



# PORT OF KENNEWICK REGULAR COMMISSION MEETING

NOVEMBER 12, 2019 MINUTES

Commission President Thomas Moak 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  
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 Finance Officer  
Larry Peterson, Director of Planning and Development  
Lisa Schumacher, Special Projects Coordinator  
Bridgette Scott, Executive Assistant  
Lucinda Luke, Port Counsel

## PLEDGE OF ALLEGIANCE

Commissioner Barnes led the Pledge of Allegiance.

## APPROVAL OF THE AGENDA

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

## PUBLIC COMMENT

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick recently had the opportunity to drive the newly constructed scissors intersection at Vista Field.

No further comments were made.

## CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated November 4, 2019***  
Direct Deposit and E-Payments totaling \$80,535.83
- B. Approval of Warrant Register Dated November 12, 2019***  
Expense Fund Voucher Number 101556 through 101612 for a grand total of \$431,713.86
- C. Approval of Special Commission Business Meeting Minutes October 29, 2019***



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

## PRESENTATION

### ***A. City of Kennewick Vista Entertainment District Project***

Mr. Arntzen introduced City of Kennewick City Manager Marie Mosley and Vijay Patel of A-1 Hospitality Group, who are here today to discuss the new public/private partnership opportunity. Mr. Arntzen has been working with Ms. Mosley and Mr. Patel over the past year on the concept because of the close proximity of the entertainment district to Vista Field. Mr. Arntzen expressed his appreciation for Ms. Mosley and has enjoyed getting to know Mr. Patel.

Ms. Mosley thanked the Commission and Mr. Arntzen for the partnership and stated the City appreciates the partnership with the Port and could not do the projects or the work in this community without our partnership. Recently, City Council unanimously approved moving forward on a public/private partnership. The City made several attempts for a voter approved 2/10% sales tax measure to support the expansion of the convention center, add a performing arts theater, and link the convention center to the Toyota Center; however, it failed all three times. The City listened to the voters, who indicated that they did not want to see a sales tax increase and that they would like to see private development as well.

Conventions, conferences, and trade shows currently have an overall economic impact to the community of over \$31,000,000.

- Nearly \$20,000,000 in potential economic impact just in retaining current conventions that are quickly outgrowing the existing space and the ability to attract new conventions;
- Potential for \$210,000,000 in private investment;
- Catalyst project for new development;
- 2/10% voter sales tax authority preserved for future opportunities;
- Supports community wide vision and desire for priority regional projects;
- Substantial new sales tax and lodging tax dollars would be reinvested into the local economy.

Ms. Mosley stated in September, the City entered into a Purchase and Sale Agreement (PSA) with A-1 Hospitality Group, which has two phases. Phase one is an \$85,000,000 investment, which includes:

- A \$35,000,000 public investment;
- Add nearly 33,000 square feet to the convention center;
- 2,000 seat flex-space performing arts theater;
- 11,000 square feet convention center and theater lobby with new box office;
- 13,850 square feet of back of house space and provide the required parking to support the convention center expansion.

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The private investment of \$50,000,000 includes:

- Acquisition of approximately 3.5 acres of City land adjacent to the convention center;
- Finance and construct a high quality, 7 story convention hotel equivalent to an upper mid-scale hotel with restaurant, spa, and outdoor pool;
- Finance and construct an approximately 40,000 square foot retail building;
- Provide the required surface parking to support the new hotel and retail space.

Phase 2 would include an option on additional property and includes a \$160,000,000 private investment.

Mr. Patel appreciates the opportunity to speak today and thanked Mr. Arntzen for his kind words. A-1 and the City have been discussing the expansion of the convention center for some time. Phase 2 would include five components: residential, commercial (office/retail), a public park, water features and boardwalk;

- Three residential towers with 800 quality condominium units with full amenities including reception area, exercise facility, swimming pool, sauna, storage units and garden/BBQ area;
- 250,000 to 300,000 square feet of high-end shopping, restaurants, and offices on first two levels of the mixed-use development;
- Underground parking for residents;
- One level of paid public parking/guest parking with validation;
- State of the art water features with public areas;
- Boardwalk with designated spots for vendors for weekend market.

Commissioner Novakovich inquired what the time frame is for this project.

Mr. Patel stated phase 1 includes working on the funding, which may include federal assistance from the Employment-Based Immigration Fifth preference (EB-5) program with the U.S. Citizenship and Immigration Services. We have been approved by Washington State and are now working on the approval at federal level. We currently have five investors in place and once the EB-5 funding is in place, the investors will fill out an I526 application. Additionally, A-1 is meeting with local financial institutions to partner in the project. The site is an opportunity zone which allows a variety of funding strategies. The goal is to move as fast as possible once financing is completed. Mr. Patel stated the goal is to break ground in 2021.

Ms. Mosley stated the public portion will not use as committed, no new tax dollars. City staff will bring forward a financing plan to City Council, which will include reinvesting funds from that area. The City owes money on the convention center, coliseum, and marquis sign and anticipates paying off the debt service in 1 to 5 years and then reinvesting those funds back into the community. Additionally, some investment will be generated from the public/private partnership. Recently, the Legislature increased the sales tax credit back to communities that have a public facility and extended the program an additional 15 years. Ms. Mosley stated the PSA includes a 24-month due diligence period to identify the financing strategy.

