



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 12, 2016 MINUTES

CALL TO ORDER

Commission President Don Barnes called the Regular Commission meeting to order at 2:01 p.m. in the Port of Kennewick Commission Chambers located at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.

The following were present:

Board Members: Don Barnes, President
Skip Novakovich, Vice-President
Thomas Moak, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Tana Bader Inglima, Deputy CEO
Amber Hanchette, Director of Real Estate and Operations
Nick Kooiker, CFO/Auditor
Larry Peterson, Director of Planning and Development
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Mr. Chuck Eaton led the Pledge of Allegiance.

OATH OF OFFICE

Ms. Scott administered the oath of office to Commissioner Don Barnes.

OLD BUSINESS

A. *Port Commission Rules of Policy and Procedure; Resolution 2016-01*

Ms. Luke stated, as previously discussed at the December 8, 2015 meeting, the Commission wished to implement rules and processes for the election of Commission Officers. Before the Board is Resolution 2016-01 which revises section 6.1 "Officers" in the Port Commission Rules of Policy and Procedures. The following additions have been made:

- 6.1.1: Terms. The terms of the office for each officer shall be two years or until his/her successor is elected:
- 6.1.2: Election. The officers shall be elected at the first regularly scheduled Port Commission meeting in January in the even years. Newly elected officers shall take office effective the next regularly scheduled meeting following the election, unless otherwise agree by the Commission:
- 6.1.3: Special Elections: By affirmative vote of 2/3 of the officers, a special election of officers may be held at any regularly scheduled Port Commission meeting.

Mr. Arntzen believes the revisions accurately depict the Commission's requests.



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PUBLIC COMMENT

Ed Frost, 609 West Albany Street, Kennewick. Mr. Frost is concerned about section 6.13, Public Comment, which states public comments shall be received at the beginning and end of each meeting. Mr. Frost greatly appreciates Commissioner Barnes allowing the public to comment on action items and believes this is a step in right the direction for open government. However, item 6.13 does not give the public the leeway for input on general comments or the opportunity to comment on action items. Furthermore, Mr. Frost believes the Commission meetings run long, considering size of the organization. Mr. Frost hopes that once the Port Commission Rules and Procedures are adopted, the Commission and staff pay attention to section 6.12.3, which states a presentation should not last longer than 15 minutes. Mr. Frost believes public participation in the governance of the Port is important, however, the public is not paid to attend the meetings. Mr. Frost would appreciate it if the Commission keep presentations to 15 minutes.

Clerks Note:

** Resolution 2014-04, approved on March 11, 2014: Approval to amend the Port Commission Rules of Policy and Procedure to permit additional public comment for any item where a motion will be made; and to decrease the time limit from three minutes per speaker to two minutes per speaker, per item.*

No further comments were made.

MOTION: Commissioner Novakovich moved for the approval of Resolution 2016-01 with the caveat that the Commission will examine other items within the Port Commission Rules of Policy and Procedures; Commissioner Moak seconded.

Discussion:

Mr. Novakovich stated he found a few inconsistencies within the Policy and Procedures, but for today, the Commission is only looking at the process for the election of Commission Officers.

Mr. Moak stated items have been changed which are not reflected in the Policy and Procedures and asked staff to research previous minutes that reflect formal policy changes. Mr. Moak supports the additional language for the election of Commission Officers.

Mr. Barnes stated the Commission can make changes to the Policy at any meeting and he appreciates Mr. Frost's comments. Mr. Barnes believes the changes to public comments (Resolution 2014-04) reflects the desire of the entire Commission and stated there are items the Commission can address at a later meeting. At this time, the most relevant change is the election of Commission Officers; and he supports Resolution 2016-01.

With no further discussion motion carried unanimously. All in favor 3:0.

Mr. Arntzen stated Mr. Novakovich pointed out some inconsistencies within the policy and asked staff to review the policy and fix items that need to be corrected. Mr. Arntzen stated if the Commission or public finds additional errors, please email Ms. Scott.



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2016 ELECTION OF OFFICERS

Mr. Barnes clarified with Ms. Luke that in *Roberts Rules of Order*, officer nominations do not require a second.

Ms. Luke confirmed that nominations do not require a second.

Mr. Barnes inquired if the preference of the Commission is to elect one officer at a time or slate of officers.

The consensus of the Board is to elect a slate of officers.

Mr. Novakovich nominated the following officers, effective January 26, 2016 (Slate #1):

- President: Mr. Novakovich;
- Vice President: Mr. Moak;
- Secretary: Mr. Barnes.

Mr. Moak nominated the following officers, effective January 26, 2016 (Slate #2):

- President: Mr. Barnes;
- Vice President: Mr. Novakovich;
- Secretary: Mr. Moak.

With no other nominations, Mr. Barnes the closed nominations and asked for public comment.

PUBLIC COMMENT

No comments were made.

Mr. Barnes reiterated the nominations and inquired if the Commission is comfortable with a voice vote.

The consensus of the Board is to hold a voice vote.

Mr. Barnes called for a vote on Slate #1.

All in favor Slate #1: 3:0. Vote for Slate #1 is unanimous.

Mr. Barnes called for a vote on Slate #2.

All in favor Slate #2: 0:3

Mr. Barnes stated it is a unanimous election and the following officers will serve for the next two years:

- President: Mr. Novakovich;
- Vice President: Mr. Moak;
- Secretary: Mr. Barnes.

Mr. Arntzen stated Mr. Barnes has done a tremendous job as Port President and has led us through some challenging times and appreciates his ability to be a very good moderator, which is, the sentiment of staff.



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Mr. Novakovich echoed Mr. Arntzen's comments on behalf of the Board.

