

REVISED AGENDA

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

Tuesday, May 26, 2015
2:00 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. PUBLIC COMMENT *(Please state your name and address for the public record)*

IV. CONSENT AGENDA

- A. Approval of Direct Deposit and ePayments Dated May 19, 2015
- B. Approval of Warrant Registers Dated May 26, 2015
- C. Approval of Commission Meeting Minutes Dated May 12, 2015

V. NEW BUSINESS

- A. City of Richland, Interlocal Agreement for Trailhead Parking, Joe Schiessl;
Resolution 2015-13 (**TIM**)

VI. REPORTS, COMMENTS AND DISCUSSION ITEMS

- A. Vista Field Update (**LARRY**)
- B. Columbia Drive Update (**LARRY**)
- C. Open Public Meetings Act/Transparency in Government (**TIM/COMMISSIONERS**)
- D. Commissioner Meetings (formal and informal meetings with groups or individuals)
- E. Non-Scheduled Items

VII. PUBLIC COMMENT *(Please state your name and address for the public record)*

VIII. EXECUTIVE SESSION, if necessary *(Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.)*

- A. Real Estate, per RCW 42.30.110(1)(b) (Site Selection)
- B. Real Estate, per RCW 42.30.110(1)(c) (Minimum Price)

IX. ADJOURNMENT

PLEASE SILENCE CELL PHONES



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CALL TO ORDER

Commission President Don Barnes called the Regular Commission meeting to order at 2:02 p.m. in the Port of Kennewick Commission Chambers located at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.

The following were present:

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

Staff Members: Tim Arntzen, Executive Director
Tana Bader Inghima, Director of Governmental Relations & Marketing
Tammy Fine, Director of Finance/Auditor
Amber Hanchette, Director of Real Estate and Operations
Nick Kooiker, Assistant Auditor
Larry Peterson, Director of Planning and Development
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Ms. Fine led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA - A

Consent Agenda A consisted of the following:

A. Approval of Warrant Register Dated May 8, 2015

Expense Fund Voucher Number 36858 for a grand total of \$22,514.31

Mr. Novakovich stated on April 12, 2011, he disclosed that Esprit, the company he and his wife owns, has a contract with PS Media to print the Port's newsletter. Esprit does not get paid directly from the Port; they get paid from PS Media. Consent Agenda A is a 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.

MOTION: Commissioner Moak moved for approval of Consent Agenda - A, as presented; Commissioner Barnes seconded. With no further discussion, All in favor 2:0, 1 Recuse. Motion carried.



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CONSENT AGENDA - B

Consent agenda consisted of the following:

- A. *Approval of Direct Deposit and E-Payments Dated May 4, 2015***
Direct Deposit and E-Payments totaling \$55,017.21
- B. *Approval of Warrant Registers Dated May 8, 2015***
Expense Fund Voucher Numbers 36831 through 36857 and 36859 through 36870 for a grand total of \$98,286.63
- C. *Approval of Special Joint Commission Meeting Minutes dated April 7, 2015***
- D. *Approval of Special Commission Meeting Minutes dated April 14, 2015***
- E. *Approval of Regular Commission Meeting Minutes dated April 28, 2015***
- F. *Approval of Soulek Inc., Commercial Lease Renewal; Resolution 2015-10***

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

PRESENTATION

A. *Village at Island Harbor, Chris A. Herath*

Mr. Peterson stated the Village at Island Harbor plan began in 2008 and has evolved over the years. In the 2015-2016 Work Plan and Budget, a portion of the Village at Island Harbor project was approved and the Port will begin construction this summer. Herath and Associates began working on the details several years ago, and the plans are 95% complete. The improvements will include continuing the boardwalk, landscaping, stabilization along the shoreline, and placement of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Heritage Artwork and display cases. Mr. Chris Herath has worked with the Port for several years and is the architect of the lighthouse, the West Marina Professional Building, the Gateway and the Port Office Building. On June 8, 2015, this project will go before the hearing examiner with the hopes of completing the Village at Island Harbor this fall.

Mr. Herath stated he created a master plan for Village at Island Harbor in 2010, in an effort to fill the void between the two buildings and create a pleasant pedestrian experience. Mr. Herath stated when the Port and the CTUIR began working on the Heritage Artwork, he was contacted and asked to modify the master plan and create a home for the artwork and display area. Mr. Herath presented drawings for the Village at Island Harbor and stated the area will accommodate the artwork and allow for further build out in the future, without disruption.

Mr. Peterson stated the Village at Island Harbor will have utilities stubbed into the bank, which will create a number of future opportunities.

Mr. Herath stated he has been working with artist, Rodd Ambrosion, regarding the lighting and placement orientation of the bronze sculptures.

Mr. Arntzen stated the quality of professionals on this project is incredible; Mr. Herath, Mr. Ambrosion, the CTUIR and Barb Carter have envisioned a remarkable area for Clover Island. Mr. Arntzen reiterated that Mr. Moak indicated at the Special Joint Meeting with the CTUIR, his



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appreciation to the dedication to quality and detail, and that he is pleased the project is coming along.

