

AGENDA

*Port of Kennewick
Regular Commission Business Meeting
Port of Kennewick Commission Chambers
350 Clover Island Drive, Suite 200, Kennewick, Washington*

Tuesday, February 13, 2018
2:00 p.m.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. APPROVAL OF AGENDA**
- IV. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- V. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments Dated February 2, 2018
 - B. Approval of Warrant Register Dated February 5, 2018
 - C. Approval of Warrant Register Dated February 13, 2018
 - D. Approval of Regular Commission Business Meeting Minutes January 9, 2018
 - E. Approval of Regular Commission Business Meeting Minutes January 23, 2018
- VI. PRESENTATIONS**
 - A. Friend of the Port – Chairman Burke, CTUIR
- VII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Approval to Sell & Convey Surplus (obsolete or broken equipment) Property; Resolution 2018-01 (NICK)
 - B. Port Commission Rules of Policy & Procedure (TIM/BRIDGETTE)
 - C. Environmental Insurance Update (NICK/TIM)
 - D. Clover Island
 - 1. Ground Lease Discussion (TIM/LUCY/LARRY)
 - 2. Miscellaneous Issues
 - E. Vista Field Update (LARRY/TIM)
 - 1. Business Improvement District, Ben Floyd of White Bluffs Consulting (LARRY/TIM)
 - F. Women in Business Conference (AMBER)
 - G. Commissioner Meetings (formal and informal meetings with groups or individuals)
 - H. Non-Scheduled Items
- VIII. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- IX. ADJOURNMENT**

PLEASE SILENCE CELL PHONES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

JANUARY 9, 2018 MINUTES

CALL TO ORDER

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 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: Skip Novakovich, President
Thomas Moak, Vice-President
Don Barnes, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Tana Bader Inglima, Deputy Chief Executive Officer
Amber Hanchette, Director of Real Estate and Operations
Kandy Yates, Office Assistant/Marina Manager
Larry Peterson, Director of Planning and Development
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Mr. Moak led the Pledge of Allegiance.

OATH OF OFFICE

Ms. Yates administered the Oath of Office to Commissioner Skip Novakovich.

APPROVAL OF THE AGENDA

MOTION: *Commissioner Barnes moved to approve the Agenda; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

2018-2019 ELECTION OF OFFICERS

Ms. Bader Inglima stated on January 12, 2016, the Port Commission revised Section 6.1 of the Port Commission Rules of Policy and Procedure, to define the terms of office and the process in which the officers are elected. The process states:

- There shall be three Commission officers: a president, a vice president and a secretary;
- The terms of office for each officer shall be two years or until his/her successor is elected;
- Officers shall be elected at the first regularly scheduled Port Commission meeting in January in even years; and
- Newly elected officers shall take office effective the next regularly scheduled meeting following the election.

Ms. Bader Inglima stated officer nominations do not require a second and it is up to the Board if they desire to elect one officer at a time or to elect a slate of officers.

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Mr. Novakovich stated at previous Commission Meetings, he recommended the Port Officers for the 2018-2019 term.

Mr. Barnes noted Mr. Novakovich's recommendations at the November 28, 2017 and December 12, 2017 Commission Meeting.

MOTION: Commissioner Barnes moved for the approval for the following slate of officers for the Port of Kennewick Board of Commissioners for the 2018-2019 years, effective January 1, 2018; President, Mr. Moak; Vice President, Mr. Barnes; and Secretary, Mr. Novakovich; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

PUBLIC COMMENT

Dorothy Hansen, Kennewick. Ms. Hansen is a member of the Clover Island Yacht Club and has attended the Commission Meetings as the liaison for the Buildings and Grounds Director and reported that Joyce Buxbaum has been elected as the new Buildings and Grounds Director. Ms. Hansen stated she has enjoyed attending the Commission Meetings and plans to continue attending.

Joyce Buxbaum, Richland. Ms. Buxbaum is looking forward to serving on the Board in the capacity of Buildings and Grounds Director and has been a member of the Clover Island Yacht Club for many years. Ms. Buxbaum noted that she is on the Washington State Boating Grants Approval Board.

No further comments were made.

CONSENT AGENDA

Consent agenda consisted of the following:

- A. *Approval of Direct Deposit and E-Payments Dated December 18, 2017***
Direct Deposit and E-Payments totaling \$57,495.19
- B. *Approval of Direct Deposit and E-Payments Dated December 29, 2017***
Direct Deposit and E-Payments totaling \$65,860.50
- C. *Approval of Warrant Registers Dated December 29, 2017***
Expense Fund Voucher Numbers 39715 through 39757 for a grand total of \$170,507.84
- D. *Approval of Warrant Registers Dated January 9, 2018***
Expense Fund Voucher Numbers 39758 through 39776 and 39778 through 39787 for a grand total of \$100,124.72
- E. *Approval of Warrant Registers Dated January 9, 2018***
Expense Fund Voucher Numbers 39777 (PS Media) for a grand total of \$11,107.30
- F. *Approval of Regular Commission Business Meeting Minutes December 12, 2017***
- G. *2018/2019 Committee Assignments***

Mr. Novakovich stated Consent Agenda items are a number of items taken collectively in one motion to be approved or disapproved. He further stated the Commission has the option to remove items from the Consent Agenda and inquired if any items need to be removed.

Commissioner Novakovich would like remove Item E and have the item approved separately because on April 12, 2011, he disclosed that Esprit, the company he and his wife owns, has a

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contract with PS Media to produce the Port's newsletter. Esprit does not get paid directly from the Port; they get paid from PS Media. Item E is the payment to PS Media and in the interest of any kind of perception that there could be a conflict, he would like to recuse himself from any action on this item.

It is the consensus of the Commission to remove Item E from the Consent Agenda for separate approval.

MOTION: *Commissioner Barnes moved for approval of the Consent Agenda, all Items except Item E; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

MOTION: *Commissioner Barnes moved for approval of Item E; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 2:0, (Commissioners Moak and Barnes) 1 abstained (Commissioner Novakovich).*

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Environmental Insurance Update*

Mr. Arntzen briefly updated the Commission on an environmental liability insurance plan for the Port, which covers pollution and ground contaminants that could lead to major clean up actions. The Port previously experienced clean up issues with the collapse of the building at 211 East Columbia Drive in January of 2017. Mr. Arntzen, Mr. Kooiker and Ms. Luke have discussed purchasing environmental liability insurance for Port properties, excluding the marina, which has a separate pollution liability policy. Mr. Arntzen stated Mr. Kooiker has been working with Basin Pacific Insurance Company, the Port's insurance carrier to determine the cost of the policy. Mr. Arntzen stated if the Port selects a policy with \$3,000,000 in coverage, the premium is \$40,000 annually. If the Port selects a policy with \$5,000,000 in coverage, the premium is \$60,000 annually, not including the \$25,000 deductible. Additionally, this particular liability policy is not standard in the industry. Mr. Arntzen stated Mr. Kooiker will continue to research the environmental liability policy and will report back at a later date.

Mr. Barnes inquired if the liability policy is an umbrella policy that would cover all Port properties.

Mr. Arntzen believes the policy would cover all upland properties, excluding the marina.

Mr. Novakovich inquired if an environmental assessment was completed at Vista Field.

Mr. Peterson reported that an environmental assessment was completed at Vista Field and it was determined that the 103 acre site was clean.

B. *Columbia Drive*

Mr. Peterson stated the City of Kennewick is installing the wine effluent system and was slated to be completed by January 15, 2018, however, the City is missing a key valve it needs to complete the system. Mr. Peterson, Ms. Hanchette, Bart Fawbush of Bartholomew Wines and Victor Palencia of Palencia Wine Company met with City staff, and the City explained that they

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will manually pump the tank until the effluent system is working properly. This will ensure that Mr. Fawbush and Mr. Palencia will be able to utilize the wine effluent system for production.

Mr. Novakovich inquired when the wine effluent system would be completed.

Mr. Peterson stated the City did not give a specific completion date, but the tenants will be able to use the system mid-January.

Ms. Hanchette stated the timeline works for Mr. Palencia, and Mr. Fawbush will push his timeline back by one week.

Mr. Peterson stated the meeting was very productive and Carey Roe, City Public Works Director, indicated his willingness to assist the Port and strengthen the City's relationship with the tenants.

Mr. Peterson presented images of the walls that will be installed along Columbia Drive for Phase 2A. The new wall will be four feet tall, to increase the visibility for the mural, however, the end points will match the existing wall size. Additionally, Mr. Peterson presented a working concept for Phase 2B for the replacement building at 211 East Columbia Drive. The building is approximately 2,500 square feet, broken into two spaces (approximately 1,000 square feet each), one space would function as a private tasting area and the second space would be an open, general space. Mr. Peterson stated one of the elements of the building is the second story tower, which will conceal the mechanical equipment. Mr. Peterson explained the Port is working with a budget of \$1,110,000, of which \$910,000 is from the 211 insurance proceeds, \$200,000 is funded by the City of Kennewick, per the Interlocal Agreement that was executed December 12, 2017, and there is a 25% contingency fee (\$180,000).

Mr. Novakovich asked if the façade of the building will be similar to that of the existing buildings.

Mr. Peterson stated the intention is that the façade of the replacement building will not emulate that of the existing buildings; however, there will be continuity between the buildings.

Mr. Barnes inquired if the mechanical tower will be over usable space or does the mechanical equipment go all the way to the floor.

Mr. Peterson stated the tower functions as a second floor above the bathrooms, office and storage, which leaves the two spaces with a large, open span.

Tom Kastner of Meier Architecture and Engineering stated the design of the building looks to the future and allows for the division of the central core space to be divided into two separate spaces, which can be easily divided for lease purposes.

Mr. Barnes stated the location of the building will be near the food truck plaza and inquired if the Port will build a restroom facility.

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Mr. Peterson stated as part of Phase 2A, staff is looking at placing an 8 x 20 storage container restroom, located next to the food truck plaza. The storage container restroom design leans more towards the industrial chic that is seen on Columbia Drive and is a more affordable option.

Mr. Arntzen stated DPZ has referred to the food truck plaza and container restroom as “pop-up retail,” and emphasized that pop-up retail is a great way to incubate new areas of town. Mr. Arntzen believes including the food trucks will create vibrancy in the area and will be a great template for Phase 1 of Vista Field.

