

## **PORT COMMISSION MEETING – April 22, 2009**

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

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

### I. CALL TO ORDER

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

### II. APPROVAL OF AGENDA:

The Agenda was amended to reflect the following additions to Old Business: Item E – Spruce Goose Restaurant Update, Item F - Wetland Adjacent to Shipyard/Kah Tai Land Swap Update and the addition to New Business of Item B – Proposed City of Port Townsend Sign Ordinance and Item C – Marine Trades Rate Re-structuring for Discussion  
**Commissioner Collins moved to approve the Agenda, as amended.  
Motion carried by unanimous vote.**

### III. CONSENT AGENDA

- A. Approval of Minutes – April 8, 2009
- B. Resolution No. 518-09 – Authorizing Sale of Contents of Abandoned Storage Unit  
**Commissioner Collins moved to approve the Consent Agenda, as presented.  
Motion carried by unanimous vote.**

### IV. PUBLIC COMMENTS (Not related to agenda):

David Tarr informed that, in his opinion, the commercial dock restrooms were in dire need of refurbishing. He stated that he had brought the topic to the Commissioner's attention several months ago and was upset that nothing had yet been done to alleviate the problem. He noted the items which either needed repair or replacement. He advised that since he paid moorage fees to the Port, he expected the Port to take care of the problem and did not want to hear that the restroom issue was tied to the Sea J's Restaurant lease.

Discussion followed between the Commission, staff and Mr. Tarr about the topic.

### V. OLD BUSINESS:

#### A. Old Fort Townsend Update:

Mr. Crockett stated that there was little to update the Commissioners with since the Legislature had not yet adopted the State of Washington Budget and it was still unknown what State Parks would be closed, if any. If the budget passed in the next week, he advised, the Washington State Parks Commission would convene a special meeting to discuss the results. He reiterated that the only reason the Port had offered to assume control of Old Fort Townsend was because it did not want to see the Park (which was a community asset) closed due to the State's budget crisis.

A short discussion followed regarding the contents of the "Letter of Intent" which had been sent to the Parks Commission last week, discussion of various ideas should the Port assume control of Old Fort Townsend and the many unresolved issues with the Washington State Parks Department if the Department was to turn over control of the Park to the Port. ("leave behind" items, etc).

Mr. Crockett informed of a meeting he had attended regarding the Master Planning Process (the first of many such meetings planned to be held during the summer). In which there had been discussion regarding both the Rothschild House and Old Fort Townsend State Park. The purpose of the meeting, he advised, was to provide information regarding the three (out of a total of eight) land designations at Old Fort Townsend: natural, heritage and recreation. The Master Planning Process, he stated, could change any of those designations and add others if they chose. Some of the designations, stated Mr. Crockett, were very restrictive in terms of use.

Discussion followed regarding designations and about Old Fort Townsend.

Commissioner Beck reminded of the citizens living within Jefferson County who were Port constituents but did not own boats, nor work in the Work or Ship Yard but who paid property taxes and might use a facility such as Old Fort Townsend.

B. Point Hudson RV Rates:

Mr. Crockett reminded that during the April 8, 2009 Commission meeting discussion had evolved regarding possible ways in which to increase Point Hudson RV use and possible revenue increasing incentives to use during the economic slow down. He advised that staff had developed a few ideas on ways in which to generate additional revenue. He advised that with the Hood Canal Bridge closure set to begin May 1, there had been requests for an extension in the time that monthly guests could stay in the RV Park, as the normal ending time was May 1. Staff recommended that the monthly rate continue, for some sites, primarily those on the backside of the RV loop, through June 30.

Commissioner Thompson questioned if the rates would be for the entire loop or just the back side.

Mr. Pivarnik responded that the goal was to fill in the backside of the loop first, the demand, obviously, was for those sites in front with a water view and they would remain premium pay sites. In addition, he stated, staff recommended reducing the daily rate for the second row of RV sites (a total of twelve sites) from \$35.00 to \$27.00. Doing so, he said, would make Point Hudson more competitive with Fort Worden State Park.

Mr. Crockett recommended offering an extension on the monthly guest rate for the entire RV loop.

Commissioner Collins inquired if the proposed rate was just for the summertime or would it apply to the entire year.

Mr. Pivarnik responded that it would be for the remainder of the 2009 season.

Commissioner Thompson advised that he was very much in favor of trying any ideas that would bring in additional revenue whether it meant rearranging the rates or whatever else it took, to generate additional revenue.