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Commissioner Moak inquired if there is a sequencing to the public and private projects or will you be working together.

Ms. Mosley stated we will be working together, because the hotel will be built in combination with the convention center expansion. Ms. Mosley stated one cannot be successful without the other and we need the hotel to make the convention center successful.

Commissioner Moak inquired if there will be one prime contractor for the hotel and the convention center.

Mr. Patel stated there is an architect working on both projects; however, each project will have their own contractor and the timing of construction will start and end at the same time. Mr. Patel stated once the drawings are complete, then we can go out to bid for each project.

Commissioner Novakovich confirmed that the private sector will not need to pay prevailing wages.

Ms. Mosley stated that is correct; however, the City will still pay prevailing wages.

Commissioner Novakovich asked what would trigger the start for phase 2.

Mr. Patel stated once phase 1 is complete. We have a finance team who is working exclusively on the EB-5. Once the funds are in place for phase 1, the team will begin working on the financing for phase 2.

Commissioner Barnes stated in the past there have been discussions about the Toyota Center and the need for upgrades and improvements, even the possibility of demolishing the old facility and building a new one. Commissioner Barnes inquired if there any plans, or thoughts or provisions for that in this project.

Ms. Mosley stated not in this current project; however, the City has invested in the Toyota Center and installed a new ice plant, additional lighting, and a video board. Also, the City has preserved the 2/10% sales tax for a potential opportunity in the future, which may or may not include the Toyota Center. Ms. Mosley stated there may be opportunities in the future for the community to support the Toyota Center and the City is holding the land next to the Toyota Center for future rebuilding.

Commissioner Moak asked if there were any differences in this plan and the plan from a few years ago.

Ms. Mosley stated the City is staying within the \$35,000,000 investment and stated the footprint of the expansion is less and we are not linking the convention center and the Toyota Center.

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Commissioner Novakovich stated because of the close proximity to Vista Field, has there been discussion of the aesthetics of the new buildings and possibly matching the design of Vista Field.

Ms. Mosley stated the City and Port will continue to work together, as previously done when the City was designing Fire Station #3. The City's intent of this project is to not compete, but to compliment what the Port is doing at Vista Field. Ms. Mosley stated the private component is committed to that vision as well, which includes the water feature and boardwalk, and it will flow together nicely.

Mr. Patel reiterated that the development will compliment Vista Field.

Commissioner Moak stated there is underground parking that appears to serve the residential towers only and inquired if there will be additional structured parking to support events and the development.

Ms. Mosley stated parking is an issue and the City believes at some point in time, we will need a parking garage to support the development. Our commitment is with the private development and the City to ensure that there is parking available for the expansion and the hotel and will continue to monitor the area. Ms. Mosley believes it will eventually occur; however, the land needs to become valuable enough to support parking garage.

Mr. Patel looked at adding a parking structure in phase 1 but determined it was not financially viable.

Commissioner Moak stated this is very exciting and Mr. Patel has been a part of the community for some time and worked on a number of great projects in the Tri-Cities and elsewhere. Commissioner Moak thanked Ms. Mosley and Mr. Patel for sharing the project with us and we are happy to be neighbors.

Ms. Mosley expressed her appreciation for the partnership and stated the City could not do things without the partnership of the Port. We believe this is the right time, we have the right team involved for this public/private partnership, and we believe this is what the community has asked us for and we are excited about delivering it and working in conjunction with the Port.

Commissioner Novakovich thanked Ms. Mosley for all she has done to partner with the Port of Kennewick, because it was a struggle prior to her coming on to the scene. Commissioner Novakovich stated what Ms. Mosley has done over the past several years is amazing and thanked her for that.

Ms. Mosley stated it has been a pleasure working with Mr. Arntzen and staff and the Commission.

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Mr. Arntzen is excited to see that a performing arts theater will be included in the project and it is something where we can have more discussions because there is a carrying capacity in our community. Mr. Arntzen stated that this is a great opportunity for further discussions among the Port, the City, and the performing arts group.

Ms. Luke stated a matter came up prior to the Commission Meeting starting related to the Cedars and a request for a material change in the lease. Ms. Luke asked if the item could be added to the Agenda under Reports, Comments and Discussion items.

Commissioner Barnes inquired if there needs to be a motion to add Cedars to the Agenda.

Ms. Luke stated that would be appropriate.

***MOTION: Commissioner Barnes moved to add Item E, sub. 1, review of the possible changes to the Cedars Lease; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 3:0.***

Commissioner Moak anticipates the Executive Session will last approximately 30 minutes, Potential Litigation, per RCW 42.30.110(1)(i) with no action. Commissioner Moak asked the public to notify Port staff if they will return after the executive session so staff can advise if the session concludes early.