Mr. Barnes thanked Mr. Moak and Mr. Novakovich and appreciates their integrity and honesty and shared that he is honored to work for the Port of Kennewick.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

Consent agenda consisted of the following:

- A. Approval of Direct Deposit and E-Payments Dated December 17, 2015**
Direct Deposit and E-Payments totaling \$52,897.82
- B. Approval of Warrant Registers Dated December 22, 2015**
Expense Fund Voucher Numbers 37455 through 37517 for a grand total of \$369,341.56
- C. Approval of Direct Deposit and E-Payments Dated December 31, 2015**
Direct Deposit and E-Payments totaling \$57,118.160
- D. Approval of Warrant Registers Dated December 31, 2015**
Expense Fund Voucher Numbers 37518 through 37549 for a grand total of \$272,772.62
- E. Approval of Warrant Registers Dated January 12, 2016**
Expense Fund Voucher Numbers 37518 through 37549 for a grand total of \$72,907.30
- F. Approval of Commission Meeting Minutes Dated December 8, 2015**
- G. Approval of Emergency Bid: Repair of "C" Dock Sprinkler System; Resolution 2016-02**

MOTION: *Commissioner Novakovich moved for approval of the Consent Agenda, as presented; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

REPORTS, COMMENTS AND DISCUSSION ITEMS

- A. Tri-Cities Legislative Council Trip, January 28-29, 2016**
Mr. Arntzen stated, as previously discussed at the December 8, 2015 meeting, the Tri-Cities Legislative Council Trip is scheduled for January 28-29, 2016.
It is the consensus of the Commission that the Port will not attend the Tri-Cities Legislative Council Trip.
- B. Columbia Drive Update**
Mr. Peterson reported the Wine Village Phase I, went out for bid on December 14, 2015. On January 5, 2016, the Port held a pre-bid meeting and approximately 26 contractors were in attendance. Mr. Peterson stated the Wine Village is unique due to the new construction method that is being used and the project has generated a lot interest in the construction community. Mr. Peterson stated bids for the Wine Village are due on February 4, 2016 at 10:00 a.m. The results will be presented to the Commission on February 9, 2016, for possible consideration and approval.



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Mr. Moak stated he has had many inquiries about when the project at Columbia Drive will begin. This is great progress for Columbia Drive and the Port signage is first rate. The Wine Village will benefit downtown Kennewick, the waterfront development and our community.

Mr. Novakovich stated he has had heard comments from Walla Walla community members as well.

Mr. Peterson stated the Wine Village Phase I bid includes three winery buildings, the undergrounding of 850 feet of utilities, key infrastructure and preparation of the remaining five acres for development.

C. Vista Field

Mr. Peterson reported the Vista Field Transportation Impact Evaluation Analysis (TSIE) has been submitted to the City of Kennewick for review. The City initially scheduled a review of the TSIE for January 12, 2016, however, the meeting has been rescheduled to allow all members of City Council to be present. Mr. Peterson stated the meeting has been rescheduled for February 9, 2016, and he, city staff, and Mr. Robison of Strategic Management will speak on behalf of the Port. The extension allows the City the opportunity to further review the study in prior to sharing it with Council. The mixed-use zoning regulations for Vista Field are moving forward and will be utilized for the Bridge to Bridge area as well.

1. Arts Center Task Force

Mr. Arntzen updated the Commission on the status of the Arts Center Task Force and at this time, the Port is looking to identify a parcel of land, which is mutually acceptable for the stage I facility. Mr. Arntzen met with Mr. Wiley, chairman of the Arts Center Task Force in December and provided Mr. Wiley with drafts of the following for legal review: letter of intent, formal expression of interest, and a draft Purchase and Sale Agreement (PSA), which outlines the terms of the land transfer. The transaction is difficult to define, therefore the Port Commission has included conditions to safeguard both entities. The next step is for the Arts Center Task Force, a Port representative, and legal counsel to meet to discuss the mechanics and path forward.

Mr. Moak inquired if Mr. Arntzen has spoken with Mr. Wiley and asked how long it might be before the Port moves forward.

Mr. Arntzen believes the process is moving forward but it will take time to implement. At this time, neither entity has a deadline, however, the Arts Center Task Force does need to have a piece of property identified to begin fundraising. This is a complex transaction and while the Port does not have a parcel identified in Phase I, staff has been working with Duany Plater-Zyberk (DPZ) to identify a location. Mr. Arntzen does not anticipate any issues with the land transfer and believes the Port has a solid foundation to work with.

Mr. Moak inquired if the parcel needs to be identified and the Phase I infrastructure determined prior to executing the document.



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Mr. Peterson stated yes, both parties will need to know specific details of the parcel which will include the infrastructure and utilities.

Mr. Barnes confirmed that post-closing there will be conditions placed on the transaction, such as construction time frame.

Mr. Arntzen confirmed there will be public safeguards in the contract and stated if there is a transaction where the Port is going to transfer land to the Arts Center Task Force, certain stipulations will be made to safeguard the Port and taxpayers. This is a project of first impression and the Arts Center Task Force will need to raise at least \$18,000,000 and it is Mr. Arntzen's understanding that the Commission would like to allow for some flexibility. The project is a very ambitious undertaking for both entities and the community would like to see the project come to fruition. Mr. Arntzen believes there will be many meetings between now and the construction process, and if the project is done correctly, the taxpayers will see the added value to surrounding properties. Mr. Arntzen stated in substantial developments, there is one anchor that stimulates the entire project.

2. *Expression of Interest*

Mr. Arntzen stated during the December 8, 2015 meeting, the Commission viewed an early draft of the Expression of Interest. The Expression of Interest is a document that is intended to act as an advertisement that Port property at Vista Field is ready for development. Furthermore, the Expression of Interest outlines the method of communication between the developer and Port beginning with a letter of intent. Once the Port receives a letter of intent from a developer, it will be evaluated and sent to the town architects, Mr. Mehaffy and Mr. Qamar for review. Mr. Mehaffy and Mr. Qamar will then work with the developer on a proposal which includes concepts and details for Vista Field for Commission review. Mr. Arntzen stated the document is a work in progress and he has been revising the document with Ms. Luke and Mr. Mehaffy to make it less complex while including Port provisions. Mr. Arntzen would like to continue revising the document and bring back at a later date for Commission discussion. Mr. Arntzen stated this is a document that the Port needs to have in place once Phase I infrastructure is completed.

Mr. Arntzen stated it has been mentioned throughout the planning process that there will be an opportunity for a private individual to purchase a residential lot in Vista Field. Mr. Arntzen stated the Rosemary Beach development in Florida was able to sell lots with certain design standards, covenants, conditions and restrictions (CCR) in place, which was beneficial to the entire development. Mr. Arntzen conveyed there are some legal prohibitions about ports entering into the residential market, however, the Port has the ability to sell larger residential components as part of the Master Plan. Furthermore, the Port staff is small and Mr. Arntzen does not believe that staff should act as the realtor office to sell lots to an individual buyer. Mr. Arntzen asked for Commission direction regarding the sale of private residential lots or perhaps selling a 5-10 acre parcel to a real estate developer, with the stipulation to subdivide the lot and market to private individuals.