Mr. Pivarnik stated that, in his opinion, extending the monthly stay rate through June 30 would bring in more revenue because those RVs that normally leave May 1 would be allowed to stay on the additional time. He thought it was particularly advantageous with the Hood Canal Bridge closure.

A short discussion followed which included the pros and cons of the various suggestions and ideas.

**Commissioner Thompson moved to change the RV site rates on the back row of the parade ground to \$27.00 for the duration of the 2009 season and to extend the monthly guest RV rates through June 30, 2009.**

**Motion carried by unanimous vote.**

C. Contracts for Environmental Engineering and Monitoring:

Mr. Pivarnik informed that due to the increasingly strict Department of Ecology regulations for the Work and Ship Yards, staff thought it was no longer in the best interest of the Port to have staff do all the monitoring of environmental concerns. He stated that one of the problem areas was incomplete or inadequate paperwork filed with the Department of Ecology. Staff, he said, recommended contracting with Landau and Associates (who had originally designed the Port's Storm Water system) and assigning them the task of the Port's Environmental Monitoring Agency. He advised that one of the first tasks would be for Landau and Associates to actually go to the Department of Ecology and review the contents of the Port file with them. In this way, he stated, there would be assurance that all the paperwork in the file was in order. The contract also tasked Landau to take the monthly samples, perform the analyzing of the samples and then to submit all the necessary paperwork to D.O.E. He added that with D.O.E. rules becoming more and more specific, the Port really needed an expert to keep the Yards viable. The contract amount, for the remainder of 2009, he informed, was \$15K. If the process worked, he advised, the contract might be extended into 2010.

Mr. Pivarnik reminded that Landau and Associates was instrumental in obtaining the \$350K Ship Yard Grant. A major component in that Grant, he stated, was the monitoring for a year of the new electric coagulation machine. \$142K, he said, would be paid for by the Grant. Landau would oversee the equipment installation and monitor, on an ongoing basis, the Ship Yard catch basins.

Commissioner Collins raised three issues in the Landau Contract one of which related to what constituted the conditions allowing for a no bid contract.

Mr. Goodstein addressed bidding requirements, provided some history regarding the difference and advised that since this Contract came under the category of a Architectural/Engineering Contract the rules were different than those for construction contracts which did require a public bid process. Regarding A&E Contracts, he informed, the legality was that the most qualified individual was chosen on qualifications and then the rates were negotiated.

After discussion it was agreed to have an additional, follow up, conversation with Landau and Associates to address the issues and after resolution of those issues, a revised contract would be brought back to the Commission.

Commissioner Collins noted that the second contract, regarding the installation of the new equipment was time sensitive as Landau's schedule stated the proposed project started in April.

A short discussion followed which included that the monitoring would be for two stormwater outfalls only, those in the Ship Yard and not the Work Yard; the Grant was for installation of the two new technologies which would then need monitoring and bring the results of how they performed back to the Department of Ecology. The equipment was actually scheduled for installation in 2010.

**Commissioner Collins moved approval of the stormwater treatment improvements contract with Landau and Associates as presented.**

**Motion carried by unanimous vote**

D. Strategic Plan Update:

Commissioner Collins provided a briefing on the recent Strategic Planning Advisory Committee meeting, stating that in his opinion it was the most productive meeting to date.

Mr. Pivarnik stated that it appeared the process was on track, time wise, with two more meetings scheduled in May and then a series of public meetings in Port Townsend, Quilcene and Port Ludlow. The results of the public meetings would provide data for the draft Strategic Plan with the final Plan scheduled for adoption the first week in August.

A short discussion followed about the various aspects of the Strategic Planning process and the plan itself.

Gary Rossow a Strategic Planning Advisory Committee member stated that although he had been gone over the winter, he had attended the most recent meeting and stated that the Advisory Committee had made great progress. He was struck, he stated with the voiced concern of the Committee members and the community about whether the Port would actually act on the items in the Plan once finished and adopted. There was also concern and hope, he noted, for the possibility of continuing process. He advised that many people in the community were heavily vested in the Plan and asked that the Port consider it carefully when given the final product. In closing, he stated he was very pleased to have been part of the process.

Commissioner Collins suggested that one device to be assured that the adopted Strategic Plan remain in site would be to incorporate into every Commission meeting a review of at least one aspect of the Strategic Plan.

