

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 has been 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 985-074-797

AGENDA

Port of Kennewick

Regular Commission Business Meeting

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

June 8, 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. CONSENT AGENDA

- A. Approval of Direct Deposit and ePayments Dated June 3, 2021
- B. Approval of Warrant Register Dated June 8, 2021
- C. Approval of Regular Commission Meeting Minutes May 25, 2021

VII. EMERGENCY DELEGATION UPDATE (TIM/AMBER)

VIII. PUBLIC HEARING:

- A. Kennewick Historic Waterfront District Master Plan (LARRY)

IX. REPORTS, COMMENTS AND DISCUSSION ITEMS

- A. Governance Audit Update (TIM)
- B. Kennewick Historic Waterfront District Miscellaneous Issues (TIM/AMBER)
 - 1. Commission Direction to Mr. Arntzen and Ms. Mosley (TIM)
 - 2. Private Sector Interest (AMBER)
 - 3. Wayne Bell, Kiwanis Playground (TIM)
- C. Finley Twin Tracks (Pronghorn/JMAC) Property Update; Resolution 2021-11 (AMBER)
- D. Commission Meetings (formal and informal meetings with groups or individuals)
- E. Non-Scheduled Items (LISA /TANA/NICK/LARRY/AMBER/LUCINDA/TIM/TOM/SKIP/DON)

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

XI. ADJOURNMENT

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

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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 Agenda as presented; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

PUBLIC COMMENT

Marie Mosley, 210 West 6th Avenue. Ms. Mosley, City of Kennewick City Manager thanked the Port for many years of working together in partnership to make our community a better place. Examples of this is the work that has been accomplished and is in process at Columbia Gardens, the Washington Street improvements, and the Clover Island shoreline enhancements. All of those contribute to the vision of connecting the waterfront to the downtown and the City is very appreciative of the partnership. The Port and City have also worked together on Vista Field improvements and many other partnerships throughout the community. Ms. Mosley is very appreciative to have such a visionary and forward-thinking partner as the Port. We have tremendous opportunities in the future to continue our effective partnership. As the Port is aware, there is federal funding that we are all applying, or in the process of applying for, through our federal legislatures. The City and the Port have worked together to include letters of support for our top priority projects. In addition to the federal dollars, the community will be receiving significant funding from the American Rescue Plan Act (ARPA), which we are currently

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reviewing regulations to understand the guidelines and restrictions associated with this funding. The City and Port continue to collaborate with our Rural County Capital Funds, as well as public-private development partnership opportunities. The City Council has discussed the importance of continuing to look for ways to leverage our taxpayer investment with other grant opportunities. Similarly, it is important to take a comprehensive approach as we implement a vision for Columbia Gardens, Vista Field, Clover Island, The Willows and other opportunities in our community. For instance, the City knows it is important to incorporate the residential component of our mixed-use development in these areas in order to help spur economic development and make the vision a reality. The Port has been talking to the Kennewick Housing Authority (KHA) about a potential project in The Willows, similarly, the City has been talking with the KHA about a potential project in the location of our 10th Avenue shops area, which may be a more suitable location for a partnership with the KHA. Ms. Mosley requested that the Commission allow the City and Port to work on a comprehensive approach to identify complementary projects that are not competing, and looking at both Kennewick and regionally, which is what the City is doing with the ARPA funding. The City and Port could engage the KHA, the Historic Downtown Kennewick Partnership, and those who have already made investments in these areas and potential private developers. Ms. Mosley believes there is an interest from private developers to invest in The Willows, Cable Greens, Columbia Gardens, and Vista Field. We would have great opportunities and it continues to be important that we are looking together to find the best projects for each of our entities to help implement the vision and compliment the work we have all successfully completed. Ms. Mosley asked the Commission to allow her and Mr. Arntzen to come up with a comprehensive approach, over the next 60 to 90 days, that incorporates the many ideas and visions that are already out there. Ms. Mosley believes we will be able to identify tremendous public-private partnerships that will meet the needs in a collaborative way.

