

The Governor's proclamation 20-28 regarding the Open Public Meetings Act and Public Records Act temporarily prohibits in-person public attendance at meetings subject to the OPMA.

A GoToMeeting will be arranged to enable the public to listen and make public comments remotely.

To participate remotely, please use the following call-in information:

Via GoToMeeting 1-877-309-2073, Access Code: 527-981-221

AGENDA

Port of Kennewick

Regular Commission Business Meeting

*Port of Kennewick Commission Chambers (via GoToMeeting)
350 Clover Island Drive, Suite 200, Kennewick, Washington*

May 11, 2021

2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF AGENDA**
- V. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- VI. PRESENTATION**
 - A. Kennewick Historic Waterfront District Master Plan Update ([LARRY](#))
- VII. OLD BUSINESS**
 - A. Clover Island Shoreline 1135 Update ([TANA](#))
 - B. Community Project Congressional Appropriations Funding Applications ([TANA](#))
 - 1. Electric Vehicle Charging Stations Resolution 2021-05
 - 2. The Willows Infrastructure Resolution 2021-06
- VIII. CITIZEN COMPLAINT – REQUEST FOR REIMBURSEMENT OF LEGAL FEES**
 - A. Resolution 2021-07 ([NICK](#))
- IX. CONSENT AGENDA A**
 - A. Approval of Direct Deposit and ePayments Dated May 4, 2021
 - B. Approval of Warrant Register Dated May 11, 2021
 - C. Approval of Regular Commission Meeting Minutes April 27, 2021
- X. CONSENT AGENDA B**
 - A. Approval of Warrant Register Dated May 11, 2021 (Reimbursement of Legal Fees)

AGENDA

***Port of Kennewick
Regular Commission Business Meeting
May 11, 2021
Page 2***

XI. RECESS

XII. EMERGENCY DELEGATION UPDATE (TIM/AMBER)

XIII. REPORTS, COMMENTS AND DISCUSSION ITEMS

- A. Vista Field (AMBER)
- B. Oak Street/Verbena Auction July 20, 2021 (AMBER)
- C. Letter of Support for City of Kennewick's Direct Appropriations Funding Application (TANA)
- D. Public Disclosure Commission Reports and No-Conflict Statements (BRIDGETTE/TIM)
- E. Commission Meetings (formal and informal meetings with groups or individuals)
- F. Non-Scheduled Items
(LISA/BRIDGETTE/TANA/NICK/LARRY/AMBER/LUCINDA/TIM/TOM/SKIP/DON)

XIV. PUBLIC COMMENT *(Please state your name and address for the public record, if not stated previously)*

XV. ADJOURNMENT

PLEASE SILENCE ALL NOISE MAKING DEVICES



AGENDA REPORT

TO: Port Commission

FROM: Larry Peterson, Director of Planning & Development

MEETING DATE: May 11, 2021

AGENDA ITEMS Kennewick Historic Waterfront District (KHWD) Master Plan

- I. REFERENCE(S):** Kennewick Historic Waterfront District (KHWD) Master Plan – Summary Presentation
- II. FISCAL IMPACT:** N/A
- III. DISCUSSION:** In March 2020 the Port, with the assistance of MAKERS Architecture & urban design, LLP (MAKERS) undertook a master planning process for the current holdings on Clover Island and Columbia Drive, which through this process was referred to as the Kennewick Historic Waterfront District (KHWD). Only a few days into this effort COVID-19 was deemed to be a worldwide pandemic which required a quick restructuring of the public out-reach process. The public input process moved exclusively to an email, internet, newspaper, and telephone format, which resulted in far more participants than the community's previous high-water mark in public participation, the Vista Field charrette.

Over 40 stakeholders were contacted directly via telephone with several of those contacts resulting from the suggestions from a prior contact. Those directly contacted included Clover Island and Columbia Drive property and business owners, representatives from the City of Kennewick, Historic Downtown Kennewick Partnership (HDKP), Columbia Basin College (CBC), Confederated Tribes of the Umatilla Indian Reservation (CTUIR), United States Army Corps of Engineers (USACE), numerous quasi-government agencies, local realtors, developers, and design professionals and several “engaged” citizens.

Citizen input was broadly captured during a series of three online open-house events conducted in August and October 2020; and February 2021. These open houses included an interactive Idea Wall where citizens could post an idea or concept and others could comment, expound and/or contradict those ideas. Additionally, citizens could add their comments to a mapping tool which also shared the ability for others to build upon those initial comments. Finally, the more traditional tool of a survey was included in these open houses. In total these three open houses were visited/viewed/utilized by 2,365 unique visitors.

The first open house was intended to capture all the citizen's ideas and vision for this area with the second open house grouping those ideas into two differing scenarios; and the third open house presenting a

working vision filtered from the prior open houses. It must be acknowledged that not all ideas shared are contained within the draft plan because in some cases multiple suggestions were made for one site and/or some of the suggestions contradicted one another.

During the plan development and refinement process MAKERS attempted to establish a plan focused on vibrancy and activity while delicately balancing all citizens requests against the market and budget realities. This whole process involved presenting the citizen's input as choices with the intention of establishing the community's shared vision for the Kennewick Historic Waterfront District.

Columbia Basin College being a potential key partner was contacted directly by the MAKERS team to ascertain CBC's intentions to pursue developing a Culinary Institute in the KHWD. Unfortunately, a CBC representative informed MAKERS that due to several factors, the idea of a Culinary Institute was no longer being contemplated. This answer was necessary so land could either be reserved for such a use, or in this case released and contemplated for other uses.

Through this process the citizens asked for many uses and/or activities beyond the uses or scale typically undertaken by port districts. This could be attributed to several factors including the community's growing appreciation of their waterfront, desires for transformative change, and possibly prior successful Port of Kennewick efforts to stretch the bounds of what a port district can accomplish. This seems to result in some tough decisions as balancing the citizens wants with the Port's realities presents a major decision for the Port Commission.

IV. POLICY IMPLICATIONS

Several policy implications are contained in the draft master plan. These policy matters need not be resolved prior to plan adoption yet it seems important to highlight these items which might appear to be buried in the document. Additionally, the Commission is reminded that once adopted, the master plan is intended to serve a 5 to 10-year period, although there is no prohibition of revisiting the master plan these and other district-wide implications are weighed against each another.

Plan recommends the Port "evaluate acquiring additional land as opportunities arise" (*page #17 District-Wide Recommendations, 3rd bullet*)

This recommendation if retained would seem to indicate the Commission would strongly consider allocating future Port expenses and effort for land acquisitions. Does the Commission have interest in acquisition of additional land in and around Columbia Drive? Considering all the Port's current commitments is this a realistic policy, and if so, what other projects might the Port no longer pursue to afford such expenditures?

Visions for the NW corner of Clover Island has implications to the informal seasonal boat trailer parking use. (*page #18*)

The plan mentions the corner is currently used for overflow boat trailer parking and suggests future interim use of the corner for open-air public events and gatherings, and the eventual development of a boutique hotel or other uses that both activate the site and generate revenues.

Is Clover Island too unique and valuable to retain and preserve the crucial corner parcel for the infrequent free usage for haphazardly parked tow vehicles & boat trailers? The draft master plan is based upon that conclusion. The concept to maximize year-round use of the corner was identified in the 2005 master plan and at the time of adoption the Port's 2001 investment of \$150,000 in the City's project to expand the Columbia Park boat launch to 4-lanes and add a sea of parking was the answer provided when concern arose.

A decision between adopting a plan for reuse of the corner as envisioned by the citizens who provided input over the last year and committing to the boat ramp users, who will likely become vocal at some point regarding the conversion of the beloved free parking area will be required.

The answer considered might be BOTH, so the boutique hotel footprint and covered event space are reduced to allow a portion of the site, allowing the remainder to coexist as a seasonal boat trailer parking area. However, this may or may not be the right answer as a mini parking lot, regardless the size would not be big enough and removing a segment of a relatively small parcel further impedes the development potential for a hotel. This may be a situation where it is all or nothing for both of the uses and a 50/50 split is acceptable to neither.

Competition with Port of Pasco for Artisan Market (page #27)

Plan recommends marketing a portion of Columbia Gardens for an Artisan Market. Although much smaller in scale than the market proposed at the Port of Pasco's (POP) Osprey Point, it seems to raise the policy question about pursuing uses deemed best for on POK site versus leaving a "lane open" for the POP project. Would these two markets compete for the same vendors and/or customers or is there enough difference in scale and/or location to avoid concern? If the two markets are deemed to be in direct competition ... is that a bad thing? Should the Port wait a certain amount of time before marketing/pursuing this idea to allow the POP project to blossom and if so, what is that amount of time?

Dog Park Interim Use at Cable Greens (page #28)

The plan suggests a dog park be established at the Cable Greens as an interim use. Is this an undertaking the Port is willing to pursue and fund? Is the Commission concerned that the eventual conversion to the permanent uses would be resisted due to the public's fondness for the interim dog park?

Building Partnerships (page #32)

Plan suggests the Port expand current partnerships and enhance programming activities to help cultivate a thriving district. This policy decision seems to be a fairly straight forward budget-based decision. Should the Port undertake this additional task, possibly through adding additional staff, and if so what other current and future efforts would be forgone?

Plan Recommends Clover Island Properties be Leased Rather than Sold. (Page #33 Aligned Property Strategy)

This recommendation is a continuation of both the decades long Port practice and the recommendations contained within the most recent (2005) Clover Island Master Plan. General thought conveyed over the last 17 years has been land leasing allows the Port to retain underlying control as buildings and uses evolve over the decades and allows the private sector to put a larger share of their monies into their buildings and operational efforts.

At present, the land lease revenues are utilized to help offset the annual maintenance costs for the numerous public improvements on the island. Upkeeping extensive and well-groomed landscape areas, unique hard surface areas and numerous works of art require significant amounts of labor. Additionally, expenditures for lighting, litter control and special touches such as holiday lighting require additional funds. Clover Island's "special feeling" is not obtained solely by the existing of unique elements along the waterfront but together with the diligent and constant maintenance of these areas.

It would seem if land sales we contemplated the decision whether a mechanism needs to be established to help assure all (non-federal) island property owners contributed to this perpetual maintenance expense is needed OR whether these maintenance costs would be fully borne by the Port would be required.

Would/could land sale revenues buy enough to fund the pro-rata share of the maintenance costs for the foreseeable future? {since interest rates are at historic lows, banking the principle from land sales and the utilizing the interest to fund the maintenance seems unrealistic}

V. ACTION REQUESTED OF COMMISSION:

- #1) Receive the presentation from the MAKERS team as they walk through the process and product and ask questions of MAKERS, staff, and fellow Commissioners. Any comments, feedback or direction would be helpful as staff and the MAKERS team refine the plan.
- #2) Discuss path to adoption.

PORT OF KENNEWICK

HISTORIC WATERFRONT DISTRICT MASTER PLAN



Draft Plan Commission Presentation
May 11, 2021

PROJECT PURPOSE AND TODAY'S GOALS

PROJECT PURPOSE

- Update the Clover Island Master Plan and tie into greater district
- Identify future uses of Port-owned property
- Respond to the area's evolving context
- Position the district to meet Port and community objectives

TODAY'S GOALS

- Summarize major outreach take-aways
- Review master plan recommendations



PROJECT OVERVIEW

PHASE I ASSESSMENT

★ Stakeholder interviews

★ Discussion groups

Needs assessment

★ Open House #1 – initial
needs assessment

★ Commission briefing

★ *COMMUNITY ENGAGEMENT*

PHASE 2 ALTERNATIVES

Alternatives development

Economic & transportation
analysis

★ Open House #2 –
alternatives evaluation

★ Commission briefing

★ Preferred concept selection

PHASE 3 MASTER PLAN

Recommendations refinement

Phasing & implementation
strategy

★ Open House #3 – draft
recommendations

★ Commission briefings

Draft and final plan

TARGETED DISCUSSIONS

- 12 individual interviews
- 6 group interviews
- 4 discussion groups
- **56** total stakeholders

OPEN HOUSES

- 3 virtual open houses
- 2,365 unique users
- 168 comments
- 137 survey responses



COMMUNITY PRIORITIES



WATER

Celebrate views, access, and connection to water



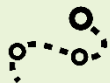
LOCAL AMENITIES

Retain and add amenities with a local focus



SAFETY

Address concern about blight and safety at night



TRAILS & NATURE

Complete and upgrade trails and support connection to nature



PARKING

Concern over increased vehicle and boat trailer traffic with more development



LIVING & VISITING

Add a boutique hotel, mixed-use residential, and affordable housing

ECONOMIC ANALYSIS TAKE-AWAYS

RECOMMENDATIONS

- Emphasize a balance of uses, activated public spaces, and strong circulation network throughout, especially to connect the Willows to Columbia Gardens
- Residential is the most economically viable use in the near term; can be a key revenue-generating and 24-7 activating anchor for the district

CAUTIONS

- “Vertical” stacked mixed use is more expensive, complex, and harder to finance than side-by-side “horizontal” mixed-use



