's halibut opening.

Commissioner Tucker discussed the MRC meeting he attended last week. He informed that he and other volunteers set out "No Anchor" buoys. He also discussed the MRC's involvement in establishing natural Olympic oyster beds in Quilcene Bay that will help to reduce algae blooms.

XI. NEXT MEETING: Next regular meeting will be held Wednesday, May 27, 2015 at 5:30 PM in the Port Commission Building, 333 Benedict St, Port Townsend.

XII. EXECUTIVE SESSION:

The regular session recessed into Executive Session, at 1:51 PM to discuss real estate, pursuant to RCW 42.30.110 (c), duration of fifteen minutes with no decisions.

XIII. RECONVENING AND ADJOURNMENT OF REGULAR MEETING:

The meeting reconvened and adjourned at 2:09 PM there being no further business to come before the Commission.

ATTEST:

Stephen R. Tucker, President

Peter W. Hanke, Secretary

Brad A. Clinefelter, Vice President

PORT COMMISSION SPECIAL MEETING– May 19, 2015

The Port of Port Townsend Commission met in special session at the Commission Building, 333 Benedict Street, Port Townsend, WA

Present: Commissioners – Tucker, Clinefelter and Hanke
Executive Director – Crockett
Deputy Director - Pivarnik

I. CALL TO ORDER:

Commissioner Tucker called the meeting to order at 2:00 PM.

II. RECESS TO EXECUTIVE SESSION (2 hour session):

A. Finance Director Interviews, pursuant to RCW 42.20.110 (g)

Two candidates were interviewed for the Finance Director/Port Auditor position. No action taken.

III. RECONVENING OF SPECIAL SESSION:

Special meeting reconvened at 4:03 PM.

IV. NEXT REGULAR MEETING: Wednesday, May 27, 2015 at 5:30 PM, Commission Building, 333 Benedict Street, Port Townsend, WA.

V. ADJOURNMENT:

The meeting adjourned at 4:03 PM.

ATTEST:

Stephen R. Tucker, President

Peter W. Hanke, Secretary

Brad A. Clinefelter, Vice President

PORT OF PORT TOWNSEND

MEETING OF: **May 27, 2015**

AGENDA ITEM: **VI. First Reading**
 A. Bob Cunningham

BACKGROUND:

Mr. Cunningham will present his idea for development plans to the commission.

Executive Director's Recommendation:

For discussion only.

PORT OF PORT TOWNSEND

MEETING OF: May 27, 2015

AGENDA ITEM: VI. First Reading
B. Townsend Bay Lease Termination Agreement

BACKGROUND:

To be presented.

Executive Director's Recommendation:

For discussion only.

LEASE TERMINATION AGREEMENT

This Lease Termination Agreement (the "Agreement") is entered into as of the ____ day of _____, 2015, by and between Townsend Bay Marine, LLC ("TBM") and the Port of Port Townsend ("Port" and, together with TBM, the "Parties").

RECITALS

- A. TBM and the Port are parties to that certain Ground Lease dated June 8, 1999 (as amended, and together with that certain Hazardous Substances Warranty and Agreement (the "Hazardous Substances Agreement"), collectively, the "TBM Lease") relating to certain real property as legally described Exhibit A attached hereto;
- B. The initial term of the TBM Lease expires on June 7, 2024, and TBM has the option to extend said term for two (2) additional five (5) year periods;
- C. TBM has entered into that certain Agreement for Purchase and Sale of Assets dated as of March 25, 2015 (the "Purchase Agreement") with Port Townsend Shipwrights, Inc. ("PTS"), pursuant to which TBM intends to sell and PTS intends to purchase substantially all of TBM's assets, including, without limitation, the buildings owned by TBM which are located on the TBM Lease premises (the "Purchase and Sale Transaction");
- D. In connection with the Purchase and Sale Transaction, the Port and PTS are discussing terms of a new ground lease for the TBM Lease premises, to replace and supersede the TBM Lease (the "PTS Lease") upon closing of the Purchase and Sale Transaction;
- E. For the PTS Lease to be finalized, in addition to the other conditions precedent to closing of the Purchase and Sale Transaction, TBM and the Port must reach agreement with respect to early termination of the TBM Lease; and
- F. TBM and the Port wish to establish the terms and conditions under which early termination of the TBM Lease may occur;

NOW, FOR VALUABLE CONSIDERATION, and in reliance on the foregoing, the Parties agree as set forth below.