Mr. Peterson stated the Commission investment on the island will create a marketable and attractive opportunity for the private sector.

Mr. Novakovich stated the scheduled improvements are fantastic and he agrees with Mr. Peterson, the improvements will make Clover Island attractive to private investors. Mr. Novakovich appreciates Mr. Peterson effort on the project and planning for future build out.

Mr. Moak inquired if the area will be well lit at night.

Mr. Herath stated the lighting is still being worked out, but suggested the Port minimize pole lighting and create a ground level lighting on the boardwalk. The area will be well lit at night, with the boardwalk and sculpture and display lighting.

Mr. Barnes is encouraged by the Port's efforts on Clover Island and our goal to bring better public amenities to the island. Mr. Blotz, general manager of the Clover Island Inn stated Clover Island was busy all weekend due to the Annual Untapped Blues and Brews event.

Mr. Arntzen stated the projects that do not generate revenue usually garner the most attention. It is critical to get it right when building public amenities, because if you don't, the public won't utilize the area. Mr. Arntzen stated it has been interesting working with the CTUIR, and for them to allow a non-tribal artist to create and capture a piece of their spirit, was a major accomplishment. The tribe was very involved in the artwork and made sure it was culturally correct. Adding the display cases to the area is a critical element. The cases will tell the story of their relationship with the land, water, the tribes' relationship with the Port. The Village at Island Harbor has been a labor of love and Mr. Arntzen believes it is one of the most important projects the Port will undertake this year.

Ms. Bader Inglima has been in communication with the tribes regarding a mid-October celebration for the installation of the artwork and using that as a capstone for the Port's 100th anniversary. The tribes have committed to the event and will bring the dancing children to the island to help unveil and dedicate the Heritage artwork and the island improvements. The target date for the event is October 15, 2015, but is subject to change based on the construction schedule.

NEW BUSINESS

A. One Year Lease with Solar Mobility LLC.; Resolution 2015-12

Ms. Hanchette stated, for the Commission's consideration, is a one year lease with Solar Mobility at Oak Street Industrial Park, Development Building B, Suite B-110. Solar Mobility LLC is a durable medical equipment company based in Washington State. This location will be the



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corporate offices along with research, development and product assembly. Solar Mobility is a small Tri-Cities start-up expecting to grow to twenty employees by the end of its first year. Kurt Schneider and Bob Silvestro, who are here with us today, have patented a motorized wheel chair that is solar powered. The lease is the standard Port lease with no tenant improvement requests.

PUBLIC COMMENT

No comments were made.

MOTION: *Commissioner Novakovich moved for approval of Resolution 2015-12, approving a one (1) year lease with Solar Mobility, LLC. and authorizing the Executive Director to execute the contract; Commissioner Moak seconded.*

Discussion:

Mr. Novakovich stated Mr. Silvestro had showed him the chair several years ago and thought it was an awesome concept. Mr. Novakovich conveyed the importance of assisting a start-up, Veteran run business. He believes this is what the Port of Kennewick does, help businesses get off the ground and make them successful. With the reported growth pattern, it looks like Solar Mobility will be very successful and Mr. Novakovich expressed his admiration for Mr. Schneider and Mr. Silvestro and their project.

Mr. Moak stated it is a very forward looking project and hopes Solar Mobility will find success and outgrow the space like Ti Lite. Mr. Moak believes it is important for the Port to incubate small businesses and provide support to allow them to grow.

Mr. Barnes stated this is in line with the Port mission, to provide an environment where a business can grow and create economic development and job creation. Mr. Barnes looks forward to an opportunity to seeing the product first hand.

Mr. Schneider stated they have the ability to manufacture everything solar, including golf carts and cars. Mr. Schneider stated, they are the only American, Veteran owned company with a contract with the Department of Defense.

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

B. Bid Award: Clover Island Marina Gates; Resolution 2015-11

Ms. Hanchette presented a general construction contract with Ray Poland & Sons, for the marina gates replacement project. In an effort to offer marina tenants' enhanced security measures on A, B and C docks at Clover Island Marina, the three existing security gates will be removed and replaced with lighter weight gates and panel structures; and will be installed at a new location farther back on each dock. This project will include the addition of lighting to the gate structure and extension of electrical for existing gate access card readers, which will be reused. Ms. Hanchette worked with staff, tenants and engineers to create a gate that will enhance the security for our tenants and deter access to the docks for non-marina tenants. The new gates are made out of lighter weigh aluminum and will have an automatic closer. Whereas, our current gates were fabricated out of heavy steel and do not have an automatic closer because of the weight of the



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doors. The gates were designed to mimic the archway on the West Causeway and will have LED lighting.

Ms. Hanchette reported, in accordance with Port policies and procedures, invitations to bid, along with plans and specifications were sent to five contractors on the Port's small works roster. Where three bids were received from Banlin Construction, MH Construction, and Poland & Sons. Ms. Hanchette stated Poland & Sons bid was deemed the most responsive bid and will fabricate the new gates in house, extend the electrical, and remove and install the new gates for \$66,463.20.