PLAN RESPONSES



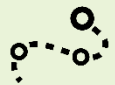
WATER

- Increases areas that accommodate and encourage community gathering and recreation areas near water
- Provides additional river viewpoints



LOCAL AMENITIES

- Adds eateries on Clover Island and at Columbia Gardens
- Builds an artisan market and pop-up retail to highlight local businesses



TRAILS & NATURE

- Completes Clover Island and Duffy's Pond trails and connects to local trail network
- Enhances ecology of Duffy's Pond



Source: Kim Fetrow Photography



PLAN RESPONSES



SAFETY

- Adds trail lighting and increases foot traffic for enhanced safety
- Continues to develop safe walkways and open spaces designed for all ages



PARKING

- Designates parking around amenities and area trail network
- Increases signage to alternative launch at Columbia Park for peak weekends



LIVING & VISITING

- Reduces scale of planned development and prioritizes retaining river views
- Benefits district with increased patrons and revenue





RECOMMENDATIONS

RECOMMENDATIONS

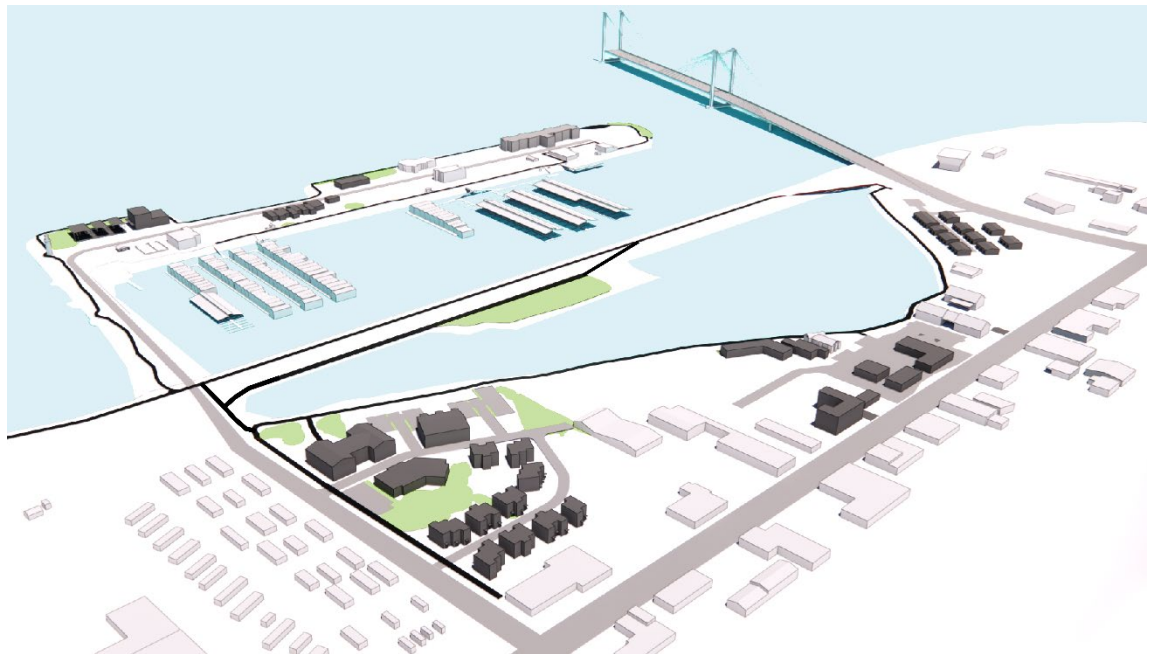
Create a unique waterfront community that provides a dynamic place to live, play, explore, and gather.

CLOVER ISLAND

Enhance programming and amenities and develop a vibrant activity center around a central restaurant cluster

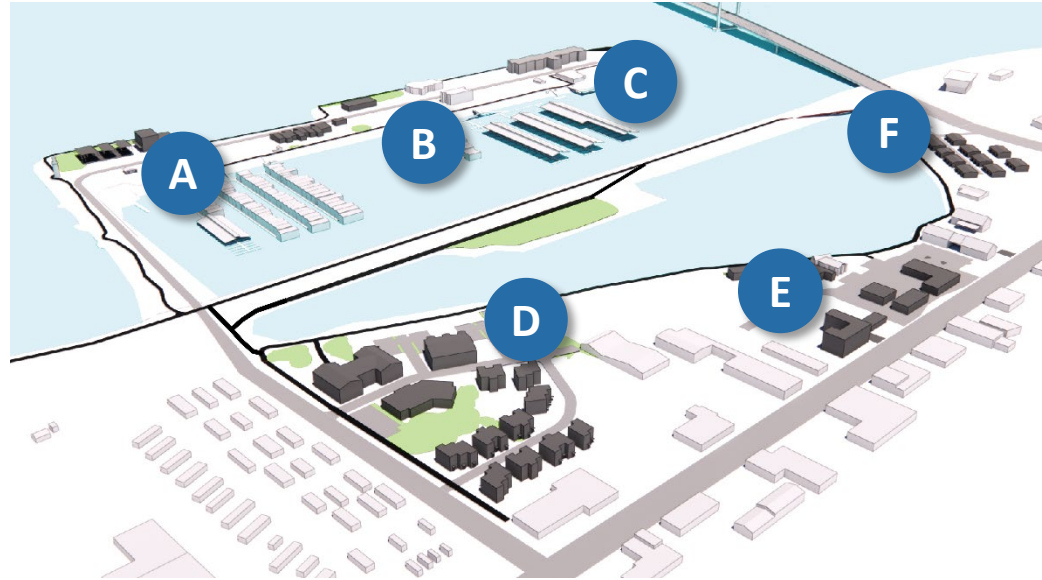
COLUMBIA DRIVE

Build on Columbia Gardens as a catalyst for additional destination and revenue-generating opportunities



RECOMMENDATIONS

- Balance public enjoyment spaces and activities with revenue-producing uses
- Invest in activated public spaces and strong connected circulation network
- Create six destination hubs
 - Activate with retail and recreation
 - Provide for all-season enjoyment of river views and district exploration
 - Create visual links that draw people from one hub to the next
 - Provide year-round activities for the community to enjoy



Note: labels denote nodes, draft phasing outlined in plan

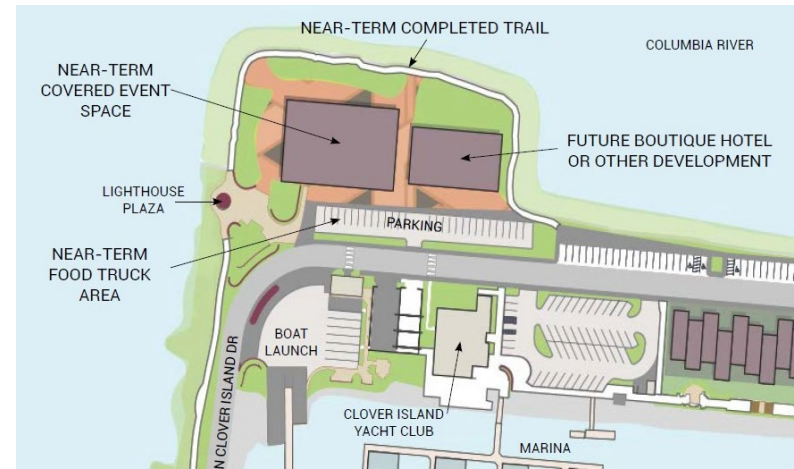
CLOVER ISLAND WEST

CELEBRATION SPACE

Vision: *Leverage the lighthouse to draw people to the island*

- Add rentable, all-season event space to host cultural celebrations, weddings, farmers markets, and other small music/arts events
- Extend plaza and provide park and picnic areas facing waterfront
- Consider event parking shuttles and maps to alternate boat launches for peak weekends

Future Ideas: Market signature development site for a future a multi-story office, residential, or boutique hotel with ground floor celebration space



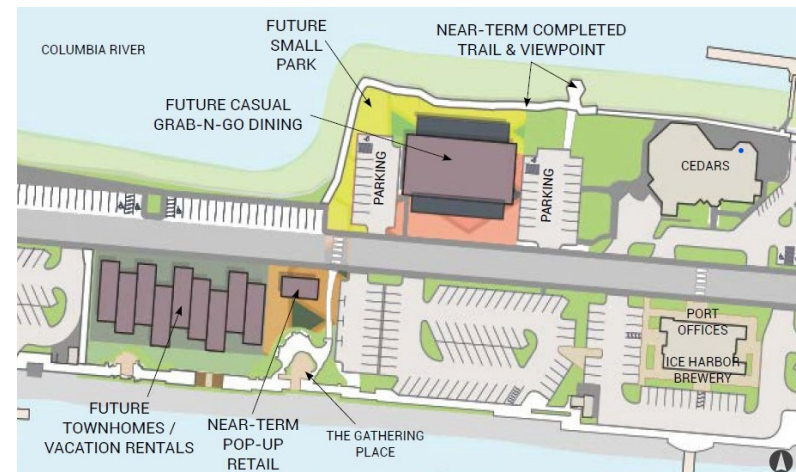
CENTRAL CLOVER ISLAND

ACTIVITY HUB

Vision: *Activated node with inviting gathering spaces*

- Recruit eating options complementary to Cedars and Ice Harbor Brewery capitalizing on water views
- Add gathering space with activities, such as a small splash park
- Pursue seasonal and pop-up retail until demand grows; work toward year-round activity

Future Ideas: Market unique residential location to river enthusiasts

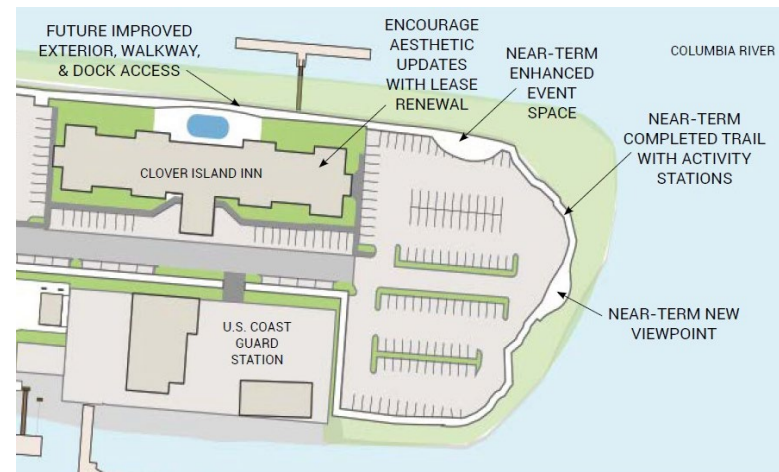


CLOVER ISLAND EAST

CONNECTED GATHERING SPACE

Vision: Entertainment, recreation, and view destination

- Enhance entertainment space to host a wide range of events
- Work with Clover Island Inn to improve exterior and connect to public trail network, especially around lease renewal
- Create eastern viewpoint showcasing Cable Bridge views
- Work with Coast Guard and interested parties to connect trail and add exercise features



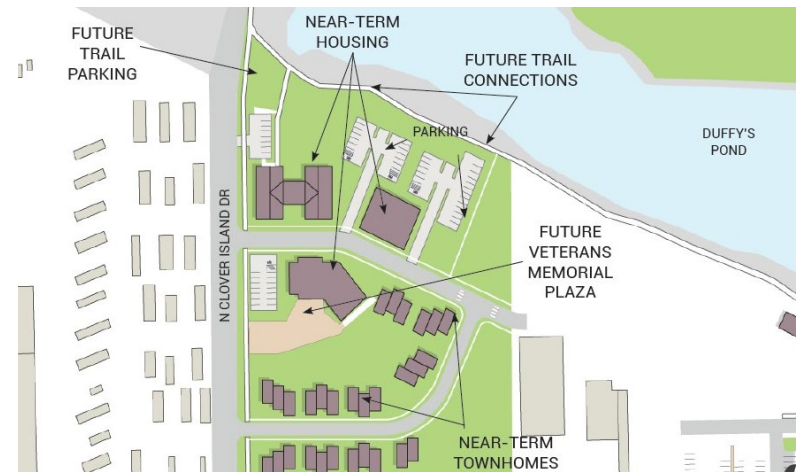
COLUMBIA DRIVE WEST

RESIDENTIAL CORNERSTONE

Vision: *Create thriving community on critical connecting and revenue-generating parcel*

- Develop with medium scale residential; market to those desiring a unique setting and waterfront view
- Provide parking to support visitors and trail users
- Connect to Duffy's Pond from N Clover Island Dr
- Maintain park like atmosphere by retaining healthy trees and adding new plantings

Future Ideas: Continue developing as demand grows, connect internal road, acquire adjacent parcels if opportunities arise