C. Clover Island

1. Waterfront Conference

Mr. Arntzen stated Mr. Barnes will be attending the 2018 Urban Waterfronts Conference in Yuma, Arizona, January 24-27, 2018. Mr. Arntzen is unable to attend the conference this year, but has attended in the past and the organization assists communities in elevating waterfronts.

Mr. Barnes is looking forward to attending the Conference and will be flying into San Diego, California to research new urbanism areas and waterfront spaces before heading to the Conference in Yuma, Arizona.

D. Vista Field

1. Phase I 90% Infrastructure Plans

Mr. Peterson and Mr. Arntzen recently spoke with Lizz Plater-Zyberk, Senen Antonio, Michael Mehaffy, and Laurence Qamar of DPZ. Mr. Peterson shared the progress to date which includes the approval of the City’s Comprehensive Plan Amendment, the code/zoning changes, and the Vista Field Master Plan and Developer’s Agreement. Ms. Plater-Zyberk was impressed and pleased by the progress made thus far. Mr. Peterson shared the Commission’s desire for a public event with Ms. Plater-Zyberk, for the roll out of the plans for Vista Field this spring; however, Ms. Plater-Zyberk suggested the event to excite the public should follow the bid opening, to ensure the Port could deliver what is viewed. Ms. Plater-Zyberk indicated the amount of follow up with the community has been continuous, more than most entities. Ms. Plater Zyberk suggested meeting somewhere out west, after one of DPZ’s upcoming Charrette’s, to work through the last of the details with the DPZ team members. Mr. Peterson stated as Mr. Arntzen mentioned earlier, the idea of the pop-up retail concept, such as food trucks, music, and other activities will spur immediate vibrancy and can continue to move as the phases are developed.

Mr. Arntzen would like to meet with the DPZ team in February or early March to outline the last few details. Mr. Arntzen stated the meeting would be similar to the Skamania meeting with Port staff, Mr. Qamar and Mr. Mehaffy. Mr. Arntzen inquired if the Commission has any comments regarding Mr. Peterson’s update.

Mr. Novakovich stated a public roll out event would require financial and staff resources and he believes staff and the DPZ team could accomplish more offsite, as they did in Skamania.

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Furthermore, it would not be wise for the Port to roll out the plan prior to receiving the bids and find we cannot finance what we promised.

Mr. Moak agrees that working with the DPZ team offsite, such as staff did in Skamania is essential. Mr. Moak believes it is important for the Port to keep the community abreast of the plans for Vista Field and take comments on the plans.

Mr. Barnes stated the enormous undertaking of redeveloping Vista Field is very ambitious and believes it is imperative to have the DPZ team guide us through this process. Mr. Barnes stated it was a momentous achievement for the Port and City to reach an agreement with the Master Plan, the Developer's Agreement and the zoning changes for Vista Field. Mr. Barnes appreciates Mr. Moak's comments regarding community involvement; however, if DPZ is suggesting the Port delay the community roll out, it is prudent to listen to the experts. Mr. Barnes stated the Port's meetings are public and suggested a media campaign to let the public know what the Port has accomplished and where the Port is going with Vista Field.

Mr. Arntzen confirmed that the Commission is authorizing himself and Mr. Peterson to meet with the DPZ team offsite to complete the final details for Vista Field. Mr. Arntzen will continue to mull over communicating with the public about the plans for Vista Field.

Mr. Moak stated the Port has contracted with Chris Ritter for illustrations of Vista Field and he would like the public to be able to view Mr. Ritter's illustrations at an open house similar to the Art Center Task Force's open houses for the Vista Arts Center.

Mr. Arntzen confirmed that the Commission is not requiring Ms. Plater-Zyberk to attend the community open house and suggested after he and Mr. Peterson return from the meeting with the DPZ team, staff will schedule an evening event showcasing the illustrations. Mr. Arntzen inquired if that would be an appropriate method to roll out the Vista Field plans.

Mr. Novakovich voiced his concerns over the public understanding that the illustrations are conceptual.

David Robison of Strategic Construction Management stated the Port and City have accomplished a major task by approving the documents for Vista Field. Mr. Robison believes it is important to communicate to the public in a very systematic, well thought out, thorough process, in a way that when the public views the illustrations, the Port can afford to develop what the public saw. Mr. Robison appreciates Mr. Moak's comments, but believes the Port should pay attention to the leadership team that has worked on Vista Field since 2012. Mr. Robison stated the Port has a limited budget for Phase 1 and there are several different opportunities for project development at this time. Mr. Robison believes it is good to update the public, but be cautious and plan well. At this time, staff still needs address bid and construction timeframes and develop a master budget. Mr. Robison asked the Commission to be patient and stated that he is as excited as the Commission, and believes the public is even more excited at the prospect of Vista Field. Mr. Robison thanked the Commission and Mr. Arntzen for allowing him to speak.

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Mr. Arntzen will plan the work session with the DPZ team and will report back to the Commission regarding the progress of the plans. Mr. Arntzen stated Mr. Robison raised a good point about the budget and believes the Port should have a preliminary budget established before the illustrations are viewed by the public. Furthermore, the Port will need to communicate with the public that the illustrations are the Port's best intentions for Vista Field and may be modified. Mr. Arntzen believes his role is to allow our consultants and staff to create the vision for Vista Field, while making sure the Commission is comfortable with where the Port is going and to maintain transparency. Mr. Arntzen is optimistic that the Port has moved forward in a transparent matter and involved the community at every step.

Mr. Robison stated the Port has accomplished a herculean effort by getting the Master Plan approved by the City and the relationship that the Port has with the City and the community is very rare. Most master plans take up to twenty years to get approved, and it is amazing that the Port completed that task in less than seven years. Mr. Robison could not be more excited that not only has the Port completed the Master Plan, but intends to start construction this year.

Mr. Novakovich stated the work that staff accomplished with the City is a major accomplishment.

Mr. Peterson reported that he met with Benton PUD, NoaNet (fiber provider) and Parametrix on January 5, 2018, to discuss both the electrical and fiber system improvements at Vista Field. Vista Field would receive electrical and fiber from three locations. This would give Benton PUD and NoaNet the opportunity to pull the electrical and fiber to tie into the existing network. Mr. Peterson stated the Port has been working with Todd Coleman of Parametrix, who specializes in fiber. Mr. Coleman is researching the potential of adding another business line for the Port at Vista Field.

Mr. Peterson stated the Port has submitted the 75% construction plans for Vista Field Phase 1 to the City for their review, specifically the intersection of Deschutes and the connections at Grandridge Boulevard and the key intersections of Vista Field. Although much is spelled out in the Development Agreement, the plans were turned in for City comments, as we did previously with the Master plan. Mr. Peterson stated Port and City staff and Parametrix will meet to discuss the plans.

Mr. Peterson stated the Port contracted with Ben Floyd of White Bluffs Consulting to establish a Business Improvement District (BID), which outlines marketing and maintenance for Vista Field. Ms. Plater-Zyberk suggested the Port contact Doris Goldstein on how to establish, manage and adjust a BID. Furthermore, Ms. Luke and Steve DiJulio are working through the legal mechanics of a BID.

Mr. Moak stated in relation to Benton PUD and NoaNet, is there additional work that the Port needs to be doing in order to enhance the marketing or availability of fiber in Vista Field.

Mr. Peterson has sent the electronic plans to Benton PUD and NoaNet so their engineers can draw in the network prior to construction and the Port will accommodate the changes.

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Additionally Benton PUD will cover approximately \$500,000 to bring the feeders into Vista Field.

Mr. Arntzen stated that he is not sure the Port can collect revenue from the installation of dark fiber at Vista Field because Benton PUD and NoaNet have the authority. However, Benton PUD and NoaNet want to partner with the Port and are funding the cost of the installation.

Mr. Arntzen reiterated that Mr. Peterson turned in the 75% construction plans for Phase 1 of Vista Field to the City and indicated that this is another milestone for the Port.

2. *Loan Update*

Mr. Arntzen stated Mr. Kooiker continues to interview municipal advisors to assist the Port with the finance plan because of all of the technicalities. For a modest fee, a municipal advisor would review the Request for Proposal (RFP) that the Port would issue to banks, for funding for Vista Field. Additionally, when the proposals are received, the municipal advisor will assist the Commission and staff in determining the best proposal received. Mr. Arntzen stated staff is looking to submit the RFP to the banks by March and then will allow for a 60 day review for the bank proposals to be submitted. Mr. Arntzen stated the Port is looking for a \$5,000,000 general obligation loan for Phase 1. Staff is comfortable with the \$5,000,000 debt service, as it allows the Port to pursue other projects in the ensuing years.

Mr. Novakovich recalled Mr. Kooiker mentioned paying the loan off early and inquired if that is that still a possibility.

Mr. Arntzen believes Mr. Kooiker has worked that into the modeling, and there may be a possibility of paying off the debt service early.

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

Commissioners reported on their respective committee meetings.

F. *Non Scheduled Items*

1. Mr. Moak stated the Local Good Roads (LGR) is putting together an agenda that includes high priority regional projects that the LGR should focus on. Since the Port does not have any transportation projects, Mr. Moak indicated that he would place the impacts of the north Richland/Hanford Transportation Rail Plan on the agenda. Mr. Moak is unaware if the City of Richland will review the agenda; however Brian Malley, Executive Director of Benton Franklin Council of Governments (BFCOG) feels that the region does not have sufficient capacity for the semi-trucks on the existing roads. Mr. Moak expressed his concern for the additional semi-truck traffic. Mr. Moak will bring that up and see if it has any traction.

Mr. Moak wrote a Letter to the Editor of the *Tri-City Herald* in regards to a non-Port related item as a private citizen; however, the *Tri-City Herald* included his title as a Port Commissioner on the letter without his permission. Mr. Moak stated the Commission has been very deliberate about separating Port and personal business and he takes the differentiation of what we do as Port Commissioners very seriously and submitted a letter to the *Tri-City Herald* stating so.

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2. Mr. Novakovich received a report from James Thompson, Deputy Director for Washington Public Ports Association (WPPA) on the Legislative Committee, which stated that the Democrats now hold a two-vote majority in the House and a one-vote majority in the Senate. Additionally, “the Republicans still hold enough votes to stymie the passage of a bond bill to fund the capital budget and thus hold other legislation hostage as well.” The WPPA will support legislation “to preserve Model Toxics Control Act (MTCA) funding preservation, modification to the public works contracting statute, and modernization of broadband telecom authority for ports.”