PUBLIC COMMENT

No comments were made.

MOTION: *Commissioner Novakovich moved for approval of Resolution 2015-11, authorizing the Port's Executive Director to execute the general construction contract with Ray Poland & Sons, Inc. for the removal of existing marina gates and installation of new gates with necessary electrical for the Clover Island Marina in the sum of \$66,463.20, including applicable sales tax; Commissioner Moak seconded.*

Discussion:

Mr. Novakovich thanked Ms. Hanchette for her thorough work on the gates.

Mr. Moak inquired if tenants and non-tenants would be able to find a way around the new gates.

Mr. Peterson stated, a person will still be able to access the docks via the water. In an effort to keep the transient docks open, this is where the gates had to be placed. The new gates are not criminal proof; however, they will deter non-marina tenants' access.

Mr. Moak asked if the Port would be repurposing the existing gates.

Ms. Hanchette stated the Port will take previous gate structures and utilize the material for another purpose.

Mr. Barnes stated the bid was \$10,000 over budget and inquired where the remaining source of funds will come from.

Ms. Fine stated the Columbia Drive Demolition project was under budget, and funds will be utilized from that project.

Mr. Arntzen stated, while the new gates will not be foolproof, however, the marina has become a profit center for the Port, with approximately 150 tenants paying full market rate on the space. This was a project that several of the marina tenants asked for and by making valuable, requested improvements to the marina, our actions will let the tenants know the Port appreciates their business.

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



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C. *Kennewick UGB Study Group*

Mr. Arntzen stated the Port has quarterly meetings with the City of Kennewick, Benton County and Trios Hospital District, mainly to exchange ideas related to joint interests and Mr. Moak serves as the Port liaison. It has been brought to Mr. Arntzen's attention that the City, County and Hospital District would like to meet with the Port and discuss any ownership of properties in the Southridge area. At this time, each entity has a number of parcels in the unincorporated areas of the City and County and Mr. Arntzen feels the City of Kennewick may look to submit another Urban Growth Boundary (UGB) Application expansion. Late last year, the City of Kennewick's UGB Application, to expand the Urban Growth Area (UGA) 1,263 acres south of Southridge was denied.

Mr. Moak stated the Hospital District built the new hospital and one of their goals was to sell their properties to pay for the new building. Mr. Moak stated the hospital owns several farms and acres in the 395/397 Highway area, and Mr. Vic Johnson, Commissioner of the Hospital District, indicated their land is of little value because it is located in the unincorporated areas of the City and County. Mr. Moak stated the Hospital District was aware that the Port owned property in the area, which would eventually be marketed and thought it would be in the best interest of all the entities to form a cooperative effort to boost land values in the area. Mr. Moak indicated the Port's property is located in the incorporated area of the City and are holding the property. Mr. Moak believes it is two different projects and is not sure the Port property is relevant to what the City, County and Hospital District are trying to accomplish.

Mr. Arntzen inquired how the process of identifying properties relates to the City's potential second attempt to expand the UGA. Mr. Arntzen recalls Futurewise, a Seattle-based advocacy group, objected to the application, which was later denied by the Growth Management Hearings Board.

Mr. Arntzen stated Port staff made an effort and reached out to Futurewise when West Richland's first UGB application was denied. Port staff and the City of West Richland staff worked with Futurewise and submitted a scaled down UGB, which was approved late last year.

Mr. Arntzen stated recently Port staff and Commissioner Moak spoke to Futurewise about the new urbanism concept at Vista Field, which Futurewise did not object to. Futurewise embraces smart growth, preserving farm land and forests, and limiting urban sprawl. Mr. Arntzen stated he is hesitant to meet with the entities to discuss Port property and a possible second UGB application, because of the Port's recent outreach and dialogue with Futurewise.

Mr. Arntzen met with Marie Mosely, City of Kennewick City Manager, and suggested perhaps Mr. Arntzen and Ms. Mosely could duplicate the Port's effort with Futurewise regarding the area south of Southridge. Ms. Mosely understood the Port's viewpoint, and will consider Mr. Arntzen's suggestion. Mr. Arntzen stated the Commission has built credibility with Futurewise and suggested Commissioner Moak, and Mr. Peterson accompany Mr. Arntzen to the first meeting with the entities and outline Port property and lack thereof in the unincorporated areas of the City and the County.



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Mr. Moak welcomes the opportunity to be helpful to other entities and help facilitate dialogue between the Futurewise and our jurisdictional partners. Mr. Moak stated Hillary Franz, Executive Director of Futurewise, looks for smart ways for communities to grow and believes she would welcome the opportunity to work with public entities. Mr. Moak agrees with Mr. Arntzen regarding the UGB Study group meeting and stated, if the Port outlined our properties, they may realize we don't have a lot to offer.