## REPORTS, COMMENTS AND DISCUSSION ITEMS

### ***A. Neutral Hearing Status***

Ms. Luke updated the Commission on the hearing related to the complaint and Commissioner Barnes' request for a hearing. Ms. Luke, Commissioner Barnes' counsel, counsel for the Port, Matt Mensick, and counsel Michael Love had a phone conference on November 1, 2019 with retired Judge Paris Kallas, the neutral selected for the hearing, to discuss moving the process forward. At this time, there is a brief/legal memorandum that has been requested by Judge Kallas addressing the issue of what the hearing process will look like, which is due Friday, November 15, 2019. Ms. Luke will be submitting the Port's brief Friday and as she understands it, Commissioner Barnes' counsel, Joel Comfort will be submitting a brief. Judge Kallas will make a decision about what the process will look like. We will then have a phone conference with Judge Kallas in December to discuss the scheduling for the hearing.

## EXECUTIVE SESSION

### ***A. Potential Litigation, per RCW 42.30.110(1)(i)***

Commissioner Moak anticipates the Executive Session will last approximately 30 minutes, Potential Litigation, per RCW 42.30.110(1)(i) with no action. Commissioner Moak asked the public to notify Port staff if they will return after the executive session so staff can advise if the session concludes early.

*Commissioner Moak recessed the Regular Commission Meeting at 2:34 p.m.*

*Commissioner Moak convened into Executive Session at 2:40 p.m. for approximately 30 minutes.*

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*Ms. Scott extended the Executive Session for ten minutes at 3:10 p.m.*

*Ms. Scott extended the Executive Session for ten minutes at 3:20 p.m.*

*Ms. Scott extended the Executive Session for five minutes at 3:30 p.m.*

*Ms. Scott extended the Executive Session for five minutes at 3:35 p.m.*

*Ms. Scott extended the Executive Session for five minutes at 3:40 p.m.*

*Commissioner Moak reconvened the Regular Commission Meeting at 3:44 p.m.*

*The Commission Meeting room was opened and the public returned.*

## **B. Chief Executive Officer 2019-2020 Goals and Objectives**

Mr. Kooiker stated the CEO goals and objectives are tied to the budget in that every other year, when the Commission adopts a budget, they also adopt new goals and objectives for the CEO. Mr. Kooiker gave the Commission a mid-biennial review of the CEO's accomplished goals. Mr. Kooiker stated staff is recommending six out of the eleven goals be accepted today via Resolution 2019-31:

- #3, 2017/18: This goal will keep carrying forward and relates to the Vista Field Owners Association, which is 95% complete. The Port needs to have the parcels in place prior to implementation;
- #3, 2019/20: Negotiate the land sale of the former raceway property with the City of West Richland and present the purchase offer to the Commission. This goal was recently amended via Resolution 2019-20. Staff is recommending that this goal is complete based on the goal and measurement that the Board established for the CEO. The PSA was presented on September 24, 2019;
- #6 2019/20; Complete a team building. A staff retreat with training was held on May 30-31 and the CEO reported to the Commission on June 11, 2019;
- #7 2019/20: Complete Executive Training. The CEO completed Executive Training on October 21-22, 2019 in Leavenworth and reported to the Commission on October 29, 2019;
- #8 2019/20: Present for Commission consideration non-City of Kennewick partnership visions.
  - Port and City of Richland staff are working on a next decade plan with a consultant and are working together to finalize and bring to the Commission.
  - Benton City contracted with DPZ Partners for the shoreline master plan and the Port allocated \$15,000 in funding for that project.
  - Land sale to Benton County Fire District #4.
- #9 2019/20: Establish a vibrancy policy. This was presented to the Commission on May 14, 2019 and the Memorandum of Understanding was executed by the CEO on behalf of Commission.



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- #10 2019/20: Identify and present one additional mutually beneficial or ROI partnering opportunity to the Commission: A PSA with Benton County on September 24, 2019 for water rights transfer from the former raceway property to the Benton County Fairgrounds. This was beneficial to Benton County because they did not have enough water rights for the fairgrounds and benefitted the Port as a result of Benton County giving the Port \$500,000 of their Rural County Capital Funds for Vista Field. The County has contributed to the Port on many projects and this will also result in future goodwill between both agencies.

Additionally, other accomplishments include:

- Completed a land sale of 12 acres on Oak Street to Three Rivers Acquisition;
- Successful launch of new Port website in Spring 2019;
- Signed contract with U.S. Army Corps of Engineers (USACE) for the 1135 project, phase 2;
- Obtained clean financial statement audits for 2017 and 2018.

Mr. Kooiker stated for Commission consideration is Resolution 2019-31, which includes Exhibit A, approving the aforementioned goals. Staff will provide a progress report to the Commission in 2020 on the remaining CEO goals and objectives. Mr. Kooiker stated this was previously discussed by the evaluation committee and inquired if the Commission would consider approving the CEO goals on an ongoing basis.

Ms. Luke stated the Commission has implemented this to some degree when they recently changed the West Richland Racetrack goal. Ms. Luke thinks that is something the Commission has previously considered and would like to keep this as a living document.

Commissioner Novakovich likes the recommendation of approving these goals as they are accomplished. Commissioner Novakovich believes it gives a better running status of where the Port is at.

Mr. Kooiker stated it also offers him flexibility because it is awarded in Paid Time Off (PTO) units and can be dispersed as the goal is met.

## PUBLIC COMMENTS

No comments were made.