Lastly, the report stated in other issues, “Commissioner Districts: WPPA will not support efforts to change the government models of the ports comprising the Northwest Seaport Alliance, if those efforts result in an imbalance of commissioner between those districts, or alter the commissioner district boundaries without a referendum by the citizens of the port districts.”

3. Ms. Bader Inglima stated the Port will be celebrating the completion of the Wine Village, Phase 1, on February 9, 2018, in partnership with Palencia Wine Company, Bartholomew Winery, and the City of Kennewick. Ms. Bader Inglima worked with the wineries on the date and stated the ribbon cutting will be held after the Washington Wine Growers Show (February 6-8, 2018). Palencia Wines is planning pre-industry events with their industry partners and wanted hold the ribbon cutting in advance of the Red Wine and Chocolate event and Valentine’s Day weekend. Ms. Bader Inglima will continue with the media outreach and encourage the public to attend the ribbon cutting and tour the wineries.

Ms. Bader Inglima stated in February, the Port will recognize the “2017 Friend of the Port.”

Ms. Bader Inglima reported that the Latino Heritage Mural Committee reconvened last week for an update. Ms. Bader Inglima, on behalf of the Committee, expressed their appreciation for the Port Commission’s recognition of the Latinos of this community. The commission of the mural has touched the group beyond the Latino Heritage Mural Committee and had a positive ripple effect throughout the community. Staff has received a number of phone calls inquiring when the murals will be placed in the Wine Village. The Latino Heritage Mural Committee was able to tour the winery and meet Mr. Palencia and see firsthand how massive the murals are.

4. Mr. Arntzen stated there has been previous discussion utilizing the services of a real estate auction firm to assist the Port in selling some Port properties. Mr. Arntzen and Ms. Hanchette have met with Scott Musser of Musser Brothers Auction and invited Mr. Musser to brief the Commission on the services of an auctioneer. Mr. Arntzen relayed to Mr. Musser that the Port is unsure of the course of action regarding the Southridge property.

Mr. Arntzen stated Mr. Peterson will be inviting Mr. Floyd to a Commission meeting in February to discuss the Business Improvement District for Vista Field.

Mr. Arntzen was impressed with how the City of Kennewick handled the issue regarding the

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Wine Effluent Treatment Facility. Mr. Roe and Mr. Peterson discussed a course of action to correct the issue and the City came up with a temporary solution to the issue. Mr. Arntzen hopes to continue to cultivate the relationship with the City and deal with any issues that may arise with Vista Field together. Mr. Arntzen is very appreciative of the relationship between the Port and the City at all levels.

Mr. Arntzen thanked the Clover Island Yacht Club for their working relationship as well and stated the Yacht Club is a very treasured member of our Island.

5. Ms. Hanchette stated in the wake of last year's winter, the operations team assessed what could be done differently if we had a winter of that magnitude again. Ms. Hanchette stated one of the items that was discussed was purchasing a snow blade for the loader, which would make plowing go faster for the operations team. Mr. Melia and Mr. Boehnke researched the topic and the Port ultimately purchased a recycled blade from a tractor track from used ag equipment. A company recycles the tracks, which are made of rubber, and turns them into snow blades. Mr. Boehnke had a chance to use the blade recently and it was quite efficient and was a third of the cost of a regular soft end blade.

Ms. Hanchette reported that Frontier Communication is continuing their work of installing fiber on the Island from their Benton Street location to the U.S. Coast Guard Station.

6. Mr. Novakovich added Port of Benton Commissioner Roy Keck's wife recently passed away. There will be a service for Becky Keck, Friday, January 12, 2018 at the Richland Yacht Club.

PUBLIC COMMENTS

Tom Kastner, 8180 West 4th Avenue, Kennewick. Mr. Kastner stated at the beginning of Frank Lloyd Wright's career, there was a popular saying in architecture that "form follows function." It has been Mr. Kastner's experience over a 35 year career, that "form follows funding." Mr. Kastner stated not enough is said about the importance of the relationship between the design professionals and their client. Mr. Kastner stated a lot has been said about how great the Port Commission is, which is true, but more needs to be said about what a great staff the Port has. The relationship between the staff and myself has been extraordinary and has allowed Meier to preview the presentation to the Commission today. Mr. Kastner thanked every staff member that has lifted Meier up, to do better, and give the Port something more meaningful and deserving.

Mr. Novakovich thanked Mr. Kastner for his comments and stated it is nice to have the public recognize the Port staff, because they are awesome.

No further comments were made.

COMMISSIONER COMMENTS

No comments were made.

ADJOURNMENT

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With no further business to bring before the Board; the meeting was adjourned 3:56 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Thomas Moak, Vice President

Don Barnes, Secretary



PORT OF KENNEWICK REGULAR COMMISSION MEETING

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JANUARY 23, 2018 MINUTES

CALL TO ORDER

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 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: Thomas Moak, President
Don Barnes, Vice-President (*Excused Absence*)
Skip Novakovich, Secretary

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

Mr. Moak stated Mr. Barnes is ill and will not be in attendance today.

MOTION: *Commissioner Novakovich moved to excuse Commissioner Barnes from this meeting; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 2:0.*

PLEDGE OF ALLEGIANCE

Mr. Novakovich led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

MOTION: *Commissioner Novakovich moved to approve the Agenda; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 2:0.*

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

Consent agenda consisted of the following:

A. *Approval of Direct Deposit and E-Payments Dated January 17, 2018*

Direct Deposit and E-Payments totaling \$95,694.25

B. *Approval of Warrant Registers Dated January 23, 2018*

Expense Fund Voucher Numbers 39788 through 39832 for a grand total of \$116,383.04

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MOTION: *Commissioner Novakovich moved for approval of the Consent Agenda; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 2:0.*

PRESENTATION

A. Potential Real Estate Auction (Information only), Scott Musser, Musser Brothers Auctioneers

Mr. Arntzen introduced Scott Musser and Harold Musser of Musser Brothers Auctioneers, who will present an informative marketing plan for real estate by auction. Mr. Arntzen and Ms. Hanchette have discussed the possibility of using the auction method to sell Port property with Mr. Musser. Mr. Arntzen stated the presentation will give the Commission an opportunity to learn about the auction process.

Scott Musser thanked the Commission for the opportunity to present today and stated there are ten basic differences between a standard real estate sale and an auction. Mr. Musser stated an auction creates competition between buyers; whereas, in a traditional transaction, it is buyer against seller. An Auction exposes the property to a large pool of pre-qualified prospects with a laser focused marketing plan, where the seller dictates the exact auction terms, which accelerates the sale. In a traditional real estate transaction, it is the buyer that dictates the transaction; whereas in an auction the seller stipulates rules, terms, and barriers. The auction method is a perfect price discovery tool to determine what something is worth. For example, in a traditional sale, the agent uses historical data (appraisals and comparables) to determine the sale price, whereas the auction determines the market value of the property on a specific date. Harold Musser stated in an auction, the seller controls the transactions, not the buyer and the auctioneer only negotiates the price of the property. Scott Musser stated in a traditional real estate transaction, the price is a small component, where terms and conditions can change. The auction process removes the seller from the negotiations with a contract that stipulates all the terms prior to the sale of the property. The auction process increases the visibility of the property, with a focused 45 day marketing tool. The auction process is transparent and all parties are given an equal opportunity to purchase the property and each potential buyer receives the same information. Mr. Musser stated the marketing fees are funded up front by the seller and the buyer pays a buyer's premium, which is 6% of the end price. Musser Brothers utilize Power Parcels® a trademarked process where they can offer and sell multiple parcels as an individual or combination, until they discover the highest and best offer.

Mr. Musser outlined several successful local auctions:

- Kennewick Irrigation District (Red Mountain): 650 acres sold for \$8,756,500;
- Department of Natural Resources (Pasco): 230+ acres sold for \$10,316,250;
- Franklin County (TRAC): 3 parcels sold for \$1,105,875; and
- Estate of Ms. Shaw (Richland): 17.62+ acres sold for \$1,979,500.

Mr. Novakovich inquired if Musser Brothers has any local competition.

Scott Musser stated Booker Auction Company in Eltopia performs auctions, but not at the same level.

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Mr. Novakovich inquired if Musser Brothers has completed an analysis comparing what a seller would receive in an auction versus a traditional sale.

Scott Musser stated that would be hard to determine, because it is an either or option. Mr. Musser indicated that Musser Brothers does have a 95% closure rate on projects.

Mr. Moak asked why the Port's Southridge property would benefit from an auction versus the traditional method of sale.

Mr. Musser stated Ms. Hanchette has done everything correctly regarding Southridge, however, the property does have its challenges. Although the area has experienced commercial and residential growth, the property is not centrally located. Mr. Musser stated the Port does not have a call to action that will get the people in the room. Additionally, an auction shows buyers how serious the Port is about selling the property. Mr. Musser stated there are inherent challenges with Southridge, however, it is great land and with the Bob Olsen Parkway open, transition traffic and development will increase. An auction will bring buyers who are ready to purchase the property at that specific moment in time, allowing the property to be sold for the maximum amount. This is especially important to a public entity because of the responsibility to the constituents.

Mr. Moak stated Musser Brothers advertising is very noticeable and eye catching and believes it is something the Port should consider. Mr. Moak thanked Musser Brothers for their presentation today and looks forward to exploring the auction process further.

Mr. Novakovich stated the Port has several vacant parcels and inquired if there is a minimum price for the seller.

Mr. Musser stated there are several things we can do with smaller properties, such as create a portfolio of properties with other sellers, however, the seller would still be responsible for the marketing costs.

Mr. Novakovich inquired what the cost is to the seller to auction a property.

Mr. Musser stated Musser Brothers would determine a marketing plan, which the seller would finance up front and once there is a confirmation, the marketing process would begin.

Mr. Arntzen thanked Scott and Harold Musser for their presentation and inquired if they would be able return when Mr. Barnes is present, for additional discussion.

Mr. Musser would be happy to come back at a later date for further Commission discussion.

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REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Clover Island*

1. *Ground Lease Discussion*

Mr. Arntzen stated the Port currently has a number of tenants on Clover Island that have long term ground leases. A current business has requested to extend the ground lease from 25 years to 45 years. Mr. Arntzen inquired if the Commission would entertain extending the ground lease to facilitate a potential business transaction.