Mr. Barnes stated the City is an important partner to the Port and believes Futurewise could provide some benefit regarding Vista Field and help us find better way to approach the redevelopment. Mr. Barnes stated if there is a reasonable, modest role the Port can play, to facilitate dialogue between parties, it might be worth exploring.

Mr. Arntzen stated the City of Kennewick will need to determine their direction and move forward. Mr. Arntzen stated if a community continues pushing the urban growth boundary, by creating suburban sprawl, which is less expensive, as opposed to revitalizing a community with in-fill, urban decay will be more prevalent. The Port has made a choice to revitalize our community by redeveloping Columbia Drive and Vista Field and foster in-fill.

Mr. Novakovich likes Mr. Arntzen's suggestion and stated it will be up to the City to decide their path forward. Mr. Novakovich would hate to damage our relationship with Futurewise and stated it would be beneficial to attend the meeting and clarify the Port has no available land in the area.

Mr. Arntzen thanked the Commission for their guidance, and stated Mr. Peterson, Mr. Moak and myself will meet prior to the meeting and asked Mr. Moak to present the Port's perspective.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Comprehensive Scheme Update*

Mr. Peterson reported the Comprehensive Scheme is the document to inform all citizens and our development partners the direction the Port is going over the next ten years. The previous Comp Scheme was updated in 2011, with an amendment for direct closure and redevelopment of the Vista Field Airport in 2013. Mr. Peterson stated the Comp Scheme will weave in key elements such as how our efforts fit together. The Port's efforts have focused on redeveloping areas, such as Columbia Drive, Spaulding Business Park, Clover Island, Vista Field and the former Tri-Cities Raceway.

Mr. Peterson reported over the past two months, he, Mr. Moak, and Ben Floyd of Anchor QEA, held four public meetings at different locations throughout the community: West Richland, City of Richland Community Center, Ben-Franklin Transit Transfer station and Benton PUD. We have also met with six of our jurisdictional partners and are in the process of scheduling with the City of Kennewick. Our goal with the public and jurisdictional meetings is to garner information to see what projects are crucial to the community. Mr. Peterson hopes to have the Comp Scheme completed in conjunction with the Vista Field Master plan by the end of 2015.



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Mr. Moak indicated 98% of the comments and discussion were about existing Port properties and projects. Mr. Moak stated it is important for the Port to keep looking forward and determine where potential strategic opportunities lie and continue to exploring opportunities for our community.

B. Vista Field Update

Mr. Peterson stated at the April 28, 2015 Regular Commission Meeting, the Board received a memo regarding Vista Field and the projects that need to be completed by December 2015. Mr. Peterson shared a proposed timeline for Vista Field Redevelopment:

- May 31st: Closing comment period on Draft Charrette Report;
- June – July: Address current zoning codes and identify necessary changes;
- June – August: Compile Draft Charrette Report and comments and create the Draft Master Plan with Duany Plater-Zyberk;
- September – October: Review Draft Master Plan and present to numerous agencies and organizations;
- November: Conduct Public Hearings to consider adopting Vista Field Master Plan;
- December: Adopt Comprehensive Scheme, which incorporates the Vista Field Master Plan.

Mr. Barnes stated this is a very concise path forward and the timeline informs the public of the steps the Port needs to take prior to breaking ground.

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

Commissioners reported on their respective committee meetings.

D. Non-Scheduled Items

1. Ms. Scott stated an invitation has been extended to the Commission to attend the Tri-Cities Regional Chamber of Commerce luncheon regarding State of the Cities Presentation on May 27, 2015.
2. Ms. Bader Inglima stated last year, the Port partnered with the City of Kennewick and submitted an application for American's Best Communities sponsored by Frontier Communications, DISH Network, CoBank, and The Weather Channel. Ms. Bader and Ms. Emily Estes-Cross wrote the application, which focused on waterfront revitalization. The application was filed by Tri-Cities Regional Chamber of Commerce, Tri-City Development Council (TRIDEC), with the City, Port and Visit Tri-Cities as partners. Ms. Bader Inglima reported 347 communities applied for the contest and only 50 communities, including Kennewick, passed the first stage and received \$50,000, which is earmarked for developing strategies for bolstering the local economy and quality of life. On Wednesday, May 13, 2015, Frontier Communications will be presenting the quarter-finalist award to the City, the Port and our partners at the Clover Island Inn. Ms. Bader Inglima further stated, our partners are fine tuning the details for the next submission process, where fifteen semi-finalists will be selected to present their strategies at the America's Best Communities summit, with eight finalists awarded \$100,000 to continue implementation of their plans. In April of 2017, America's Best Communities will name the three winners and award the following:



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- First Place: \$3,000,000;
- Second Place: \$2,000,000;
- Third Place: \$1,000,000.

Ms. Bader Inglima stated only four cities in Washington were selected to move forward in the contest. Ms. Bader Inglima stated it is a partnership with the City, leveraging our investment on Columbia Drive, which we are already making. The Port will receive a Go Pro Camera to document activities that are happening due to waterfront revitalization and Ms. Bader Inglima is confident that we will be able to provide an excellent visual story. Furthermore, The Weather Channel will be coming to Kennewick and providing a national weather channel vignette.