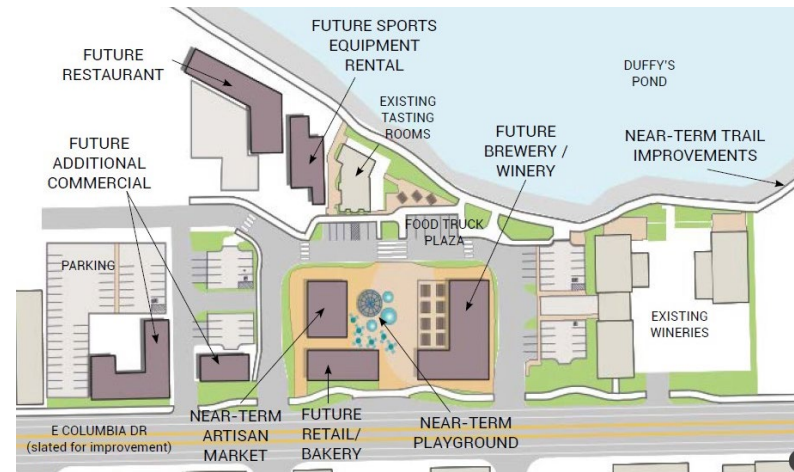
COLUMBIA DRIVE CENTRAL

ENERGETIC COMMERCIAL CORE

Vision: Build on wine village with complementary uses, crafts, and food

- Connect pathways around Duffy's Pond and improve ecology
- Develop incubator space for local artisan market and other open-air retail that builds on brewery/winery culture; distinguish design and offering from recent Port of Pasco development
- Explore option to build a children's playground
- Utilize open spaces for pop-up events and performances

Future Ideas: Attract a restaurant or brewery overlooking Duffy's Pond



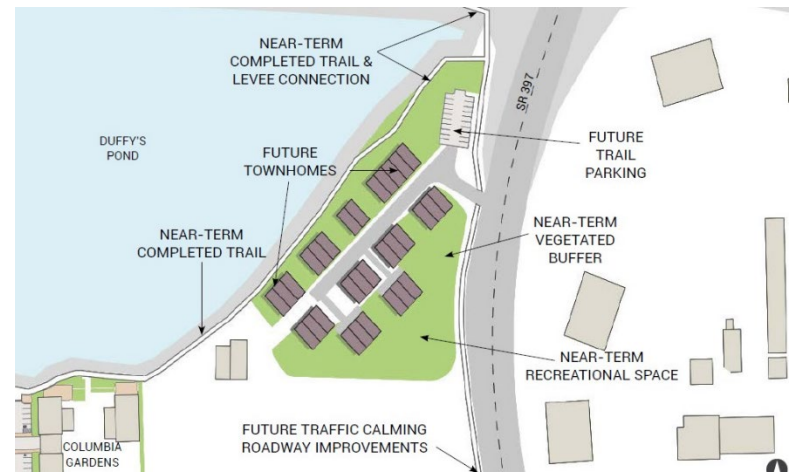
COLUMBIA DRIVE EAST

DISTRICT-SUPPORTING DEVELOPMENT

Vision: *Leverage location and park-like quality to attract revenue-generating uses, bring customers, and connect to district amenities*

- Explore near term activation options such as a dog park; consider maintenance, potential liability, and potential to set long term expectations
- Evaluate proposals for highest and best use aligned with the district vision
- Designate parking to support district visitors and trail users
- Maintain privacy with a vegetated buffer

Future Ideas: Acquire adjacent parcels if opportunities arise





PLAN IMPLEMENTATION

IMPLEMENTATION STRATEGY

- Focus on key investments on the northwest corner of Clover Island and at Columbia Gardens
- Build partnerships with local organizations to activate district with events, pop-up retail, food trucks, etc.
- Support City efforts to improve Washington Street and Columbia Drive and adopt design standards for the greater area; partner to add wayfinding and improve connections to downtown
- In recognition of its unique setting and community value, maintain ownership of Clover Island and pursue opportunities to acquire district properties
- Consider district marketing, programming, and development when identifying staff priorities and setting future budgets



NEAR TERM (2022-2026)



- Raise awareness and create energy and excitement around the district through programming and partnership
- Prioritize investments that attract people to the area including the event spaces and community amenities
- Market development parcels focusing on The Willows and Columbia Gardens
- Support City's roadway safety improvements



MEDIUM TERM (2027-2031)



- Build on momentum created to market additional parcels for development on Clover Island and at The Willows and Columbia Gardens
- Add parking and amenities

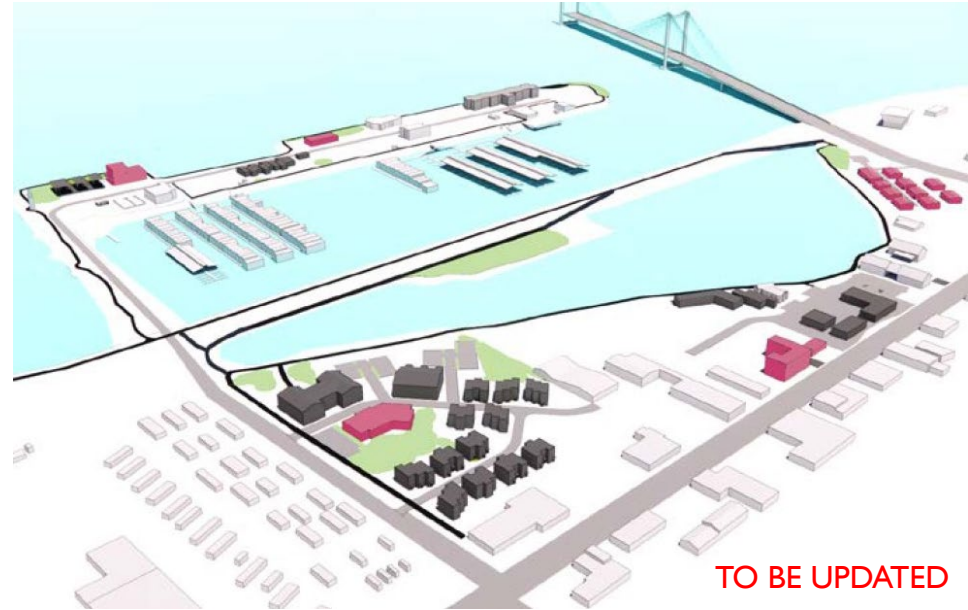


TO BE UPDATED

LONG TERM (2032-2041)



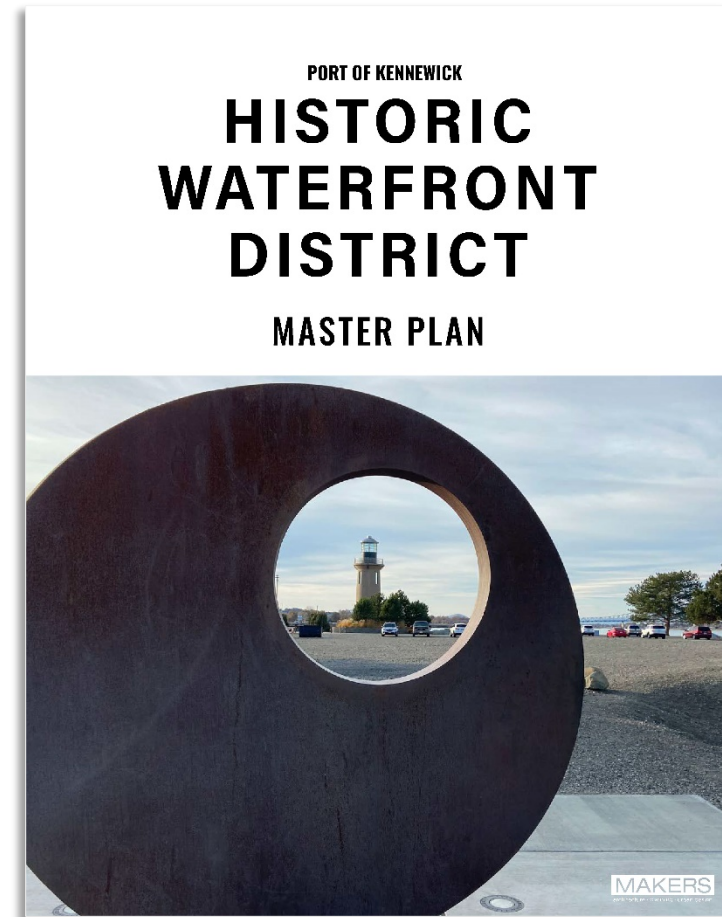
- Attract a casual dining restaurant and signature development on Clover Island
- Secure development of Cable Greens and remaining parcels at The Willow



NEXT STEPS

- Commission briefings
 - May 25th
 - June 8th
- Final master plan

COMMENTS? QUESTIONS?





**PORT of
KENNEWICK**

AGENDA REPORT

TO: Port Commission

FROM: Tana Bader Inglima, Deputy CEO

MEETING DATE: May 11, 2021

AGENDA ITEM: Resolution No. 2021-05 –Congressional Appropriations Application for 10 Electric Vehicle Charging Stations

I. REFERENCE(S): Resolution 2021-05

II. FISCAL IMPACT:

No immediate impact; appropriations request is for \$240,960 of federal funding, with an estimated \$80,000 in local match from the port-owned land used to site ten (10), level-2 Electric Vehicle charging stations.

III. DISCUSSION:

Commission previously directed staff to prepare an appropriations request for federal funding to purchase and install ten (10) level-2 Electric Vehicle Charging Stations on port owned sites in both east and central Kennewick. On Columbia Drive, two (2) stations would be placed in the Cedar Street parking lot on the west end of the Columbia Gardens Wine & Artisan Village, and two (2) stations within the courtyard at the east end of the wine village. On Clover Island two (2) stations would be placed in the port administration parking lot and two (2) stations at The Gathering Place parking lot. At Vista Field two (2) charging stations would be installed in the commercial plaza parking area (near the former hangar buildings). *Since this project was not included within the port's two-year work plan, a resolution would strengthen our application package by formally recognizing and prioritizing the project and demonstrating the port's commitment to obligating the federal funds within the 2022 budget year.*

IV. ACTION:

Approve Resolution 2021-05 authorizing submittal of an appropriations request for federal funding to Bring Electric Vehicle Charging Stations to Kennewick's Historic Waterfront and Vista Field and authorizing the Port's Chief Executive Officer to execute all documents necessary for submittal of the appropriations application.

V. ACTION REQUESTED OF COMMISSION:

***Motion:** I move approval of Resolution 2021-05 approving submittal of a Congressional Appropriations request for the Bringing Electric Vehicle Charging Stations to Kennewick's Historic Waterfront and Vista Field project and further authorizing the Port's Chief Executive Officer to execute all documents necessary to submit the application package.*

PORT OF KENNEWICK
Resolution No. 2021-05

**Bringing Electric Vehicle Charging Stations to
Kennewick's Historic Waterfront and Vista Field**

**A RESOLUTION OF THE PORT OF KENNEWICK AUTHORIZING APPLICATION
FOR FEDERAL APPROPRIATIONS FUNDING FOR TEN (10) LEVEL-2
ELECTRIC VEHICLE (EV) CHARGING STATIONS**

WHEREAS, our organization has an opportunity to seek federal appropriations funding to install 10 Level-2 EV charging stations to help reduce carbon emissions, support clean energy, and foster environmental responsibility; and

WHEREAS, this resolution will demonstrate the Commission's commitment to this endeavor, and acknowledge the Port's ability to obligate federal funding in Fiscal Year 2022; and

WHEREAS, the Board of Commissioners considers it in the best public interest to complete the EV Charging Station project as described in the agenda report.

NOW, THEREFORE, BE IT RESOLVED that:

- *The Chief Executive Officer of the Port of Kennewick be authorized to make formal application for a Congressional Appropriations request of \$240,960.*
- *Our organization hereby certifies any required matching funds will derive from the value of the land Port of Kennewick is providing for siting the EV charging stations, and that appropriations funding received would be used for implementation of the project referenced above.*
- *This resolution becomes part of a formal application package.*
- *We provided appropriate opportunity for public comment on this application.*

The resolution shall be effective immediately upon passage and signature by the Port of Kennewick Commissioners.

ADOPTED by the Board of Commissioners of Port of Kennewick this 11th day of May 2021 located at Clover Island in Kennewick.

PORT OF KENNEWICK
BOARD OF COMMISSIONERS

By: _____
Don Barnes, President

By: _____
Skip Novakovich, Vice-President

By: _____
Thomas Moak, Secretary



AGENDA REPORT

TO: Port Commission

FROM: Tana Bader Inglima, Deputy CEO

MEETING DATE: May 11, 2021

AGENDA ITEM: Resolution No. 2021-06 –Congressional Appropriations Application for The Willows Infrastructure project in collaboration with the Kennewick Housing Authority

I. REFERENCE(S): Resolution 2021-06
Kennewick Housing Authority Letter of Support

II. FISCAL IMPACT:

No immediate impact; appropriations request is for \$2,416,000 of federal funding, with an estimated \$2,300,000 local match from investments the port has previously made to acquire the land, clear the site, construct paved public pathways, install perimeter fencing, develop a community-driven master plan, and initiate preliminary A&E design. In addition, this infrastructure project expands upon an additional \$24 million in public dollars expended at Clover Island and Columbia Drive to revitalize that distressed neighborhood into a desirable residential waterfront located within a federally designated Opportunity Zone.

