

MINUTES OF EVERETT PORT COMMISSION SPECIAL MEETING  
June 15, 2010

|          |                  |                       |
|----------|------------------|-----------------------|
| PRESENT: | Michael Hoffmann | President             |
|          | Mark Wolken      | Vice President        |
|          | Troy McClelland  | Secretary             |
|          | John Mohr        | Executive Director    |
|          | Karen Clements   | Chief Finance Officer |
|          | Brad Cattle      | Port Attorney         |

CALL TO ORDER: The meeting was called to order at 5:00 p.m. by Commission President Michael Hoffmann.

APPROVAL OF MINUTES:

Commissioner Troy McClelland moved to approve the Work Session Minutes of May 4, 2010, and the Regular Meeting Minutes of May 11, 2010. Commissioner Mark Wolken seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Wolken, McClelland, Hoffmann  
No: None  
Abstained: None

Motion carried unanimously.

1. COMMISSION PRESIDENT'S REPORT

Commissioner Michael Hoffmann reported that he plans to implement initiatives that will provide the opportunity to review and discuss sustainability issues at the Port regarding economics and energy. Michael Hoffmann also suggested that the Port have an open discussion about economics and how it impacts the Port of Everett's vision and mission.

2. EXECUTIVE DIRECTOR'S REPORT

**July Commission Meetings**

John Mohr reported that Port Staff is recommending that the Commission hold one meeting in July, on Tuesday, July 6, 2010 at 5:00 p.m. in the Commission Board Room. The Commission concurred.

3. COMMISSION INITIATIVES:

***Governance Structure***

Port Attorney Brad Cattle asked each Commissioner to consent for the record that Resolution Nos. 934, 935 and 936 can be considered at this meeting by unanimous consent. Commissioner Troy McClelland consented; Commissioner Mark Wolken consented; and Michael Hoffmann consented.

Commissioner Hoffmann remarked that he strongly felt the public should be able to vote on all resolutions having to do with the Governance Structure. Commissioner Wolken responded that the Port received very good input from the public regarding the merits of a five-member commission and the at-large positions. He felt there was not enough substantive information received about the merits of reducing the length of the terms. Commissioner Troy McClelland said there was little substantive information received about the pros and cons for the terms of office during the public meetings. In order to function as an enterprise, he felt that six-year terms were appropriate.

Commissioner Hoffman reiterated that the voters should be able to decide.

**Resolution No. 934 – Expanding the Commission from 3 to 5 Members**

Commissioner Mark Wolken moved to adopt Resolution No. 934, increasing the number of Commissioners of the Port District from three Commissioners to five Commissioners by submitting the issue to a vote by the qualified voters of the Port District. Commissioner Troy McClelland seconded the motion. A vote was called for:

Vote: 2-1  
Yes: McClelland, Wolken

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No: Hoffmann  
Abstained: None

Motion Passed.

**Resolution No. 935 – Expanding the District to 5, with 2 At-Large**

Commissioner Mark Wolken moved to adopt Resolution No. 935, proposing that Two Commissioner Districts include the entire Port District in the event the number of Port Commissioners is increased from three Commissioners to five Commissioners. Commissioner Troy McClelland seconded the motion. A vote was called for:

Vote: 2-1  
Yes: McClelland, Wolken  
No: Hoffmann  
Abstained: None

Motion Passed.

**Resolution No. 936 – Reducing Commissioner Terms of Office from 6 to 4 years**

Commissioner Troy McClelland moved that Resolution No. 936, reducing Commissioner terms of office from six to four years be considered. Commissioner Michael Hoffmann seconded the motion. A vote was called for.

Vote: 1-2  
Yes: Hoffmann  
No: McClelland, Wolken  
Abstained: None

Motion denied.

David Mascarenas, Bob Jackson, Peggy Toppel and Charlene Rawson, Everett citizens, expressed disappointment about the vote and asked the Commission to reconsider putting the term length up to a citizen vote.

4. **COLLINS BUILDING REVIEW PROCESS**

**Consideration of Resolution No. 922 or Potential Related Actions**

Executive Director John Mohr said that Resolution No. 922 is the controlling resolution having to do with the Collins Building and was adopted by the Port Commission on September 8, 2009. The resolution identified that once contingencies were satisfied, the building was to be deconstructed. The contingencies included legal actions and two requests for reconsideration, and with the approval of the Corps of Engineers, that the Memorandum of Agreement (MOA) had been satisfied.

In November of 2009, a Commission election took place, which created a new majority on the Commission, with Commissioner Wolken being seated in December of 2009, and Commissioner McClelland being seated in January of 2010. Subsequently, in January of 2010, the legal actions were resolved leaving the remaining discussions regarding reconsideration pending.