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Mr. Moak stated it would be helpful to get a better understanding of the Port's legal options going forward.

Mr. Arntzen stated Ms. Luke will help staff research the legalities, unless the Commission sees an issue with the Port selling individual lots.

Mr. Novakovich stated the Port has many big projects in the works, and strongly believes there is a better use of staff time than selling individual lots.

Mr. Peterson stated residential lots have been discussed since the Charrette, however, after discussion with legal counsel, maybe the Port should look at other options to ensure residential sales at Vista Field. Mr. Peterson stated allowing the individual buyer to build at Vista Field is beneficial, however, CCR's and design stipulations in accordance to the Port's master plan will need to be in place.

Mr. Barnes would like staff to explore a residential development agreement for the residential customer. Mr. Barnes stated we need to be mindful of the use and commitment of Port personnel resources and does not believe the Port should be in the business of handling individual residential real estate transactions. If the Port is able to find a residential developer who will be able to sell to the private individual, Vista Field will be a richer, diversified development, however, it is important that CCR's are in place.

Mr. Arntzen will have Ms. Luke research the legalities, acting on the premise that Port staff will not act as the selling agent.

Mr. Novakovich clarified that he is not opposed to selling individual residential lots, however he does not want to see Port staff acting as the selling agent.

The consensus of the Board is for Ms. Luke to research port laws regarding residential lots, with the premise that the Port will not act as the selling agent to private individuals.

3. 2016 Path Forward (Master Plan/Developer's Agreement; Financing Plan; Phase I Infrastructure Plan)

Mr. Arntzen stated 2015 was the year the Port captured ideas to create a draft Master Plan for Vista Field and as Mr. Peterson reported, the TSIE will be presented to City Council on February 9, 2016. Once the City has reviewed the TSIE, staff and DPZ will be able to make necessary corrections and/or changes to the Master Plan and submit them to the City for review in March. Mr. Arntzen stated it is important to be diligent and he would like to meet with the City regarding a Developer's Agreement, which locks in developer's fees, allocates a time period, generally 10-20 years for the master plan, and safeguards the continuation of the development. Mr. Arntzen stated if the Master Plan and Developer's Agreement are in place by spring that it will be a very substantial development for Vista Field and our Community.



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Mr. Arntzen stated the following will need to be completed in 2016:

- Master Plan and Developer's Agreement approved by the City;
- Phase I Infrastructure Plan;
- Performing Arts Center site established;
- Refine financing plan.

Mr. Arntzen stated although the Commission previously discussed a \$5,000,000 financing plan for Phase I, he would like to refine the scope to a \$3,000,000 financing plan which might include: general arterials and narrow streets, parcels for development and an open space in preparation for Phase II green space. Mr. Arntzen stated a \$3,000,000 plan is feasible for completing Phase I infrastructure without incurring debt.

Mr. Kooiker stated as Vista Field moves forward, the discussion of where the funds will come from and what resources can be used will be narrowed down. The Port carries no debt and would like to fund Phase I with cash on hand, however, if that is not plausible, we will look at other options such as a bridge loan.

Mr. Arntzen believes real estate sales will fund approximately 50% of Phase I.

Mr. Moak inquired if Mr. Arntzen anticipates work to be completed in by the end of second quarter in 2016.

Mr. Arntzen hopes to have Phase I infrastructure plan in place before June.

Mr. Peterson believes June of 2016 is a feasible timeframe and hopes that by this time next year, the Port will be able to break ground on the first phase of infrastructure and road development.

Mr. Novakovich inquired how much land will be used in Phase I.

Mr. Peterson stated Phase I will be approximately 27-30 acres (1/3 of site).

Mr. Barnes inquired if the draft Charrette report was still available on the Port website. Furthermore, Mr. Barnes asked if roundabouts will be included in the Phase I infrastructure plan.

Mr. Peterson stated a roundabout may be included at the curve on West Deschutes next to the hangars. Mr. Peterson reported all documents are readily available at www.portofkennewick.org and the email vistafield@portofkennewick.org is still open for comments.

Mr. Arntzen stated it is important to remember that the Port will have an unfunded Phase I infrastructure plan and the policy question for the Commission to consider is what sources and funds should be utilized to fund Phase I. It has been discussed that the Commission would like to follow a lean development plan however, the dilemma may be the public



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asking when construction will begin. Mr. Arntzen stated the City has suggested applying for a Local Revitalization Fund (LRF) however, is not statutorily permitted at this time and may not materialize.

Mr. Moak inquired we are actively marketing Port properties for sale with the purpose of accumulating funds for major projects.

Mr. Arntzen stated we are not actively marketing the Southridge property, but we are marketing the Verizon property near Deschutes. The Verizon property is currently being appraised and Ms. Bader Inglima is working on signage which will advertise the Vista Field vision. It was discussed that the Port hold the Southridge property with the expectation that the property value will increase, however, the Commission can instruct staff to market Southridge.

Mr. Moak confirmed that the sale of the Southridge property was included in the initial financing plan for \$5,000,000.

Mr. Arntzen stated Mr. Moak is correct. Mr. Arntzen anticipates bringing a formal financing plan with Phase I infrastructure reflecting the changes discussed today. Mr. Arntzen believes a \$3,000,000 financing plan is more realistic and gives the Port a greater opportunity to start developing the property.

Mr. Moak asked if the Verizon property was outside the Vista Field Master Plan are and if so, what is the specific zoning for the property.

Mr. Peterson stated the Verizon property is made up of two parcels, which are outside the Master Plan. The front parcel, which faces Deschutes, is approximately 6 ½ acres and is zoned for business park, which must comply with City's commercial design standards. The remaining parcel in the back is zoned for industrial.

D. Commissioner Meetings (formal and informal meetings with groups or individuals)

Commissioners reported on their respective committee meetings.