III. DISCUSSION:

Commission previously directed staff to prepare an appropriations request for federal funding to support The Willows Infrastructure Project—designed to create shovel-ready parcels for expanded housing and business/employment opportunities within a distressed area that has been designated a Federal Opportunity Zone in east Kennewick, WA. The project will construct water, sewer, storm drainage, roads, sidewalks, streetlights, landscaping, parking areas, and other appurtenances to prepare shovel ready lots on a 6.7-acre site which is owned by the Port of Kennewick and zoned as Urban Mixed Use by the City of Kennewick. In addition, four level-2 electric vehicle (EV) charging stations will be installed. And the project will implement smart regional planning to incorporate transit connections, as well as bicycle and pedestrian pathways and related fixtures to connect The Willows site with the greater Benton-Franklin County region.

In seeking appropriations funding, the Port of Kennewick Commission directed staff to work with Lona Hammer, Executive Director of the Kennewick Housing Authority (see attached letter of support) to explore relevant tools that can connect and build mixed-income housing (serving individuals and families in transition from poverty following Covid, seniors, and homeless and at-risk veterans), after completion of the required road and utility infrastructure.

Since this project was not included within the port's two-year work plan, a resolution would strengthen our application package by formally recognizing, authorizing and prioritizing the project and demonstrating the port's commitment to obligating the federal funds within the 2022 budget year.

IV. ACTION:

Approve Resolution 2021-06 authorizing submittal of a Congressional Appropriations request for federal funding to support The Willows Infrastructure Project in collaboration with the Kennewick Housing Authority and authorizing the Port's Chief Executive Officer to execute all documents necessary for submittal of the appropriations application.

V. ACTION REQUESTED OF COMMISSION:

***Motion:** I move approval of Resolution 2021-06 approving submittal of a Congressional Appropriations request for The Willows Infrastructure Project in collaboration with the Kennewick Housing Authority and further authorizing the Port's Chief Executive Officer to execute all documents necessary to submit the application package.*



May 4, 2021

The Honorable Patty Murray
United States Senator for Washington
154 Russell Senate Office Building
United States Senate
Washington DC

RE: COLLABORATIVE PARTNERSHIP AND LETTER OF SUPPORT FOR THE WILLOWS PROJECT

Dear Senator Murray:

The Housing Authority City of Kennewick (KHA) is delighted to collaborate and partner with the Port of Kennewick on *The Willows* mixed income/mixed use housing development project located in historic downtown Kennewick. The project is zoned *Urban Mixed Use* which will allow more density than a traditional housing development project in another area within our community. The increased density zoning, coupled with a property located in a federally designated Opportunity Zone, coupled with the site of the property near the river with water views, will make this project an extremely attractive opportunity for the development of a mixed income housing project.

KHA fully embraces the Port of Kennewick's draft Master Plan for this community. The ongoing planning process has previously engaged community members, businesses, partners and other stakeholders. This input has helped the Port of Kennewick identify challenges, opportunities and potential synergies with neighboring plans and projects along Columbia Drive, in downtown Kennewick, across the river on Port of Pasco property and in the broader Tri-Cities community. With this input, the Port has gathered sufficient information with regard to community needs and our community's vision for development along this stretch of waterfront. We are honored to be asked to partner on this project.

KHA has developed three modest income housing projects in the last seven years. These projects target very low to extremely low income individuals and families. Early in 2014, we discussed partnering with the Port of Kennewick at Vista Field on the development of a workforce housing development project (120% area median income and below) and attended the planning and design charrette process. We hope to continue those discussions in a future year. The Willows, I envision, could serve this same population and should include market rate rental and possibly homeownership units as well as a portion of the units being available for low income families.

As KHA develops and refines our affordable housing development strategies, it has become apparent that a broad spectrum of housing development strategies are needed within our community because vacancy rates are extremely low and even families who are at the 80-120% of area median income bands and beyond are struggling to find decent, safe and sanitary housing with affordable rents. Expanding our resources to develop mixed income, mixed use projects in partnership with the Port will also have the added benefit of adding a sustainable revenue source which KHA would then turn around and utilize for the development of additional traditional affordable housing projects on different sites for individuals or families within the lower income bands as well as potentially develop additional micro homes projects for the homeless. Given that KHA is a mission-driven entity; we strive to keep rents affordable for all families regardless of income. With rents set at a reasonable level and the location, I anticipate that the units would have a relatively high rate of occupancy and a long waiting list. Families living in a mixed income

community create vibrant, livable communities. The children thrive and this community, I suspect, would become a community of opportunity.

I envision a project where a third of the units developed are townhomes which are possibly sold to families rather than developed as rental units. There is a potential scenario where the Port could long-term lease the land at a modest cost, and the potential homeowner could purchase the improvements on the land and pay a yearly modest lease payment on the land enhancing overall affordability of the home. The homeownership units could be developed as townhomes which would further drop the cost of construction and enhance affordability for families and fit within the Master Plan goals. The pride of ownership first-time homebuyers will have for their homes would enhance the sense of ownership and stewardship of *The Willows*. The Juneau Land Trust in Alaska is an extremely high-priced market and developed a number of small footprint (~850 sq.ft.), two bedroom homes and this was an extremely effective strategy to develop homes for their first-time homebuyer market. Resale agreements were executed on the improvements which allowed the homes to remain affordable to new owners into the future. This strategy could produce high quality new homes for sale to first-time homebuyers at reasonable prices in a desirable neighborhood just off the river and adjacent to a commercial corridor where perhaps families would live, play and work. In the scenario in Juneau, the Neighborhood Stabilization program (NSP) which was a part of the HERA Act in 2008, provided the seed money for this program. In partnership with the Trust, the state housing finance corporation and the school district the homes were built. With Build Back Better, the FY2022 budget, and other state-funded development programs, similar strategies could be developed that would enhance the development of *The Willows* project as well as other projects throughout our community. A broad, innovative approach is warranted with developers being nimble and responding to local needs and conditions.

Within a mixed income housing project, a portion of the unit rents will be set at market rate, but with a mission-driven partner, unit rents possibly could be set closer to HUD Fair Market Rents and set for sustainability rather than set for profit margin. The units would not have subsidy but would enhance affordability for all levels of resident income. Another strategy could be the use of Housing Choice Vouchers or designated set-aside units within the unit mix developed by team members to make the project accessible for families at all levels of income. Many families with two wage earners who are not low income still struggle to pay market rate rents in our community. Due to the source of income discrimination law that the Legislature enacted a few years ago, a voucher holder who met all criteria, passed a background check, and was otherwise fully qualified and the unit was affordable for the family, would be eligible to rent a market rate unit at this property. Landlords across the state cannot turn away renters solely because a portion of their rent is being paid via a rental voucher, so this project will be a mixed income development. KHA provides over \$500,000 each month in rental assistance to private landlords.

This project also envisions development of senior housing and a Veteran Memorial Plaza on site as well as multiple green spaces, walking paths, possible gardens and community spaces. Expanded veteran housing opportunities are severely needed within our community, especially for female veterans. KHA administers the Veterans Affairs Supportive Housing (VASH) program and we also work directly with the other veteran programs in our area. If this project moves forward we plan to reach out to Columbia Basin Veteran's Coalition and Blue Mountain Council as well as the case management staff at the Veteran's Administration who we work with on a daily basis for input into the potential to have a veteran housing set-aside within this project. KHA is committed to serving veterans as evidenced by our veteran preference and our designation of three set-aside units for veterans in our latest project. In working with the Port on this project, I envision that we would explore how to best incorporate veteran housing and explore best practices in senior housing

development and how to seamlessly blend senior space into the overall project plan. Ridgeline Terrace in Anchorage, Alaska developed by Cook Inlet Housing Authority has successfully melded family housing and senior housing on the same seven acre site.

KHA, if we were a developer as well as a housing assistance provider, would also explore the potential for an ultra-high energy efficiency grant through the Department of Commerce if this program continues to be available. Our current project for the homeless is a net zero project.

In terms of viable partnerships, KHA partnered with the City of Kennewick on a Department of Ecology application for the development of a ten acre site in downtown Kennewick, repurposing from a Procurement Department site to a site for 110 units of affordable housing. We were one of seven grants awarded in the state of Washington and have received environmental clearance and hope to develop the site into affordable housing and possibly respite services and a learning center once the City of Kennewick's staff secure funding to move their services off-site. We plan to have set-asides for veterans, persons with disabilities and the homeless within this community. We are supportive of housing development opportunities in our community for all levels of income. We also have a number of service partnerships in place and are members of the Human Services Coalition and the Continuum of Care.

In terms of development financing strategies, having a piece of property with secured site control, that has infrastructure developed, with a master plan in place, is a dream come true for any developer and makes a substantially "shovel-ready" project which, in turn, increases the potential for access to construction funding through public or private sources. Should the proposed commercial development element become reality, this addition may provide employment opportunities for a portion of the residents.

The Housing Cooperation Law, RCW 35.83, provides opportunities for housing authorities and public entities to work together in the creation of affordable housing. KHA has utilized this law to facilitate zoning changes via ordinance, fee reductions and could be utilized in this project.

With KHA as a partner, at least 5% of all units developed will be handicapped accessible with universal design features and 2% will be fitted with sight/sound features. Sidewalks, common areas and office space will be accessible as well. Within the senior community on this site, the Port and KHA would explore best practices and look at the need for fully accessible units for the majority of units within the senior complex as well as the potential for on-site health/wellness services.

We are so excited about the opportunity to partner on this innovative project. We are fully supportive of the infrastructure project and of the work already done by the Port with regard to the vision for this project. I feel that installation of infrastructure will allow the Port and KHA and other partners to quickly develop a shovel-ready project, bring on additional partners, and allow us to jointly serve families at all levels of income in our community which will, in turn, enhance economic opportunities and revitalize Kennewick's Historic Waterfront District.

Sincerely,



Lona Hammer, PHM
Executive Director

**PORT OF KENNEWICK
Resolution No. 2021-06**

The Willows Infrastructure Project

**A RESOLUTION OF THE PORT OF KENNEWICK AUTHORIZING THE
APPLICATION FOR FEDERAL APPROPRIATIONS FUNDING TO DEVELOP
INFRASTRUCTURE AT THE WILLOWS TO SUPPORT MIXED-INCOME/MIXED-USE
HOUSING IN COLLABORATION WITH THE KENNEWICK HOUSING AUTHORITY**

WHEREAS, our organization has an opportunity to seek federal appropriations funding to create shovel-ready parcels for housing and business/employment opportunities within a distressed area that has been designated a Federal Opportunity Zone; and

WHEREAS, the Commission directed staff to collaborate with the Kennewick Housing Authority to explore relevant tools that can connect and build housing (serving individuals and families in transition from poverty following Covid, and homeless and at-risk veterans) following completion of the required road and utility infrastructure; and

WHEREAS, this resolution will demonstrate the Commission's commitment to this endeavor, and acknowledge the Port's ability to obligate federal funding in Fiscal Year 2022; and

WHEREAS, the Board of Commissioners considers it in the best public interest to complete The Willows Infrastructure Project described as follows:

The project will construct water, sewer, storm drainage, roads, sidewalks, streetlights, landscaping, parking areas, and other appurtenances to prepare shovel ready lots on a 6.7-acre site which is owned by the Port of Kennewick and zoned as Urban Mixed Use by the City of Kennewick. In addition, four level-2 electric vehicle (EV) charging stations will be installed. And the project will implement smart regional planning to incorporate transit connections, as well as bicycle and pedestrian pathways and related fixtures to connect The Willows site with the greater Benton-Franklin County region.

NOW, THEREFORE, BE IT RESOLVED that:

- *The Chief Executive Officer of the Port of Kennewick is hereby authorized to make formal application for a Congressional Appropriations request of \$2,416,000.*
- *Our organization hereby certifies that any required share of matching funds derive from investments the port has previously made to acquire the land, clear the site, construct paved public pathways, install perimeter fencing, develop a community-driven master plan, and initiate preliminary design; and that this infrastructure project expands upon an additional \$24 million in public dollars already expended at Clover Island and Columbia Drive to revitalize that distressed neighborhood into a desirable residential waterfront located within a federally designated Opportunity Zone.*

- *That appropriations funding received would be used for implementation of the project referenced above in support of a collaboration with the Kennewick Housing Authority efforts to expand opportunities for affordable housing to serve individuals and families in transition from poverty following Covid, seniors, and homeless and at-risk veterans.*
- *This resolution becomes part of a formal application package.*
- *We provided appropriate opportunity for public comment on this application.*

The resolution shall be effective immediately upon passage and signature by the Port of Kennewick Commissioners.

ADOPTED by the Board of Commissioners of Port of Kennewick this 11th day of May 2021.

