

MINUTES OF EVERETT PORT COMMISSION REGULAR MEETING
September 8, 2009

PRESENT:	Philip B. Bannan	President
	Michael F. Hoffmann	Vice President
	Duane Pearson	Secretary
	John M. Mohr	Executive Director
	Karen Clements	Chief Fin. Officer
	Brad Cattle	Port Attorney

CALL TO ORDER: The meeting was called to order at 9:00 a.m. by Commission President Phil Bannan.

APPROVAL OF MINUTES:

Commissioner Michael Hoffmann moved to approve the Work Session Minutes of August 4, 2009; Port Commission Regular Meeting of August 11, 2009; Port Commission Special Meeting of August 14, 2009; and Port Commission Special Meeting of August 19, 2009. Commissioner Duane Pearson seconded the motion. A vote was called for:

Vote: 3-0
Yes: Hoffmann, Pearson, Bannan
No: None
Abstained: None

Motion carried.

1. COMMISSION PRESIDENT'S REPORT

Collins Building – Resolution No. 922

Commissioner Phil Bannan announced that Resolution No. 922 summarizes recent events and provides future direction from the Commission to Port staff pertaining to the implementation of the Mitigation Strategy for the deconstruction of the Collins Building.

Port attorney Brad Cattle asked each of the Commissioners to consent to consideration of Resolution No. 922 at the September 8, 2009 Commission meeting.

Commissioners Hoffmann, Pearson and Bannan each consented to the consideration of Resolution No. 922 at the September 8, 2009 Commission meeting. There was unanimous consent by the Port Commission.

Chief Administrative Officer Jerry Heller provided a summary of the contents of Resolution No. 922 to the Commission that declares the Port has complied with the requirements of the Memorandum of Agreement dated August 29, 2005, that the expenditures not-to-exceed of \$100,000 are confirmed to implement the Mitigation Strategy, and upon the conclusion of the MOA resolution process, and upon dissolution of the preliminary injunction issued in Snohomish County Superior Court, the Executive Director and Staff, under the authority of the letter from Michelle Walker of the U.S. Army Corps of Engineers dated June 11, 2009, are authorized and directed to proceed with implementation of paragraph 1.D.2, and demolition of the Collins Building.

Valerie Steel questioned the Port's reasoning for adopting Resolution No. 922, as the recommendations from the Federal Advisory Council on Historic Preservation (ACHP) to the Corps of Engineers are still outstanding. With the current litigation proceedings, there is no assurance that the Port's request to lift the preliminary injunction will be granted during the next September hearing date. She stated that the Port's actions are premature.

Commissioner Bannan stated that Staff has summarized its activities, and the Port acknowledges there are a couple of loose ends. The Commission wants staff to understand the Commission directive to move forward with implementation of the Mitigation Strategy, and to not delay further. When the responses are received from the agencies - that will dictate direction.

Commissioner Pearson commented that Resolution No. 922 gives directives to staff to complete a process. If the Port waits until there is a new Commission, the process starts all

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over again. There is no reason to limit the decision making process of the current Commission.

Valerie Steel said that a new Commission might see benefits in retaining the Collins Building.

Commissioner Michael Hoffmann moved to adopt Resolution No. 922 as presented. Commissioner Pearson seconded the motion. A vote was called for:

Vote: 3-0
Yes: Bannan, Hoffmann, Pearson
No: None
Abstained: None

Motion carried.

2. EXECUTIVE DIRECTOR'S REPORT

Washington Aerospace Partnership

Executive Director John Mohr reported that he had originally proposed to bring information to the Commission regarding Washington Aerospace Partnership, but was unable to obtain the necessary information prior to the Commission meeting.

Budget Meetings

John Mohr reported during the month of October, there will be three Commission meetings, October 6th, 13th and 20th, related to the Budget process. Presentation and discussion of the budget will be held during the first two meetings in October, and consideration of budget approval and tax levy will be held on October 20, 2009.

Everett Maritime Bankruptcy

John Mohr reported that he will be involved in depositions related to the Everett Maritime Chapter 11 Bankruptcy matter on September 9, 2009. Everett Maritime filed a Chapter 11 Bankruptcy in the Illinois Federal Court, and the Port has asked for a change of venue to Seattle, Washington. The Port has also filed a motion to have the Amended and Restated Development and Master Option Agreement declared a non-executory contract, which affects the status of the contract as an asset of Everett Maritime.

3. CHIEF FINANCE OFFICER'S REPORT

Petty Cash / Travel Advance Funds – Resolution No. 919

Chief Finance Officer Karen Clements presented Resolution No. 919, which authorizes an increase of \$100.00 for the Fuel Dock Change Fund. Also, the Boat Ramp Ticket Machines no longer need a change fund in the amount of \$760.00 because they have been replaced with ticket machines that do not give change.