***MOTION:*** Commissioner Novakovich moved for approval of Resolution 2019-31, in accordance with the CEO's Goal and Objectives update, dated November 12<sup>th</sup>, 2019, attached as Exhibit A; Commissioner Barnes seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

### C. Chief Executive Officer Performance Evaluation

Ms. Luke proposed an extension in the CEO Performance Evaluation since we are still in the process of completing the evaluation and asked the Commission to authorize her to negotiate an extension of deadline with the CEO, Mr. Arntzen.

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Commissioner Novakovich inquired if that could be done by consensus or if a motion with public input is required.

Ms. Luke advised the Commission that a motion is needed for the record.

## PUBLIC COMMENTS

No comments were made.

***MOTION: Commissioner Novakovich moved to authorized Port Counsel to negotiate with the CEO, Mr. Arntzen, an extension of the CEO Evaluation deadline date; Commissioner Barnes seconded. With no further discussion, motion carried unanimously. All in favor 3:0.***

### ***D. Acceptance of Columbia Gardens Wine Village Phase #2A***

Mr. Peterson stated before the Commission is Resolution 2019-30, accepting the work completed by Big D's Construction of Tri-Cities, LLC., for the Columbia Gardens Loop Roadway Project. The project included the loop roadway, water, sewer, storm drainage, utilities and food truck plaza, and parking lot. The project was awarded in 2018 and due to the winter weather, completed in May of 2019. Some remaining paperwork was recently finalized and the City has accepted the project and Gary Hall, the project engineer has deemed the project complete.

## PUBLIC COMMENTS

No comments were made.

***MOTION: Commissioner Barnes moved approval of Resolution 2019-30, accepting Columbia Gardens Wine Village Phase #2A project as substantially complete by Big D's Construction of Tri-Cities, Inc.; and that all action by port officers and employees in furtherance hereof is ratified and approved; and further, the Port Chief Executive Officer is authorized to take all action necessary in furtherance hereof; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 3:0.***

### ***E. Southridge Update***

Mr. Peterson reported that the Port purchased 157 acres in 1994 in the Southridge area for \$487,832. The Port intended to construct the Dickerson Industrial Park and created the development and maintenance standards for the area. In 2005 the City adopted the Southridge Master Plan and as a result, the land use designation changed from industrial to commercial and the Port lost crucial access to SR-395. In 2005-2006, the Port and Kennewick General Hospital (KGH) entered into a land swap and land sale. In 2006 the Port sold 148+ acres to Southridge Village for \$5,771,210. The City established a local redevelopment financing (LRF) plan and installed \$13,000,000 in infrastructure in the area. In 2009, Southridge Village entered into a forbearance agreement with the Port and received a credit of \$370,260 of the original purchase price and returned 8.5 acres (four parcels) to the Port, which allowed the development to keep going.

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Since the initial purchase of the property in 1994 the following have been constructed: 46 single family homes, 9 commercial buildings, and 250 jobs. Mr. Peterson stated approximately \$56,000,000 is on the tax rolls or \$700,000 annually in taxes.

Mr. Peterson stated the Port will be holding an auction on Friday, November 15, 2019 at 11:00 a.m. to divest of the 8.5 acres or four parcels.

Ms. Hanchette reiterated that there will be an auction Friday, November 15, 2019 to auction off the remaining 8.5 acres of property at Southridge. The property was initially zoned for light industrial and the Port created the development and maintenance standards for the area. Ms. Hanchette stated Resolution 2019-32 rescinds the existing development and maintenance standards and removes the cloud on the title prior to the auction on Friday.

Additionally, the title search on Southridge Village included a one-time option to buy-back undeveloped property, which is located in section six of the real estate contract. Section six stipulates that the buy-back is 15 years from the date of closing which is in July 2020 and would still be applicable. The Commission has the option to purchase undeveloped property within 180 days at fair market value. The clause affects 17 parcels in various stages of development and would cost approximately \$8,700,000. Ms. Hanchette stated this clause does not apply to 8.5 acres, but only applies to undeveloped parcels in the area.

Also, the Port's Real or Personal Property Purchase and Sale Agreement, section 1.1 outlines a not for speculation clause which includes a buy-back stipulation. Ms. Hanchette requested clarification from the Commission if they desired to waive the not for speculation clause and buy-back clause.

Ms. Hanchette stated the Special Commission Meeting starts at 11:00 a.m. and asked that the Commission and staff arrive by 10:45 a.m. Ms. Hanchette expects the auction process to take about an hour. Once we are assembled, Commissioner Moak will begin the Special Meeting and the following will take place:

- The Pledge of Allegiance;
- Approval of the Agenda;
- Recess for auction process conducted by Musser Bros. Auction;
- Reconvene Special Meeting for Executive Session for Real Estate, Minimum Price per RCW 42.30.110(1)(c);
- Reconvene Meeting and continue auction until process is complete.
- Final Commission decision and adjournment.

Ms. Hanchette stated there are several scenarios for purchase of the four parcels and stated Musser Bros. Auction has advertised the property in print and on their website. Ms. Hanchette inquired if the Commission had any questions regarding the auction, or Resolution 2019-32. Additionally, Ms. Hanchette asked for Commission direction regarding the land sale policy.