Mr. Novakovich does not see any issues with that as long as the company is vetted. Mr. Novakovich inquired if there are any limitations on the length of time that the Port can grant on a ground lease.

Ms. Luke stated there are limitations on the number of years for a ground lease and will verify but she believes the potential lease would fall within the lease parameters.

Mr. Novakovich is in favor of extending the lease.

Mr. Moak does not personally agree that the Port should enter into long term leases, however, this is a tool that the Port uses to recoup capital. Mr. Moak stated if the terms outlined for the lease extension are favorable to the Port, he is willing to entertain further discussion. Mr. Moak believes there should be a positive outcome for both the Port district and the tenant.

Mr. Arntzen stated it is important to be able to bring amenities to the Island and in some instances that may require incentives. Mr. Arntzen will work with staff to compile the information and outline current and potential benefits to the Port, should the Commission vote to amend the terms of an existing lease for the February 13, 2018 meeting.

B. *Vista Field Update*

1. *DPZ Work Session*

2. *Open House*

Mr. Arntzen stated the Port has biddable construction for Vista Field Phase I at 75% completion, which the City currently is reviewing. In an effort to complete the construction documents, Lizz Plater-Zyberk and Senen Antonio of DPZ suggested a team meeting in a neutral location to finalize the plans. Mr. Arntzen and Mr. Peterson will meet with Ms. Plater-Zyberk, Mr. Antonio, Michael Mehaffy, Laurence Qamar and Sam Nielson, from Parametrix in New Orleans in March. The objective of this two day work session is to add the remaining elements to complete the plans. Mr. Arntzen anticipates presenting the plans to the Commission following the work session. Mr. Arntzen stated staff continues to work on the details of the open house to reveal the Vista Field illustrations to the public.

Mr. Peterson stated the Port submitted the construction documents to the City for review and will meet on February 5, 2018 to discuss the plans. Mr. Peterson explained that when he and Mr. Arntzen meet with the DPZ team, approximately 10% of the plans, such as textures, pop-up retail, and the private roadway will be discussed because much has already been determined with the Development Agreement which was approved December 5, 2017.

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Mr. Moak inquired if there will there be written questions/topics for DPZ, to help frame the discussion.

Mr. Arntzen stated he has submitted a detailed agenda to DPZ which outlines what we want to accomplish, what we can and cannot change, and a memo with 5-6 topics for discussion. Mr. Peterson will add additional topics to the agenda for discussion.

Mr. Moak inquired if the agenda will include pop up retail.

Mr. Arntzen confirmed that pop up retail is on the agenda and stated there may be lessons staff learns with Columbia Gardens as we incorporates pop-up retail at that site. Mr. Arntzen stated Mr. Peterson hopes to discuss some of the items for Phase II, such as the central park that will be located in front of the Vista Arts Center. Mr. Arntzen stated Andres Duany has given Mr. Mehaffy his comments regarding Phase I, and asked him to lead a tour of a post-Katrina housing development.

Mr. Arntzen stated the Port has a current contract with DPZ and Ms. Scott was able to secure a hotel with conference rooms to utilize for the two day work session. Mr. Arntzen has spoken with Mr. Barnes regarding the trip and he asked Mr. Arntzen to convey that he is supportive of the trip and believes it is absolutely necessary to get the plans completed. Furthermore, the Port has spent a great deal of time, effort, and money and it is prudent to complete the project in the same manner and not cut corners on the remaining details.

Mr. Novakovich stated the work trip is far more advantageous than a big roll out and the cost is small in the grand scheme of things. For staff to work with DPZ to finalize the plans is invaluable and money well spent.

Mr. Moak believes meeting with the DPZ team is an important part of wrapping up the final documents. Mr. Moak expressed his interest in pop-up retail and stated he would like to see it up and running at Vista Field, sooner, rather than later.

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

Commissioners reported on their respective committee meetings.

D. Non Scheduled Items

1. Mr. Novakovich received the Washington Public Ports Association Legislative Report and reviewed some highlights:
 - The final budget appropriates \$8,000,000 for the Community Economic Revitalization Board (CERB) grant program for traditional projects;
 - Additional \$5,000,000 to CERB for broadband projects;
 - House Bill (HB) 2647 regarding campaign contribution limits for port commission candidates creates a uniform campaign contribution limit among all ports of \$800 per individual contributor, per candidate, per election cycle, for port districts over 200,000 registered voters;

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- HB 1999 would align the election structure of the Port of Seattle with King County Council, electing nine port commissioners from nine defined voting districts. The bill prohibits election-at-large and allows for only voters from each district to elect that district's commissioner.
- State Bill (SB) 6329 and HB 2690 would allow ports to waive competitive bids for public works projects less than \$40,000.

Mr. Novakovich recently received an inquiry about the possibility of renting out the former Shannon hangar and asked if Mr. Arntzen could discuss that with DPZ. There is the potential for income and exposure, however, a business could be impeded by construction.

Mr. Moak asked what the particular purpose for the hangar would be.

Mr. Novakovich stated it would be used for commercial/recreation purposes.

Mr. Arntzen asked Mr. Novakovich to bring this topic to the floor for Commission discussion and understands the business would want to lease rather quickly and would require a minimal amount of work.

Mr. Peterson stated the Shannon hangar is farthest east and the road would go between the Shannon and the Musser hangar. Mr. Peterson stated the access to the roadway would be torn up for the entire duration of construction. Mr. Peterson explained that the Shannon hangar is classified as a storage/hangar building and does not have a bathroom or interior walls and may be a potential code issue with the City.

Mr. Moak confirmed that the three hangars are not equal and inquired if the Port was going to utilize the Gant hangar for the community black box space.

Mr. Peterson stated the remodel plans were focusing on the two hangars that were bisected by the main entrance. The vibrancy will be between the Shannon and Musser hangars, whereas the Gant hangar may be the candidate for a public rent space where a variety of activities can take place. Mr. Peterson stated the working design is focused on hospitality or retail businesses that will benefit from the bisected roadway.

Mr. Moak inquired if the business is specifically interested in the Shannon hangar.

Mr. Novakovich believes they may be interested in either hangar.

Mr. Arntzen will discuss the possibility further with Mr. Peterson and do additional research and report back to the Commission. Mr. Arntzen stated receiving inquiries for Vista Field is a good thing and the Port has received almost a dozen since the Master Plan was adopted.

Ms. Bader Inglima stated the Port will be celebrating the completion of the Wine Village, Phase 1, on February 9, 2018, at 2:30 p.m., in partnership with Palencia Wine Company,

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Bartholomew Winery, and the City of Kennewick.

Ms. Bader Inglima confirmed that the Port will recognize the recipients of the 2017 “Friend of the Port” at the February 13, 2018 Meeting.

Commissioner Moak will be representing the Port at TRIDEC’s Regional Economic Outlook on February 15, 2018, 7:30 a.m. to 1:30 p.m. Addition information is available on TRIDEC’s website.

Ms. Bader Inglima reported that David Robison of Strategic Construction Management (SCM) has been nominated for the Tri-City Regional Chamber of Commerce’s “Business on a Roll” award. Ms. Bader Inglima stated the Port has worked with Mr. Robison on several projects and submitted a letter of support for SCM.

2. Mr. Arntzen stated Kandy Yates, the Port’s Marina Manager did a fine job with the Oath of Office for Mr. Novakovich at the January 9, 2018 Meeting.

Mr. Arntzen stated Mr. Moak requested a recent copy of the Commission Policies and Procedures. Mr. Arntzen believes it may be time for the Policies to be reviewed, due to the modifications over the last several years.

Mr. Arntzen recently met with Ferdouse Oneza, who worked on the West Richland Former Raceway Master Plan. Mr. Arntzen believes Ms. Oneza may be able to assist the Port with West Richland and reach out to City staff and answer Councilman Engleman’s recent questions.

3. Ms. Luke stated the Port recently sold the last remaining Port parcel at Spaulding Business Park and will now begin the process to transfer the management of the Park to the owners. Ms. Luke and Ms. Hanchette will begin reaching out to property owners and provide notice of the Port’s intent to transfer the responsibility to the current owners.

Ms. Hanchette will reach out to the City of Richland Energy Services to discuss the transfer of the street lights. Previously, the City indicated their willingness to maintain the lights if the Port switched to standard cobra heads street lights. Ms. Hanchette stated the Port will change the lights in an effort to transfer the lighting to the City of Richland to facilitate the transfer. Ms. Hanchette stated if the City takes over lights and property owners take over the CCR’s, the Port will have significantly less responsibility at Spaulding Business Park.

PUBLIC COMMENTS

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick reported the Arts Center Task Force recently held a retreat to discuss the 2018 goals. Mr. Burdick stated the visual artists were represented to assist with ideas for the gallery space, including an art professor from Heritage University, who stressed the need for a place to make the art. Mr. Burdick stated the third hangar could be utilized as a black box for the dirty arts. On February 7, 2018, Justin Raffa arranged for local artists to perform in Olympia for Arts and Heritage Day, as well as meet with local representatives.

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Mr. Burdick stated the Mid-Columbia Symphony will present “Something Old, New, Borrowed and Blue,” which features Bach/Stokowski’s “Toccatina and Fugue in D Minor,” Strauss’ “Blue Danube” and Ryan Hare’s “Harkening 2 Hindemith” on January 28, 2018 at 3:00 p.m.

Cal Coie, 705 South Oklahoma Street, Kennewick. Mr. Coie appreciated listening to the presentation from Scott and Harold Musser and stated it may be a good option for the Port to sell property quickly.

No further comments were made.

COMMISSIONER COMMENTS

No comments were made.

Mr. Arntzen stated the Commission comments during Open Session provided staff guidance and there is no need for an Executive Session.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:50 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Thomas Moak, President

Excused Absence
Don Barnes, Vice President

Skip Novakovich, Secretary

PORT OF KENNEWICK

RESOLUTION 2018-01

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
PORT OF KENNEWICK AUTHORIZING THE PORT CHIEF EXECUTIVE OFFICER
TO SELL AND CONVEY SURPLUS PROPERTY***

WHEREAS, the Board of Commissioners of the Port of Kennewick met this 13th day of February, 2018, a quorum of the Commissioners being present; and

WHEREAS, from time to time it is necessary to surplus items no longer needed for Port District purposes; and

WHEREAS, RCW 53.08.090 provides that the Port Commissioners may authorize the Port Chief Executive Officer to sell and convey property; and

WHEREAS, prior to each such disposition of Port property, the Port Chief Executive Officer is directed to present to the Commission an itemized list of the property and to make written certification that the listed property is no longer needed for Port District purposes.