E. Non Scheduled Items

1. Mr. Peterson stated construction has begun on the Northwest Orthopedics medical building in Spaulding Business Park.
2. Ms. Bader Inglima has been asked to prepare a letter of support for Richland Council Member, Phil Lemley, for his application for position on the Washington Building Code Council. The application is being made through the Association of Washington Cities. Ms. Bader Inglima drafted a letter of support on behalf of the Port for Mr. Lemley.
3. Mr. Peterson stated Resolution 2015-30, which was approved on December 8, 2015, for construction of the inwater boat ramp work was awarded to Big D's Construction. Removal of the existing boat ramp launch panels and demolition has been completed. Furthermore,



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material has been placed and Big D's is ready to install the prefabricated frames and concrete panels. Mr. Peterson stated staff worked with the U.S. Army Corps of Engineers to lower the water level Tuesday through Thursday to aid construction.

4. Ms. Hanchette reported the 415 North Quay (Bruker) building rehabilitation project, went out for bid on December 14, 2015. The project is running parallel with the Wine Village and there has been a lot of interest in the project. The mandatory walk-thru was held on the same day as the Wine Village pre-bid conference and approximately 12 contractors showed up. The bid opening is scheduled for Wednesday, January 21, 2016 at 2:00 p.m. and will be brought to the Commission for consideration on January 26, 2016.

PUBLIC COMMENTS

No comments were made.

COMMISSIONER COMMENTS

No comments were made.

Mr. Barnes anticipates the Executive Session will last approximately 40 minutes, for Real Estate (Site Selection), per RCW 42.30.110(1)(b) and Real Estate (Minimum Price) per RCW 42.30.110(1)(c) with no action anticipated. Mr. Barnes asked the public to notify Port staff if they will return after the executive session.

Mr. Barnes recessed the Regular Commission Meeting at 3:30 p.m. for approximately eight minutes.

EXECUTIVE SESSION

A. Real Estate (Site Selection), per RCW 42.30.110(1)(b)

B. Real Estate (Minimum Price), per RCW 42.30.110(1)(c)

Mr. Barnes convened the meeting into Executive Session at 3:40 p.m. for approximately 40 minutes.

Ms. Scott exited the meeting at 4:20 to extend the Executive Session for 10 minutes.

Mr. Barnes adjourned the Executive Session at 4:28 p.m.

Mr. Barnes reconvened Regular Commission Meeting at 4:29 p.m.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned at 4:29 p.m.



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APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

A blue ink signature of Don Barnes, written in a cursive style.

Don Barnes, President

A blue ink signature of Skip Novakovich, written in a cursive style.

Skip Novakovich, Vice President

A blue ink signature of Thomas Moak, written in a cursive style.

Thomas Moak, Secretary

PORT OF KENNEWICK

Resolution No. 2016-01

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK ADOPTING THE PORT COMMISSION RULES OF POLICY AND PROCEDURE

WHEREAS, the Port of Kennewick Commission adopted Resolution 2011-05 on February 22, 2011 establishing a formal policy and procedures document to address the specific roles, expectations of conduct, knowledge, disclosures, prohibitions, legal requirements, and accountability of the elected officials who are responsible for the current operation and future direction of the Port of Kennewick; and


WHEREAS, staff has worked with Lucinda Luke, Port Counsel, to revise Section 6.1 "Officers", of the Port Commission Rules of Policy and Procedure document to define the terms of office and the process for election of officers.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby adopts the revised Port Commission Rules of Policy and Procedure, which shall remain in effect until further revised.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 12th day of January, 2016.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

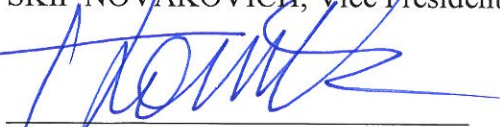
By:


DON BARNES, President

By:


SKIP NOVAKOVICH, Vice President

By:


THOMAS MOAK, Secretary

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

**RULES
OF
POLICY AND PROCEDURE**

**ADOPTED AT A REGULAR, OPEN
MEETING OF THE PORT COMMISSION**

FEBRUARY 22, 2011

Section 6 Revised and Adopted January 12, 2016

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1. INTRODUCTION AND PURPOSE

1.1 Port of Kennewick. The Port of Kennewick ("Port") is a Washington port district, with authority to act under law, including but not limited to Titles 14 and 53 RCW. The powers of a port district are exercised through a port commission. The Port Commission of the Port of Kennewick consists of three Port Commissioners.

1.2 Other Governing Law. In addition to enabling legislation, the Port is subject to Washington State laws, including the open Public Meetings Act, chapter 42.30 RCW; the Public Records Act, chapter 42.56 RCW; and, the Code of Ethics for Municipal Officers, chapter 42.23 RCW.

1.3 Port Managing Official. Consistent with its authority under RCW 53.12.270, the Port Commission has delegated to the office of Executive Director such administrative powers and duties as deemed proper for the efficient and proper management of the Port's operations. See "Delegation of Authority to Executive Director," Port Resolution 2009-06 (February 10, 2009 – the "Delegation Policy.")

1.4 Purpose. It is the purpose of these Rules of Policy and Procedures to provide a framework and guide for governance, management and operation of the Port.

1.5 Reserved Rights. The adoption and maintenance of these Rules of Policy and Procedure ("Rules") create no vested rights or entitlements. These Rules may be revised, suspended, amended or repealed by majority vote of the Port Commission when acting pursuant to and in compliance with law.

2. COMMISSION AND COMMISSIONERS

2.1 Purpose. The purpose of the Commission is to:

2.1.1 Identify and define the purpose, values and vision of the Port, along with the results the Port is to achieve, and to communicate those items in the form of policy;

2.1.2 Make certain decisions as are designated by law; and

2.1.3 Hire, evaluate, and terminate the Executive Director.

2.2 Governance. Commission governance addresses:

2.2.1 Strategic leadership more than administrative detail;

2.2.2 Encouragement of diversity in viewpoints;

2.2.3 Collaborative rather than individual decisions;

2.2.4 Future, rather than past or present, direction;

2.2.5 Proactive, rather than reactive, conduct; and

3.2 Conflict Avoidance. Commissioners are strictly prohibited by law from entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest with their official duties as a Port of Kennewick Commissioner and shall further avoid conduct that may present an appearance of a conflict of interest.

3.3 Policy Acknowledged. On an annual basis and in a public forum, each Commissioner shall acknowledge the obligation to disclose any conflicts of interest under chapter 42.23 RCW.