Ms. Bader Inglima reported Corps of Engineers are moving forward to select alternatives for the Clover Island shoreline 1135 project, and hopes to have them identified by this summer. We are looking ahead to the design phase in the 2016 budget year and construction in 2016-2017. We have been communicating with the Corps team and our federal relations consultant about planning a trip to Washington D.C. to speak with our Congressional Representatives and the Federal Corps of Engineers about the significance of the 1135 project. We would like to convey to our representatives the importance of fully funding the 1135 project and make sure they are aware that it is a priority for our district and our community. It would not only improve our local habitat and environment, but it would create an opportunity to leverage economic development on the island.

Ms. Bader Inglima stated the Department of Commerce recently enacted a stand-alone Office of Native American Business Development and named Cisco Minthorn, a CTUIR Member, as the Senior Advisor for Native American Affairs to the National Center for American Indian Enterprise Development. Furthermore, there may be an opportunity visit with Mr. Minthorn and update him about activities taking place on the island, as a Memorandum of Understanding partner. With the budgeting process beginning shortly, our federal relations consultant suggested it would be best to travel sooner.

Mr. Arntzen stated the Walla Walla Corps office strongly suggested the Port plan a trip to Washington D.C. and present the 1135 project. Mr. Arntzen stated time is of essence, and since we are looking to travel during the summer, he suggested a Commissioner travel with Ms. Bader Inglima to Washington D.C. to attend the meetings.

Mr. Barnes stated this is an important trip to make, which could move the Port forward on the 1135 project and have a positive impact on the funding for Clover Island. Mr. Barnes believes the trip is very worthwhile and is interested in traveling to Washington D.C. with Ms. Bader Inglima.

Mr. Moak sees this is a prudent trip and feels it is important to travel to Washington D.C.

Mr. Arntzen stated the primary reason for the Port to travel to Washington D.C. is to discuss the 1135 project, however, there are additional reasons for staff and Commission to travel; to



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set up a meeting with Mr. Minthorn to discuss the island and our partnership with the CTUIR; and to visit Baltimore's Inner Harbor, which is a perfect example of urban revitalization of a waterfront, on an international scale.

It is the consensus of the Commission for Ms. Bader Inglima and a Commissioner travel to Washington D.C.

3. Mr. Arntzen stated, John Lindeman has asked the Port to consider including artwork that honors the Hispanic heritage within the wine village. Mr. Lindeman inquired if there was a way to include artwork that displays the commitments and contributions made by the Hispanic culture, primarily to the agricultural growth in the State of Washington. Mr. Arntzen reached out to Davin Diaz of the Hispanic Chamber and asked if he had any interest in the idea. Mr. Arntzen received an email from Mr. Diaz, who stated, this is an idea they would like to explore. Mr. Arntzen stated there are no commitments at this time, but he would like to arrange a meeting to discuss possible concepts. Mr. Arntzen stated there is interest from the community and he would like to see if the concept is viable.
4. Mr. Peterson presented slides from the nearly completed Duffy's Pond Trail and stated the City needs to add bollards for lighting and complete the landscaping.

PUBLIC COMMENTS

No comments were made.

COMMISSIONER COMMENTS

No comments were made.

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

Mr. Barnes recessed the Regular Commission Meeting at 3:52 p.m. for approximately 8 minutes.

EXECUTIVE SESSION *(Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.)*

- A. *Real Estate, Site Selection, per RCW 42.30.110(1)(b)*
- B. *Real Estate, Minimum Price, per RCW 42.30.110(1)(c)*
- C. *Potential Litigation, per RCW 42.30.110(1)(i)*

Mr. Barnes convened the meeting into Executive Session at 4:00 p.m. for approximately 40 minutes.

Ms. Hanchette exited chambers at 4:40 p.m. and extended session for 5 minutes.

Ms. Hanchette exited chambers at 4:45 p.m. and extended session for 5 minutes.



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Ms. Hanchette exited chambers at 4:50 p.m. and extended session for 5 minutes.

Mr. Barnes adjourned the Executive Session at 4:55 p.m.

Mr. Barnes reconvened the meeting into General Session at 4:55 p.m.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned at 4:55 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Don Barnes, President

Skip Novakovich, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

Resolution No. 2015-13

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT
OF KENNEWICK APPROVING THE INTERLOCAL COOPERATIVE AGREEMENT
FOR CONSTRUCTION OF BADGER MOUNTAIN TRAIL PROJECT***

WHEREAS, the Interlocal Cooperative Agreement, as presented, is in a form that staff recommends for adoption by the Port Commission; and

WHEREAS, the Port Commission finds that the Interlocal Cooperative Agreement will guide the construction of the Badger Mountain Trail Project through to its completion; and

WHEREAS, the Port Commission finds that approval of the Interlocal Agreement will improve pedestrian access and safety at the Badger Mountain Trailhead area, and will help promote and support the public's use of these areas along with supporting tourism. Said project will also improve and enhance the appeal of the City to attract economic development within the Port District; and

WHEREAS, the Port Commission finds that approval of the Interlocal agreement is in the best interest of the public.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick approves the Badger Mountain Trail Project Interlocal Cooperative Agreement as attached, and further authorizes the Port's Executive Director to take all action necessary to implement the plan.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 26th day of May 2015.