D. Spruce Goose Restaurant Update:

Mr. Crockett provided an update on the topic (which had been discussed during the April 8, 2009 Commission meeting) advising that he and Mr. Pivarnik had met with the Spruce Goose Restaurant owners and that they were agreeable to purchasing the current restaurant building for \$10K thereby making it their own. Doing so would enable them to make improvements as they chose. They understood he stated, that their lease would convert to a land lease and due to the poor condition of the building; the new land lease would most likely be more expensive than the current building lease. Mr. Crockett informed that he had discussed the topic with Mr. Goodstein who determined it was legal for the Port to sell the building to the current business operators, as it was an existing business.

Discussion followed about the terms of the proposed lease. Since the Commissioners were in agreement with the concept of the proposed sale of the

Spruce Goose Restaurant and a land lease to the existing business owners, a draft lease would be brought back for Commission approval at the next meeting.

E. The Kah Tai Land Swap With Report On:

Mr. Crockett informed that as an outcome of items discussed at the joint meeting held between the City of Port Townsend and the Port, staff had talked with Diane Brewster who, he stated, had done a lot of Wetland survey work for the Port and had a lot of knowledge of the hydrology of the area. He provided history regarding the wetland property located near the Port Maintenance Shop at the end of the Ship Yard, which had been referred to as the Balch property and which the Port purchased in 2000. The area was dry until City storm water runoff from Sims Way accumulated into the area forming a Class B Wetland. Mr. Crockett provided additional details and historical information. Ms. Brewster, who had performed the Wetland Mitigation Plan for the airport, had prepared a report regarding what could be done to mitigate the wetland discussed. The report, in essence, stated that it would be extremely difficult, perhaps impossible, to mitigate that Wetland. He outlined the reasons; essentially, that because the Wetland was adjacent to a high grade Wetland located along the Larry Scott Trail, the City created Wetland had now changed, by being there for ten years, from a Class 3 Wetland to a Class 2 currently. Continuing with the report, he stated that mitigation could potentially require an additional 24 acres (property the Port did not own) for Wetland mitigation and the Port would gain less than one acre. He provided additional details and information regarding possible mitigation procedures and what would need to be presented to the Army Corps of Engineers, who ultimately, would make the final decision. The estimated cost (not including everything required) would be \$333,500 according to Ms. Brewster.

A very thorough discussion followed about the report and problems presented in it.

In summation, Mr. Crockett sited that it would make it worthless to give up 20 acres of the Kah Tai property if the Wetland area could not be mitigated. The Kah Tai land, he observed could be used year round, it was fully developable to help the Marine Trades, especially those businesses that did not need to be close to the water. It could also be used for an all year Farmer's Market area. Mr. Crockett stated that he would talk with the City about the report and discuss possibilities but would also make it clear that unless they see something the Port doesn't, it is not a doable idea.

VI. NEW BUSINESS:

A. Approval of Warrants:

Warrant #041770 through #041796 in the amount of \$37,563.25 for Payroll

Warrant #041797 through #041803 in the amount of \$18,015.06 for Payroll Benefits and Accounts Payable

Warrant #041804 through #041861 in the amount of \$115,093.99 for Accounts Payable

**Commissioner Thompson moved to approve the warrants as presented.**

**Motion carried by unanimous vote.**

B. Proposed Sign Ordinance – City of Port Townsend:

Mr. Crockett informed regarding the proposed new Sign Ordinance, which was before the City Council, and advised that it primarily addressed the advertising sandwich boards located throughout Port Townsend including Boat Haven and Point Hudson. The City, he stated, had apparently received a number of complaints regarding the signs. One Councilmember had suggested elimination of all sandwich board signs except for those advertising the local fishers daily catch. In essence, he stated the concept presented a problem because it seemed, to be fair, that all signs needed to be removed or none of the signs should be removed. The City Council had the first reading of the Ordinance Monday, April 20 and had scheduled two more readings before formal adoption. He informed that staff would contact the City to register objections to the proposed Ordinance.

Another area of the proposed Ordinance limited the size of monument signs to no more than 32 square feet. He advised that there was a monument sign at the entrance to Boat Haven and which listed various businesses. He advised that he would not mind having a new sign made and discussed the details.

Mr. Pivarnik clarified that one of the issues was that Washington State was actually enforcing the signage on Sims Way along the Poplar trees, so any sandwich board

signs would need placement behind the trees to get them out of the State right of way.

Discussion of the proposed City Sign Ordinance followed.

C. Marine Trades Rates:

Commissioner Thompson recused himself from the discussion.