Jeff Gordon, 531 Levy Road, Pasco. Mr. Gordon thanked the Port for investing in the wine industry in the Tri-Cities and stated it has been long overdue and believes it will be successful. Ms. Gordon would like to have highway directional signs installed so the public can get to Columbia Gardens. Mr. Gordon believes Columbia Gardens is not located on a well-traveled road and has discussed installing highway directional signs with the regional manager, who agreed to look at Highway 240 to see how we might be able to do that. The blue and white directional sign would direct the community and visitors to Columbia Gardens and costs approximately \$650-\$700 per year for maintenance. Mr. Gordon stated the department would have placards for each winery, tasting room, or restaurant and additional placards could be installed. Mr. Gordon would like to work with the Port to get these directional signs added.

Commissioner Barnes asked Mr. Arntzen to make note of Mr. Gordon's request.

Mr. Arntzen and Ms. Hanchette will work with Mr. Gordon on this project and report back.

Mr. Gordon would like to put a plan together that would work for the Port and other tenants at Columbia Gardens.

Julia Cunningham, 480 Cherry Blossom Loop, Richland. Ms. Cunningham would like to express her thanks to the Port for their ongoing efforts in and around Clover Island and Downtown Kennewick, which has seen a blossoming in revitalization under the Port's efforts. However, the proposed collaboration with the KHA does not seem to be in concert with her understanding of the Port's Master

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Plan and plans for development property that has been outlined in the Makers report. Ms. Cunningham would like to be sure that the focus remains on sustainability of development and those things we all profess to support as taxpayers and as users of the facilities and improvements that have been made to date.

Cal Coie, 705 South Oklahoma, Kennewick. Mr. Coie is concerned about the Port's plan for The Willows. Mr. Coie stated the Port spent many thousands of dollars with Markers, now and in the past, and he does not understand what the Port's plan is for The Willows. Mr. Coie liked Ms. Mosley's suggestion of the location of 10th Avenue and stated there are other areas in the community and Kennewick to have a facility like that. Mr. Coie stated the idea of having a family-oriented area, where kids can play and people can walk, does not believe it is conceivable to have that type of operation in The Willows.

Dennis Poland, 199864 East Game Farm Rd, Kennewick. Mr. Poland is concerned about Resolution 2021-09 regarding Pronghorn LLC/JMAC's request to forgive or change the requirements of their Purchase and Sale Agreement. Mr. Poland does not think the Commission should do away with the buyback clause because in 2017, Pronghorn promised to bring \$4,000,000 in revenue to the Tri-Cities and he believes they need to follow through. Mr. Poland stated this touches on the Vista Field issue and he thinks Pronghorn should not be allowed to get around the buyback clause. Mr. Poland believes it is a very touchy situation.

Ryan Smith, 2908 South Benton Place, Kennewick. Mr. Smith, Commodore of the Clover Island Yacht Club and resident of east Kennewick for the last 50 years, reiterated Mr. Coie's and Ms. Cunningham's comments regarding The Willows. The Clover Island Yacht Club is very interested in the downtown and Clover Island projects and has been following the Master Plan process. Mr. Smith hopes the Port can stick with the Master Plan and come up with something that will keep the island thriving. Mr. Smith stated a lot of people are not aware of this idea and he believes that the public needs to be made aware before it becomes something that happens. Mr. Smith thinks working with Ms. Mosely and the City is a good idea.

Amber Martin, 2105 North Steptoe Street, Kennewick. Ms. Martin expressed her concern with The Willows as well and thinks there are plenty of other places for a KHA partnership with the City other than close to the river, where we can have private properties instead of discounted. Ms. Martin urged the Commission to reconsider that location in partnership.

No further comments were made.

OLD BUSINESS

A. *Reimbursement of Legal Fees*

Mr. Kooiker stated Port Special Counsel Steve DiJulio of Foster Garvey is on the line to answer any questions the Commission may have regarding Resolution 2021-08. On May 11, 2021 Mr. Kooiker presented Resolution 2021-07 to the Commission for approval; however, the Resolution was not approved, and the Commission directed him to work with Mr. DiJulio regarding the approximately \$1,300 in redacted invoices. Mr. DiJulio reached out to Mr. Comfort on May 12, 2021 and issued a memo to Mr. Kooiker. Mr. DiJulio and Mr. Comfort reviewed the charges

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and came up with different amount based upon their review. Mr. Kooiker stated Mr. DiJulio prepared Resolution 2021-08 for Commission consideration.