## PUBLIC COMMENTS

No comments were made.

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***MOTION:*** Commissioner Novakovich moved approval of Resolution 2019-32, rescinding the Development and Maintenance standards for Dickerson Industrial Park in order to clear a title encumbrance for auction and future land sales attached to the original property; and that all action by port officers and employees in furtherance hereof is ratified and approved; and further, the Port Chief Executive Officer is authorized to take all action necessary in furtherance hereof; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

Ms. Hanchette explained that the Commission, by consensus, can confirm that they agree to waive Section 1.1: not for speculation of the Real or Personal Property Purchases and Sales Policy and that they do not intend to have a buy back clause as part of a condition of sale for the 8.5 acres in Southridge.

Commissioner Moak inquired if this needs to be done today or at the Special Meeting on November 15, 2019, prior to the auction.

Ms. Hanchette stated it would be helpful to have a clear path forward for the prospective buyers.

Commissioner Barnes supports the removal of Section 1.1 and stated the Port owns the property now, and it is not like we have 100 acres adjacent to it that we are going to develop or have plans to develop. Commissioner Barnes stated it could be addressed in a provision of the Purchase and Sale Agreement (PSA) and stated explicitly that it will be exempt from that policy. Commissioner Barnes supports it.

Ms. Luke stated that is correct and it could be addressed in PSA so that it specifies that the property is not subject to buy back. The Port has done that in the past and leave that portion blank and as well as waiving the not for speculation clause.

Commissioner Novakovich recommends by consensus that we agree to this.

Commissioner Moak stated Mr. Peterson's presentation was great and it showed that we had a lot of acreage out there and now we are down to this. Commissioner Moak stated that the Port does not intend to go back to Southridge and reinvest in that area and believes clearing that up would be the best case and it sounds like all three Commissioners are in favor.

*It is the consensus of the Commission to remove Section 1.1 of the Real or Personal Property Purchases and Sales Policy: not for speculation clause and buy back clause as part of a condition of sale for the 8.5 acres in Southridge.*

Commissioner Moak inquired if it is it clear where the Special Meeting will take place and how the Chambers will be set up.

Ms. Hanchette stated the auction is at Musser Bros. Auction office location and the address is on the Agenda. Staff will be visiting the site on Thursday to watch an auction and get a tour of the facility for the set up.

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Commissioner Moak thanked Mr. Peterson and Ms. Hanchette and stated it has been an interesting process.

## **1. Cedars**

Ms. Luke recently received an email from Carrie Lundgren regarding the Cedars lease and where they stand on the process of obtaining financing. Ms. Luke presented Ms. Lundgren's email to the Commission, with the lender request. Ms. Luke stated last week staff understood that the Lundgren's were looking into other lender alternatives because of Umpqua's challenges with the lease language and policies and underwriting requirements. The Lundgrens were looking at other community lenders to determine if they could obtain financing that was more in line with the Port's requirements as it related to the lease. As Ms. Luke understood it, the Lundgrens would be making a decision today regarding which lender they would be working with. Staff received this email indicating that the Lundgrens were running into problems with the Port's lease language related to permitted use in the event before closure, which was one of the issues identified by Umpqua Bank. Ms. Luke let the Lundgrens know that that would be a material change to the lease and stated she would need to bring it back to the Commission. Umpqua Bank representative Matthew Backlund is proposing, as seen in the email, that the language of the Port ground lease be revised and allow for the bank, if foreclosure were to happen, to conduct any type of business, other than those that the Port might identify as unacceptable. Ms. Luke stated that puts the burden on the Port to list all of the businesses that the Port does not want to see across the street, which would be challenging. Ms. Luke stated this is a material change and asked for the Commission's input.

Ms. Hanchette stated the email came in at noon today and staff has not had a lot of time to review the email. Ms. Hanchette stated the lease that was presented to the Commission outlined the permitted use of a restaurant and bar, which is the same language used in the Mitcham's lease. Also, if the building is foreclosed on, the bank would need to get permission from the Port for a reassignment or other business to occupy the building. The bank is concerned that if they had to take the building back for non-payment, they would be limited on the uses. Ms. Hanchette stated it is a material change and the Lundgrens would like to close as soon as possible; however, staff would like Commission input on the language. Ms. Hanchette and Ms. Luke briefly discussed other uses that are found in commercial marine zoning; however, this is a 40 year lease and we do not know what could change in that time period. Ms. Hanchette stated there are businesses that are legal that used to be illegal, and staff cannot predict the future. Ms. Hanchette stated the language needs to be reviewed more thoroughly by staff and legal counsel. Additionally there are shoreline rules that the City of Kennewick has in place that could affect the permitted use. Ms. Hanchette stated staff does not have a recommendation, but wanted to bring this forward to see if the Commission had any feedback.