At the Commission Retreat in February, 2010, the Commissioners voluntarily agreed to review the information pertaining to the Collins Building process. In April, 2010, the Corps of Engineers determined that the Port of Everett had fully complied with the MOA and removed the last contingency that had been identified in Resolution No. 922. However, given the decision at the Commission Retreat, no action has been taken pending further review.

On June 5, 2010, the Port held the Collins Building Review Process public meeting, which included the review of an engineering cost estimate and economic analysis of the Collins Building, an overview of the boatyard, a community resources discussion, a presentation by Historic Everett, and a community values discussion followed by public comment.

Last week, the Commission received an oral report from Tim Thompson who was the facilitator at the meeting, and then on Friday June 11, a written report was received from the facilitator completing the formal review.

John Mohr reported that the foregoing is the current status of the Collins Building review and Resolution No. 922 is the controlling resolution.

Commissioner Mark Wolken reported that the commitment he made during the election was to have a transparent public process to review the costs of whether or not there is a use for the Collins Building that pays for itself. The Commission and Port staff have spent the last several months performing this review. Mark Wolken said he also made a commitment to act based on the outcome. The results of the Collins Building Review Process concluded that there is a wide gap between costs and income. In considering the varying costs of improvements based on uses, the current results are very close to the previous studies. There has been nothing tangible presented to the Commission that indicates the results would be different. Sentiment alone is not going to manufacture a use with enough revenue to sustain the building. The Port needs to move forward based on the mission that is dictated to the Port through state law. The Port needs to focus on insuring that the services needed to responsibly manage the marina are provided, and the Port needs to be mindful of the strong desires that were clearly expressed through the review process to insure the Port also makes its facilities both economically sound, and also serve to enhance the quality of life of the residents of the Port District.

Commissioner Wolken announced that the Port Commission has previously approved Resolution No. 922 addressing deconstruction of the Collins Building, which was adopted on September 8, 2009. The resolution focuses in part on the General Contractor Construction Management (GCCM) approach to bidding and contracting. To insure that there is administrative flexibility, and so the Port does not necessarily have to use that process, Commissioner Wolken moved to authorize the Executive Director to approve a call for bids for the deconstruction of the Collins Building. To the extent that the Executive Director determines that the regular bid process is preferable to the GCCM process for deconstruction, and further, if that process is chosen, the Executive Director is authorized to award to the lowest responsible bidder within the authorized amount of Resolution No. 922, and that the Executive Director is thereafter authorized to execute a contract with the lowest responsible bidder under those circumstances.

Commissioner McClelland said during his campaign, he also agreed to review the previous numbers for the Collins Building, and there was a significant process undertaken over the course of 11 years. Commissioner McClelland reported that he has not been able to find a basis to overturn the issues in that process, particularly given the updated information received. With that, Commissioner McClelland seconded the motion.

Commissioner Michael Hoffmann said he would like to move forward, and hopefully maintain the enthusiasm in the community to move forward in a constructive manner.

Commissioner Wolken said that the Port has the largest marina on the west coast and it is important to have the services that are appropriate for the marina.

David Mascarenas, Everett, said the new commissioners have surprised him. The Collins Building has never gotten a fair hearing, and he thought the new commissioners would provide a fair hearing. He said a Farmer's Market could go into the Collins Building this weekend.

Larry Wold, Everett, asked if boats would be brought in by a semi and if so, would there be a truck turn-around area. John Mohr responded that primarily when boats go into the yard, they come out by the Travelift. When boats are brought in on lo-boy trailers, they are picked off of the trailer with the Travelift and moved to a different location.

Valerie Steel expressed dismay about the vote and remarked that users of the marina and boatyard will be mainly affluent white people. Valerie suggested that the Collins Building could be used as a basis for Everett's international marketplace, as Everett has a diverse population. The Commission is missing the opportunity to serve the whole community.

Jeff Lalone, Everett, supported the Commission's decision.

Richard Sullivan and Sue Pellegrini expressed their disappointment in the Commission's decision. Sue Pellegrini respectfully requested that the Commission set aside their motion to go forward with Resolution No. 922 and sell the Collins Building for \$1 to a non-profit group. If the non-profit group fails after five years, the Port can buy the building back for \$1.00.

Commissioner Wolken responded that the proposal sounds appealing but the Port already has a non-profit group with the Equator, which has sat at the Port for over 25 years and nothing has moved forward. The prospect of coming up with the funds for the Collins Building is not realistic. Commissioner Wolken repeated that it is time to move forward.