Mr. DiJulio summarized each of his previous analysis of the invoices submitted by Commissioner Barnes and Mr. Comfort, and further evaluated the specific redacted invoices recently requested by Mr. Kooiker. Mr. DiJulio reviewed the redacted invoices with Mr. Comfort and based upon our review, some items were appropriate for deletion. The Commission initially approved an amount slightly higher at the April 13, 2021 Regular Commission Meeting and based upon the review of the redacted invoices with Mr. Comfort, Mr. DiJulio recommended the total amount of the reimbursement should be \$48,815.25. Mr. DiJulio inquired if the Commission had any questions regarding the motion or Resolution.

PUBLIC COMMENT

No comments were made.

MOTION: Commissioner Moak moved to approve Resolution 2021-08, authorizing the reimbursement of legal fees to Don Barnes in the amount of \$48,815.25; that such Resolution supersede the prior legal fee reimbursement approved by the Board on April 13, 2021; that all action by Port officers and employees in furtherance hereof is ratified and approved; and further, that the Port Chief Executive Officer and CFO/Auditor are authorized to take all action necessary in furtherance hereof; Commissioner Barnes seconded.

Discussion:

Commissioner Moak confirmed that Mr. DiJulio and Mr. Comfort agreed on the amount regarding the redacted invoices.

Commissioner Barnes stated that is correct.

Commissioner Moak stated it is important to move forward with this Resolution and resolve this issue once and for all. It has hung over this Port for over two years and has taken much too long to be resolved. Commissioner Moak stated we have come to a point where we can resolve this, and he thinks we should. It is time to move on and as Ms. Mosley stated earlier, there are a lot of things to be done, a lot of things we have to do and can do, and Commissioner Moak thinks that is what we need to focus on. One of the best ways to focus on it, is to get things out of the way that are keeping us from focusing on those projects.

Commissioner Novakovich asked if the Commission is comfortable taking this gamble, that the Port's record of 24 years of clean audits may well come to an end. If for no other reason, in reimbursing these fees, Port policy was not followed and perhaps precedence was set when Michael Love's fees were not paid when Commissioners Barnes and Moak voted not to pay them. Commissioner Novakovich believes we are discussing expenditures of public funds that the taxpayers of the Port of Kennewick have a right to know what they are paying for and he believes they have a right to see the complete unredacted invoices attached to the minutes and resolutions that clearly show other moneys being spent. Lastly, Commissioner Novakovich questions if Commissioner Barnes has an ethical and moral right to vote on this Agenda Item. Commissioner

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Novakovich asked this question at last Commission Meeting and did not receive an answer. Commissioner Novakovich pointed out that the Washington State Supreme Court at one time ruled “one cannot vote on his own matter.” Commissioner Novakovich stated he was making these comments for the record.

Commissioner Barnes stated some of the questions Commissioner Novakovich raised would have been more appropriately addressed in March of 2019, when an anonymous citizen complaint was authored by one Commissioner against the other two, the minority against the majority. Which resulted, in Commissioner Barnes view, a colossal waste of taxpayer funds. Commissioner Barnes had no other alternative than to defend himself against these accusations that were completely without basis or merit as determined by a judge. Commissioner Barnes is simply seeking to be made whole, to be reimbursed for the funds that he expended. He would also like to note that during this entire time, Commissioner Barnes has been acting within his duties and obligations and responsibilities as a Port of Kennewick Commissioner. Commissioner Barnes stated not once did he receive an outreach from anyone at the Port, including the Port’s legal counsel, asking if he needed any help or assistance defending himself in dealing with this. Commissioner Barnes would like to see this put to rest and stated he could vote to recuse himself; he could vote to step aside and then he would be happy to see everyone in Superior Court. Commissioner Barnes is sure that would result in much higher fees and much higher costs to the Port, and he is very confident that he would prevail; however, he does not think that would be in the best interest of the Port. Commissioner Barnes would like to try to and move forward and put this behind us. Commissioner Barnes stated despite Commissioner Novakovich’s objections, he will be voting as a Commissioner for the Port of Kennewick to reimburse these legal fees.