3.4 Disclosure. On a case by case basis, each Commissioner will disclose to the other Commissioners in a public forum, any remote conflicts of interest under chapter 42.23 RCW. Disclosure will be noted in the Port's official minutes which are public record. As required by RCW 42.23.040, a Commissioner with such remote interest will not participate in any discussion and/or debate concerning such interest, will not vote on the matter, and will do nothing to influence any other Commissioner concerning their decision on the matter. The foregoing shall also apply to any business owned by a Commissioner's spouse, in the absence of a separate property agreement.

3.5 Statement of Financial Affairs. On or before April 15 of each year, or within (14) days of taking oath of office, each Port Commissioner shall file with the Port a copy of a Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240 - .241, which shall be available for public inspection at the first regular Commission meeting after the above-referenced dates.

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules of Policy and Procedure as adopted by the Commission, and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public. As fiduciaries of the Port, Commissioners shall make decisions on the basis of public policy and shall demonstrate undivided loyalty to the interests of Port and its taxpayers. This loyalty shall supersede any conflicting loyalty to advocacy or special interest groups.

3.7 Commissioner Knowledge of Policies. Commissioners will become familiar with their individual and joint obligations pertaining to the Port's directive on reporting alleged improper governmental action, including actions required of the Commission regarding complaints by Port employees and/or the public of alleged improper governmental actions and/or employee claims of retaliation for reporting alleged improper governmental actions.

3.8 Representation of Positions. Unless authorized by the Commission at an open meeting or as set forth in Port policy or plan (e.g., an approved plan), an individual Commissioner may not represent a position as being the position of the Port, either in private communications or in a public forum.

3.9 Shared Information and Advocacy. Recognizing that differences may exist among the Commissioners and that a collegial approach to issue resolution is preferred, Commissioner shall make available to fellow Commissioners all information related to Port activities. A Commissioner should make clear the foundation upon which an opinion stands; be

shall be sent individually, not as group e-mail. Commissioners will not “reply” to any e-mail received by another member of the Commission.

3.13.4 Respect the confidentiality appropriate to issues, including personnel, real estate transactions, proprietary matters, and attorney-client privileged communications, including those requirements listed under RCW 42.30.110, Executive Sessions, and including any other confidential information gained by reason of the Commissioner’s position. See also RCW 42.23.070(4) prohibiting disclosure of confidential Port information.

3.14 Commission Disclosure of Economic Associations. RCW 42.23.070 states in part that “[n]o municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein.” Port contracts made in violation of the law are void; and any Port officer violating the law is liable to the Port for a “penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty.” RCW 42.23.050. The law also prohibits a Commissioner from employment or engaging in any professional activity that may require disclosure of Port information to non-Port interests. RCW 42.23.070. These statutory prohibitions are based on the principle that a Port official may not have divided loyalties. The line between proper and improper conduct may not always be clear, and even unintentional conduct may expose the Port and Port officers and employees to liability. See *City of Raymond v. Runyon*, 93 Wn. App. 127 (1998) (“In spite of well-intentioned attempts to avoid a prohibited conflict of interest,” city commissioner found in violation of law). These Rules attempt to address a Commissioner’s responsibility under law and duty of loyalty to the Port, with other interests. See also, Section 3.2.

3.14.1 Under chapter 42.23 RCW, no Commissioner may have an economic association (affiliation, involvement, or interest), directly or indirectly, that may conflict with the Commissioner’s official duties as a Port Commissioner. However, Commissioners may engage in other employment or activity only so long as it does not interfere or conflict with their duties as a Commissioner.

3.14.2 In order to avoid inadvertent violation of law, and consistent with the Port’s policy for its officers and employees, on or before April 15 of each year, or within fourteen (14) days of taking office, each Port Commissioner, shall file with the Port a written statement identifying any current or prospective economic relationship, whether direct or indirect, which could be a conflict of interest, a remote interest or give rise to an appearance of a conflict of interest with the Port. In addition, each Port Commissioner shall in the written statement disclose other employment and/or business relationships in order that the Port may confirm that there are no Commissioner conflicts or potential conflicts of interest with current or prospective Port activities. The statement shall include the name of the employing or business, the nature of services rendered, the time commitments, the location of the performance of such services and the amount of compensation (and expense reimbursement) received for such services. This Section 3.14.2 shall also apply to any employment or business of a Commissioner’s spouse, in the absence of a separate property agreement.

the Port Policies and Procedures manual. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner has engaged in misconduct, the Executive Director shall investigate consistent with Section 5.3 and report to the Commission. No employee will be discharged, threatened, or discriminated against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation and in the event that an action is taken.

5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice and counsel of Port general or special legal counsel ("Port counsel"), the Executive Director shall determine whether sufficient evidence exists to proceed with an investigation. If the Executive Director determines that insufficient evidence exists, the complaint shall be dismissed. Otherwise, the Executive Director shall proceed as follows.

5.4 Investigation. If an investigation is warranted, the Executive Director shall recuse himself from the process and delegate all further steps to Port counsel, and/or an investigator retained for such purpose by Port counsel. Port counsel shall inform the party subject of the complaint (Respondent) in writing that a complaint has been filed and that an investigation will take place. Port counsel shall provide a copy of the complaint to the Respondent and the Respondent shall have a reasonable time to prepare and submit a response in writing. Port counsel may seek additional information regarding the matter from the complainant, the Respondent and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port's counsel shall presume that the Respondent acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port counsel shall evaluate the complaint and issue a decision within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port counsel finds misconduct and the complaint substantiated, a report to Executive Director and the Commission shall set forth the basis for the decision and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification of Determination. Following receipt of the decision and recommendation of Port counsel, the Commissioners shall promptly hear, consider and vote upon the recommended action. The complainant and Respondent shall be notified of the action in writing and shall have the right to be heard before the Commission.

5.7 Reconsideration. A decision is subject to reconsideration upon written request by a respondent. But the sole ground for reconsideration shall be that the Respondent has new, relevant information which was not considered by Port counsel. A respondent having new information to submit to the Commissioners may, within fifteen (15) days of receipt of the written notice of determination, file with the Commission a written request for reconsideration stating the reason and including the new information not considered by the Port counsel. Following review of the entire investigative file, the decision and recommendation of the Port

6.3.4 Recognize Commissioners in the order in which they request the floor. Except as otherwise set forth herein, the Presiding Officer, as a Commissioner, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Commissioners; and

6.3.5 Have the authority to appoint Commissioners or the public to serve on ad hoc committees, task forces and any advisory boards, with input from fellow Commissioners.