PORT OF KENNEWICK
BOARD OF COMMISSIONERS

By: _____

Don Barnes, President

By: _____

Skip Novakovich, Vice-President

By: _____

Thomas Moak, Secretary



AGENDA REPORT

TO: Port Commission

FROM: Nick Kooiker, CFO

MEETING DATE: May 11, 2021

AGENDA ITEM: Legal Fees Reimbursement (Don Barnes)

- I. REFERENCE(S):** Resolution 2021-07
4/13/2021 Meeting Minutes (excerpt)
4/28/2021 Stephen DiJulio Legal Memorandum
- II. FISCAL IMPACT:** \$49,282.75
- III. DISCUSSION:** On April 13th, 2021, the Commission approved by motion reimbursing legal fees to Don Barnes in the amount of \$49,282.75. The Port received the invoices and legal memorandum supporting payment from Steve DiJulio on April 28, 2021. The invoices submitted to the Port CFO only supported an amount of \$47,990.25 due to redactions on invoices. Therefore, I am not able to fully prove the validity of the transaction. However, at the direction of the Commission, the CFO has presented this check for formal approval.
- IV. RECOMMENDATION:** Approve Resolution 2021-07 before releasing payment.
- V. ACTION REQUESTED OF COMMISSION:**
Motion: *I move approval of Resolution 2021-07, authorizing the reimbursement of legal fees to Don Barnes in the amount of \$49,282.75.*

PORT OF KENNEWICK

RESOLUTION No. 2021-07

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
PORT OF KENNEWICK AUTHORIZING THE REIMBURSEMENT OF
LEGAL EXPENSES TO DON BARNES***

WHEREAS, the Board of Commissioners of the Port of Kennewick met this 11th day of May, 2021, a quorum of the Commissioners being present; and

WHEREAS, during the April 13, 2021 board meeting, the Board of Commissioners approved by motion the reimbursement of legal expenses to Don Barnes in the amount of \$49,282.75 (Exhibit A); and

WHEREAS, the Port received a legal memorandum from Stephen DiJulio on April 28, 2021 supporting the reimbursement of legal expenses (Exhibit B); and

WHEREAS, the Board of Commissioners understands the Port CFO/Auditor has reviewed the invoices presented, but can only account for \$47,990.25 of invoices that are unredacted.

NOW, THEREFORE, BE IT RESOLVED the Port of Kennewick Commissioners authorize the Chief Financial Officer to disburse funds in the amount of \$49,282.75.

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 and CFO/Auditor are authorized to take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick this 11th day of May 2021.

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

By: _____

DON BARNES, *President*

By: _____

SKIP NOVAKOVICH, *Vice President*

By: _____

THOMAS MOAK, *Secretary*

PORT OF KENNEWICK

REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

G. Citizen Complaint – Request for Reimbursement of Legal Fees

Ms. Luke introduced Port Special Counsel, Steve DiJulio who provided his legal analysis regarding the Port reimbursing Commissioner Barnes for his legal fees for the citizen complaint process. Since that Meeting, Commissioner Barnes' counsel provided the Port with the unredacted copies of the legal invoices for review.

Mr. DiJulio provided the Commission with his analysis and recommendation of the invoices (EXHIBIT B). Mr. DiJulio evaluated the reasonableness of the attorney fees and takes no exception to the hourly rates charged by Francis Forgette and Joel Comfort. However, the services provided by Mr. Forgette are unclear and show little indication of what representation Mr. Forgette contributed to the defense of Commissioner Barnes. Therefore, the amount of \$2,986 was discounted.

In further evaluation of the detailed billings, Mr. DiJulio stated there were billings that did not appear to be related to investigation or hearing or findings, rather than, related to ancillary issues that had nothing to do with the citizen complaint. Therefore, the amount of \$1,870 was discounted.

In preparation of the hearing process corresponds roughly to the period of March 2020 through the December 4, 2020 Public Hearing, and the request for legal fees. Invoices for the period total approximately \$23,758. For the time expended previously, which was essentially discovery and Public Records Act interaction, it was concluded that of the balance of \$24,408.75, an amount of \$20,000 should be recognized as reasonable for that preliminary work.

Our conclusion is that reasonable attorney fees in the matter should be \$41,888 (\$23,758-\$1,870+\$20,000).

Commissioner Barnes stated the actual unredacted invoices were submitted via email by Mr. Comfort. The email included invoices from Mr. Forgette, when he provided legal counsel from May 2019 through August 2019 for the investigation process. Commissioner Barnes stated the last invoice from Mr. Forgette was dated August 14, 2019, where it states client changed representation. Commissioner Barnes stated he retained Mr. Comfort's counsel beginning August 16, 2019, therefore there was no overlap. Additionally, Commissioner Barnes disagrees with Mr. DiJulio's analysis that the work commenced March 2020. In September 2019, Mr. Comfort prepared for the hearing and selection of a neutral. Lastly, Commissioner Barnes does not understand why Mr. DiJulio took a \$4,000 discount for the discovery and public records act. Commissioner Barnes appreciates Mr. DiJulio's analysis and the counsel he has provided to the Port; however, he respectfully requested that the charges to Mr. Forgette be added and the discovery discount reversed, to total \$49,282.75.

Mr. DiJulio stated with respect to Mr. Forgette's charges, the Commission could reimburse \$2,986 since it was part of the investigation. Mr. DiJulio stated a distinction may be made, with respect to the participation in an investigation with respect to the actual prosecution of the appeal. As discussed previously, the ambiguity of the Port's policies in this regard, the Port could determine the \$2,986 is an appropriate charge and part of the defense process.

PORT OF KENNEWICK

REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

Mr. DiJulio stated this is his evaluation, but certainly it is the Commission's decision, under the Port's policies determinant of these issues. Our recommendation is \$41,888, the \$2,986 may be appropriate for recognition if the Commission recognizes that legal counsel during an investigation is appropriate. With respect to the discount of \$4,008 for the discovery, that is simply an amount that we determined was higher than what would be normally justified for the period of substantial discovery. There was substantial time taken to get ready for this proceeding and we know in certain circumstances, delays do cost additional time and effort. Mr. DiJulio reiterated the recommendation, but stated it is the Commission's decision to award \$41,888; or \$44,874 to include Mr. Forgette's invoices; or \$49,282.75 as requested by Commissioner Barnes.

Commissioner Novakovich would like to put this behind us by a making motion to reimburse Commissioner Barnes legal fees when we can be assured we are abiding by all the laws detailed in RCW 53 which governs ports, abiding by the Port's own policies and procedures, and assurance that we will not receive an audit finding for taking this action. Commissioner Novakovich stated the Port has received 24 years of clean audits and he would like assurance from Mr. DiJulio or someone else that the Port of Kennewick will not receive an audit finding for reimbursing Commissioner Barnes legal fees. Commissioner Novakovich expressed his concerns based on the language in RCW 53, Section 18 of the Port's Rules Policies and Procedures, and prior precedence regarding the payment of legal fees set by this Commission.

Commissioner Novakovich reiterated his concern over a potential finding by the State Auditor's Office (SAO) and asked if someone can provide notice in writing that Port of Kennewick will not receive any adverse consequences including the issuing of an SAO finding for taking action to approve the reimbursement. Furthermore, the person or entity providing notice agrees to assume all consequences if the notice they provide is incorrect. And further that we receive assurance that the Port of Kennewick, staff, as well as all three Commissioners, will not be subject to any negative consequences by a decision of this Commission to reimburse Commissioner Barnes legal fees.

Mr. DiJulio stated he addressed section 18 of the Port's Rules of Policy and Procedure in his prior correspondence and analysis, and it was discussed it at the March 23, 2021 Commission Meeting. Mr. DiJulio is prepared to put in writing for Mr. Kooiker's benefit and file, in the event an audit issue would ever arise.

Mr. Arntzen understands the reimbursement of legal fees is a policy matter solely within the discretion of the Commission; however, he advised the Commission to be 100% certain they are following the correct process and abiding by RCW 53 and the Port's Rules of Policy and Procedure, because the Port has 24 years of clean audits. Mr. Arntzen stated if there is additional scrutiny that the Commission would like to engage in to make sure it is following all proper procedures, he would recommend that.

Commissioner Moak inquired if staff wants to take another look at this from a legal standpoint to protect the Commission and if there are other legal issues that need to be addressed. Commissioner Moak was under the impression that Mr. DiJulio's recommendation was the due diligence that needed to be done.

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APRIL 13, 2021 MINUTES

Mr. DiJulio stated the Port can reach out directly to SAO to get its reaction to this issue or seek either the auditor or state representative's request for an Attorney General's opinion on the subject. There are ways to have the State weigh in on this issue if there is any disagreement with respect to the conclusions that we have set out in our previous analysis for the Port.

Commissioner Barnes stated Mr. DiJulio is special counsel to the Port and is offering to write a letter and document, so that it is permissible and allowable to reimburse the legal fees if the Commission chooses to do so.

Commissioner Novakovich reiterated his concerns and asked if Mr. DiJulio could guarantee that the Port would not receive a finding from the SAO.

Mr. DiJulio stated he cannot guarantee the action of the SAO. Mr. DiJulio stated, as indicated in his previous correspondence, that the Port has the authority to recognize and reimburse reasonable attorney's fees under state statute and the Port's policies.

PUBLIC COMMENTS

No comments were made.

Commissioner Barnes appreciates Commissioner Novakovich's comments; however, the Port is receiving sound advice from Mr. DiJulio. Commissioner Barnes stated his fees are fair and reasonable and the allegations were unsubstantiated in its entirety. Commissioner Barnes was doing his job as a Commissioner and was not given an opportunity to address the complaint which triggered the investigation and then hearing.

MOTION: *Commissioner Moak moved that the Port of Kennewick reimburse Commissioner Barnes in the amount of \$50,729.35 for his legal work associated with his defense; Commissioner Barnes seconded.*

Discussion:

Commissioner Novakovich stated that he would like some assurances that the Port will not receive a finding and unfortunately, he cannot support this motion.

Commissioner Moak believes Mr. DiJulio said that no one can provide a guarantee, he would like a guarantee that a bunch of things might happen, but those things are not guaranteed in life. Commissioner Moak would have been prepared to hope for a different motion that was less than he stated. He agrees with Mr. DiJulio's perspective, but the more Commissioner Moak heard, and the more objections, it seemed to put stumbling blocks in the way of getting to the end of this. This made Commissioner Moak believe we need to pay the question price, there is no question that Mr. Barnes expended that money. Was it all appropriate, in some way or manner it was. Commissioner Moak just thinks it is about time that we finish this and it is justified. Mr. DiJulio has offered to write a letter and he has provided great counsel to the Commission and previous Commissions over the years. Mr. DiJulio thinks his way through his analysis, and we could spend time between Mr. Comfort and Mr. DiJulio going over invoices, but Commissioner Moak thinks

PORT OF KENNEWICK REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

what needs to happen is to move on and move on to a different plain and that is why he made the motion.

MOTION: *Commissioner Barnes moved to amend the main motion in the amount of \$49,282.75; Commissioner Moak seconded. With no further discussion, Motion to amend carried. All in favor: 2 Ayes (Commissioners Moak and Barnes), 1 Abstain (Commissioner Novakovich). 2:0:1.*

Commissioner Barnes restated the Amended Main Motion:

the Port of Kennewick reimburse Commissioner Barnes in the amount of \$49,282.75 for his legal work associated with his defense.

Further Discussion:

Commissioner Novakovich believes we are subjecting ourselves to a finding, depending on who the auditor is. Additionally, the Commission is saying our policies and procedures do not mean anything and they do not need to be followed in any manner, to arrive at a settlement. Commissioner Novakovich thinks that is something the Commission needs to consider seriously and take a close look at ourselves for doing this. Commissioner Novakovich does not mind paying the legal fees if the Rules of Policy and Procedure are followed the way that they are supposed to be, but he sees this Commission not following our own policies and procedures, and it is really disappointing. Commissioner Novakovich wanted to be on the record that he made those statements.

With no further discussion, Motion carried. All in favor: 2 Ayes (Commissioners Moak and Barnes), 1 Abstain (Commissioner Novakovich). 2:0:1.

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

Commissioners reported on their respective committee meetings.

I. Non-Scheduled Items

Commissioner Barnes hopes we are getting closer to the conclusion of the anonymous citizen complaint as there were several discussions today about allocation of staff resources and time. Commissioner Barnes believes the Port of Kennewick has some work to do to restore our credibility with our jurisdictional partners, tenants, and constituents. We discussed not having time for important projects when the Port spent over two years and over \$400,000 on this issue. We are looking to prioritize and looking for an order of preference to apply our resources. Commissioner Barnes thinks we need to go to work and restore the credibility we lost and finally put an end to this and work to see that it never happens again.

PUBLIC COMMENTS

Ken Hohenberg, 3900 South Green Street, Kennewick. Mr. Hohenberg encouraged everyone to stay focused on the good work that the Port has done in the past. Mr. Hohenberg knows all three Commissioners and understands the passion each of them have when it comes to the important work that the Commission and Port has done. Mr. Hohenberg is encouraged that this will be put behind the Port,



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April 28, 2021

Nick J. Kooiker
Chief Financial Officer/Auditor
Port of Kennewick
350 Clover Island Drive
Kennewick, WA 99336
By email to: nick@portofkennewick.org

Re: Defense of Board Members in Investigative Proceedings

Dear Mr. Kooiker:

The Port of Kennewick ("Port") earlier requested our analysis on the Port's responsibilities with respect to providing certain legal defense to Port Commissioner and current Board Chair Don Barnes, and the payment of attendant attorney fees. By correspondence dated March 22, 2021, we addressed the issue. We concluded that the Port may approve the reimbursement of reasonable attorney fees under the circumstances of that request.