NOW, THEREFORE, BE IT RESOLVED the Port of Kennewick Commissioners authorize the Chief Executive Officer to surplus Port property no longer needed for Port purposes as attached in "Exhibit A".

ADOPTED by the Board of Commissioners of Port of Kennewick this 13th day of February 2018.

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

By: _____
THOMAS MOAK, *President*

By: _____
DON BARNES, *Vice President*

By: _____
SKIP NOVAKOVICH, *Secretary*

RESOLUTION 2018-01
"Exhibit A"

Attractive Assets

Asset	Disposition	Property Description	Date In Service	Cost
9	Broken	4 Tables/15 plastic chairs	12/15/91	456.86
22	Broken	FLUKE Electrical Tester	3/23/04	108.25
52	Broken	Dictaphone	4/14/98	721.97
87	Broken	Dremel Cutting Tool	2/28/06	~100.00
88	Broken	Makita Skill Saw and Cord Drill	2/28/06	~100.00
90	Broken	Motorola (3) Handheld Radios	2/28/06	~100.00
101	Broken	HP 8500 Plus Printer	11/5/10	324.89
114	Broken	Livescribe Pulse Recording Pen	5/15/12	232.27
147	Broken	Shopvac		~100.00
205	Broken	Wheelbarrow	6/13/16	206.32

Capital Assets

Asset	Disposition	Property Description	Date In Service	Cost
759	Broken	Haxton Pump	7/24/17	2,443.48
1033	Obsolete	IBuyPower PC Tower	3/17/09	1,608.22
1067	Obsolete	HP Server	12/31/10	15,495.72
1098	Obsolete	HP 8200 Elite Desktop	9/30/11	1,295.58
1122	Obsolete	HP Computer Touchscreen	4/30/12	1,158.79
1147	Obsolete	Dell Optiplex 710	12/31/12	1,199.00
1156	Obsolete	Dell Optiplex 710	5/31/13	1,192.54
1228	Broken	Dell Monitors	1/1/15	1,108.96

CFO/Auditor Certification:


Nick Kooiker

2/13/18
Date

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 February~~January~~ 12, 20168

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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 Chief Executive Officer ~~“Executive Director/Chief Executive Officer”~~ such administrative powers and duties as deemed proper for the efficient and proper management of the Port’s operations. See “Chief Executive Officer Delegation of Authority to Executive Director,” Port Resolution ~~2009-06 (February 10, 2009 – the “Delegation Policy,”~~ 2015-29 (December 8, 2015).)

Commented [BS1]: Update with Res 2015-29

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~~Chief Executive Officer.

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

2.2.6 Full transparency to the public.

2.3 Actions. The Commission will:

2.3.1 Produce and maintain written policies that ensure a high quality of governance and clear roles in decision-making between Commission and staff;

2.3.2 Regularly monitor, and evaluate the ~~Executive Director~~Chief Executive Officer's performance;

2.3.3 Adopt, and bi-annually review, the Port's Strategic Work Plan;

2.3.4 Adopt the Port's bi-annual budget;

2.3.5 Adopt, regularly review, and modify as necessary the Delegation of Authority to the ~~Executive Director~~Chief Executive Officer;

2.3.6 Set the rates, rules and regulations for services provided by the Port;

2.3.7 Purchase or dispose of real estate or other property to the benefit of Port District taxpayers/citizens; and

2.3.8 Take such other actions as may be required by law.

2.4 Port Financial Goals.

As specified in Port Resolution ~~2010 41~~-2014-31, as may from time to time be amended, the Port Commission reiterates the following summary of budgetary goals and acknowledges the importance thereof:

2.4.1 The Port shall ~~work toward funding all operating expenses from revenues from Port operations~~ provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted, and seek to fund projects with available resources;

2.4.2 The Port shall ~~fund projects with available resources, not with bonds or loan financing unless otherwise in the best interest of the Port and the communities' long term interest~~ incur debt only when both the level and rate of growth of public debt is fundamentally sustainable, can be serviced under appropriate circumstances while meeting cost and risk objectives, can withstand economic uncertainties, while identifying in advance any legal or commission-directed restrictions on its use;

~~2.4.2~~ -;

2.4.3 The Port shall ~~pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers~~ provide for financial stability by funding projects that

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provide a positive return on investment or which provide important identifiable non-economic benefits to the port district at large; and

2.4.4 The Port shall pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill).

3. COMMISSION CODE OF CONDUCT

3.1 Purpose. The purpose of these Port of Kennewick Rules is to foster public transparency and public accountability concerning the transaction of Port business and to protect, and promote the efficiency of, the Port by prohibiting incidents and areas of conflict. Commissioners shall conduct themselves in accordance with all laws and applicable policies and further shall comply with the following.

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, with the Public Disclosure Commission (PDC); and shall provide the PDC confirmation report number (only) to the Executive Assistant. ~~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, each 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 candid about any philosophical or political preferences; and, recognize and make clear the limits of expertise.

3.10 Representation of Port Position. No Commissioner is authorized, without Commission authorization, to represent the Port with special interest groups, Port tenants, suppliers, vendors, consultants, contractors or others that are or seek to do business with the Port. Unless otherwise authorized by the Commission, a Commissioner shall disclose that the Commissioner's position is not that of the Port or of the Commission when participating in discussions, debates, and forums where the sponsoring group(s) or other participants are identified with a particular perspective on an issue and the Commissioner's participation might put into question both the Commissioner's and the Commission's impartiality. Nothing in this Policy prevents an individual Commissioner from stating a position as that of the individual Commissioner, but not that of the Port or of the Commission.

3.11 Special Privileges Prohibited. RCW 42.23.070 prohibits, in part, Commissioners from using public office to secure special privileges or exemptions for a Commissioner or others.

3.11.1 Commissioners must conduct themselves at all times in a manner that leaves no grounds for belief, or even the appearance that information they have gathered on the job has been used for personal gain or for gain of any individual or special interest group, whether such gain is financial or otherwise.

3.11.2 Commissioners shall avoid any association with individuals or groups organized with an attempt to influence Port policy that will benefit themselves or their cause at the exclusion of the Port at large.

3.12 Commission-Staff Relations. Commissioners may not attempt to exercise individual authority over the Port or staff, except as explicitly set forth and authorized in Commission policies, including the Delegation Policy referenced in Section 1.3.

3.13 Open Meetings. In accordance with Washington’s Open Public Meetings Act, Commissioners shall:

3.13.1 Not meet as a quorum outside of Commission-called public meetings to hold discussions or make decisions, as defined under chapter 42.30 RCW, regarding the business of the Port.

3.13.2 Not meet as a quorum with staff outside of a Commission-called public meeting for the purpose of gathering information.

3.13.3 Understand that the requirements of the Washington Open Public Meetings Act apply to communications via telephone, e-mail, instant messaging or other forms of electronic communications. Any exchange of communication between any two Commissioners may constitute an official meeting of the Commission and be in violation of the Act. Commissioners may send information to other members of the Commission on an informational basis; however, replies and/or exchanges of communications regarding Port business must not occur outside of an official public meeting of the Commission. Any such e-mail sent for informational purposes as described above, by any member of the Commission, 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.

3.14.3 The Commissioner shall declare his or her intention to refrain from deliberations and voting on issues related to the person or entity in such relationship. This requirement may be extended by Commission action to any individual or entity that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. Even with disclosure, chapter 42.23 RCW may prohibit the Commission from acting in the face of a conflict of interest.

3.14.4 A Commissioner shall not receive reimbursement for expenses, per diem, or other Port payment for activities (e.g., travel, meals and other costs) when the Commissioner is engaged in or participating for both the Port and another Entity.

4. FULL TRANSPARENCY IN PORT ACTIONS

4.1 This policy shall ensure full, fair, and open discussion of matters of public importance, with opportunity for public participation and media coverage.

4.2 With respect to any quasi-judicial matter before the Commission, or reasonably expected to come before the Commission, it is the policy of the Port Commission that no Commissioner shall:

4.2.1 Have contact with any person, either oral, written, electronic or otherwise communicated, except in a Commission meeting; and

4.2.2 Receive any information or evidence except as a part of the public record at a Commission meeting.

4.3 If a Commissioner is not able to avoid contact with parties outside of an open Commission meeting or receipt of information from parties outside of an open Commission meeting, the Commissioner shall disclose at the next public meeting, the full content of the contact made or information received.

4.4 Avoidance of communications described above is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the contact, even if inadvertent, may bias the outcome and subject the Commission action to challenge.

4.5 All information any person or entity would like distributed to Commissioners should be first provided to Port staff; staff will then consistently distribute the information to all Commissioners and file the information as appropriate.

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and this policy. Complaints against staff (other than the ~~Executive Director~~Chief Executive Officer) shall be resolved by the ~~Executive Director~~Chief Executive Officer, according to law and the Port Policies and Procedures manual. Complaints against the ~~Executive Director~~Chief Executive Officer shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and 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~~Chief Executive Officer 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~~Chief Executive Officer shall determine whether sufficient evidence exists to proceed with an investigation. If the ~~Executive Director~~Chief Executive Officer determines that insufficient evidence exists, the complaint shall be dismissed. Otherwise, the ~~Executive Director~~Chief Executive Officer shall proceed as follows.

5.4 Investigation. If an investigation is warranted, the ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer 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 counsel and the new information submitted by a respondent, the Commission shall, within fifteen (15) days of receipt of such new information, hear, consider or render a final decision which may not be further appealed. If the complaint is dismissed, the complainant and the Respondent shall be notified of same in writing. If reconsideration is denied, the Respondent, but not the complainant, shall be notified of same in writing, and any action by the Commission shall be implemented immediately.

5.8 Sanctions. Censure and/or reprimand may be invoked with respect to Commissioner misconduct, in addition to reassignment of committee assignments and other actions.

5.9 Public Notification. Unless otherwise determined by the Commission in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission, the fact of any sanction.

5.10 Other Remedies Reserved. Any action taken by the Commission shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner charged with misconduct, except as otherwise provided under Section 18.

6. COMMISSION MEETINGS

6.1 Officers. There shall be three Commission officers: a president, a vice president and a secretary.

6.1.1 Terms. The terms of 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 even years. Newly elected officers shall take office effective

the next regularly scheduled meeting following the election, unless otherwise agreed 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.