Commissioner Moak stated these fees have been agreed to by Special Counsel for the Port and are a result of Commissioner Barnes prevailing over the Port in the hearing related to this complaint. Everything that has been done is in accordance with legal counsel, despite the fact that one Commissioner believes he knows more about the law than legal counsel that has been employed as special counsel by the Port. Commissioner Moak stated there have been several different iterations over the last three meetings to rectify this. Commissioner Moak would rather do it right than right now and stated this is the right thing to do. It is very clear that the payment of legal fees for services rendered for prevailing against the Port in this matter is totally entitled by the law, we employed legal counsel to look at that, and learned legal counsel at that. Commissioner Moak believes we should pay attention to legal counsel rather than try to make our own law.

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

B. Kennewick Historic Waterfront District Master Plan Update

Mr. Peterson presented the draft Master Plan for the Kennewick Historic Waterfront District Master Plan (KHWD) and pointed out several policy related items for Commission discussions.

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Commissioner Novakovich offered his thoughts regarding the policy questions:

- It is essential for the Port to evaluate acquiring property around Columbia Gardens;
- Consider partnering with the Port of Pasco than competing;
- Continue to lease property rather than sell property on Clover Island.

Commissioner Moak offered his comments:

- Evaluate the pros and cons of acquiring each individual property;
- The Port should consider building on the NW corner of Clover Island;
- The intent of the Wine Village was to include an artisan market and does not believe the Port is looking to compete with the Port of Pasco and if the private sector believes there is a market for an artisan market in Kennewick, then the Port can move forward with the opportunity;
- Makers advised creating an interim use in Cable Greens and stated the Port needs to find the right interim use for the property;
- Continue building partnerships;
- Continue leasing property on Clover Island.

Commissioner Barnes offered his comments:

- Evaluate opportunities on a case-by-case basis;
- Does not believe parking in the NW corner of Clover Island is the highest and best use for the property;
- Port outlined intentions for Columbia Gardens early on and hopes the Port can be complementary to the Port of Pasco's development;
- Cable Greens interim use should be interim only and for a short period of time and complementary to Columbia Gardens;
- Continue leasing property on Clover Island.

Additional Commission discussion commenced regarding the Draft Master Plan.

Mr. Peterson stated if the Draft Master Plan is acceptable to the Commission, staff will post the document on the Port website for additional public comment. Additionally, Mr. Peterson will forward Commission comments to Makers for review and further Commission discussion at the June 8, 2021 Commission Meeting. Mr. Peterson outlined the schedule for the Draft Master Plan consideration.

CONSENT AGENDA – A

A. Approval of Direct Deposit and E-Payments Dated May 18, 2021

Direct Deposit and E-Payments totaling \$65,258.71

B. Approval of Warrant Register Dated May 25, 2021

Expense Fund Voucher Number 102925 through 102954 for a grand total of \$76,769.88

C. Approval of Regular Commission Meeting Minutes May 11, 2021

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

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CONSENT AGENDA – B

A. Approval of Warrant Register Dated May 25, 2021

Expense Fund Voucher Number 102955 for a grand total of \$48,815.25

MOTION: *Commissioner Moak moved to approve the Consent Agenda B; Commissioner Barnes seconded. With no further discussion, motion carried. All in favor: 2 Ayes (Commissioners Moak and Barnes), 1 Abstain (Commissioner Novakovich). 2:0:1.*

EMERGENCY DELEGATION UPDATE

Mr. Arntzen and Ms. Hanchette stated there is nothing to report for emergency delegation.

RECESS

Commissioner Barnes called for a recess at 3:24 p.m. for 5 minutes.