Later, the Port Commissioners asked for our recommendation on the reasonableness of the requested attorney fee reimbursement. By correspondence dated April 12, 2021, we provided our written analysis to the Board. Each of our March 22 and April 12 correspondence is incorporated by this reference.

We briefed the Board in open session at its regular, open meetings of March 23 and April 13, 2021 on these issues, and responded to Board questions. The Board considered and then during the April 13 meeting acted on the request of Commissioner Barnes and approved an amount the Board determined to be reasonable. While the amount approved was higher than our recommendation, it was within the discretion of the Board to determine the reasonableness of the fees incurred.

The Port has subsequently sought our summary analysis for inclusion with its records.

Background

We do not repeat in this letter the extensive discussion in our prior correspondence to the Port on these issues. These issues arose out of "citizen's complaint" filed in March 2019 by Commissioner Skip Novakovich. The complaint implicated the other Commissioners, Thomas Moak and Don Barnes while

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acting in their Port Commissioner capacities. An investigator was appointed, and an investigation into the complaint ensued. The investigator concluded that each of Commissioner Moak and Barnes had violated Port policy.

Commissioner Moak determined to not contest the conclusion of the investigator. Commissioner Barnes appealed from the investigators conclusions, triggering the procedures provided by Port policy. Following a hearing before a retired Washington Superior Court judge, Commissioner Barnes conduct was found not to have violated Port policy. Commissioner Barnes then sought reimbursement for the legal fees associated with his defense against the complaint throughout the investigation and appeal process.

Municipal Defense of Public Officials

State law requires that municipalities, including ports, provide legal counsel at public expense to defend officials in suits arising from the performance of their official duties. RCW 4.96.041 (1). And, in some circumstances, that obligation is mandatory. RCW 4.96.041 (2) states:

If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

The Port carries forward these directives through provisions of the Port Commission Rules of Policy and Procedure (“Rules”). As stated in our March 22, 2021 correspondence, this statutory obligation together with the Port’s Rules, and the review and approval by the Board of Port Commissioners, provides the authority for reimbursement of Commissioner Barnes legal fees arising out of this matter.

Subsequent Analysis

A question arose relating to an assertion by Commissioner Novakovich for reimbursement of certain of his attorney fees. The Port did not deny requested fees to the complaining Commissioner. Commissioner Novakovich withdrew the request before the issue reached the Board. However, the issues relating to Commissioner Novakovich and those relating to Commissioner Barnes are distinct under both state law and Port Rules. Complaining about alleged misconduct is different from defending against such allegations. Commissioner Barnes was defending against an “action, claim, or proceeding ... instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district.” RCW 53.08.208. Commissioner Novakovich was not subject to an “action, claim, or proceeding,” but the initiator of the complaint.

April 28, 2021
Page 3

We also note that the referenced statute does not limit defense to tort claims. The statute does not use the term “tort” claims, or actions for “damages,” only. For example, a port would not deny defense in a case filed under 42 USC Section 1983 against a port commissioner for conduct within the scope and course of port activities - even if that case did not sound in tort (a common cause of action against local government officials).

Conclusion

Based on our prior correspondence and the foregoing, we find no basis to conclude the Port without legal authority to recognize Commissioner Barnes request for reimbursement of legal fees incurred in defense of the Port’s complaint.

We trust the foregoing is responsive to your inquiry.

Sincerely,

FOSTER GARVEY PC



P. Stephen DiJulio
Principal

cc: Lucinda Luke, Port Counsel



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

APRIL 27, 2021 MINUTES

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Commissioner Don Barnes called the Regular Commission Meeting to order at 2:00 p.m. via GoToMeeting Teleconference.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Commissioner Don Barnes, President (via telephone)
Skip Novakovich, Vice-President (via telephone)
Thomas Moak, Secretary (via telephone)

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

PLEDGE OF ALLEGIANCE

Commissioner Barnes led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT

April Connors, 1914 South Arthur Street, Kennewick. Ms. Connors is a real estate agent and recently conversed with Ms. Hanchette regarding The Willows, Columbia Gardens Wine Village, and Vista Field. Ms. Connors expressed her frustration that most of the Port land available for purchase does not have pricing or information available on how to move forward. The Tri-Cities real estate market is the hottest it has ever been, and Ms. Connors feels it is a disservice to the area that the Port has land and is not developing housing or commercial land. Ms. Connors proposed the Port utilize a real estate commission comprised of 2-3 residential agents and 2-3 commercial agents with Ms. Hanchette acting as a functionary agent. This commission could help guide the Port with information about people who are moving to the area and what people are looking for, from residential to commercial property. Ms. Connors believes the Port could use our help right now, because agents see the new population coming in and what people are looking for.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

APRIL 27, 2021 MINUTES

DRAFT

Commissioner Barnes thanked Ms. Connors for her comments and concerns and stated it is important for the Port to proceed in orderly fashion with these ambitious redevelopment efforts at Columbia Gardens and Vista Field. Commissioner Barnes has heard feedback from the public about the slow and deliberate process, but what the Port is trying to accomplish is responsive to the public comments the Port received during the planning process and charrette sessions for Vista Field. The Port is trying to adhere to the Master Plan and the guidance and expertise of DPZ. Commissioner Barnes stated Ms. Connors point is well taken, and he understands that the timing of the process can be frustrating.

Commissioner Novakovich stated the Commission is instructing staff to work on other projects and he thinks we are possibly applying them in the wrong direction instead of getting land ready for sale. Commissioner Novakovich thinks we are overburdening staff with various other projects that are not servicing the public in the way the public wants. Commissioner Novakovich stated the Port has land and believes we need to unburden our staff with projects that are not related to getting the properties listed. Commissioner Novakovich has previously suggested that staff prepare a list of projects they are working on and let the Commission prioritize, based on what best serves the public.

No further comments were made.

CONSENT AGENDA

A. *Approval of Direct Deposit and E-Payments Dated April 19, 2021*

Direct Deposit and E-Payments totaling \$66,334.49

B. *Approval of Warrant Register Dated April 27, 2021*

Expense Fund Voucher Number 102853 through 102888 for a grand total of \$66,647.62

C. *Approval of Regular Commission Meeting Minutes April 13, 2021*

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

EMERGENCY DELEGATION UPDATE

Ms. Hanchette shared that The Willows trailhead parking has been closed this past year due to COVID and historically, the Port has had a lot of vandalism and loitering in the parking lot. Ms. Hanchette stated staff is going to open the trailhead parking next week on a trial basis.

NEW BUSINESS

A. *Request for Letter of Support – The Nineteen by Andrew Klein*

Ms. Hanchette stated Mr. Klein is looking to apply for loan funding through the Hanford Area Economic Investment Fund (HAEFIC) program and is requesting a letter of support from the Port for his funding application. Mr. Klein sited that his development is located on the corner of Auburn and Canal and is in proximity of Port properties and believes it would benefit both developments. Mr. Klein is attending today and available for any Commission questions.

Commissioner Barnes inquired what staff is requesting.

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APRIL 27, 2021 MINUTES

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Ms. Hanchette stated staff is looking for guidance or consensus from the Commission regarding a letter of support from the Port's perspective for Mr. Klein's construction project.

Commissioner Barnes is not sure if a letter of support is appropriate for the Port.

Commissioner Moak stated the proposed development is located a block off Washington Street in downtown Kennewick and the Historic Downtown Kennewick Partnership is a partner of the Port. Additionally, the Port is assisting the City of Kennewick with improvements on Washington Street. Commissioner Moak believes it is appropriate that the Port provides a letter of support to assist Mr. Klein's HAEFIC funding application. Commissioner Moak stated additional housing is very important in our community and he would support a letter prepared by staff in support of this project.

MOTION: Commissioner Novakovich moved staff construct and offer a letter of support for Andrew Klein's project, The Nineteen, in downtown Kennewick; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Columbia Gardens Wine and Artisan Village*

Mr. Arntzen stated recently the Commission and staff discussed the impediments to selling property at Columbia Gardens. Mr. Arntzen prepared a memo (EXHIBIT A) for the Commission in response to Mr. Swanby's questions at the April 13, 2021 Commission Meeting:

- Waterfront Master Plan: potentially adopted by the Commission mid-June;
- Zoning issues: Makers architecture & urban design to prepare design standard guidelines and Mr. Swanby will work with the City of Kennewick regarding City Urban Mixed Use guidelines;
- Lot pricing: appraiser has been contracted and is working on lot pricing;
- Owners association: potential to streamline Spaulding Business Park covenants for Columbia Gardens.

Mr. Arntzen inquired if the Commission had any questions related to selling property at Columbia Gardens.

Commission and staff discussed the potential timeline for marketing properties and the current impediments.

Mr. Arntzen stated he does not have a date for completion, but staff and consultants will work as quickly as possible on the impediments if directed by the Commission.

Commissioner Moak stated the Port is working in the right direction and the decisions that we make will impact the area for the next generation. Commissioner Moak stated there is a reason to be deliberate and get it right. The Commission needs to be good stewards of our properties and we are doing what we need to do, even though it is frustrating, but we are moving forward.

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Commissioner Barnes stated if the Port can move forward with Makers on the design standards, it will move us forward to addressing the impediments and selling lots at Columbia Gardens.

Mr. Arntzen commended Mr. Peterson and Ms. Hanchette, who proposed several suggestions on how to move this project forward.

B. Port Logo Signage

Ms. Bader Inglima stated at the March 9, 2021 Commission Meeting, Commissioner Moak asked about the Port's current logo and intent regarding use of that logo and signage. Commissioner Moak asked if there were plans to remove the old logo and adopt and use the new logo on signage or continue to use the new logo by attrition. Staff had not developed a plan to replace the old logos that appear on existing signage, nor was it identified in the 2021-2022 Budget or Work Plan. Ms. Bader Inglima stated staff has been utilizing the current lighthouse logo on items as things are identified moving forward. Ms. Bader Inglima inquired if the Commission would like staff to begin compiling an inventory of existing signage and a preliminary cost of replacing signage or inventory now with the thought that our next two-year work plan and budget could include funding or begin implementing a phased approach to replacing signage with the new logo.

Commissioner Novakovich stated the Port logo is important, but there are other projects that need to be addressed. Commissioner Novakovich reiterated his request for the Commission to review Port projects and resources and how should they be applied in the best manner to serve the public. Commissioner Novakovich is hearing that the Port needs to develop land for use as the public intended it and stated all of these other projects are important but are they as important as economic development.

Commission Barnes stated it is important to have uniform, consistent signage, but does not see this as a top priority given the high projects on our plate.

Commissioner Moak does not think signage is higher than anything else, but when you look at it as a whole project, we did not finish the marketing project. Commissioner Moak believes the mismatched logos and mismatched design, reflects poorly on the Port and the Commission should approve staff to complete the marketing modernization if we are going to utilize the lighthouse logo. Commissioner Moak believes staff should identify dated signage and staff should formulate a plan to finish the job we started.

Ms. Bader Inglima will add inventory signage to the task list and look at what we can implement in phased approach.

C. 2021 Staff Project Overview

Mr. Arntzen provided the Commission with a brief overview of staff projects for 2021 (EXHIBIT B).

Commission and staff discussed the 2021 projects outlined in Mr. Arntzen's memo, which included a recap of 2020, the Kennewick Waterfront, Vista Field, jurisdictional partners and projects, and general administrative matters.

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

Commissioners reported on their respective committee meetings.

E. Non-Scheduled Items

Ms. Hanchette reported that the property located at Oak Street and Verbena has been vacated and is now ready to market for auction. Ms. Hanchette asked the Commission to review their calendars and let Ms. Scott know when they will not be available in June and July.

Ms. Bader Inglima is preparing to submit to The Willow's project to Senator Murray's office for the potential direct appropriations request. Ms. Bader Inglima spoke with Senator Murray's Central Washington Director, Raquel Crowley, who was very supportive of The Willows, which meets several of their objectives including critical need for housing and supporting and stabilizing marginalized communities. Ms. Crowley requested a Zoom meeting with Port staff, Lona Hammer from the Housing Authority, Matt Sammons from the Columbia Basin Veterans, and Carol Moser to discuss a collaboration to address housing needs for veterans, families and other identified people needing safe, reliable housing. Ms. Bader Inglima requested Mr. Peterson to assist her with the details for the May 14, 2021 appropriations application.

Ms. Bader Inglima reported that The Willows has been identified as a staging and storage area for the US Army Corps of Engineers contractor to use during the 1135 Clover Island Shoreline restoration process. The USACE posted the pre-solicitation notice, and they plan to bid the project after May 6, 2021. Mr. Peterson believes there is a way to work around that being the storage and/or staging area for the 1135 restoration.

Commissioner Moak reported that the Mayor of Benton City seem to be aggressively pursuing the DNR land in the Port of Kennewick jurisdiction and inquired if the City has contracted Port staff.

Ms. Hanchette attended several meetings with Benton City, Red Mountain property owners, and DNR regarding the potential acquisition and Benton City has discussed what they would like to see done with the DNR land.