6.2 Presiding Officer. The Presiding Officer at all meetings of the Commission is the President, and in the absence of the President, the Vice President will act in that capacity.

6.3 Presiding Officer Duties. The Presiding Officer shall:

6.3.1 Preserve order and decorum in the Commission chambers;

6.3.2 Observe and enforce all rules adopted by the Commission;

6.3.3 Decide all questions on order, in accordance with these rules, subject to appeal by a Commissioner;

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-Executive~~ Assistant shall provide notice of special Commission ~~m~~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-Executive~~ 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~~ Chief Executive Officer 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~~ Chief Executive Officer shall maintain a record of Commissioner attendance at Commission, and other meetings, to which a Commissioner is assigned or scheduled to attend.

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6.11 Commission Meeting Staffing. The ~~Executive Director~~ Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the ~~Executive Director~~ Chief Executive Officer, other staff members shall attend. The ~~Executive Director~~ Chief Executive Officer may make recommendations to the Commission and shall have the right to take part in the discussions of the Commission, but shall have no vote.

6.12 General Conduct of Business.

6.12.1 The President of the Port Commission will introduce the issue, stating whether action will be taken on the issue, whether the issue is introduced for discussion only or whether other results are anticipated.

6.12.2 Port staff will briefly discuss the issue.

6.12.3 If a technical report by a consultant or other is to be presented, the presenter will provide a summary of the technical report, generally not to exceed 15 minutes.

6.12.4 At the conclusion of the technical report, staff will return the issue to the President of the Commission for action. The Commissioners may ask staff, any consultants or the public to briefly clarify any matter presented.

6.13 Public Comment. Public comment shall be permitted at Commission meetings only in accordance with these established procedures. Comments shall be received at the beginning of each meeting, and at the end of each meeting, as identified on the agenda. Either the President or staff may read the following guidelines into the record.

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6.13.1 Speakers shall move to the lectern and shall comment only after being recognized by the President;

6.13.2 Speakers shall state their names and addresses prior to addressing the Commission;

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6.13.3 The President may permit public comment for any item where a motion will be made, with the exception of the Consent Agenda, for allocate available time among individuals wishing to comment. Generally, the time shall be 3 two (2) minutes for each speaker, per item;

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6.13.4 Groups are encouraged to express their views through a single spokesperson rather than individually;

6.13.5 Speakers shall limit themselves to matters regarding the issue of concern;

6.13.6 Speakers shall not repeat remarks or points of view made by prior speakers;

6.13.7 The President may overrule impertinent, redundant or disruptive comments;

6.13.8 Applause or other disturbances are is 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~~Chief Executive Officer 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~~Chief Executive Officer.

7.2 Agenda Preparation. The ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer 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 electronically to Commissioners.

7.4 Adding an Item to a Published Agenda. An item may be placed on a regular Commission meeting agenda after the agenda is closed and the notice published, if the Commissioner or ~~Executive Director~~Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.5 Agenda Item Order. The Presiding Officer may, with the concurrence of the Commission, address agenda items out of order.

7.6 Consent Agenda. Items placed on the consent agenda may be moved to the business agenda upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda. The moved item will be placed on the business agenda for further discussion.

8. ROLE OF THE COMMISSION PRESIDENT

The President of the Commission shall:

8.1 Ensure that the Commission jointly and consistently adheres to its own rules and policies, and those imposed upon it by the laws of the State of Washington.

8.2 Ensure that deliberation is fair, open and thorough, but also timely, orderly and stays on topic. The President of the Commission shall preside over and facilitate all Commission Meetings in accordance with these governance principles and Roberts Rules of Order, as needed.

8.3 Assume responsibility of the Commission that is not specifically assigned to another Commissioner.

8.4 Call Special Meetings of the Commission in the event of a business need as provided for by applicable law.

8.5 Establish ad hoc advisory and standing committees.

8.6 Schedule and coordinate the annual process of evaluating the ~~Executive Director~~Chief Executive Officer.

8.7 Have no authority to supervise or administratively direct the ~~Executive Director~~Chief Executive Officer or Port staff, apart from authority expressly granted by the Commission.

9. ROLE OF THE COMMISSION VICE-PRESIDENT

The Vice-President of the Commission shall:

9.1 Perform such duties as are assigned by the President.

9.2 Have all the power and duties of the President in the absence or inability of the President to act.

9.3 Have all the powers and duties of the Secretary in the absence or inability of the Secretary to act, when not acting as the President.

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.

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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~~Chief Executive Officer.

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.

12.2 In the case of Commissioners requesting information or assistance without Commission authorization, the ~~Executive Director~~Chief Executive Officer and staff must refuse such requests that require, upon evaluation by the ~~Executive Director~~Chief Executive Officer, a material amount of staff time or funds, are disruptive to the Port, or which may involve a conflict of interest between the Port and the Commissioner requesting the information or assistance.

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12.3 Commissioners individually may communicate directly with Port employees or contractors for the purpose of inquiry only. Commissioners shall, on business matters, deal with staff through the ~~Executive Director~~Chief Executive Officer. However, the Commission as a body and the Commissioners individually do not give direction to persons who report directly or indirectly to the ~~Executive Director~~Chief Executive Officer. If an individual Commissioner is dissatisfied with the response from the ~~Executive Director~~Chief Executive Officer or staff, the Commissioner may seek resolution through the Commission as a body.

12.4 The Commission as a body and the Commissioners individually will refrain from evaluating, either formally or informally, the job performance of any Port employee, other than

the ~~Executive Director~~Chief Executive Officer, except when approving compensation and benefits in the course of budget or employment contract considerations.

13. PORT COMMISSION & STAFF ROLES AND RESPONSIBILITIES

13.1 General Roles. The Commission is the Port's governing authority and policy maker. The ~~Executive Director~~Chief Executive Officer and Port staff implement and administer the Commission's policies. The Port of Kennewick has a Commission-~~Executive Director~~Chief Executive Officer form of governance. With this structure, the Port Commission's role is to establish port policies and priorities. The Commission hires an ~~Executive Director~~Chief Executive Officer to implement those policies and undertake the administration of the organization. The ~~Executive Director~~Chief Executive Officer is hired by the Port Commission to enforce its directives, to direct the daily operations of Port governance, to prepare and monitor the budget, and to implement the policies and programs initiated by the Port Commission. The ~~Executive Director~~Chief Executive Officer is responsible to the Port Commission, rather than to individual Commissioners, and directs and coordinates all other employees. The Port Commission authorizes positions through the budget process; based upon that authorization, the ~~Executive Director~~Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The ~~Executive Director~~Chief Executive Officer is authorized to make recommendations on policy matters to the Commission and the Commission retains the authority to accept, reject, or amend the recommendations. Individual Commissioners may not intervene in staff decision-making, scheduling of work, and executing department priorities. This is necessary to allow staff to execute priorities given by the ~~Executive Director~~Chief Executive Officer. All Commissioners with concerns affecting the Port of Kennewick should address those concerns with the full Commission or with the ~~Executive Director~~Chief Executive Officer.

No Commissioner shall direct the ~~Executive Director~~Chief Executive Officer to initiate any action, prepare any report, or initiate any project or study without the authorization of a majority of the Commission. Commissioner requests for information shall be made to the ~~Executive Director~~Chief Executive Officer, unless otherwise determined by the ~~Executive Director~~Chief Executive Officer. Commissioners needing staff assistance shall work through the ~~Executive Director~~Chief Executive Officer.

13.3 ~~Executive Director~~Chief Executive Officer's Role.

13.3.1 The ~~Executive Director~~Chief Executive Officer is the chief administrative officer of the Port. The ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer 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~~Chief Executive Officer 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~~Chief Executive Officer 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~~Chief Executive Officer 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~~Chief Executive Officer that will assist them in their policy-making role. The ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer shall have an open-door policy which allows individual Commissioners and the public to meet with the ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the ~~Executive Director~~Chief Executive Officer through the Delegation Policy. Port staff will, acting through the ~~Executive Director~~Chief Executive Officer, 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~~Chief Executive Officer, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the ~~Executive Director~~Chief Executive Officer 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
Reviews and monitors plans
Monitors progress
Contracts with personnel
Approves evaluation criteria, procedures
Reviews and approves budget
Represents public interest

~~Executive Director~~Chief Executive Officer

Administers:

Operates
Manages

Decides how
Seeks and provides information
Provides recommendations
Recommends and carries out policy
Implements plans
Reports progress
Supervises hiring process, practices
Supervises and evaluates personnel
Formulates budget
Acts in the public's interest

14. BUDGET AND PROCUREMENT AUTHORITY

14.1 General. By resolution, the Commission shall set forth the authority of the ~~Executive Director~~Chief Executive Officer to manage and expend Port funds in accordance with financial policies and budgetary limits. Procurement of goods and services shall take place in accordance with applicable legal requirements in a fair, competitive and inclusive manner to maximize the benefit to the Port's taxpayers/customers.

14.2 Financial Policies. The Commission, by resolution, shall adopt financial policies that provide guidance to the ~~Executive Director~~Chief Executive Officer in managing the finances of the Port and in developing budgets, financial plans and rates. At a minimum, these policies shall:

14.2.1 Provide for sufficient liquidity relative to the Port's risk profile;

14.2.2 Provide for adequate coverage to meet debt covenants;

14.2.3 Establish criteria for debt and rate – financed capital expenditures;

14.2.4 Require that budgets be developed based on conservative and prudent assumptions consistent with standard industry practice; and

14.2.5 Establish budgetary and procurement controls over expenditures.

14.3 Budgetary Authority. As required by and consistent with law, the Commission, by resolution, shall approve the Port's bi-annual budget prior to the start of each odd calendar year. The ~~Executive Director~~Chief Executive Officer shall manage the Port's operations within the approved budget levels consistent with authority levels set forth in the financial policies.

14.4 Procurement Authority.

14.4.1 The Commission, by resolution, shall establish procurement authorities and guidelines for the ~~Executive Director~~Chief Executive Officer consistent with state laws and regulations. The ~~Executive Director~~Chief Executive Officer shall establish procurement controls that provide reasonable assurance that the procurement of goods and services are made for a valid business purpose and within authorized budget levels.

14.4.2 It is Port policy that procurement decisions shall be made free from actual or perceived conflicts of interest consistent with these Rules of Policy and Procedure.