**PORT OF KENNEWICK
BOARD OF COMMISSIONERS**

DON BARNES, President

SKIP NOVAKOVICH, Vice President

THOMAS MOAK, Secretary

INTERLOCAL COOPERATIVE AGREEMENT
between
THE CITY OF RICHLAND AND THE PORT OF KENNEWICK
for
Construction of Badger Mountain Trail Project

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into this ____ day of _____, 2015 between the City of Richland, a Washington municipal corporation (hereinafter referred to as the "City"), and the Port of Kennewick, a Washington municipal corporation (hereinafter referred to as the "Port"), and hereinafter collectively referred to as the "Jurisdictions."

WHEREAS, the Jurisdictions are, pursuant to Chapter 39.34 RCW (the Interlocal Cooperation Act), authorized to exercise their powers jointly, thereby maximizing their ability to provide services and facilities which will best fulfill common needs of the Jurisdictions, and;

WHEREAS, the Jurisdictions have determined that there exists a parking project that would mutually benefit both the Port and the City by providing significant safety improvements and enhanced aesthetic appeal, and is in the best interests of the Jurisdictions and the public; and

WHEREAS, said project will improve pedestrian access and safety at the Badger Mountain Trailhead area, and will help promote and support the public's use of these areas along with supporting tourism. Said project will also improve and enhance the appeal of the City to attract economic development within the Port District; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined this effort may be best implemented on a shared basis in a manner deemed most efficient and effective for the Jurisdictions;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Jurisdictions agree as follows:

Section 1. Purpose. The purpose of this Agreement is to formalize a commitment to complete the project Badger Mountain Trail Parking Area (hereinafter the "Project") in Richland, Washington, which will enhance the economic development and quality of life in the City and in the Port district properties within the City.

Section 2. Administration. This Agreement shall be administered by the City of Richland. The City of Richland shall be responsible for:

- (a) Establishing policies and a budget for implementing this Agreement;
- (b) Providing periodic progress reports;
- (c) Monitoring progress of the Jurisdictions and other agencies in the fulfillment of their respective responsibilities.
- (d) Following applicable Port and City bid and prevailing wage laws, policies and procedures when awarding bids for the Project.

Section 3. Port's Funding and Use of Property. The Port commits to providing Project funding in an amount not to exceed \$150,000. Funding shall be utilized as follows:

- (a) Badger Mountain Trail parking construction as identified on Exhibit A, which is attached hereto and incorporated herein by reference;
- (b) Applicable Washington State Sales Tax on Exhibit A; and
- (c) A City of Richland administration fee of 5% of the total project amount.

If bid amounts exceed \$150,000, the Port or the City may terminate this Agreement with written notice to the other party. The Port acknowledges and agrees that it shall not acquire an ownership interest in the Project property regardless of the dollar amount contributed to the Project.

Section 4. City's Commitment. The City commits to provide "in-kind" support to the Project, to include assignment of City staff for coordination of planning with Port staff, project administration, coordination and monitoring. The Port shall have the opportunity to review and accept the work upon completion of the Project and prior to final acceptance by the City. Should the Port determine that the work is not acceptable, the Port and the City shall work together to determine the appropriate corrective action(s) to be taken. The City shall own the improvements installed by the Port, and shall be responsible for all future maintenance. The City shall not be required to contribute any funds to the Project.

Section 5. Indemnification/Hold Harmless. The City commits to administer, coordinate, and monitor its contractors during the Project. The City agrees to indemnify, hold harmless, and defend the Port, its agents, commissioners, and employees from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney's fees and costs), whether or not involving a third party claim, which arise out of, relate to or result from the City's contractor(s).

Section 6. Modification. This Agreement may be modified only by written consent of both parties as executed by their authorized representatives.

Section 7. Term of Agreement and Termination. The term of this Agreement shall be from the date identified above to completion of the Project or three years from the date identified above, whichever occurs first. The Agreement may be terminated only in the event the bid amounts exceed \$150,000.

Section 8. Inspection of Records and Filing. The records and documents with respect to all matters covered by this Agreement shall be subject to inspection by either Jurisdiction during the term of this Agreement and for the period of retention required under state law. This Agreement shall be filed or listed pursuant to RCW 39.34.040.

Section 9. No Separate Legal Entity. It is not the intention that a separate legal entity be established to conduct the cooperative undertaking, nor is the acquiring, holding or disposing of real or personal property anticipated or authorized by this Agreement.