AGREEMENT

1. Termination. Effective at 11:59 p.m. (Pacific Time) on the Effective Date, TBM and the Port agree that the TBM Lease shall terminate. On the Effective Date, TBM will quit the TBM Lease premises and, except for assets acquired by PTS pursuant to the Purchase Agreement, will cause all of TBM's personal property to be removed from the TBM Lease premises. As used herein, the "Effective Date" shall be the date on which closing of the Purchase and Sale Transaction has occurred, including, without limitation, receipt by TBM of all purchase proceeds of the Purchase and Sale Transaction in good and immediately available funds.

As partial consideration for TBM being relieved of further obligations under the TBM Lease, TBM will forfeit \$500 of its security deposit held by the Port, with the balance of said security deposit to be promptly refunded to TBM by the Port following the Effective Date.

2. Continued Performance. Until the Effective Date, TBM and the Port agree that each shall continue to perform its respective obligations contained in the TBM Lease, including, without limitation, TBM's continued obligation to pay rent through and until the Effective Date. If the Effective Date is other than the last day of the month, then the Parties agree that the rent attributable to that part of the month through the Effective Date shall be prorated, and any prepaid rent for the period after the Effective Date shall be promptly refunded to TBM.
3. Release. As of the Effective Date, TBM and the Port each hereby irrevocably release the other from any and all expenses, costs, charges, debts, obligations, liabilities, claims, demands and/or causes of action, of whatever kind or nature, now or in the future existing, whether known or unknown, arising out of or in any way connected with the TBM Lease, the TBM Lease premises, and/or TBM's occupancy and/or use thereof, except that:
 - a. TBM agrees that its obligation to indemnify, defend and hold harmless the Port pursuant to Section 7 of the Hazardous Substances Agreement, shall be a continuing obligation of TBM and shall survive termination of the TBM Lease; and
 - b. The Port agrees that its obligation to indemnify, defend and hold harmless TBM, its successors and assigns pursuant to Section 6 of the TBM Lease, shall be a continuing obligation of the Port and shall survive termination of the TBM Lease.
4. Failure of Condition Precedent. In the event that the Purchase and Sale Transaction does not close as described in Section 1 by September 1, 2015, for any reason or for no reason, TBM and the Port agree that this Agreement shall be null and void ab initio, and the TBM Lease shall continue in full force and effect in accordance with its terms as if this Agreement had never been executed.
5. Memorandum. This Agreement shall not be recorded. However, on or after the Effective Date, at the request of either Party, the Port and TBM will execute a short form memorandum hereof identifying the Parties, the TBM Lease premises and the Effective Date (the "Memorandum"), and either Party shall have the right to record the Memorandum with the Jefferson County Recorder's Office.
6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the Parties.
7. No Third-Party Beneficiaries. Nothing expressed or referred to in this Agreement will be construed to give any person or entity other than the Parties to this Agreement any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the Parties to this Agreement and their successors and permitted assigns.
8. Applicable Law, Venue and Legal Fees. This Agreement shall be governed by the laws of the State of Washington. Any dispute relating to this Agreement must be litigated in Port Townsend, Washington, with the substantially prevailing party entitled to recover its legal fees and costs.
9. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.
10. Headings; Entire Agreement; Modification. The title and headings utilized in this Agreement are for convenience of reference only, are not substantive and may not be used to construe or interpret this Agreement. This document constitutes the entire agreement between the Parties and expressly supersedes

and negates any prior or contemporaneous agreements, whether written or oral, with respect to the subject matter hereof. This Agreement may not be modified or amended except by a writing signed by both Parties.