Mr. Arntzen stated Ms. Hanchette and Ms. Luke have been doing an amazing job on the Cedars transaction. Mr. Arntzen believes when staff first brought this to the

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Commission, we were asking a fairly straight forward question, would you like to allow the Mitchams to sell Cedars to the Lundgrens, who were going to continue to run Cedars. The Commission stated that Cedars is a landmark and it is consistent with every planning effort that the Port and the City have done. The Port wanted to keep Cedars at Clover Island and would do almost anything to keep them on the island. Along the way things have changed and the Commission is being asked very different question. Mr. Arntzen would love to see the Lundgrens purchase Cedars and he hopes there is a way to make that happen; however the Commission is being asked to make a decision soon related to the lease which would determine what kind of business would go in there that were not contemplated a few years ago. The Commission is faced with what business the bank would allow in the event of foreclosure. Clover Island is very complicated because of all of the rules, so even if something is allowed by the zoning, it could trigger a state agency coming in and not allowing a certain type of business because of the shoreline plan.

Commissioner Moak confirmed that the language relates specifically to foreclosure and if the Lundgrens lost the building to foreclosure.

Ms. Luke stated that is correct and financial circumstances can change quickly. Ms. Luke hopes that we would not need to deal with a foreclosure; however, we do need to take it into consideration when evaluating risk related to that property and how it might be used.

Commissioner Moak stated we are still in a boom economy although that was not the case several years ago and a lot of businesses went under. Commissioner Moak stated we do not know when the economy will bust again and if you just are starting a business, you are more prone to foreclosure than an established business. Commissioner Moak is concerned about that, but Cedars is a signature piece, even though it may not always be a steak restaurant, but he would like it to be successful. There are certain restrictions placed on certain businesses that operate 1,000 feet from schools, but out on an island where there aren't any kids, that is a different scenario.

Commissioner Novakovich asked what the permitted use clause says.

Ms. Luke stated it allows for the same exact language and same use as is there, for a restaurant and bar. Ms. Luke stated the restaurant type could change, so the Port has given some flexibility to the fact that a different type of restaurant or bar could occupy the building. That may or may not be something the Commission would like to revisit. Ms. Luke has brought the language to the Lundgrens and their bank, and the Port has been very flexible and could be more restrictive. Additionally, with regard to the foreclosure, what they are asking the Port to consider only deals with the instance of foreclosure and the language as Ms. Luke recalls, allows for restaurant and bar use. Also, if they wish to propose a change in use, they would be required to bring it back to the Port for authorization and we would consider it. The language does allow for them to bring the use back; however, the bank does not want to do that.

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Commissioner Barnes asked in the authorization of the alternate use or modification of use is language included that states the Port will be reasonable.

Ms. Luke stated yes there is language.

Commissioner Barnes stated the thing he does not like about the proposed language is, if the bank comes to the Port with a proposed change of use, the way this is written, it would be an assignment for staff to think of every possible business that we don't want in that location and then the bank can look at that and look for a hole in the fence, or a way around it. Commissioner Barnes would like to encourage the Port to retain the right to approve their proposed alternate use, provided, if the Port could add language, perhaps it is already there, that we would be fair and reasonable in that request.

Ms. Luke stated we do have that language in the lease which states that approval will not be unreasonably held. Ms. Luke recommends that the Commission does not accept the proposed language.

Commissioner Barnes would really like to see the Mitchams close the sale and move on, but we represent the Port and we need to maintain some uniform consistency and reasonable standards at Clover Island. Commissioner Barnes does not like the way it was written and he would not want to ask the staff to come up with something like this every time there is a proposed change. For example, staff would need to look at every possible business that we do not want to see on the island, the bank would then have the opportunity to craft a solution that could navigate that list to get to their point. Commissioner Barnes would like to encourage the Port to maintain the approval of their proposed use but to add language that is reasonable.

Commissioner Novakovich agrees with Commissioner Barnes and suggested the bank give us a list of businesses they would propose, over a forty-year period.

Ms. Luke suggested that the Port stands by the language; however, we are willing to work with them if they would like to propose something else or a list of possible alternatives. In reality, as Ms. Hanchette indicated, if we are dealing with this in twenty years, who knows what businesses could be legal that we had not considered today.

Commissioner Novakovich stated maybe the bank would understand the position they are putting the Port in if we turn it around on them.

Commissioner Moak stated the Lundgrens are trying to get a loan from Umpqua Bank and Umpqua will make the final decision and they can choose to not lend them the money.

Ms. Luke stated that is what staff has experienced thus far which is why the Lundgrens looked at other options, but apparently circled back to Umpqua.

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

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Ms. Hanchette spoke with Ms. Lundgren during the Executive Session break and she indicated that at least one other lender had similar concerns about having their hands tied about what they could put in the building if they had to take it back. Ms. Hanchette has not had time to speak with Mr. Arntzen regarding this new information and it was recommended that staff review other ground leases in detail, such as those on Columbia Point. Ms. Hanchette stated staff will bring this back to the Commission because it is a material change. The Port wants to work with the Lundgrens and the Mitchams and staff understands this affects not only this transaction but future transactions.

Commissioner Moak has a hard time believing that Umpqua Bank has a foreclosure policy with all these exceptions and maybe they aren't used to dealing with leased property.

Ms. Luke stated in her experience with the Umpqua counsel, they did not seem to have a lot of experience dealing with public entities. They were proposing language that would not be applicable to a port district or other municipalities.