Commissioner Moak stated Benton City recently dedicated their Uranus Orbital Marker with the SILAS Education and inquired if the Port is still considering locating a Mars Marker at Vista Field.

Ms. Bader Inglima reported that Ms. Carter continues to communicate with the SILAS Education representative. The Port requested some additional time to determine a location for the Mars Marker since there was a potential new vision for the hangars. Staff continues to pursue the art project and would like to incorporate the marker in a well thought out location.

Commissioner Novakovich stated Ms. Connors suggested a real estate advisory committee to assist the Port and he thinks that might be beneficial. Commissioner Novakovich would like to have further discussion regarding this.

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Commissioner Barnes stated per the Port Commission Rules of Policy and Procedure section 3.14: Commission Disclosure of Economic Associations, he does not have an economic relationship that is a conflict with the Port of Kennewick.

PUBLIC COMMENTS

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick reported the Badger Club Planning Committee meets May 6th, 12:00 p.m. to discuss smart development. Mr. Burdick stated during the request for a letter of support for The Nineteen project, the Commission did not inquire as to what kind of development it was. Mr. Burdick googled The Nineteen and found it was luxury apartments. Mr. Burdick does not believe the Port should support this and the community is in need of more low- and moderate-income housing, not luxury apartments.

No further comments were made.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 4:35 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Don Barnes, President

Skip Novakovich, Vice President

Thomas Moak, Secretary

*Chief Financial Officer's Memo was included in the Agenda Packet and is included with these minutes as EXHIBIT C.

Memorandum

To: Port Commission
From: Tim Arntzen, POK CEO
Date: April 21, 2021
Re: Columbia Gardens Development

Recently Ron Swanby of Swampy's BBQ presented the port commission with a memo related to the progress of lot sales at Columbia Gardens. A number of procedural issues were discussed, and the commission directed me to look into Mr. Swanby's questions and provide an update. I will address the issues in the same order as referenced in Mr. Swanby's memo.

1. Waterfront Master Plan. The plan will be presented for Commission consideration in May and depending upon citizen and Commission reaction, could be adopted by the Commission in mid-June. If so, the master plan will not remain an impediment to lot sales at the Gardens.

2. Zoning Issues. Zoning compliance issues are city-generated and would need to be addressed directly between Mr. Swanby and the city. The port does not have design standards for the Gardens at this point, yet these standards would be necessary to guide development as envisioned by the master plan. Larry is working with Makers to complete this task as a supplement to the master plan with the unanticipated budget available because consultant travel was curtailed due to COVID-19. Assuming the commission adopts design standards for the Gardens, then the port planner would work with Mr. Swanby to assure his development would be consistent with these guidelines.

3. Lot Pricing. Amber expects the appraiser to have lot pricing suggestions for commission consideration soon.

4. Owner's Association. Larry is working with a local planner to propose a "streamlined" set of covenants for the Gardens, which would include a dues element, similar to those at Spaulding Business Park.

Depending on the discussion related to this memo, staff would proceed as directed by the commission with the objective of moving forward with creation of marketable lots at the Gardens.

Thank you.

Memorandum

To: Port Commission

From: Tim Arntzen, CEO

Date: April 13, 2021

Re: 2021

With this memo I hope to brief the commission on what your CEO and his staff believe their focus will be this year. It will be interesting to see how accurate my predictions will be. As usual, I anticipate unforeseen circumstances and changing conditions along the way.

2020 RECAP

COVID-19:

2020 was one of the most unusual years I have experienced both personally and professionally. Most of the uncertainty was related to COVID-19. I am confident its effects will continue to impact us throughout 2021 in some fashion. For those of us who did not endure the Great Depression or WWII, perhaps COVID-19 is our major lifetime event. We have experienced lockdowns, rent relief requests, business closures, community illness, loss of cost-effective labor, increased fear and anxiety, a tremendous uptick in recreation and demand for quality public spaces; and a host of other unforeseen impacts resulting from the pandemic and state and federal mandates.

We currently live in a time where the future is very uncertain. Having said this, given our traditionally conservative approach to budgeting, the port has so far navigated the COVID-19 pandemic well. Staff is healthy, and port finances are sound. And we have responded as best we could to the situation. Most of our port tenants are still with us. We are in a position, as a port, to move forward in a constructive manner in 2021 to accomplish many of the things the public has asked us to do. However, it is good to remember that while functioning through the COVID-19 pandemic, operational challenges did substantially impact progress. Meetings, sometimes with multiple agencies, needed to occur remotely in a somewhat disconnected world rather than collectively around the table where all involved would feel a sense of ownership. And project scheduling and coordination was also impacted by illness and/or lack of material availability, and local, state, and federal requirements.

Cyber Event:

In addition to dealing with a global pandemic, the port experienced a cyber-incident which limited access to port computer files for over a month. Both before and after our incident, we learned that similar nefarious cyber-attacks had also targeted and affected schools, hospitals, businesses, media, cities, and state agencies. Indeed, the US government and its agency branches were also hit with significant cyber-attacks. The Port's November 2020 cyber security incident further complicated productivity due to both losing electronic access for a period and then needing to rebuild the computer network. However, having to reestablish the network

while operating was quite challenging, as even the simple task of connecting to a printer had to start from scratch. Although seemingly turned off with the “flick of a switch” the computer network was, of necessity, brought “back to life” in a carefully sequenced manner that rightfully prioritized the finance department first. Thus, planning and development activities basically lost six weeks from mid-November thru December 2020; and the backlog this incident created is still having a ripple effect on activities previously planned to occur January thru March of 2021. The entire impact has yet to be assessed but this ‘incident’ was far greater than a simple inconvenience. Thankfully, we were successful in retrieving nearly all the files and data. What a year!

2021 Look Ahead

Looking forward here is what I see:

KENNEWICK WATERFRONT

Waterfront Master Plan:

The Waterfront Master Plan will be finished in early 2021. It will be interesting to see what emerges from that process. Many elements of the master plan will likely be unfunded, so the commission would need to review the plan’s objectives while keeping budget and funding considerations in mind. Outside of the master plan, the port may look forward to the culmination of more than a decade of administrative and planning work as the 1135 project may be ready to bid, with construction planned for late 2021 and into the winter of 2022. As we have witnessed, however, patience and caution with respect to this project will serve us well.

Traffic Calming:

Included in the master plan is review of Columbia Drive and SR-397 intersection along with Columbia Drive traffic calming concepts, and evolving plans for City of Kennewick Washington Street enhancements. Traffic calming will have a major positive impact on the wine village, making both sides of the street more pedestrian friendly, and creating additional parking and connectivity across Columbia Drive. These are important elements articulated by Professor Gary Black in the Pattern Language document that was developed via an extensive public process.

Wine Village:

Work slated for the wine village is likely to include installation of amenities that benefit our tenants and their guests, such as pond improvements to reduce algae buildup, additional restroom facilities, and shade structures for the wineries. Subject to available staff time, I also anticipate working with the Kiwanis Club and perhaps others to begin planning for the proposed playground area, with anticipated construction (provided feasibility is established and partnering is in place) in 2022.

Sales/Leasing Lead Follow Up:

Staff is receiving some interest in acquiring land for development in the wine village area. However, current port policy directs that staff wait for completion of the Waterfront Master Plan and the establishment of land values prior to moving forward. However, decisions will soon need to be made so that staff can address inquiries related to a potential tenant expansion, and

both a new business and a service group proposal.

Washington Street:

I anticipate the port working with the city on planning and implementation of the Washington Street improvements. As Professor Black noted, the connection of Clover Island to downtown is critical and finally linking the two improvement areas will be a major accomplishment. This connection was first identified in the Bridge to Bridge plan many years ago.

Clover Island Marina:

Staff will continue to provide regular maintenance work and respond as needed to the Clover Island Marina. Staff is already working to install rub rails for the fuel dock and guest moorage areas, and to prepare the marina for a busy recreational boating season. And the marina is nearly full—several months sooner than previous years—which is likely a continued result of the COVID-19 pandemic which prompted the highest volume of people visiting, biking, boating, and recreating on Clover Island in the port's history.

VISTA FIELD

Implementation Team:

Now that the port's New Urbanism town center site has basic infrastructure, with parcels soon ready to be sold, I am implementing the team for Vista Field administration (the Team). The Team will respond to nearly all Vista Field related issues, including fielding all inquiries related to the site; property purchases; information requests; property tours; media information; processing of development proposals for commission consideration; additional planning and site revisions, etc. Some of the tasks in support of creation of the Team, including our internal staff reorganizations and associations with contractors, identified below, have been implemented. Some have not. The Team approach and composition is familiar to the commission, so not a lot of information needs to be added here. It will be significant, however as the Team moves from theoretical to action, getting the team in place and ready will permit the commission to move toward the milestone first land sale at the site. As discussed before, the team will be assembled as follows:

Project Manager. The project needs a "Point Person" to meet with realtors, builders and others expressing interest in the project. As of fall 2020, Amber Hanchette is serving as the point of contact related to Vista Field inquiries. This addition to her duties now requires her to spend more time on Vista Field matters. It also limits the time she can spend pursuing her existing duties which include all phases of port operations and maintenance. Thus, this change in Ms. Hanchette's duties created a need for "backfilling" to cover duties transferred to other qualified individuals within the organization. Specifically, Ms. Hanchette has transferred some of her duties to current Maintenance Supervisor Mike Boehnke. This phased transfer began in fall 2020 and is now nearly complete. In administering her Vista Field related tasks, Ms. Hanchette will utilize the services of other staff and contractors as necessary (planning, marketing, administrative services, etc.) and would not be viewed a stand-alone asset assigned solely to Vista Field. Rather she would be a part of a team as described below.

Maintenance Supervisor. Current Maintenance Supervisor, Michael Boehnke has assumed tasks from Ms. Hanchette, effective mid-February 2021.

Maintenance Technician(s): New Hire or Temporary Workers. Because of the overall increase in the number of port-owned/maintained properties (including Vista Field), and further compounded by the loss of the Coyote Ridge labor crews, I have identified a need to hire an additional entry-level maintenance technician or part-time workers. Even though the port will eventually contract out much of the Vista Field maintenance to a private management firm, utilizing funding from the Property Owners Association (POA), staff will still be needed to provide oversight (i.e., ensuring contract compliance) and perform emergency and priority maintenance matters on site, which is in addition to the generally increasing overall maintenance demands from other port development properties.

Project Planner/Coordinator. Larry Peterson, port Director of Planning and Development would serve as the project planner/coordinator for engagement with the port's long-standing architectural advisors, DPZ, as well as Town Architects and Town Engineers (referenced below) related to the development of Vista Field.

Architectural Advisory Team/Town Architect. Lizz Plater-Zyberk (DPZ Founder) and DPZ partner Senen Antonio are currently under contract to fulfill the role of the advisory team. Vista Field will be one of the few projects worldwide which continues to have a DPZ founder as active team members. The port has been unusually successful in keeping these two highly qualified individuals on the Vista Field team; and the benefit of continuing this partnership through at least buildout of Phase I, and continued counsel from these two leaders is priceless. DPZ will also assist with the Request for Proposals (RFP) process for identification of project interest and evaluation of proposals via the collaborative design process.

Property Owner's Association Managers. The port is currently in a contractual relationship with Ben Floyd (planner) and Doris Goldstein (New Urbanism attorney) to provide for set-up of the property owner's association. This is anticipated to be a multi-year task with initial set up and continued monitoring and implementation advice and assistance (through a portion of Phase I).

Project Manager Assistant. Ms. Hanchette will need part time administrative support. There is potential for these duties to be supported internally by the port office assistant/marina manager, likely two days per week.

Office Support. Additional office support will be needed, and this could be accomplished by internal realignment or an outside part-time person.

Town Engineer(s): Gary Hall, Hall Engineering; Sam Nielson, Parametrix. Gary and Sam will provide engineering support for review of private sector projects and integration into established and planned infrastructure. They will bill on an hourly basis.

Construction Management. I will contract with on-call construction management services on an as-needed basis to assist the port in review of construction proposals and to assist with review of construction progress.

Town Architect Protégé. It has been noted by several outside sources that the port seems to rely too heavily on out-of-town contractors. To offset this, I will consider contracting with a local architect who has the ability and desire to learn “New Urbanism”. This person could sit in as the port progresses through the collaborative design process and obtain some on-the-job training as they assist the Team in processing Vista Field development proposals. In a few years, this person could play a more extensive role as needed and as situations warrant. This person would work as an independent contractor, billing on an hourly basis for time expended on each task assigned.

Vista Field Policy Decisions & Operational Mechanics: Prior to the first land sale, the Port Commission needs to set land pricing; revise the port’s realtor commission policy for land sales; establish concise development guidelines for builders; and put in place a rudimentary administrative structure for the owner’s association. These and other related tasks will be time consuming.

Vista Field Corporate Hangars:

This project consists of identifying potential uses, opportunities, cost impacts and funding avenues. This process will include DPZ participation as well as participation of local architects and engineers. It would also dovetail with the COVID-19 Related Economic Impacts Analysis the commission authorized. Staff have been tasked with considering current and near-future COVID-19 economic impacts to Vista Field as well as analyzing what types of uses, if any, the hangars could facilitate, as well as viability/potential for selling or ground leasing as appropriate. And of course, the funding for any hangar-related project, should the commission choose to move towards implementation, would likely require Rural County Capital Funding (RCCF) and working closely with the county as a funding partner. Other funding partners would also be explored/invited to discussions.