This Agreement is entered into as of the date first set forth above.

TBM:

TOWNSEND BAY MARINE, LLC

By: _____

Name: _____

Title: _____

PORT:

THE PORT OF PORT TOWNSEND

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)
)
COUNTY OF JEFFERSON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of Townsend Bay Marine, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for _____
Printed Name: _____
Commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF JEFFERSON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of the Port of Port Townsend to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for _____
Printed Name: _____
Commission expires: _____

Exhibit A

Legal Description

PARCEL A:

That portion of the First Supplemental Plat of Eisenbeis Addition to the City of Port Townsend, as per plat recorded in Volume 2 of Plats, page 24, records of Jefferson County, Washington, in the City of Port Townsend, and said Jefferson County, described as follows:

Commencing at a concrete monument marking the centerline intersection of Washington and Kearney Streets as said streets are shown on a map of L.B. Hastings Second Addition to Port Townsend, recorded in Volume 1 of Plats, page 29, records of Jefferson County, Washington;

Thence South 59° 27' 47" West, a distance of 1,172.00 feet to a concrete monument marking the centerline intersection of Washington and Benedict Streets, per said Plat of L.B. Hastings Second Addition;

Thence continuing South 59° 27' 47" West, a distance of 1,620.04 feet;

Thence North 30° 32' 13" West, a distance of 330.57 feet to the True Point of Beginning; Thence South 53° 33' 19" West, a distance of 94.37 feet;

Thence South 77° 59' 42" West, a distance of 51.84 feet; Thence North 87° 46' 10" West, a distance of 75.02 feet; Thence North 02° 14' 49" East, a distance of

13.99 feet; Thence North 89° 06' 53" West, a distance of 86.33 feet; Thence

North 02° 13' 56" East, a distance of 183.01 feet; Thence North 89° 06' 41"

East, a distance of 192.70 feet; Thence North 00° 53' 00" East, a distance of

73.71 feet; Thence South 88° 44' 29" East, a distance of 94.35 feet;

Thence South 02° 14' 00" West, a distance of 203.06 feet to the True Point of Beginning (Lease No. 35);

PARCEL B:

That portion of the First Supplemental Plat of Eisenbeis Addition to the City of Port Townsend, as per plat recorded in Volume 2 of Plats, page 24, records of Jefferson County, Washington, in the City of Port Townsend and said Jefferson County, described as follows:

Commencing at a concrete monument marking the centerline intersection of Washington and Kearney Streets as said streets are shown on a map of L.B. Hastings Second Addition to the City of Port Townsend, recorded in Volume 1 of Plats, page 29, records of Jefferson County, Washington;

Thence South 59° 27' 47" West, a distance of 1,172.00 feet to a concrete monument marking the centerline intersection of Washington and Benedict Streets, per said Plat of L.B. Hastings Second Addition;

Thence continuing South 59° 27' 47" West, a distance of 1,714.07 feet;

Thence North 30° 32' 13" West, a distance of 540.26 feet to a point on a north line of lease described in Jefferson County Auditor's Recording No. 345261 and the True Point of Beginning;

Thence North 00° 52' 47" East, a distance of 170.00 feet;

Thence South 89° 06' 40" East, a distance of 100.00 feet to the Northwest corner of Block 11 in said First Supplemental Plat of Eisenbeis Addition;

Thence South 00° 52' 46" West along the westerly line of said Block 11, a distance of 70.00 feet; Thence South 00° 52' 03"

West, a distance of 26.29 feet to an angel point on a north line of said lease; Thence South 00° 53' 00" West, a distance of 73.71

feet to an angel point on a north line of said lease; Thence North 89° 06' 41" West along a north line of said lease a distance of 100.00 feet to the True Point of Beginning.

All situate in the County of Jefferson, State of Washington.