Commissioner Moak would like to hear back from staff at a future meeting with either a recommendation or proposed wording.

Ms. Luke will work with Mr. Arntzen and Ms. Hanchette on the lease language for Commission consideration.

Mr. Arntzen stated at the October 8, 2019, the Commission reached a consensus to cancel the November 26<sup>th</sup> Commission Meeting; however, if staff has something to bring to the Commission regarding Cedars, would you consider a Special Meeting.

Commissioner Novakovich stated that is a reasonable request and asked staff to let the Lundgrens and Mitchams know that the Commission is willing to do that.

Commissioner Barnes stated there is a Special Meeting on November 15<sup>th</sup> and inquired if staff could have something by then.

Ms. Luke stated we can certainly try; however we will be working with parameters of a different setting which may pose some challenges.

Commissioner Moak stated staff can give a report if there has been headway.

Ms. Luke stated we may know if a Special Meeting is needed and believes that is more in line of what staff may be able to accomplish by Friday.

Commissioner Novakovich asked staff to add an Agenda Item on the status of Cedars.

## ***F. Public Records Request Status***

Ms. Scott reviewed public records that the Port has received over the last four years:



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	Total Requests	Commercial Standard Requests	Standard Requests	Open Requests	Staff Time
2016	9	7	2	0	
2017	11	7	4	0	
2018	16	4	12	0	58 hours
2019	39	5	34	7	166 hours

In 2018, Washington State put together the Joint Legislative Audit and Review Committee (JLARC), which asked public agencies to report how many hours and how much money they are spending on public records requests. Currently, this information is voluntary for the Port because we are not large enough and do not meet the \$100,000 minimum threshold. However, the Port tracks the information and is voluntarily submitting the information.

Commissioner Moak inquired if the 166 hours is multiple staff.

Ms. Scott confirmed that it is multiple staff and stated she has spent 50 hours to date, Ms. Schumacher has spent 40 hours to date, and the remaining hours are multiple staff.

Commissioner Novakovich inquired if Ms. Scott has a dollar amount for the requests.

Ms. Scott is unable to provide that information.

## ***G. Discussion of 2019-2020 Work Plan***

Mr. Arntzen stated as 2019 comes to a close, he would like to review the 2019-2020 Work Plan in January 2020 because there have been some changes. Mr. Arntzen listed some items to possibly discuss:

- Previous 2017-2018 Work Plan;
- Infrastructure in The Willows: does the Port want to continue in that direction even though Columbia Basin College has indicated that the Cable Greens property is more attractive for the Culinary Institute;
- Duffy's Pond: this is a very challenging situation because of all of the agencies involved and the USACE notified the Port that they are working on a management of wetlands policies and procedures, including regulations aquatic treatment. This project may take a long time or may be impossible to move forward;
- Partnership with City of Richland for Rural County Capital Funding (RCCF) for Columbia Park Trail improvements: this project has stalled and may require more action on our part. There is a possibility that this item may come back to Commission or it may not receive RCCF funding;
- West Richland RCCF credits: if the former racetrack property makes it to closing and Benton County approves the funding mechanism, the Commission has the opportunity to pledge some of those credits to other Port projects;
- Clover Island Master Plan: currently on hold and what the future may hold.

Mr. Arntzen believes the Port should review these projects against the back drop of Vista Field. The Port is doing an amazing job at Vista Field and construction is proceeding accordingly,

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but there is a lot of paperwork to complete with Vista Field. Mr. Arntzen appreciates Mr. Kooiker saying the Owner's Association is at 95%; however, he worries about the last 5% and getting it right. Mr. Arntzen mulled if the Port should complete the last 5% before starting work on another project. Mr. Arntzen asked the Commission to review the 2019-2020 Work Plan to discuss in January or February.

Commissioner Moak stated the sale of the former racetrack was totally unanticipated and there will be money associated with that. The same for the potential sale of other properties on Oak Street. Commissioner Moak stated a lot has happened in this last year and some of it was good. Commissioner Moak pondered how the Commission will review next year and what the opportunities and challenges there are going to be.

## ***H. Commission Meetings***

### ***1. November 15, 2019 Special Commission Meeting at Musser Auction Facility at 11:00 a.m.***

There will be a Special Commission Meeting on November 15, 2019 at Musser Auction Facility for the sale of 8.5 acres in Southridge.

### ***2. November 26, 2019 Cancelled.***

A Special Meeting may take place prior to December 10, 2019 to discuss Cedars.

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

Commissioners reported on their respective committee meetings.

## ***J. Non-Scheduled Items***

1. Commissioner Barnes offered his congratulations to Commissioner Moak on his recent election win.

2. Mr. Peterson reported that paving continues at Vista Field.

## **PUBLIC COMMENTS**

No comments were made.

Commissioner Moak anticipates the Executive Session will last approximately 20 minutes, Real Estate, Minimum Price, per RCW 42.30.110(1)(c) with no action. Commissioner Moak asked the public to notify Port staff if they will return after the executive session so staff can advise if the session concludes early.