Commissioner Beck informed that with the economic downturn he had been talking with several of the Marine Trades businesses and heard them speak about the cost of the lifts and Work Yard fees. He put forth the idea that the Marine Trades businesses would take on the full responsibility of dealing with customers; collect all the fees for services performed and then pay the Port directly. Since the Marine Trades business would be in complete charge of dealing with, and collecting from, the customer, the Port might offer a 15% to 20% discount to the business.

A thorough discussion followed which involved sales tax issues, what would happen if the customer did not pay for the services (the Marine Trade Business would advise the Port to delay launching the boat) and the incentive was to give the boat owner a discount so that they are more inclined to come to the Marine Trades to do their work.

Mr. Pivarnik suggested that since the ideas were many and varied that staff needed to prepare a draft policy, let Mr. Schnick (from the Marine Trades Association) review it and bring it back to the Commission.

Commissioner Beck remarked that the empty slots in the Work and Ship Yard did not do anyone any good.

VII. STAFF COMMENTS:

Mr. Pivarnik informed that he had scheduled meetings with three individuals interested in assuming control of the Fuel Dock Operation at Boat Haven. If things went well, he advised, the Port should be able to turn over the Fuel Dock operations to one of the individuals by July 1, 2009.

Mr. Crockett informed regarding a meeting he had attended at Peninsula College presented by the Washington State Department of Archeology and Historic Preservation. The Department was holding a series of meetings around Puget Sound in an effort to ascertain if creation of a National Maritime Heritage Area was feasible. He provided details and additional information.

A brief discussion followed which included what possible restrictions, if any, would be instigated and that there were going to be a series of public meetings held throughout the State to gather information for a feasibility study.

Commissioner Collins inquired as to the status of the Port's application for obtaining a Clean Marina Certification; he advised that the topic had been raised during the Strategic Planning meeting.

Mr. Crockett informed that Harbormaster, Tami Ruby, was gathering the necessary information and would submit the application. He advised, additionally, that we had been waiting on the installation of the new pump-outs as they were a key component.

Lastly, Mr. Crockett informed that he had received a draft of assessed property values and found it interesting that the West End and Gardiner pay more property tax than did all of Port Townsend. Chimacum paid twice as much as Port Townsend. He reiterated that the Port District is a county wide district with many taxpayers who do not own boats. He informed that the Port collects \$800K of tax money from all taxpayers throughout Jefferson County.

VIII. PUBLIC COMMENTS:

Gary Rossow addressed the change in RV rates adopted earlier in the meeting and inquired if the Port had been keeping track of the RV vacancies at Point Hudson. He advised that he also thought it was not in the best interest of the Port to have vacant spaces, but added that, in his opinion, there was no exact science to calculate what kinds of discounts and other incentives to be offered.

Mr. Rossow informed of his recent five month stay in his RV in the Southwest desert, Arizona, and informed of the various discounts offered there as incentives to keep people staying at the sites longer. He stated that volunteer help kept the restrooms at all the RV parks in pristine condition. He offered that he was happy to see the Port responding to the economic situation with pricing elasticity. He offered additional comments regarding the Marine Trades, moorage tenants, the wait lists and if there were small slips available. If

there were small slips available, in his opinion, the moorage rate should be reduced to fill those slips.

Discussion followed which included the new rate, competition with Fort Worden, discounting rates for weekly, monthly, day of the week stays, offering incentives, etc. Commissioner Collins suggested that the idea of demand pricing was something the Port needed to look at.

Mr. Crockett informed that to be flexible, if there is a major policy change, then short range flexible policies would need development.

Mr. Taylor reminded that the Port operated under a RCW which stated that the rates had to be approved by the Commission and posted in every office and therefore we could not change rates on a daily basis.

David Tarr restated his concerns about the commercial dock restroom. He advised, however, that he had comments regarding the possibility of the Port taking on Old Fort Townsend and expressed deep concern about it, stating, in his opinion, it was a risky proposition.

Commissioner Thompson reminded that the Port was just looking at Old Fort Townsend, and that nothing had been settled.

Mr. Tarr advised that there was an email going around that said the Port was thinking of raising moorage rates by 30%.

Commissioner Beck hastened to state that the statement of raising rates by 30% was in error.

In the course of discussion between Mr. Tarr, the Commissioners and staff, it became clear that a moorage tenant who had attended the meeting held with the Bond Advisor, Alan Dashen, regarding ways in which to fund A/B Dock, the meeting had been pretty involved and there had been a lot of discussion and various scenarios discussed. The resulting email contained some erroneous information.