14.4.3 It is Port policy that due diligence and prudent judgment be exercised in the making of procurement decisions, including conducting a risk assessment. If the ~~Executive Director~~Chief Executive Officer reasonably determines that a procurement activity presents, regardless of the size of the financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the ~~Executive Director~~Chief Executive Officer shall inform the Commission.

15. EVALUATING THE ~~EXECUTIVE DIRECTOR~~ CHIEF EXECUTIVE OFFICER'S PERFORMANCE

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

15.2 Process.

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~~15.2.1 The Commission shall evaluate the Executive Director~~ Chief Executive Officer'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~~ Chief Executive Officer's personal performance against the evaluation criteria previously established by the Commission and the Executive Director Chief Executive Officer.

~~15.2.1 The Port Commission shall appoint an Evaluation Committee made up of~~ the Port's Chief Financial Officer/Auditor, Port Attorney, and one Commissioner to serve a 2-year term.

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~~15.2.2 The Evaluation Committee will develop the Chief Executive Officer's goals and objectives for Port Commission review and approval. The goals and objectives developed by the Committee shall be specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.~~

~~15.1.3 The Evaluation Committee will develop a procedure for evaluating the~~ Chief Executive Officer's performance.

~~15.1.4 On an annual basis, the Evaluation Committee will conduct Chief~~ Executive Officer's performance evaluation.

~~15.1.5 On an annual basis, the Evaluation Committee will present the results of~~ its evaluation of the Chief Executive Officer's performance to the Port Commission for review and approval. Such results may include, among other things, recommendation for salary adjustment in accordance with Chief Executive Officer's employment agreement.

~~15.1.5 The Evaluation Committee may use assistance from other staff members~~ or consultants as necessary and appropriate.

~~15.1.6 The Port Commission shall address Chief Executive Officer's~~ performance issues as they arise by timely referring them to the Evaluation Committee. The Evaluation Committee will develop a procedure for handling performance issues that may arise between annual evaluations.

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~~Chief Executive Officer 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~~Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer is responsible for hiring and terminating the Port Attorney. The ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer, 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~~Chief Executive Officer. The ~~Executive Director~~Chief Executive Officer is responsible for evaluating the Port Attorney's performance.

17.2 Port Attorney Responsibilities.

The general legal responsibilities of the Port Attorney are to:

17.2.1 Provide legal assistance necessary for formulation and implementation of legislative policies and projects.

17.2.2 Represent the Port's interest, as determined by the ~~Executive Director~~Chief Executive Officer, in litigation, administrative hearings, negotiations, and similar proceedings.

17.2.3 Prepare or approve as to form resolutions, contracts, and other legal documents to best reflect and implement the purposes of the Port.

17.2.4 Keep the Port Commission and staff apprised of court rulings and legislation affecting the legal interest of the port.

17.2.5 Shall advise the Commissioners regarding potential conflict of interest issues or ethical matters. Port Attorney shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port Attorney's obligations to the Port or to specific direction of the Commission.

17.2.6 Give advice or opinion when required by the Commission or ~~Executive Director~~Chief Executive Officer.

17.2.7 Inform the Commission of material legal issues impacting the Port or the Commission.

17.2.8 Assist the Commissioners and staff in complying with applicable statutes and laws.

17.2.9 Serve as the parliamentarian at all commission meetings and other port-related meetings as requested by the ~~Executive Director~~Chief Executive Officer.

17.2.10 Other matters as designated by the ~~Executive Director~~Chief Executive Officer.

18. INDEMNIFICATION AND DEFENSE POLICY

18.1 Policy Stated. As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of officials and employees of the Port, including volunteers, while performed or in good faith purported to have been performed in the scope of their official duties.

18.2 Definitions. Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

18.2.1 "Employee" means any person who is or has been employed by the Port, including volunteers and appointed members of advisory boards and commissions. "Employee" 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~~Chief Executive Officer 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~~Chief Executive Officer 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~~Chief Executive Officer in writing. If the employee or official involved is the ~~Executive Director~~Chief Executive Officer, 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~~Chief Executive Officer 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.

18.4 Exclusions. Except as otherwise determined pursuant to Section 18.3, in no event shall protection be offered under this chapter by the Port to:

18.4.1 Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an official or an employee;

18.4.2 Any act or course of conduct of an official or employee which is not performed on behalf of the Port;

18.4.3 Any act or course of conduct which is outside the scope of an official's or employee's service or employment with the Port; and/or,

18.4.4 Any lawsuit brought against an official or employee by or on behalf of the Port;

18.4.5 Any action or omission contrary to or not in furtherance of any adopted Port policy.

18.5 Reserved Rights. Nothing herein shall be construed to waive or impair the right of the Port neither to institute suit or counterclaim against any official or employee nor to limit its ability to discipline or terminate an employee.

18.6 Policy Secondary to Insurance. The provisions of this chapter shall have no force or effect with respect to any accident, occurrence or circumstance for the which the Port or the official or employee is insured from whatever source against loss or damage; provided that the provisions of this chapter shall apply in the event the loss or damages fall within the deductible or exclusion(s) of the Port's applicable insurance policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance whether owned by or otherwise applicable to any official or employee. The Port shall have the right to require an employee to fully utilize any such policy protection prior to requesting the protection afforded by this Chapter.

18.7 Determination of Exclusion. The determination whether an official or employee shall be afforded a defense by the Port under the terms of this chapter shall be made after a determination pursuant to Section 18.3 as to whether the official or employee was acting within the scope of his or her duties. The ~~Executive Director~~Chief Executive Officer and Port legal counsel shall prepare a recommendation to the Commission. The decision of the Commission shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter. Nothing herein shall preclude the Port from undertaking an official's or employee's defense under a reservation of rights. The determination as to whether a defense is to be furnished as provided under this chapter to a member or to members of the Commission shall be made without the vote of the Commissioners named in the claim or lawsuit unless the inclusion of such member or members is required for a quorum; provided, that if a claim or lawsuit affects a quorum or greater number of the members of the Commission, all such affected members shall retain their voting privileges under this Section.

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~~Chief Executive Officer 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~~ Chief Executive Officer 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 be interpreted to provide for payment of an award of punitive damages. The process for payment of punitive damages is discretionary under this chapter, and is set forth in Section 18.16. The decision to appeal an award of damages will be made by the Commission upon the recommendation of the ~~Executive Director~~ Chief Executive Officer and the Port legal counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any official or employee fails or refuses to comply with any of the conditions set forth in Section 18.8, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

18.11 Reimbursement of Incurred Expenses.

18.11.1 If the Port's investigation under Section 18.3 determines that an official or employee does not come within the provisions of this chapter and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the Port shall pay any judgment, excepting punitive damages, rendered against the official or employee and reasonable legal counsel's fees incurred in defending against the claim if said judgment is not covered by the Port's insurance provisions or by the official's or employee's insurance. The Port shall pay any costs and reasonable legal counsel's fees incurred by the employee or official in obtaining the determination that such claim is covered by the provisions of this chapter; provided, that if a court of competent jurisdiction determines that such claim does not come within the provisions of this chapter, then the official or employee shall pay the Port's costs and reasonable legal counsel's fees incurred in obtaining the determination that such claim is not covered under the provisions of this chapter.

18.11.2 If the Port determines that a claim against a Port official or employee does come within the provisions of this chapter and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the Commission shall have the option of requiring reimbursement by the official or employee for costs or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

18.12 Conflict With Provisions of Insurance Policies. The indemnification provisions of this chapter do not constitute a policy of insurance and nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where the Port or any of its current or former officials or employees thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this chapter shall be deemed to limit or restrict any employee's or official's right to full coverage pursuant to this chapter, it being the intent of this chapter to provide the coverage detailed in this chapter only above and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provisions contained in this chapter.

18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any official or employee at the time of adoption of this ordinance and to any such claims or lawsuits hereinafter filed within an applicable statute of 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~~Chief Executive Officer and the Port legal counsel. If the official or employee is the ~~Executive Director~~Chief Executive Officer 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~~Chief Executive Officer 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~~Chief Executive Officer 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.

19. GENERAL COMPLAINT RESOLUTION

19.1 Administrative Complaints Made Directly to Individual Commissioners. When administrative policy or administrative performance complaints are made directly to individual Commissioners, the Commissioner shall then refer the matter directly to the ~~Executive Director~~Chief Executive Officer for review and/or action. The individual Commissioner may request to be informed of the action or response made to the complaint.

19.2 Administrative Complaints – "Best Practice". Although citizen's direct access to elected officials is to be encouraged, Port Commissioners should be cautious in making

statements or taking actions that may delay a timely customer service response. The best policy is to put the citizen into direct contact with the ~~Executive Director~~Chief Executive Officer.

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.

MEMORANDUM

To: Port Commission

From: Tim Arntzen, Executive Director

Date: 02/09/2018

Re: Clover Island, Miscellaneous Issues

Recently a lessee operating a business on Clover Island asked whether the port would sell the land it ground leases from the port. I discussed this issue with staff and determined that this is not a simple matter. For example, if the port sells the land, it receives one-time income, but loses sustainable income it would have received over time. On the other hand, selling the land would likely incentivize the lessee to make additional improvements to its current building (and grounds).

While reviewing this issue, I became aware of other “questions” related to future development of the island, which are discussed in some detail below. So what may have initially appeared as a single question (sell vs lease), has morphed to several policy questions related to further development of the island. And while a single question could be dealt with (asked and answered), the various questions arising simultaneously may be best answered in a more comprehensive manner, recognizing that the answer to one question may impact the others.

Questions:

- Should the northwest corner parcel have a realistic building height limited to 40-45 feet (otherwise the grandeur of the 62 foot tall lighthouse is lost)?
- Should a future building located on the parcel west of Cedars be oriented to assure some upstream views for the restaurant?
- Should building development be prioritized on the northern shore, with boat basin frontage areas serving as parking support areas?
- The master plan identifies no boat trailer parking beyond the few spaces at the ramp. Is this formal policy, which needs to be openly acknowledged, knowing inclusion of additional boat trailer parking would negatively impact parking available for building development (and therefore would reduce development potential)?
- Does the commission wish to retain access and parking to support future marina expansion (directly impacts the Gathering Place site)?
- Does the port wish to fully maximize the allowed building heights and enhance the economic activity and general vibrancy of the island, including at the Clover Island Inn site?