Commissioner McClelland responded that from a debt service perspective and even with grants, there is still a huge funding gap. He agreed with Commissioner Wolken that the Port needed to move forward.

Valerie Steel said that she expected to see the Port perform a rigorous and thorough economic analysis for everything that the Port does in the future, because it has not been done in the past. If this is going to be the watershed marker for moving forward to economic and financial responsibility, then the Port needs to apply these standards to everything that the Port does.

Michael Hoffmann said it was important, and point well taken.

Marilyn Boyd inquired about the plans for the Weyerhaeuser Building. Executive Director John Mohr responded that the building was originally acquired through donation and the Port provided labor and funding to create a location for the Everett Chamber of Commerce. The building most recently has been under lease to the Stuchell family. Originally, the Stuchell family was going to relocate the building to a site down on the river. When the Stuchells withdrew from that, the Port began efforts to make the building usable, and has spent \$400,000 this year alone to renovate the building. The building will be put back to use.

A vote was called for on Commissioner Wolken's motion regarding bid process for deconstruction of the Collins Building:

|            |                              |
|------------|------------------------------|
| Vote:      | 3-0                          |
| Yes:       | McClelland, Hoffmann, Wolken |
| No:        | None                         |
| Abstained: | None                         |

Motion carried.

5. CHIEF FINANCE OFFICER'S REPORT

Chief Finance Officer Karen Clements reported that the Port is still waiting for the written record of the audited 2009 Financial Statements from the State Auditor's office, but Port staff has been told that the Port has received a clean opinion on the audit and there are no findings. This is the 13<sup>th</sup> year in a row of clean audits for the Port.

6. OPERATIONS REPORT  
**Marine Terminal Report**

Marine Terminal Director Dave Madill reported that May numbers were down at the Terminals compared to last year at this time, as a result of the anticipated reduction in Boeing cargo. However, the Port is expecting five vessel calls next week.

Commissioner Wolken asked if the containers stacked in the yard were part of the natural gas plant shipment. Dave Madill responded the Port has had two shipments already and the shipments are coming in via breakbulk. The containers are for East West Gold, and the Port will be loading out 500 containers this next week.

Dave Madill said that Boeing previously reported that Boeing numbers would be down for approximately one year. Boeing has now reported that shipments should be in full swing by this time next year.

### **Marine Report**

Interim Marina Director Scott Grindy reported that the Marina is getting very busy with 113 new moorage sign ups compared to 95 last May. The fuel dock will remain open on the 4<sup>th</sup> of July. Upcoming events include the Jetty Jam Kiteboarding Festival on June 19 – 20, 2010; Waterfront Concert Series begins June 24; Jetty Island Days begins July 1 through September 6, 2010; and the Marina Customer Appreciation BBQ is on July 22, 2010.

## 7. PROJECTS UPDATE

### **Rail Access Recovery – Industrial Track Agreement**

Chief of Engineering and Planning John Klekotka reported that the Port is working with the Burlington Northern Santa Fe Railways (BNSF) on two agreements, a construction agreement and an Industrial Track Agreement. The construction agreement covers the construction of the portion of the Port's track on the railroad's right-of-way that will be performed by the Port's contractor. The second agreement is the Industrial Track Agreement, which allows the Port to connect its track to the Railroad's track, and also then the Railroad to provide the Port with service. The Industrial Track Agreement (ITA) requires the Port to pay for the work that needs to be performed on the BNSF tracks to accomplish the project. The Port's project was introduced to the Railroad over two years ago, but the process is slow. The Port cannot go out to bid for the project until the federal agencies obligate the funds, and this will not happen until the Industrial Track Agreement is in place. Based on HDR's estimates, the Port is carrying a project budget of just under \$300,000 for the BNSF work.

Port staff will hopefully have the agreement and funding amount for the July commission meeting.

### **Riverside Business Park North Site Shoreline Restoration Project**

John Klekotka reported that to satisfy requirements of the City of Everett's Shoreline Management Program, the Port is required to construct public access along those areas, which are not dedicated to "water dependent" use. The plan for the Riverside Business Park north site was to utilize existing roadway pavement along the 50-foot shoreline buffer to create a public access path. During removal of portions of the roadway, which were not required to remain, the Port's contractor, DMSL Inc., encountered slag material, which had apparently been previously used as base material for the roadway. The slag material was tested and determined to be contaminated. In order to comply with Department of Ecology regulations and protect the future public safety interest once it becomes a public access trail, Port staff took a conservative approach to remove all existing slag material, including that portion of the material under the roadway.