A lengthy discussion followed regarding the e-mail and the contents.

Commissioner Thompson clarified that the reserve account set aside was actually called the Boat Haven Renovation Reserve Fund and was not specified to A/B Dock.

Les Schnick clarified what had occurred by stating that, as a moorage tenant, he had received an email containing a lot of things he did not understand and had sent a copy of it to the Executive Director and to a Commissioner and asked them to explain to him how much of the information was correct, or in error, etc. He stated the information contained in the email did not seem correct to him and he didn't want to forward it out to others until he had resolved those questions. He informed that Mr. Crockett had responded to him, and that after that, he had sent the email on to the Marine Trades Association Board of Directors. A lengthy discussion followed regarding the email and also about the transparency of Port records and financial reporting.

Gary Rossow volunteered that, in his opinion, aside from the way of allocating costs to revenue the Port did an excellent job of explaining and documenting the financial situation. But, he said, the idea of lack of transparency was a major problem perceived by the community and expressed through the Strategic Plan Citizens Advisory Committee members. He personally did not see transparency as a problem. He said the issue did not arise just from the Moorage tenants.

Mr. Crockett responded that he thought the perception was a critical issue, one that the Port needed to wrestle with, but he was, he said, at a loss as to how to address it. He suggested that perhaps when a citizen voiced that there needed to be more transparency regarding the Port Budget, perhaps what was really being said was that there needed to a better way in which to educated the public on the process.

Commissioner Thompson stated that he thought the issue of transparency might well be a historical perception and he thought that with continued open process, as the Port now offered, that perception might eventually be remedied.

Les Schnick stated that his perception of what the Strategic Planning Community Advisory Committee's intent was should be to leave out the word "more" so that it is not "more transparency" but to make the Port as transparent as possible in their financial operations as well as in other operations. He advised that he had attended all of the meetings and so he had an idea of what the Committee had in mind.

IX. COMMISSIONER COMMENTS:

Commissioner Thompson brought up the topic of the non-profits and what benefits the Port was expected to give them. He asked that the subject be made a Workshop topic. He advised that there was at least one non-profit getting financial benefits from the Port without recompense to the Port.

Mr. Goodstein informed that he actually had a presentation on non-profits and his firm had developed various forms to be used, such as an application form to be completed by the non-profit in which it was explained why the non-profit thought it was eligible for benefits.

Mr. Crockett explained one non-profit situation and the financial benefits they were receiving.

Mr. Goodstein stated that the Port was not allowed to make gifts of public funds. He informed that the statutory intent of a Court test for whether a District was making a gift of public funds was actually based on two criteria: #1 whether the District had the authority to do it in the first place and then #2 if the District did have the authority to use the funds in that way, was there no donated intent, so when there was discussion about getting something tangible back there had to be no donated intent and therefore there was something in it for the Port as an entity.

Further discussion followed about the non-profits, fairness issues, goodwill, advertising, etc.

Commissioner Thompson stated that, in his opinion, it would be good to clarify the topic. On another issue, he advised that he thought it was time to address the commercial basin restroom situation and determine what needed to be done.

Mr. Crockett responded by saying he did appreciate the comments made earlier by Mr. Tarr, however, he said there was a legal issue with Sea J's Restaurant because a lease was involved. He agreed the restrooms needed refurbishing to modern standards.

Discussion followed between the Commissioners, staff and Mr. Tarr regarding what could be done with the restrooms:

Commissioner Beck informed that Saturday, April 18 the Boy Scouts and the 7<sup>th</sup> graders from Quilcene Elementary School provided their annual clean up of the Quilcene Marina, he stated that, in his opinion, they did a fantastic job and the beach now looked wonderful. He advised that Ray Canterbury helped also.

Commissioner Beck suggested that discussion of the non-profits should be scheduled for a future Workshop topic.

It was decided that a workshop in June or July would be scheduled and which all the non-profits would be invited to attend and Attorney Goodstein would make a presentation on non-profits as they related to the Port.

X. NEXT MEETING: Next regular meeting will be held *Monday, May 11, 2009 1:00 PM* (Workshop at 9:30 AM)(meeting date was changed due to conflict with the Washington Public Ports Association Conference in Pasco, WA) in the Port Commission Chambers, 375 Hudson Street, Port Townsend, WA

XI: ADJOURNMENT:

The regular meeting adjourned at 8:46 PM there being no further business to come before the Commission.

ATTEST:

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Herbert F. Beck, President

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David H. Thompson, Secretary

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John N. Collins, Vice President