6.4 Regular Meeting. Port meetings are held on the second and fourth Tuesdays of each month in the Commission Chambers, 350 Clover Island Drive, Suite 200, Kennewick, Washington at 2:00 p.m.

6.5 Special Commission Meetings. A special public meeting of the Commission may be called by the President or by any two Commissioners. Any request and subsequent special meeting notices shall state the subjects (e.g., agenda items) to be considered at such special meeting and no other subject shall be acted upon.

The Port Administrative Assistant shall provide notice of special Commission meetings pursuant to applicable law.

6.6 Quorum. At all meetings of the Commission, a majority of the Commission (two members) constitutes a quorum for the transaction of business, but a lesser number may adjourn from day to day or until the time of the next regular meeting.

6.7 Recording Proceedings. The Port Administrative Assistant shall maintain an account of all proceedings of the Commission in accordance with statutory requirements. Port meeting minutes can be corrected but shall not be revised without a majority affirmative vote of the Commission at a regularly scheduled Commission meeting.

6.8 Call to Order. The Presiding Officer shall call each meeting to order. The Presiding Officer will announce the attendance of Commissioners and indicate any Commissioner who is not in attendance.

6.9 Participation by Telephone. The Commission strongly believes that a Commissioner's first priority shall be to the District's constituents as a whole and that this obligation is best fulfilled by direct, face-to-face participation in public meetings rather than via telephone or other medium. Such policy provides access by the public to the Commission, provides for better understanding by the public of the deliberative process, minimizes miscommunication, ensures that each Commissioner sees all applicable documents and sees all in attendance. Therefore, the Commission, in furtherance of its long-standing policy of transparency in governance, hereby prohibits the use of attendance at Commission meetings via telephone or other media.

6.10 Commissioner Attendance at Meetings. Commissioners shall inform the President or Executive Director if they are unable to attend any Commission meeting, or if they will be late to any meeting. A majority vote is required to excuse any Commissioner's absence. Unless excused, pursuant to RCW 53.12.140 a Commissioner forfeits office by nonattendance at meetings of the Commission for a period of sixty (60) days. The Executive Director shall

6.13.8 Applause or other disturbances are discouraged;

6.13.9 All remarks should be directed to the President; and

6.13.10 Individuals should not expect the Commission, staff, consultants, other speakers or any other person, to respond to their comments. Instead, the Commission may direct the matter to staff for comment at a future meeting or for Commission consideration at a future meeting.

6.14 Executive Sessions. Executive Sessions shall be held in accordance with the provisions of the Washington State Open Public Meetings Act. An Executive Session is a Commission meeting that is closed except to the Commission, Executive Director and others that may be authorized. The public is restricted from attendance. Executive Sessions may be held during Regular or Special Commission meetings and will be announced by the President. Before convening an Executive Session, the President shall announce the purpose of the meeting and the anticipated time when the session will be concluded. Should the session require more time, a public announcement shall be made that the executive session is being extended.

6.15 Commission Discussion. All Commission discussion shall be guided by Robert's Rules of Order, Newly Revised. The Port Attorney shall assume the additional duty of Parliamentarian.

6.16 Media Representation at Commission Meetings. All public meetings of the Port shall be open to the media, freely subject to recording by radio, television, electronic, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meeting.

7. AGENDA PLANNING

The work of the Commission is accomplished in public meetings and all proceedings of the Commission shall be by motion or resolution, recorded in its minute books, which shall be public records. The agenda of the public meeting identifies in general terms the topics to be considered by the Commission.

7.1 Placing Item on the Agenda. Items may be placed on either the business agenda or on the consent agenda. An item may be placed on the preliminary Commission meeting agenda by any Commissioner or by the Executive Director.

7.2 Agenda Preparation. The Executive Director shall prepare a preliminary agenda for each Commission meeting. The preliminary agenda shall set forth a brief general description of each item to be considered by the Commission. The Executive Director shall promptly forward the preliminary agenda to the Presiding Officer for review. The Presiding Officer shall have the option to delete any item from the preliminary agenda. The Presiding Officer shall, at the next commission meeting, report any deleted item to the full Commission and the full Commission shall determine whether the item shall be placed on a subsequent agenda.

7.3 Agenda Materials. Agenda materials will be available on the Friday prior to the Commission meeting. Agenda materials will be delivered to Commissioners.

10. ROLE OF THE COMMISSION SECRETARY

The Secretary of the Commission shall:

10.1 Attest all contracts, bonds, deeds, leases and other instruments and documents duly authorized by the Commission unless otherwise delegated by the Commission.

10.2 Perform all duties incident to the office of Secretary as may from time to time be required by law or assigned to such office by motion, rule or resolution of the Commission.

10.3 Have all of the powers and duties of the President in the absence or inability of both the President and the Vice President to act.

10.4 Have the option of delegating the obligations and duties of Secretary to the appropriate Port staff member for implementation.

11. COMMISSION COMMITTEES

11.1 General. The Commission President may establish ad hoc advisory and standing committees. All committees should include designation of members, chair and a charter describing the committee's purpose. The Commission President will review each committee at least annually to determine whether the committee should continue.

11.2 Committee Roles and Responsibilities.

11.2.1 Committees will assist the Commission by gaining education, considering alternatives and implications, and preparing policy alternatives.

11.2.2 Commission committees or any individual Commissioner may not speak or act for the Commission, except when formally given such authority for specific and time-limited purposes.

11.2.3 Commission committees cannot exercise authority over staff or interfere with the delegation from the Commission to the Executive Director.

11.2.4 Participation in committee meetings shall be in compliance with the provisions of the Open Public Meetings Act, when two or more Commissioners are present, or the committee is acting for the Commission. In such event, the committee meeting must be properly noticed as a public meeting.

11.2.5 These policies apply to any group which is formed by action of the Commission President, whether or not it is called a committee.

12. COMMISSION AND PORT ACTION

12.1 Only decisions of the Commission acting as a body are binding upon the Port and Port staff.

13.3 Executive Director's Role.

13.3.1 The Executive Director is the chief administrative officer of the Port. The Executive Director is directly accountable to the Port Commission for the execution of the Port Commission's policy directives as set forth in the Delegation Policy and for the administration and management of all Port activities and staff.