It should be noted that the consulting team will focus on “lean” alternatives for the hangars; including uses that would complement the early stages of Vista Field project vibrancy, and which uses might be viable under current COVID-19 conditions. It is anticipated that future potential uses for the hangars will be identified in 2021, with funding and potential implementation taking place in 2022.

The hangar evaluation was recently placed in the hands of a consultant and it is anticipated that a draft report would be circulated in August. The final report could be presented to the port commission (with remote attendance by the consultant) by fall.

Vista Field Construction Closeout/Right of Way Dedication:

Staff is working to close out the \$5,000,000+ contract with Total Site Services which involves dedication and formal acceptance of most roadways to the City of Kennewick and project acceptance by the Commission. This work is underway.

Perimeter Fencing/Site Clean-Up:

When the question is asked, “when will the streets be opened for public use?” part of the answer is that the port needs time and staffing to perform some critical housekeeping matters related to a Vista Field “unveiling”. Those matters include cleaning weeds and debris from the site and restricting public access to other portions of the site. This means building fences and installing ecology-blocks to keep the public from driving onto areas that are not yet meant for automobile access. In the past, the Coyote Ridge work crews were ideal candidates for such projects – many fences were built by the work crews in The Willows, Cable Greens, the Wine Village and other places. However, because labor crews are restricted due to COVID-19, the port has lost that 16-person-strong maintenance team. As a result, we are extremely short handed when it comes to providing our previous and expected level of property maintenance activities. To offset this, we have hired several temporary, part time workers; and the port will surely benefit from the return of our Coyote Ridge workforce whenever that becomes possible.

In addition to maximize publicity and interest in the site, care should be taken to open the site to traffic in alignment with the RFP process; because having an extended time between the opening and RFPs risks casting a pall on the site that could create negative impressions and raise questions regarding the site’s potential as a vibrant, exciting development opportunity.

A/E, Bid and Construction Management VFDF Building Remodel:

As set forth in the bi-annual budget and work plan, Ms. Hanchette and the maintenance team will be making major repairs and upgrades to the light industrial buildings adjacent to Vista Field.

WEST RICHLANDRacetrack Site:

Because the racetrack property was sold to the City of West Richland, little to no port-led development activity was planned to take place in West Richland during the upcoming year. However, the West Richland mayor has requested that the port provide irrigation water to Alexander Farms for the farm to continue working the land. However, the port is no longer in a landlord/tenant relationship with the farmer. Once the port sold the land to the city, the prerogative to lease to the farmer rested with the city rather than the port. In discussions at the time of the land sale to the city, the port offered additional water rights to the city, however the city only purchased a limited amount of water to assist with the 12 acres for the police station. Therefore, port staff is now reviewing the water rights issue and will brief the commission when more information is available. Port staff could suggest a one-year lease of water rights to the city for the farmer’s use while the larger issue is determined.

OAK STREETVerbena Tenant Matters, Land Auction:

Port Director of Operations and legal counsel have spent countless hours to get the unauthorized holdovers at the Verbena property to vacate the premises. While it appears that the holdovers have no legal right to the property, the Governor’s office has issued directives that protect the holdovers and require additional actions on the part of the port to acquire the property in a condition to sell via the auction process. Thus, this part of the equation has taken

substantially longer than anticipated. Once the land is free from holdovers, it is the intent of the port, by commission directive, to sell the three associated parcels via the auction process. It is anticipated that the property could be ready to auction by late spring, barring additional unforeseen difficulties.

RICHLAND

Center Parkway Follow-Up:

The commission recently committed to paying the city \$400,000 to assist with the multi-jurisdictional issue related to extending Center Parkway to create passage over the railroad tracks. The port's involvement will be focused on establishing the MOU, offering planning advice, updating commissioners, and reviewing and processing payment requests.

Columbia Park Trail Follow-Up:

Several years ago, the commission committed to paying the city \$800,000 to assist with the redevelopment of utilities and roadway in the Island View area. That city-led project is now under construction; and the port's involvement will be focused on offering planning advice, updating commissioners, and reviewing and processing payment requests.

GENERAL MATTERS

COVID-19 Related Economic Impacts Analysis:

I have reviewed the credentials of several economists and have selected a PhD level economist with substantial experience in state, local and regional economies. The consultant is also an esteemed professor at Eastern Washington University.

I anticipate that I will have significant involvement in working this issue with the professor and anticipate it will be a major issue for the port CFO as well. This project consists of the consultant providing a report detailing the past, present and near-term future economic impacts related to the COVID-19 Pandemic. It is understood that no one can accurately predict what the future holds. However, the port CEO hopes that the consultant can offer facts and insights which might provide some realistic prediction related to future actions which may be prudent for this port district to consider as it continues its mission of economic development activities. In short, some analysis related to national, state and regional impacts experienced due to COVID-19 would be appropriate, especially if impacts upon the Port of Kennewick are addressed.

The consulting team may consider the following questions:

- The immediate effects of the virus on local economic activity
- What sectors have been hardest hit, and which are the ones that are thriving?
- State and local government reaction; will income and sales tax revenues plummet? Will demand for rent relief and other programs increase? Will governments cut spending—mostly by cutting employment—or raise taxes?
- Businesses—bankruptcies and lower investment
- Household economic viability
- Ability and willingness to spend

- Vulnerable jobs by sector
- Work from Home (anywhere) Policies and their impact and effectiveness
- What a recovery might look like
- What will determine the shape of the recovery?
- What industries are poised to make the biggest comeback following coronavirus?
- Which industries appear COVID-19 resistant?
- What strategies will help local economies recover more quickly from the COVID-19 pandemic?

For this project, the port CEO has asked the consultant to focus on suggested courses of action the port may undertake to position itself appropriately as it continues its economic development mission.

Together with the economic impact analysis, the port is contracting with a planning firm to offer suggestions for viable reuse/redevelopment/sale/lease of old aircraft hangars at the port's Vista Field town center site. The consultant will familiarize itself with the Vista Hangar Reuse Project and overall Vista Field master plan, to better understand the port's economic development intentions.

The CEO would like to assign the project to the consultant in early spring and it is anticipated that a draft report would be provided by summer 2021, with a final report presented to the port commission (with remote attendance by the consultant) by fall 2021.

Governance Audit:

The commission has directed the CEO to prepare a governance audit, which has been formalized as a goal. The process would be divided into two main parts. First, the creation of a quality scope of work (SOW). Second, formulation of an RFQ/RFP; solicitation and production of the work. A third party (consultant) would provide a SOW which would form the basis of an RFQ/RFP. The RFQ/RFP process is where the firm providing the actual project work is selected.

As part of the SOW, the consultant would interview each commissioner, which would allow each commissioner's objectives to be identified and folded into the SOW. Staff could also be interviewed. Once the SOW is formalized, staff will work up an acceptable RFQ/RFP to publicly solicit consultant firms interested in that work. From there, the commission would review qualifications and select the firm best suited to perform the work described in the SOW. While the commission has directed that I fast-track this process, I believe the port should not go so fast that other important projects suffer, and not so fast that transparency and impartiality are jeopardized.

IT Analysis; Path Forward:

In the wake of the cyber incident, I have directed our IT consultant to conduct a post event review with other cyber security experts to provide the port with critical information we can use to strengthen security into the future. Port staff and our IT contractors have already enacted additional protocols and security redundancies; and this review will further advise us with respect to emerging technologies and constantly-evolving best practices.

COVID-19 Reopening Plan:

I am working with port HR consultant, Ann Allen of Spokane to research and address this issue. Ms. Allen is an attorney and is an adjunct professor at the Gonzaga University School of Law. Ms. Allen will review all past and current port directives as well as the directives of the Governor and health agencies to formulate a best-practice, “Return to Work” reopening plan for the port, with consideration given to both limited and full-return.

Water Rights Analysis:

I have contracted with one of the most respected water rights attorneys in the state who, with the assistance of consultant Ben Floyd and port legal counsel Lucinda Luke, will review the status of port water rights. As Mr. Floyd discussed with commissioners last fall, there is still some uncertainty with respect to port water rights associated with the racetrack. Clarification of this issue will benefit the port’s assessment of its water rights inventory, not only at the Racetrack site, but also at the Verbena site in East Kennewick.

Finance Department Analysis:

The finance department needs additional assistance and Ms. Allen (referenced above) is assisting in evaluating this matter. It is anticipated that her assessment would be completed by mid-summer and implementation, as needed, would follow according to port policy.

Public Records/Information Management/Administrative Systems:

Executive Assistant Ms. Scott is planning to update the 10-year-old public records and information management policy with the assistance of port legal counsel Lucinda Luke for commission consideration. In particular, the process would include revising the process for how requests are received and updating the fee schedule to include fees for electronic documents and media, in accordance with the provisions of RCW 42.56.070 and RCW 42.56.120.

Last year, Lisa Schumacher processed and removed 100 boxes from offsite storage. In 2021, staff will continue working to manage our records inventory to comply with state laws regarding retention and destruction; and begin converting physical files into electronic files in Laserfiche. In addition, Ms. Scott, Ms. Yates, and Ms. Schumacher will work to create Laserfiche workflows and streamline procedures for contract routing, small works & professional rosters, marina and guest moorage forms and applications, expense reports, credit card statements, and facilities work orders.

Marketing Strategies:

Marketing activities will include designing and placing property-specific advertising related to selling parcels at Vista Field as that site is readied; and for other land sales, including auctions, as deemed appropriate by commission. Marketing will also involve refreshing the port website; implementing property-specific signage and wayfinding as appropriate; promoting community engagement for Kennewick’s Historic Waterfront; and collaborating on shared endeavors such as the “shop small”, and “shop downtown” campaigns in partnership with the City of Kennewick and the Historic Downtown Kennewick Partnership. Also planned is a five-year update to the port’s history report (the port history/timeline was last compiled for the 100th anniversary in 2015).

State Auditor's Office (SAO) Outside Audit Review:

The finance department will be preparing for the upcoming SAO audit, which requires many hours of staff time (and commission involvement).

Quarterly Budget Reports to Commission:


Since 2020, a new task for the finance department has been the preparation of quarterly budget reports for presentation to the commission. This task takes approximately 32 hours of the CFO's time (8 hours each report x 4 reports). As stated above, the finance department requires additional staff resources to continue meeting state and federal legal requirements, and GASB and FASB guidance; and to ensure appropriate oversight for the expanded complexity of the growing number of port projects/properties and the additional contracting, leasing, and land sales activities that will be undertaken at Vista Field. There is no implication that quarterly reporting is responsible for the additional staffing need, but recognition is warranted of the continued and growing burden being placed upon the Finance Department as they strive to ensure clean audits.



MEMO

DATE: 4/22/2021

TO: Port Commission

FROM: Nick Kooiker 

RE: Legal Fee Reimbursement (Commissioner Barnes)

At the 4/13/2021 commission meeting, the board approved a motion to reimburse legal fees to Commissioner Barnes in the amount of \$49,282.75.

I am prepared to issue this payment as approved by the Commission, but am waiting to receive the following documents:

- 1) Legal memorandum from Steven DiJulio substantiating payment.
- 2) Unredacted invoices, with spreadsheet summing to the amount listed above.

I emailed Mr. DiJulio on April 14th requesting these items but haven't received them yet. As a result, this check will miss the cut-off date for our 4/27/21 check run. Once these documents are received for invoice support, the payment will be presented for formal board approval at the following meeting.

This is a standard and customary process for processing any payment, and is required by the State Auditor's Office in the Budgeting Accounting & Reporting Systems (BARS) manual.



**PORT of
KENNEWICK**

350 CLOVER ISLAND DRIVE, SUITE 200, KENNEWICK WASHINGTON 99336 509-586-1186 WWW.PORTOFKENNEWICK.ORG

May 11, 2021

The Honorable Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Murray:

The Port of Kennewick is providing this letter as documentation of our support for City of Kennewick's request for appropriations funding to widen and reconstruct the Quinault and Columbia Center Boulevard intersection which helps serve Vista Field.

Port of Kennewick is working to establish Vista Field as a regional town center by redeveloping a former 103-acre airfield with new living options; visitation and entrepreneurial ventures that create new jobs; and civic amenities, entertainment and recreation opportunities in the heart of the Tri-Cities' commercial core. We very much appreciate the City of Kennewick's efforts to enhance the transportation network that serves and supports the Vista Field District. And the improvements proposed for the Quinault and Columbia Center Boulevard corridor will help our community recover as we transition out of the pandemic.

We understand that the City's project is far along in its design development and is one that can move swiftly to construction. As the regional cluster for retail, entertainment, medical, insurance, and financial agencies, continued efforts to improve the transportation network that supports Vista Field as a critical business center are essential.

We applaud the City of Kennewick's appropriations request as a way to protect and improve our community transportation network, and to sustain and improve our regional economy.

Sincerely,

Tim Arntzen
Chief Executive Officer