Commissioner Barnes reconvened the Regular Commission meeting at 3:30 p.m.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. Senator Cantwell Appropriations Request

Ms. Bader Inglima stated Senator Cantwell's office requested applications for appropriations for federal funding. Ms. Bader Inglima stated based on the previous Port submittals for federal funding, she inquired if the Commission would like the Port to submit applications for the Electrical Vehicle Charging Stations and The Willows Infrastructure. Additionally, the Port provided the City of Kennewick with a letter of support for their appropriations application for Senator Murray's office and requested a letter of support for Senator Cantwell's request. Ms. Bader Inglima inquired if the Commission would like staff to provide a letter of support for their application.

Commissioner Moak believes for consistency, the Port should submit applications for the Electrical Vehicle Charging Stations and The Willows Infrastructure.

Commissioner Novakovich believes the Port should submit an application for the Electrical Vehicle Charging stations. He expressed his concern regarding submitting an application in partnership with the KHA for The Willows infrastructure, based on the public comments today. Commissioner Novakovich believes the Commission should let Mr. Arntzen and Ms. Mosley have time to discuss potential projects and develop a plan.

Commissioner Barnes stated the Commission received comments from the public regarding the concerns of adding mixed income housing at The Willows. Commissioner Barnes inquired if this would be a good opportunity to submit an infrastructure request for The Willows that does not include a partnership with KHA.

Commissioner Novakovich would defer to Ms. Bader Inglima's recommendation on that proposal; however, he believes Commissioner Barnes suggestion is a move in right direction. It shows the City that the Port is a good partner, and we are willing to listen to their concerns and willing to see what we can come up in partnership.

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Commissioner Moak stated it does not make sense to have two separate proposals for the same project and believes it would make more sense to remove The Willows application altogether.

Ms. Bader Inglima is concerned with the appearance of inconsistency with the previous submitted applications; however, she is happy to submit the applications as the Commission directs. Ms. Bader Inglima stated the application does not guarantee funding and the Port was cautioned early on that the strength of the proposal was in the partnership.

Commissioners Moak and Barnes support submitting the same appropriations applications to Senator Cantwell's office that the Port submit previously to Senator Murray's office.

It is the Consensus of the Commission for the CEO to submit a letter of support for the City of Kennewick's appropriations request to Senator Cantwell's office.

B. Finley Twin Tracks (Pronghorn/JMAC) Property Update

Ms. Hanchette outlined the history of the Pronghorn LLC/JMAC 2017 Purchase and Sale Agreement (PSA) and stated Resolution 2019-08 authorized a 24-month extension on the obligation to construct. Ms. Hanchette stated Pronghorn saw some setbacks due to COVID-19; however, they are still interested in developing the property. Ms. Hanchette introduced Mike Johnson, a representative of Pronghorn LLC/JMAC.

Mr. Johnson stated the initial use for the property was a cement batch plant business; however, they were unable to get the materials (sand and aggregate) in order to move forward with the project. Mr. Johnson stated Ms. Hanchette offered up helpful suggestions and Pronghorn determined the site may be better suited for warehousing, which they have previously constructed in North Dakota, Texas, and New Mexico. Mr. Johnson stated the current Conditional Use Permit (CUP) states Pronghorn will install an asphalt facility and they have determined that they can move forward with that because there is a quarry across the freeway in Finley. Mr. Johnson stated Pronghorn is prepared to move forward with the asphalt project and once he asphalt plant is established, request an additional CUP to construct a warehouse facility to assist the asphalt plant, with the intention for future warehousing.

Ms. Hanchette stated the Port's deadline to repurchase the property is September 13, 2022.

Commissioner Barnes inquired if the property was appraised in 2017 and if it came with water rights.

Ms. Hanchette stated the property was appraised and sold at the appraised values since there had not been any industrial comps in the last 25 years. Ms. Hanchette stated the property has water rights to the permitted well only.

Commissioner Moak is not in favor of eliminating the buyback clause but he is in favor of allowing Pronghorn to develop the property as described by Mr. Johnson. Commissioner Moak inquired if the dates of the Resolution could be consistent with the extended development time and the right to repurchase.

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Ms. Hanchette would defer to Ms. Luke regarding the language in the Resolution.

Commissioner Novakovich agrees with Commissioner Moak's comments regarding the extension to construct and the Port's buyback date. Furthermore, Commissioner Novakovich disclosed that Mr. Poland contacted him and discussed this issue.