Section 10. Severability. In the event any term or condition of this Agreement or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other terms, conditions or applications of this Agreement which can be given effect without the invalid term,

condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and year first written above.

CITY OF RICHLAND

Cynthia D. Johnson, ICMA-CM
Richland City Manager

ATTEST:

Marcia Hopkins, Richland City Clerk

APPROVED AS TO FORM:

Heather Kintzley, Richland City Attorney

PORT OF KENNEWICK,
A Washington Municipal Corporation
By Authority of its Board of Commissioners

By: _____
Tim Arntzen, Executive Director

APPROVED AS TO FORM:

Lucinda J. Luke, Port Counsel

ACKNOWLEDGEMENTS

[illegible]

On this ____ day of _____, 2015 before me personally appeared **Cynthia D. Johnson**, to me known to be the **City Manager** of the **City of Richland**, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated he is authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the State of
Washington, Residing at: _____
My Commission Expires: _____

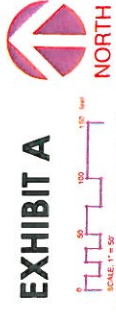
STATE OF WASHINGTON)) ss.
COUNTY OF BENTON)

On this ____ day of _____, 2015 before me personally appeared **Tim Arntzen** to me known to be the **Executive Director** of the **Port of Kennewick**, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated he is authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

 Notary Public in and for the State of
 Washington, Residing at: _____
 My Commission Expires: _____

Trailhead Park Master Plan - April 2015



Washington Public Ports Association

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CEO, commissioners' disregard for public they're sworn to serve has gone too far

Editorial, May 21, 2015, The Columbian

Using a well-documented culture of secrecy, the Port of Vancouver commissioners and CEO Todd Coleman repeatedly have failed to live up to the standards expected by the voters and taxpayers who serve as their bosses. Through the frequent flouting of state open-meeting laws and a general disregard for the public, the actions demonstrated by the port's leadership have amounted to nothing less than an abuse of power.

Because of this, Coleman and Commissioners Nancy Baker, Brian Wolfe, and Jerry Oliver should resign their positions immediately. This is not said flippantly or without due consideration. This is not said with malice. It is, however, stated with regard for the best interests of the public and the best interests of the port.

With any issue surrounding the Port of Vancouver, it is difficult to separate the management process from the commissioners' controversial 2013 decision to approve an oil terminal at the port. Yet those questions must be separated. Regardless of how one feels about the port's agreement with Tesoro Corp. and Savage Cos. to build the nation's largest oil-by-rail terminal, that is an issue to be dealt with at the ballot box when commissioners come up for election. The violation of the public trust, however, is a more pressing matter.

As detailed in a recent three-part series by Columbian reporter Aaron Corvin, "the powerful port often sidesteps full public accountability" through a pattern of "keeping the community in the dark about crucial financial and policy issues before making decisions, and of improper use of closed-door executive sessions to hash out safety, environmental and financial issues, among others, meant to be aired in public." It is not wishful thinking that these things should be aired in public; it is state law. Toby Nixon, president of the Washington Coalition for Open Government, said: "Whoever has the most information is the one who's really in charge. If government has secret knowledge that they don't share with the people, then the people aren't the sovereigns anymore. The people aren't the ones in charge of the government."

When a port controls more than 2,000 acres of public land and receives \$10 million annually from property taxes, losing sight of who is in charge amounts to government malpractice.

That malpractice was in evidence during the process that led to approval of the oil terminal. Records and court depositions show that numerous private meetings were held in developing the proposal, while the public was left unaware until the deal was nearly finalized. After the terminal was approved and questions arose about the legality of the executive-session meetings, commissioners held a public meeting in which they re-approved the proposal. This rubber-stamp process served as little more than a dismissive wink to public concern that had arisen about the terminal, demonstrating that port officials have little regard for those who employ them.

It is impossible to know what the decision on the oil terminal might have been if, in fact, officials had truly opened the issue to public comments and scrutiny. But it certainly is possible that if they had felt the fury of the dissent before the decision was made, the outcome could have been much different. That reflects why it is so important, so critical, to have an honest, open and genuine public process. Instead of upholding their mandate of working for the public and being accountable to the public, officials have treated the Port of Vancouver as a fiefdom.

In so doing, Baker, Wolfe, Oliver, and Coleman have violated the people's trust. They should resign.

Washington Public Ports Association

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Petitioner: Effort about failure to uphold public trust, not oil terminal

By Aaron Corvin, May 21, 2015, The Columbian

A Vancouver resident has filed two petitions with the Clark County elections office seeking to recall from office Port of Vancouver commissioners Jerry Oliver and Brian Wolfe.

In documents filed Tuesday, Christopher Clifford accuses the two commissioners of malfeasance, misfeasance and violation of the oath of office, including that they “knowingly violated” Washington’s open public meetings law in discussing in closed-door executive sessions a proposal to build what would be the nation’s largest rail-to-marine oil transfer terminal.