Facts/Assumptions:

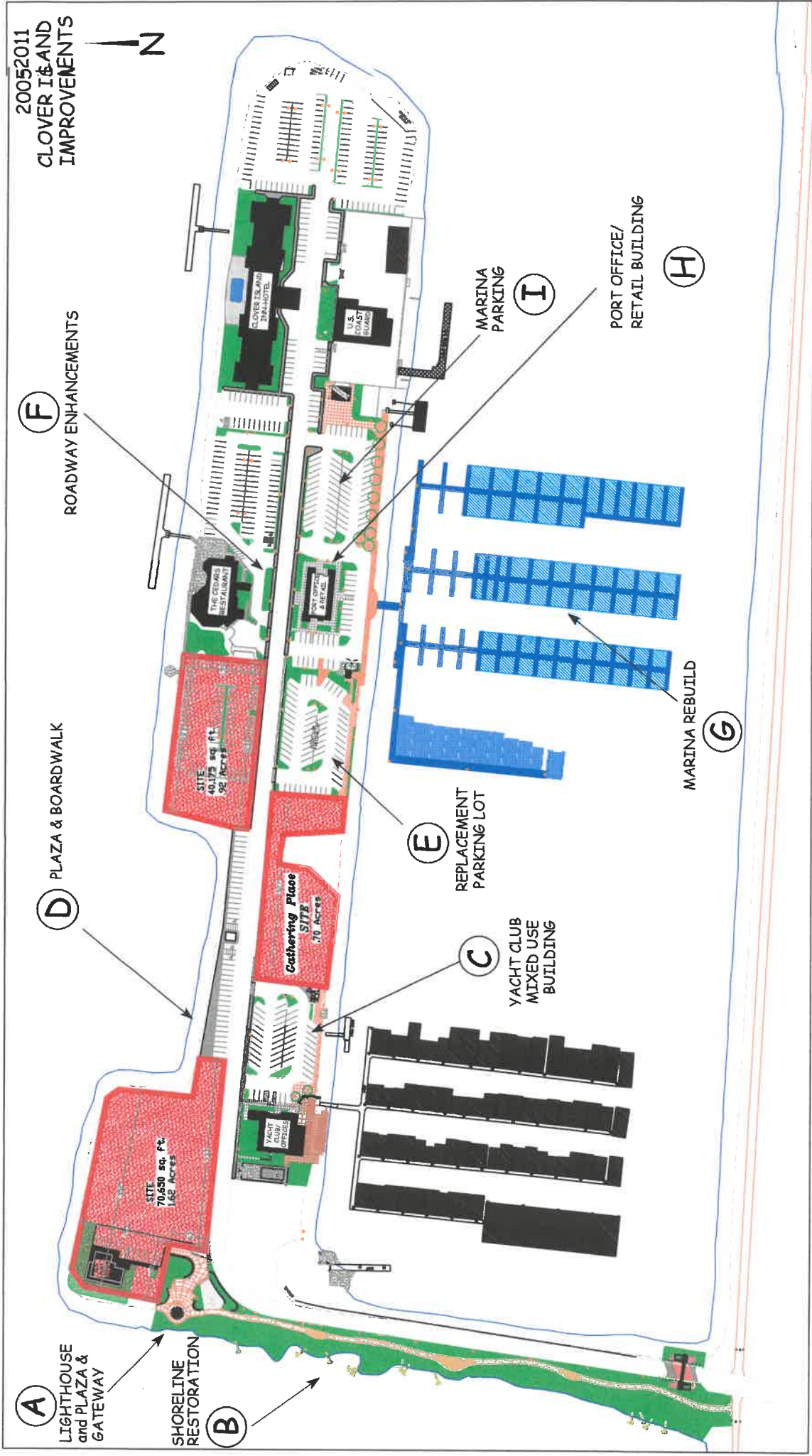
- Three development areas exist on the island; a 1.6 acre (NW Corner parcel); a .9 acre (Cedars West parcel); and a .7 acre (Gathering Place parcel), totaling 3.2 buildable acres;

- Endless land use scenarios exist, however a plausible scenario involves two buildings on the NW corner; one building on the Cedars West parcel; and one building at the Gathering Place, resulting in consumption of all vacant land (*see attached map*);
- The 64-space clay-colored parking lot is at least half consumed by Cedars Restaurant staff and customers (problem will be amplified when the Cedars West site is developed and current parking reduced there);
- Notch parking is generally unencumbered at present;
- NW Corner parcel allows buildings up to 80 feet outright, which is quite unique statewide;
- Cedars West parcel allows buildings up to 55 feet outright, which is quite unique statewide;
- Gathering Place parcel allows buildings up to 70 feet outright, which is quite unique statewide; and
- Clover Island Inn site allows buildings up to 80 feet, again quite unique statewide.
- What parcels are available in the near future to lease or sell?
- Would parcels be “for sale”?

Conclusion:

The Clover Island Master Plan was adopted in 2005 and has served as a guide for island development since then. However, the plan suggests an unrealistic consideration of driving patterns and parking demands, which led the master plan to depict more buildings than would actually fit on the island. Until the community’s transportation patterns and/or land values significantly change, obtaining the amount building space/units/square footage shown in the plan is not possible. Discussions have occurred at the staff level and have generally been discussed with the commission. However no official document acknowledges that a major portion of presently vacant land will be consumed by surface parking. Placement and allocation of building square footage and parking spaces is a choice (with long term ramifications) that has been discussed, but never formally addressed.

I believe this “task” should involve the commission formulating a comprehensive strategy for the island rather than considering development issue by issue or parcel by parcel. The port could quickly move forward in preparation of one Gathering Place parcel for lease, without the need to address all of the bigger policy questions identified above. However, when will it be the right time for the commission to decide if the north shore is the priority building location, if height should be limited adjacent the lighthouse, if additional boat trailer parking will be accommodated; and what if any incentives/enticements/tools should be utilized so the island can fully maximize the vibrancy and economic potential of that site? Perhaps these questions could be answered through an update of the current Clover Island Master Plan.



(A) LIGHTHOUSE
and PLAZA &
GATEWAY

SHORELINE
RESTORATION

(B)

(C) YACHT CLUB
MIXED USE
BUILDING

(D) PLAZA & BOARDWALK

(E) REPLACEMENT
PARKING LOT

(F)

ROADWAY ENHANCEMENTS

MARINA
PARKING **(I)**

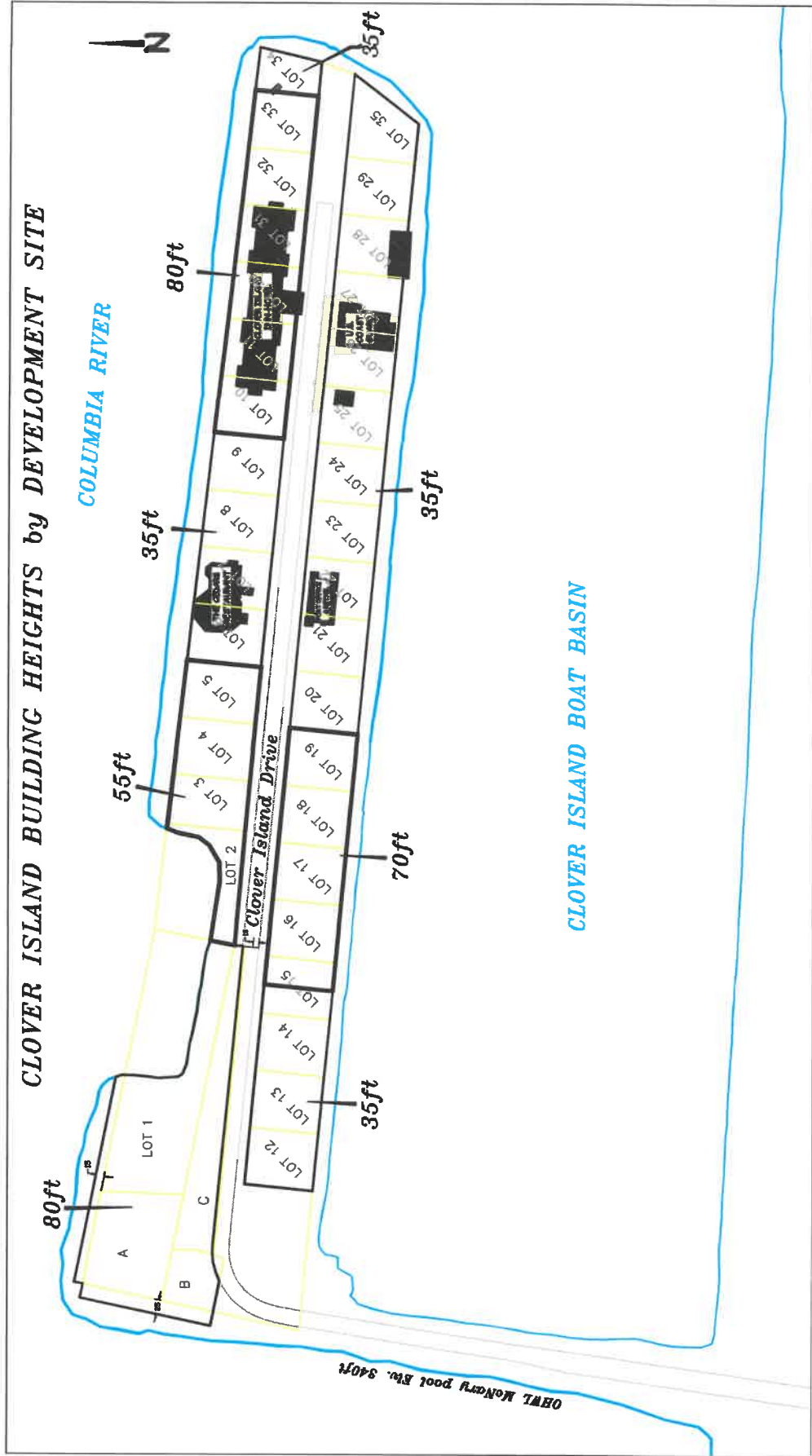
(H)

PORT OFFICE/
RETAIL BUILDING

(G)

MARINA REBUILD

CLOVER ISLAND BUILDING HEIGHTS by DEVELOPMENT SITE



COLUMBIA RIVER

CLOVER ISLAND BOAT BASIN

OHWL McNary Pool Bv. 340ft