Commissioner Michael Hoffmann adopted Resolution No. 919 as presented. Commissioner Duane Pearson seconded the motion. A vote was called for:

Vote: 3-0
Yes: Bannan, Hoffmann, Pearson
No: None
Abstained: None

Motion carried.

2nd Quarter Financial Report for 2009

Karen Clements presented the 2nd Quarter Financial Report for 2009 to the Commission. Total Port Operating Revenues were \$11.1 million under budget by 6.1 percent. Total Port Operating Expenses of \$7.7 million were under budget by 13.1 percent, producing Operating Income of \$3.4 million, which is over budget by 15 percent. Depreciation is under budget by 12.7 percent, resulting in Net Operating Income of \$841,881.00. Net Nonoperating Revenues and Expenses were over budget by 27.5 percent. Total Port Net Income was \$2,192,478, or 100.5 percent over budget, at the end of the second quarter.

During the first half of 2009, the major capital project expenditures have been \$4.2 million on the South Marina P & Q Dock Replacement, \$2.5 million on the North Marina Redevelopment / Port Gardner Wharf 13th Street Infrastructure, including the

reconstruction of the combined sewer overflow, \$385,000 on procurement of track materials for the Rail Access Recovery, and \$369,000 on Cargo Handling Equipment. A total of \$9.7 million was expended on 58 capital projects during the first six months of 2009.

4. OPERATIONS REPORT

Marine Terminals Report

Director of Marine Terminals Dave Madill reported there were 14 port calls during the month of August at the Marine Terminals, compared to 15 for the same month last year. Tonnage was down because of the lack of any cement activity. August container statistics were up 60 percent as there were 1,600 containers this year compared with 975 containers last year for the same period of time.

At Mt. Baker Terminal, the Port handled 99 containers into the terminal during August and 113 out.

Boat Auction – Resolution No. 920

Marina Director Cyndy Olson presented Resolution No. 920 which authorizes the Executive Director to administer a public sale of vessels as a result of abandonment or non-payment of moorage fees. The auction is scheduled for Wednesday, September 23, 2009 and there are 10 vessels up for auction.

Commissioner Michael Hoffmann moved to adopt Resolution No. 920 as presented. Commissioner Duane Pearson seconded the motion. A vote was called for:

Vote:	3-0
Yes:	Bannan, Hoffmann, Pearson
No:	None
Abstained:	None

Motion carried.

5. PROJECTS UPDATE

Pier 3 Pile Repairs 2009, Rebid - Contract Award

Chief of Engineering & Planning John Klekotka summarized the work necessary for the Pier 3 Pile Repairs 2009 project. The scope of work is to jacket 10 pre-stressed concrete piles and 8 steel pipe piles. This work is required under the Port's agreement with Lehigh Cement. The project was originally sent out to bid in July, and the Port was scheduled to award the contract last month. At Commission direction, Port staff prepared a rebid for the project.

John Klekotka reported that when the project was sent out for rebid, Port staff repackaged the bid form so there were additive bid items included to make sure that should the prices come in higher, and some of the previous low bidders choose not to rebid, that the Port would still be able to have a bid that would be under the budget. The Port received 7 bids ranging from \$420,000 to \$1.03 million. The low bid was received from Ebenal General, Inc., but there was an irregularity in their bid.

Port attorney Brad Cattle reported that the bid package required that the bidders submit with their bid the qualifications to do the work. Brad Cattle recited the language in the bid package that required bidders to submit their qualifications to do the work, which specifically requires project experience. The apparent low bidder, Ebenal General, Inc. did not submit their qualifications at the time of their bid submittal. When asked about it, they did provide their qualifications two days later, but not with the bid submittal. This is not a waivable irregularity. The language in the bid package is very specific and very mandatory. Brad Cattle said that his recommendation to the Commission is that the Commission determine that Ebenal General, Inc.'s bid is unresponsive and award the contract to the second low bidder, Ballard Diving and Salvage, in the amount of \$425,883.00.

Commissioner Michael Hoffmann moved that the bid of Ebenal General, Inc. be rejected as unresponsive, and that the Pier 3 Pile Repairs 2009 Rebid contract be awarded to Ballard Diving and Salvage in the amount of \$425,883.00. Commissioner Duane Pearson seconded the motion. A vote was called for:

Vote: 3-0
Yes: Bannan, Hoffmann, Pearson
No: None
Abstained: None

Motion carried.

TSA Rd 7A TWIC and Access Control/Lighting and Intrusion Detection
- Contract Award

Project Manager Poli Luis reported that the TWIC Access Control and Lighting – Intrusion Detection grant projects are combined into one construction project under the Department of Homeland Security – Transportation Security Administration (TSA) Round 7A grant. The project will provide four new security cameras, fencing, expansion of the main gate area, signage, pavement markings and upgrade of the lighting system at the Marine Terminals.