While Staff worked to get the material characterized and determine the most cost-effective means to dispose of the material, DMSL needed to stop work on the project, and standby costs were incurred during March. After the material was loaded out and disposed of, Port staff directed DMSL to haul additional material from the Port's dredge material site to restore the trail alignment to its proper grades. This work was performed on a time-plus-materials basis, and occurred during April.

Port Staff have been working with DMSL to resolve these outstanding matters and establish a payment amount that is fair to both DMSL and the Port. Based on a thorough review of DMSL's equipment, labor, and material charges, the final amounts for these two items are \$11,464 and \$54,377 for the March standby claim and April force account work respectively, for a total change order amount of \$65,841. Port staff believes that DMSL's currently proposed charges are reasonable and constitute fair and equitable compensation for the costs they have incurred on the project. As such, Port staff recommends that the Port Commission approve Change Order No. 6 with DMSL in the amount of \$65,841.

Commissioner Troy McClelland moved to approve Change Order No. 6 for equipment standby time during March and force account work performed during the month of April in the amount of \$65,841 (not including Washington State Sales Tax) with DMSL for the Riverside Business Park North Site Shoreline Restoration project. Commissioner Mark Wolken seconded the motion. A vote was called for:

Vote: 3-0  
Yes: McClelland, Hoffmann, Wolken  
No: None  
Abstained: None

Motion carried.

8. APPROVAL OF BILLS

For the month of May 2010, Claims Voucher Nos. 55568 - 55831, in the amount of \$1,803,019.32, Claims Wire Transfers, IRS, in the amount of \$137,854.67, Wash. St. Dept. of Revenue in the amount of \$29,949.71, Hirofumi Oshio in the amount of \$3,913.25, and Payroll Voucher Nos. 33162 - 33367, in the amount of \$354,054.84, and Payroll Wire Transfers, PMA Payroll (Longshore Labor) in the amount of \$105,963.29, with the total amount of \$2,434,755.08, were presented to the Port Commission for approval of payment by Chief Finance Officer Karen Clements.

Commissioner Mark Wolken moved to approve payment of the vouchers for the month of May 2010. Commissioner Troy McClelland seconded the motion. A vote was called for:

Vote: 3-0  
Yes: McClelland, Wolken, Hoffmann  
No: None  
Abstained: None

Motion carried.

9. COMMISSIONER COMMENTS

There were no Commissioner comments.

10. CITIZEN COMMENTS

There were no Citizen comments.

THE SPECIAL MEETING WAS RECESSED into Executive Session at 7:11 p.m. for approximately 30 minutes to discuss with legal counsel a pending litigation matter, and discuss negotiations pertaining to a property lease, for which public discussion could disadvantage the Port's position.

At the conclusion of the Executive Session, there were no announcements, and there was no action taken by the Commission.

THE SPECIAL MEETING WAS ADJOURNED at 7:45 p.m.

APPROVED: this 6 day of July 2010.

EVERETT PORT COMMISSION

By:

\_\_\_\_\_  
Michael Hoffmann, President

  
\_\_\_\_\_  
Mark Wolken, Vice President

  
\_\_\_\_\_  
Troy McClelland, Secretary


**ORIGINAL**

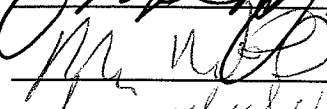



**Port of Everett  
Voucher Approval List  
for the month of  
MAY  
2010**

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 15th day of June, 2010:

|   | <b>Total</b>           |
|---|------------------------|
| Claims Voucher Nos 55568 - 55831                                    | \$1,803,019.32         |
| Claims Wire Transfers:  |                        |
| 5/3, 5/17                      Wire Transfer - IRS                  | \$ 137,854.67          |
| 5/11                              Wire Transfer - Hirofumi Oshio    | \$ 3,913.25            |
| 5/24                              Wire Transfer - Wa St Dept of Rev | \$ 29,949.71           |
| <b>Total Claims</b>   | <b>\$1,974,736.95</b>  |
| <br>  |                        |
| Payroll Voucher Nos. 33162 - 33367                                  | \$ 354,054.84          |
| Payroll Wire Transfers:   |                        |
| 5/4,5/11,5/18,5/25              PMA Payroll (Longshore Labor)       | \$ 105,963.29          |
| <b>Total Payroll</b>  | <b>\$ 460,018.13</b>   |
| <br>  |                        |
| <b>Total Expenditures</b>   | <b>\$ 2,434,755.08</b> |

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Vice President

  
\_\_\_\_\_  
Secretary

Attest:  \_\_\_\_\_ Port Auditor