*Commissioner Moak recessed the Regular Commission Meeting at 4:52 p.m. for three minutes.*

*Commissioner Moak convened the meeting into Executive Session at 4:58 p.m. for approximately 20 minutes.*

## **EXECUTIVE SESSION**

### ***A. Real Estate, Minimum Price per RCW 42.30.110(1)(c)***

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

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*Commissioner Moak reconvened the Regular Commission Meeting at 5:14 p.m.*

## COMMISSION COMMENTS

No comments were made.

## ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 5:14 p.m.

### ***APPROVED:***

**PORT of KENNEWICK**

**BOARD of COMMISSIONERS**

  
\_\_\_\_\_  
Thomas Moak, President  
\_\_\_\_\_  
Don Barnes, Vice President  
\_\_\_\_\_  
Skip Novakovich, Secretary

***PORT OF KENNEWICK***

***Resolution No. 2019-30***

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK ACCEPTING THE  
COLUMBIA GARDENS WINE VILLAGE PHASE #2A PROJECT ON COLUMBIA DRIVE***

**WHEREAS**, Big D's Construction of Tri-Cities, Inc. provided notification that the improvements to Columbia Gardens Wine Village Phase #2A Project on Columbia Drive, Kennewick has been completed in accordance with the plans and specifications; and

**WHEREAS**, Gary Hall, Hall Engineering & Associates, the Port of Kennewick staff, and the City of Kennewick have inspected the work and certified that it has been completed in accordance with the plans and specifications.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the Port of Kennewick hereby accepts the work of Big D's Construction of Tri-Cities, Inc. as being completed in accordance with the contract documents.

**BE IT FURTHER RESOLVED** that all action by port officers and employees in furtherance hereof is ratified and approved; and further that the port Chief Executive Officer is authorized proceed with the necessary requirements to finalize the project account.

**ADOPTED** by the Board of Commissioners of Port of Kennewick on the 12th day of November 2019.

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

By:   
THOMAS MOAK, *President*

By:   
DON BARNES, *Vice President*

By:   
SKIP NOVAKOVICH, *Secretary*

***PORT OF KENNEWICK***

***Resolution No. 2019-31***

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK APPROVING THE PORT CHIEF EXECUTIVE  
OFFICER'S 2019-20 GOALS AND OBJECTIVES UPDATE**

WHEREAS, on October 10, 2017, the Port Commission adopted Resolution 2017-16 establishing a Committee to draft the CEO's performance review and present to the Commission for final approval, citing a more efficient and effective process; and

WHEREAS, this Committee was also tasked with creating and updating the CEO's goals and objectives, then presenting to the Commission for final approval; and

WHEREAS, on November 28, 2017, the Port Commission adopted Resolution 2017-27 modifying the CEO's employment contract to adjust for changes made resulting from resolution 2017-16 establishing an evaluation committee; and

WHEREAS, on October 23, 2018, the Port Commission approved the CEO's goals and objectives for 2019-20; and

WHEREAS, on September 10, 2019, Commissioner Novakovich moved for approval and Commissioner Moak seconded Resolution 2019-20 amending Goal 3 of the CEO's 2019/2020 Goals and Objectives from pursuing a ground lease or sale in the Columbia Drive area to negotiating a land sale with the City of West Richland; and

WHEREAS, the motion carried 2-1 and the Resolution was adopted with Commissioners Moak and Novakovich voting in favor and Commissioner Barnes voting against; and,

WHEREAS, Port staff has worked with the CEO and legal counsel to update the goals and objectives list for 2019-20, based on current measurements.


NOW, THEREFORE, BE IT HEREBY RESOLVED that the Port of Kennewick Board of Commissioners hereby approves the reported status of the CEO's goals and objectives, as set forth in attached Exhibit "A".

ADOPTED by the Board of Commissioners of Port of Kennewick on the 12th day of November, 2019.

By:

  
THOMAS MOAK, *President*

By:

  
DON BARNES, *Vice President*

By:

  
SKIP NOVAKOVICH, *Secretary*

# PORT OF KENNEWICK

## Resolution No. 2019-32

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK  
AUTHORIZING REMOVAL OF DEVELOPMENT AND MAINTENANCE  
STANDARDS FOR DICKERSON INDUSTRIAL PARK***

**WHEREAS**, the port commission desires to sell 8.5 acres of vacant land in Southridge at auction on November 15, 2019 (Exhibit A) currently zoned commercial community; and

**WHEREAS**, the original 155 +/- acres was zoned Industrial and included Development and Maintenance Standards for Dickerson Industrial Park;

**WHEREAS**, the port desires to rescind said Development and Maintenance Standards for Dickerson Industrial Park in order to clear a title encumbrance for auction and future land sales attached to original property sale;

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the Board of Commissioners of the Port of Kennewick shall rescind the Development and Maintenance Standards for Dickerson Industrial Park;

**BE IT FURTHER RESOLVED** that all action by port officers and employees in furtherance hereof is ratified and approved; and further, the port Chief Executive Officer is authorized to take all action necessary in furtherance hereof.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 29th day of November, 2019.

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

By: 

THOMAS MOAK, *President*

By: 

DON BARNES, *Vice President*

By: 

SKIP NOVAKOVICH, *Secretary*



*Resolution 2019-32*  
*EXHIBIT A*