Ms. Luke stated the Port can extend the dates of the construction and the buyback clause. Ms. Luke stated if Pronghorn is going to alter their business model, the Port will need to amend section 10.1 of the PSA.

Additional Commission and staff discussion commenced regarding the Pronghorn extension to construct.

PUBLIC COMMENT

No comments were made.

It is the Consensus of the Commission to extend the obligation to construct and the Port's buyback date. A formal Resolution approving these changes will be presented at the June 8, 2021 Regular Commission Meeting.

C. Interlocal Agreement with the City of Kennewick re: Washington Street

Mr. Kooiker has been working with Dan Legard, Finance Director for the City of Kennewick and Ms. Luke on the Washington Street Improvements Interlocal Agreement (ILA). The Commission approved the \$500,000 payment at the November 10, 2020 Budget Hearing. Mr. Kooiker stated the City Council approved the ILA last week and inquired if the Commission had any questions.

Ms. Mosley appreciated the Port's partnership and stated when the ILA was brought forward, our Council was appreciative. This is another example of working together and finding creative solutions to make our community a better place. The project on Washington Street is just beginning and Ms. Mosley believes once the project is completed, the community will see the connection of the waterfront to the downtown.

PUBLIC COMMENT

No comments were made.

MOTION: Commissioner Novakovich moved to approve Resolution 2021-10, approving the Interlocal Agreement with the City of Kennewick for the Washington Street improvements and further moves that all action by Port officers and employees in furtherance hereof is ratified and approved; and further that the Port Chief Executive Officer is authorized to take all action and to pay all expenses necessary in furtherance hereof; Commissioner Moak seconded.

Discussion:

Commissioner Novakovich pointed out some inconsistencies in the ILA:

- First line states "when recorded return to" but Section 6a reads "recording is not

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required”;

- *First paragraph states “the City of Kennewick....(hereafter “Kennewick”) whereas Section 4a reads “North of Washington Street from Kennewick to Canal Drive”*

Commissioner Novakovich inquired if Kennewick should read Kennewick Avenue.

Mr. Kooiker inquired if the Port can revisit Commissioner Novakovich’s issues with the City. Generally, Ms. Scott records on behalf of the Port.

Ms. Luke stated the Port can move forward with the ILA and Mr. Kooiker is correct regarding recording and stated the Port has the option to record with the County. The Port could clarify Section 4A; however, the agreement itself specifies location and the parties are understanding the location. Ms. Luke stated it has been reviewed by the City and the terms seem to be sufficient for identifying location.

Commissioner Barnes understood that this document in this form has already been approved by the City of Kennewick City Council.

Ms. Luke stated that is correct.

Commissioner Novakovich does not have an argument; he is just expressing his concern that the Section 4a should read North of Washington Street from Kennewick Avenue to Canal Drive.

Commissioner Barnes stated Commissioner Novakovich’s points are clear and asked for a strong recommendation from legal counsel on how to proceed.

Ms. Luke recommended that the Commission should proceed with the form before them if they are going to vote to approve the ILA.

Commissioner Moak stated the City knows what it needs to do, and he does not have a problem with them moving ahead. This is a good project and Commissioner Moak sees the improvements to the area daily and believes it will be beneficial regardless of an error in the paperwork.

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

D. East Kennewick/Verbena Auction

Ms. Hanchette outlined the next steps for the auction for the properties on Oak Street, Third Avenue, and Verbena. Ms. Hanchette stated the Port will be discussing the opening bid price in Executive Session only. Ms. Hanchette stated Scott Musser, the auctioneer, recommended a starting bid price based on several factors.

Commission and staff discussion ensued regarding the details of the auction process.

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E. Governance Audit Update

Mr. Arntzen updated the Commission on the Governance Audit Update and stated Jim Darling has begun working on the project and reviewing Port policies. Mr. Arntzen indicated that Mr. Darling will be reaching out to individual Commissioners at a later date to discuss the process.

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

Commissioners reported on their respective committee meetings.