On August 27, 2009, Port staff received 5 bids ranging from \$703,003.39 to \$1.24 million, including Washington State Sales Tax (WSST). The bids were evaluated for compliance with requirements.

Port Staff requests that the Commission authorize Staff to award the construction contract for this project to Dutton Electric Company in the amount of \$703,003.39, including Washington State Sales Tax, for the TWIC – Access Control and Lighting – Intrusion Detection project.

Commissioner Duane Pearson moved to authorize Staff to award the TSA Rd 7A TWIC Access Control/Lighting and Intrusion Detection contract to Dutton Electric Company in the amount of \$703,003.39. Commissioner Michael Hoffmann seconded the motion. A vote was called for:

Vote: 3-0
Yes: Bannan, Hoffmann, Pearson
No: None
Abstained: None

Motion carried.

6. APPROVAL OF BILLS

For the month of August 2009, Claims Voucher Nos. 52971 - 53270, in the amount of \$1,952,783.27, Claims Wire Transfers, IRS, in the amount of \$151,760.99, Union Bank of California in the amount of \$9,268.93, Hirofumi Oshio in the amount of \$2,808.22, Washington State Dept. of Revenue in the amount of \$42,481.75, Payroll Voucher Nos. 31248 - 31531, in the amount of \$407,449.22, and Payroll Wire Transfers, PMA Payroll (Longshore Labor) in the amount of \$106,142.18, with the total amount of \$2,672,694.56, were presented to the Port Commission for approval of payment by Chief Finance Officer Karen Clements.

Commissioner Michael Hoffmann moved to approve payment of the vouchers for the month of August 2009. Commissioner Duane Pearson seconded the motion. A vote was called for:

Vote: 3-0
Yes: Hoffmann, Pearson, Bannan
No: None
Abstained: None

Motion carried.

7. COMMISSIONER COMMENTS

Commissioner Michael Hoffmann commented that Resolution No. 922 essentially puts things back in order before the resolution for the tax levy was adopted by the Commission.

8. CITIZEN COMMENTS

There were no Citizen comments.

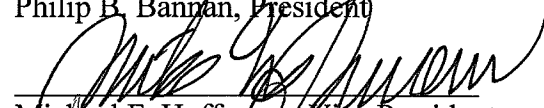
There was no Executive Session.

THE REGULAR MEETING was adjourned at 10:01 a.m.

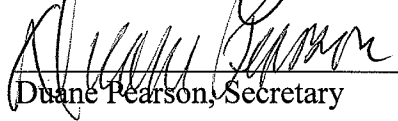
APPROVED: this 13th day of October 2009. EVERETT PORT COMMISSION

By:

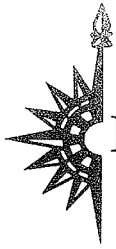
Philip B. Bannan, President



Michael F. Hoffmann, Vice President



Duane Pearson, Secretary



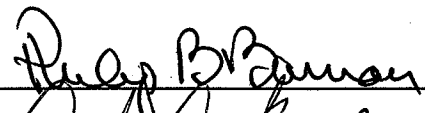
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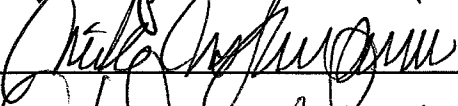
**Port of Everett
Voucher Approval List
for the month of
AUGUST
2009**

We, the undersigned Commissioners of the Port of Everett, Snohomish County, Washington, do hereby certify the following vouchers/warrants have been certified and approved for payment this the 8th day of September, 2009:

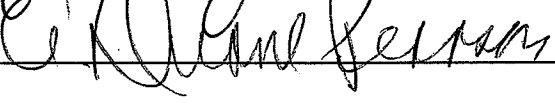
	Total
Claims Voucher Nos 52971 - 53270	\$1,952,783.27
Claims Wire Transfers:	
8/3, 8/5, 8/17 Wire Transfer - IRS	\$ 151,760.99
8/24 Wire Transfer -Union Bk of Calif	\$ 9,268.93
8/27 Wire Transfer - Hirofumi Oshio	\$ 2,808.22
8/26 Wire Transfer - Wa St Dept of Rev	\$ 42,481.75
 Total Claims	 \$ 2,159,103.16
 Payroll Voucher Nos. 31248 - 31531	 \$ 407,449.22
Payroll Wire Transfers:	
8/5,8/12,8/19,8/26 PMA Payroll (Longshore Labor)	\$ 106,142.18
 Total Payroll	 \$ 513,591.40
 Total Expenditures	 \$ 2,672,694.56




President



Vice President



Secretary

Attest: 

Port Auditor