13.3.2 The Executive Director is the administrator and manager of all Port activities and staff; and the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the Executive Director and will be responded to promptly. The information requested will be copied to all members of Commission so that each member may be equally informed. The Executive Director will provide staff support for Commissioners as appropriate in their official roles.

13.3.3 In addition to regular, comprehensive memoranda written by the Executive Director directly to the Port Commission concerning aspects of Port operations (exclusive of confidential personnel issues), all Commissioners shall receive copies of correspondence received by the Executive Director that will assist them in their policy-making role. The Executive Director also provides other documents to the Commission on a regular basis, such as status reports, executive summaries, and minutes of meetings.

13.3.4 The Executive Director shall have an open-door policy which allows individual Commissioners and the public to meet with the Executive Director on an impromptu, one-on-one basis. Such meetings are highly encouraged. No Commissioner, person or special interest group shall abuse the open-door policy.

13.4 Staff Role. The Commission recognizes the primary functions of staff as 1) executing the policies and actions taken by the Commission as a whole, and 2) keeping the Commission informed. Staff is obligated to take guidance and direction from the Executive Director or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the Executive Director through the Delegation Policy. Port staff will, acting through the Executive Director, make every effort to respond in a timely and professional manner to all individual Commissioner's requests for information or assistance; providing, in the judgment of the Executive Director, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the Executive Director through the direction of the full Port Commission.

13.5 Summary. The following is a brief summary from the Washington Public Port Association ("WPPA") Commissioner Resource Guide, and identifies parallel leadership roles and responsibilities.

Port Commission

Governs:

Guides

Directs

Decides what

Requests information

Considers issues

Creates, reviews and adopts policy

Executive Director

Administers:

Operates

Manages

Decides how

Seeks and provides information

Provides recommendations

Recommends and carries out policy

financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the Executive Director shall inform the Commission.

15. EVALUATING THE EXECUTIVE DIRECTOR'S PERFORMANCE

15.1 General. The Executive Director's job performance shall be evaluated by comparing the organization's operations and results and the Executive Director's performance to the policies established by the Commission.

15.2 Process.

15.2.1 The Commission shall evaluate the Executive Director's performance on an annual basis.

15.2.2 The evaluation will be based on an evaluation of the organization's performance and the Executive Director's personal performance against the evaluation criteria previously established by the Commission and the Executive Director.

16. COMMISSION-AUDITOR RELATIONSHIP

16.1 General. The Port Auditor (Auditor) serves the Port to assist in the Port's compliance with the Local Government Accounting Act, RCW 43.09.200 – 43.09.2855.

16.2 Hiring and Reporting.

16.2.1 The Executive Director shall hire the Auditor. The Auditor shall perform those duties specified in RCW 43.09.240, Port Policy or job description and shall be granted direct access to the Commission as necessary in the performance of these duties.

16.2.2 The Auditor shall report through the Executive Director or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The Executive Director may assign additional duties to the Auditor as long as these duties do not interfere with the Auditor's duties as specified by law.

17. COMMISSION-PORT ATTORNEY RELATIONSHIP

17.1 Port Attorney Role. The Executive Director is responsible for hiring and terminating the Port Attorney. The Executive Director shall make provision for and appoint legal counsel for the Port by any reasonable contractual arrangement for such professional services. The Port Attorney is the legal advisor to the Port, the Commission, its committees, commissions and boards, the Executive Director, and all Port officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the Port. It is important to note that the Port Attorney does not represent individual members of Commission, but rather the Port Commission as a whole. The Port Attorney reports to the Executive Director. The Executive Director is responsible for evaluating the Port Attorney's performance.

does not include independent contractors. "Employee" also includes an employee's spouse when an employee's marital community is named in any action subject to this policy.

18.2.2 "Official" means any person who is serving or has served as an elected Port Commissioner, and any person who is serving or who has served as an appointed officer of the Port as defined by RCW 42.23.020(2), as written or hereafter amended. "Official" does not include independent contractors performing the duties of appointed positions.

18.3 Legal Representation.

18.3.1 The Port shall provide to an official or employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such official or employee may have concluded service or employment with the Port, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such official or employee resulting from any conduct, act or omission of such official or employee performed or omitted on behalf of the Port in his/her capacity as a Port official or employee, which act or omission is within the scope of his/her service or employment with the Port. The provisions of this chapter shall not operate to provide legal representation to defend a claim or lawsuit for any conduct, act, or omission resulting in the termination for cause of any official or employee.

18.3.2 The legal representation shall be provided by the office of the Port legal counsel and may include the Executive Director engaging the services of outside legal counsel. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port legal counsel will work with the policy holder for purposes of obtaining legal representation under the existing insurance policy.

18.3.3 In the event that outside counsel is retained under Section 18.3.2, the Port shall indemnify the employee or official from the reasonable costs of defense; provided, that in no event shall the official or employee be indemnified for legal counsel's fees in excess of the hourly rates established by the Port's contract with legal counsel selected by the Port. The official or employee shall be liable for all hourly rates charged in excess of said rate.

18.3.4 The determination whether the official or employee was acting in good faith within the scope of his or her official duties shall be made by the Executive Director in consultation with the Port legal counsel and/or outside legal counsel. This determination shall be based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the official or employee involved shall be notified by the Executive Director in writing. If the employee or official involved is the Executive Director, the determination shall be made by the Commission in consultation with the Port legal counsel and/or outside legal counsel based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the Executive Director shall be notified by the Port legal counsel, in writing. In any claim involving an allegation of criminal conduct, no investigation by the Port will occur prior to a determination of guilt, or prior to a dismissal of the criminal charge with prejudice, so as not to compromise the official's or employee's Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal.

18.8 Representation and Payment of Claims – Conditions. The provisions of this chapter shall apply only when all the following conditions are met:

18.8.1 In the event of any incident or course of conduct potentially giving rise to a claim for damages, or for the commencement of a lawsuit, the official or employee involved shall, as soon as practicable, give the employee's department director and, if applicable, the Port legal counsel and the Executive Director written notice thereof. The notice shall identify the official or employee involved, all information known to the official or employee involved with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the potential claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

18.8.2 Upon receipt, the official or employee shall as soon as practicable deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the Port legal counsel and shall cooperate with the Port legal counsel, or if the Executive Director authorizes or designates another legal counsel to handle the matter, shall cooperate with that legal counsel, and, upon request, shall assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the Port because of any damage or claim of loss arising from said incident or course of conduct, including, but not limited to, rights of recovery for costs and legal counsel's fees arising out of state or federal statute upon a determination that the lawsuit brought was frivolous in nature. Failure to timely deliver any claim, demand, notice or summons to the Port legal counsel, and in which an adverse decision against the official, the employee or Port results from such failure, shall operate to negate all indemnification and opportunity for defense under this chapter and the Port shall have no obligation to offer a defense to the named official or employee.