G. Non-Scheduled Items

Ms. Bader Inglima reported that the U.S. Corps of Engineers (USACE) has officially gone out to bid for the 1135 Shoreline Restoration Project. For more information on the project bid, please go to the Port website at <https://www.portofkennewick.org/contracting/>

Mr. Arntzen is proud of Ms. Bader Inglima's diligence over the last 13 years in getting the 1135 project to the finish line.

Commissioner Moak stated Ms. Mosley provided a very good suggestion related to working with Mr. Arntzen on projects. When the Port and other jurisdictions were made aware of the Biden Build Back Better program and other federal appropriations requests, each jurisdiction had to compile projects and guess what was needed, within a limited time. Commissioner Moak thinks it is an excellent suggestion for Ms. Mosley and Mr. Arntzen to work together. Commissioner Moak finds it interesting the misconception people have regarding the KHA. The KHA did not know anything about The Willows project until the Port broached the subject. The KHA has not been following the Kennewick Waterfront and it is not something that was ever on their radar, nor is it their project. Commissioner Moak thinks it is a good idea for the Port and City to meet and discuss items such as affordable housing, economic development, and amenities to coordinate community projects.

Commissioner Novakovich complimented Ms. Bader Inglima for her work on the 1135 project coming to fruition. Furthermore, he thanked Ms. Mosely for her suggestion of working with Mr. Arntzen to discuss a better plan for affordable housing for the City of Kennewick.

Commissioner Barnes expressed his gratitude for finally winning approval of reimbursement for the legal fees he expended in defending himself against the claims that a judge found to be unsubstantiated in their entirety. Commissioner Barnes has a larger concern for the Port of Kennewick, because the same policies that were utilized to write this anonymous citizen complaint remain in place; the same individuals that wrote those complaints, the same individuals that processed those complaints, the same individuals that moved those through this long, arduous, challenging, two-year odyssey, that turned out to be, in his view, a waste of taxpayer money, now approaching \$500,000. All of these policies and these individuals are still in place with no change, so Commissioner Barnes questioned how any potential partner of the Port of Kennewick will view this, how do they expect to work with us going forward. There must be uncertainty about whether or not another incident like this could raise its ugly head and go forward. Commissioner Barnes has grave concerns for the Port of Kennewick and its leadership and thinks changes are in order.

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He is willing to work to make those changes, but he thinks there is a strategy to run out the clock because his term expires at the end of the year. Commissioner Barnes wanted to be on the record as saying that what happened with this anonymous citizen complaint was not right; what happened with this anonymous citizen complaint was not in the best interest of the taxpayers and the citizens and the voters of the Port of Kennewick, and he thinks there is change that is in order and he is willing to work to make that change, but he needs help.

PUBLIC COMMENTS

No comments were made.

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

Commissioner Barnes recessed the Regular Commission Meeting at 4:47 p.m. until 5:10 p.m.

Commissioner Barnes convened the meeting into Executive Session at 4:52 p.m. for approximately 20 minutes.

EXECUTIVE SESSION

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

Commissioner Barnes adjourned the Executive Session at 4:58 p.m.

Commissioner Barnes reconvened Regular Commission Meeting at 5:01 p.m.

No action taken by the Commission.

COMMISSION COMMENTS

No comments were made.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 25, 2021 MINUTES

DRAFT

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 5:03 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Don Barnes, President

Skip Novakovich, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION No. 2021-08

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
PORT OF KENNEWICK RELATING TO DEFENSE OF OFFICIALS IN ACTIONS
ARISING FROM THE PERFORMANCE OF THEIR OFFICIAL DUTIES;
AUTHORIZING THE REIMBURSEMENT OF
LEGAL EXPENSES INCURRED BY COMMISSIONER DON BARNES***

WHEREAS, State law requires municipalities, including ports, to provide legal counsel at public expense to defend officials in suits arising from the performance of their official duties. RCW 4.96.041(1). The Port carries forward these directives through provisions of the Port Commission Rules of Policy and Procedure (“Rules”), at Section 18; and

WHEREAS, application to the Port was made by Commissioner Don Barnes for reimbursement of legal fees relating to defense of an action arising from his service as a Port Commissioner; and

WHEREAS, under State law and Port policy, the Board is vested with the discretionary authority to determine the reasonableness of the attorney fee application; and