Reached by phone Wednesday, Oliver said he hadn’t seen the petition yet and preferred to have the document in hand so he could “read it and reflect on it” before saying anything about it. Oliver accepted The Columbian’s offer to provide him with an emailed copy of the petition, but did not offer any further comment after receiving the petition.

The newspaper left messages on Wolfe’s office and cell phones seeking comment. The messages were not returned by the end of the workday Wednesday.

Meanwhile, the state Auditor’s Office confirmed Wednesday it has received a citizen complaint about the port’s handling of the state’s Open Public Meetings Act.

Successful recall efforts in Washington are rare. “It’s a pretty high bar,” David Ammons, a spokesman for the Washington Secretary of State’s Office, said Wednesday.

Clifford, program coordinator for Clark County government's Environmental Services Department, said Wednesday his recall petitions aren't about the oil terminal but about the failure of elected officials to uphold the public's trust and to fulfill their responsibilities as officeholders.

"It's not acceptable," he said.

The recall petitions and complaint to the Auditor's Office follow a recent series of stories by The Columbian. The three stories, based in part on public records, court depositions and interviews with experts in open government, found a pattern by port leaders of keeping the community in the dark about crucial financial and policy issues before making decisions and of improper use of closed-door executive sessions to hash out safety, environmental and financial issues, among others, meant to be aired in public.

The court deposition taken of Oliver, Wolfe and Commissioner Nancy Baker stem from a lawsuit filed by Columbia Riverkeeper, Sierra Club and Northwest Environmental Defense Center. The suit alleges the port violated the state's open public meetings law in discussing and deciding, in 2013, a lease for the oil terminal proposed by Tesoro Corp., a petroleum refiner, and Savage Cos., a transportation company.

The complaint alleges the port excluded the public from at least nine meetings in 2013 before approving the oil terminal lease on July 23. During some meetings, the plaintiffs argue, commissioners discussed matters that did not qualify under state law for closed-door sessions.

The port admits in legal filings it held closed-door executive sessions about the oil terminal contract on seven dates in 2013. However, it denies wrongdoing. The port also argues that it rendered the lawsuit moot by holding a new public meeting on Oct. 22, 2013, before the commissioners revoted to unanimously to approve the lease.

Depositions cited

The two recall petitions filed by Clifford center on Oliver, first elected in 2007, and Wolfe, first elected in 2005. Their current six-year terms expire on Dec. 31, 2019, and on Dec. 31, 2017, respectively. Baker is not seeking re-election this year to a third term. Citing certain dates, the petitions say commissioners held at least seven executive session meetings to discuss the proposed oil terminal. The petitions refer to depositions taken of the commissioners. In citing Wolfe's deposition, the petitions assert the commissioner "admitted that during the numerous and lengthy executive sessions, commissioners discussed scoring matrixes for the proposed oil terminal development ... public testimony regarding the oil terminal ... discussions regarding the oil rail tragedy that occurred in Canada, safety concerns regarding the oil terminal, and presentations from specific proponents of the oil terminal."

The petitions also contend Wolfe outlined in his deposition “the extensive and numerous trainings he and the other port commissioners receive regarding the Washington State Open Meetings Act.” In alleging acts of malfeasance, misfeasance and violating the oath of office, the petitions contend that Oliver and Wolfe “knew or should have known that the discussions conducted in executive sessions between February and July 2013 were outside the limited scope of the executive session provisions of the Washington State Open Meetings Act.”

Recall process

Recall efforts involve several steps. Under state law, “misfeasance” means performing a duty in an improper manner. “Malfeasance” is defined as the commission of an unlawful act. Violating the oath of office generally relates to official duties.

The county prosecutor has 15 days after receiving a charge to formulate a ballot synopsis. Then the prosecutor submits the charge and ballot synopsis to Superior Court. Within 15 days, a Superior Court judge considers whether the charges, if true, amount to misfeasance, malfeasance or a violation of the elected official’s oath of office.

Elected officials may appeal the Superior Court decision to the state Supreme Court. If the case is upheld, the next stage is the petition process. To put a recall measure on the ballot that’s directed at the port commissioners, petitioners would have to collect an amount of signatures equal to 35 percent of the total number of votes cast in the last election for that office, according to Ammons, the spokesman for the Secretary of State’s Office.

The final step is the recall election.

For his part, Clifford isn’t new to attempting a recall election. In 2008, the state Supreme Court decided unanimously to let him move forward with a recall of former Port of Seattle Commissioner Pat Davis.

While the recall failed when Clifford fell short of the signature threshold, his bid to unseat Davis could be considered successful. On the same day the court ruled the recall could proceed, Davis announced she would not seek re-election.

Meanwhile, Tina Watkins, a Vancouver-based program manager for the state Auditor’s Office, confirmed Wednesday that the office has received a complaint about the port filed by Michael Piper, a Vancouver resident and opponent of the oil terminal.

In an email to Watkins and The Columbian, Piper, in outlining his complaint, cited the newspaper's series of stories about the port's actions under the state's open public meetings law.