18.8.3 Such official or employee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining assistance of witnesses all without any additional compensation to the official or employee, and, in the event that an employee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such official or employee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to said claim or lawsuit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. Nothing herein shall be deemed to preclude any official or employee from retaining legal counsel to represent his/her interests relating to such claim or lawsuit; however, all costs and expenses incurred thereby shall be paid by the official or the employee.

18.8.5 Nothing herein shall modify existing procedures or requirements of law for processing and payment of claims against the Port.

18.9 Effect of Compliance With Conditions. If legal representation of an official or employee is undertaken by the Port, whether by the Port legal counsel or by legal counsel obtained by the Port or through its insurance coverage, and all of the conditions of representation are met, and a judgment is entered against the official or employee or a settlement is made, the Port shall pay such judgment or settlement according to the provisions herein; provided, that the Port may at its discretion appeal as necessary any such judgment. In no event shall this Section

limitations, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

18.14 Modification of Chapter. The provisions of this chapter shall be subject to amendment, modification and repeal, at the sole discretion of the Commission, provided that unless explicitly set forth, any such amendment, modification or repeal shall apply prospectively only and shall have no effect on the obligation of the Port to indemnify and/or defend against any claim which is based, in whole or in part, upon any action or omission of an employee or official occurring prior to the effective date of the amendment, modification or repeal.

18.15 Bargaining Unit Contracts. If a union contract under chapter 41.56 RCW covers any of the provisions of this chapter, all employees under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

18.16 Punitive Damages. When an employee or official of the Port has been represented in a claim and/or litigation by the Port pursuant to this chapter and any judgment is rendered against such employee or official for punitive damages, the employee or official may make a request to the Commission that the Port pay the award of punitive damages on behalf of the official or employee. Upon receiving a request made by or on behalf of a Port employee or official to pay punitive damages, the Commission shall receive a report and recommendation from the Executive Director and the Port legal counsel. If the official or employee is the Executive Director or a Commission member, the Commission may request a report and recommendation from the Port legal counsel or may retain the services of another person or agency to provide a recommendation. Following receipt of the report and any recommendation, the Commission shall determine whether the best interests of the Port and justice will be served by payment by the Port of the award for punitive damages. There shall be no appeal from such determination. The Executive Director shall communicate the council's determination with respect to the employee's or official's request for payment of punitive damages to said employee or official. Thereafter, the finance director shall prepare the payment of punitive damages if the council authorized such payment.

18.17 Application to Recall Proceedings.

18.17.1 Consistent with RCW 4.96.041(3), the necessary expenses of defending a Port Commissioner in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the Port if the Commissioner requests such defense and approval is granted by both the Commission and the Port's legal counsel or attorney appointed by the Executive Director to review the request. The expenses paid by the Port may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

18.17.2 As authorized by the Supreme Court in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the Port's decision to indemnify and pay the costs of a recall defense does not constitute a contract under RCW 42.23.030, and, as a result, a Commissioner requesting payment of such expenses may vote on the Commission's consideration of the request.

Ten Commandments for Staying out of Trouble as a Port Commissioner

[as presented in the WPPA Commissioner Resource Guide]

1. Thou shalt never spend the public's money in secret.
2. Thou shalt not accept personally more money or benefits than any other fellow commissioner.
3. Thou shalt not require the port staff to do more work than necessary to inform (please) you when they could be occupied in improving the business of the port.
4. Thou shalt not speak as the official spokesperson of the port without knowing officially that you have been so designated by the commission majority.
5. Thou shalt not use the press against your fellow commissioners.
6. Thou shalt not use port property for unofficial business, not even a paper clip. Paper clips are cheap, buy your own. Use your own car too.
7. Thou shalt not argue with, grill, or embarrass port staffers in public. They'll hate you for it and get back at you in a thousand ways without your ever knowing it or leaving a scrap of evidence.
8. Thou shalt not depend on news media to keep the public informed of the activities and purposes of the port. Have your own PR program and carry it out.
9. Thou shalt not align yourself closely with a certain group of port tenants or users. Your motives will always be aligned with that group regardless of the issues. And the group will turn on you if you don't support them every single time.
10. Thou shalt not become involved in hiring anyone but the port manager and the port auditor.

PORT OF KENNEWICK

Resolution No. 2016-02

***A RESOLUTION OF THE PORT OF KENNEWICK
BOARD OF COMMISSIONERS DESIGNATING THE EMERGENCY REPAIR OF
"C" DOCK SPRINKLER SYSTEM AT CLOVER ISLAND MARINA,
350 CLOVER ISLAND DRIVE KENNEWICK AS EXEMPT FROM PUBLIC
WORKS COMPETITIVE BIDDING REQUIREMENTS***

WHEREAS, in accordance with RCW 39.04.280, the Port of Kennewick (Port) is authorized to designate certain public works contracts as emergencies and, therefore, exempt from competitive bidding requirements; and


WHEREAS, the Port of Kennewick's Clover Island Marina sprinkler system for C dock experienced a broken ball valve from freezing temperatures and threatened to result in material damage to property; and

WHEREAS, under his delegation of authority, the Chief Executive Officer authorized emergency repairs with Cascade Fire Protection and each Commissioner was notified individually.

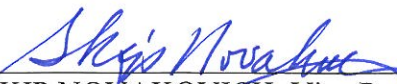
NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners designates the repairs to the Clover Island marina sprinkler system for C Dock at 350 Clover Island Drive as an emergency public works project within the guidelines of RCW 39.04.280, and therefore exempt from competitive bidding requirements.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 12th day of January, 2016.


***PORT OF KENNEWICK
BOARD OF COMMISSIONERS***



DON BARNES, President



SKIP NOVAKOVICH, Vice President



THOMAS MOAK, Secretary