WHEREAS, the Port sought review of the application by outside legal counsel; and

WHEREAS, the Port requested and received correspondence from outside counsel of March 22, 2021 (Exhibit A), April 12, 2021 (Exhibit B), April 28, 2021 (Exhibit C), and May 12, 2021 (Exhibit D), including review and analysis of detailed billing statements (Exhibit E) submitted in support of the application, relating to and in response to the Port’s review of the application for legal fees; and

WHEREAS, during the April 13, 2021 Commission meeting, the Board of Commissioners (“Board”) approved by motion the reimbursement of legal expenses to Don Barnes in the amount of \$49,282.75 (Exhibit F); 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 (see Washington State BARS Manual section 3.1.4.10); and

WHEREAS, outside counsel has examined the redacted invoice entries and represented and recommended to the Board the reasonableness or rejection of such redacted invoice entries (see Exhibit D); and

WHEREAS, pursuant to Washington State BARS Manual section 3.8.5.30, “The certification by the auditing officer in no manner relieves members of the governing body from the responsibility and liability for each voucher approved; and

PORT OF KENNEWICK
RESOLUTION No. 2021-08
Page 2

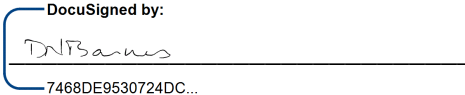
WHEREAS, the Board has reviewed and considered the materials referenced herein, and exercises its discretion consistent therewith.

NOW, THEREFORE, BE IT RESOLVED the Port of Kennewick Commissioners authorize the Port Chief Financial Officer to disburse funds in the amount of \$48,815.25, based upon recommendation by outside counsel and the Board's review of the application.

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 25th day of May 2021.

PORT OF KENNEWICK
BOARD OF COMMISSIONERS

By: 
7468DE9530724DC...
DON BARNES, *President*

By: ABSTAIN

SKIP NOVAKOVICH, *Vice President*

By: 
A35176A2D2CD413...
THOMAS MOAK, *Secretary*



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Direct Phone: 206.447.8971
Fax: 206.749.1927
steve.dijulio@foster.com

March 22, 2021

Lucinda Luke
General Counsel
Port of Kennewick
350 Clover Island Drive
Kennewick, WA 99336
By email to: luke@carneylaw.com

Re: Defense of Board Members in Investigative Proceedings

Dear Ms. Luke:

The Port of Kennewick ("Port") requested our analysis and comment on the Port's rights and responsibilities with respect to providing legal defense to a Port Commissioner, and the payment of attendant attorney fees. We address these issues in greater detail as follows.

Background

The Port operates under Washington law, including Title 53 RCW. The Port is a municipal corporation with only those powers expressly granted by the legislature; those necessarily or fairly implied in or incident to the powers granted; and, those essential to the declared objects and purposes of a Washington port district. *1959-60 AGO No. 51*. The Board of Port Commissioners ("Board") is the Port's legislative authority. In addition to other authority, the Board may employ and delegate authority to a managing official. Under RCW 53.12.270

The commission may delegate to the managing official of a port district such administrative powers and duties of the commission as it may deem proper for the efficient and proper management of port district operations. Any such delegation shall be authorized by appropriate resolution of the commission, which resolution must also establish guidelines and procedures for the managing official to follow.

Consistent with this statutory authority, the Board adopted resolutions delegating powers and duties to the position of Port Executive Director. *See, e.g., Resolution 2018-26.*

March 22, 2021

Page 2

Additionally, among the implied powers of Washington port districts is the authority to employ attorneys, whether as employees or outside counsel. That authority includes the expenditure of funds for necessary attorneys' fees. *1959-60 AGO No. 51* (1951).

Legal Defense of Port Officials

State law requires municipalities, including ports, to 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"), at Section 18.

We understand that a Port commissioner filed a complaint against other commissioners under Port Rules at Section 5. We did not consult with the Port on these issues at the time. And, we have not consulted on the substance of the complaint or subsequent investigation (conducted by other legal counsel) and hearings. We subsequently provide separate counsel to the Port with respect to procedural aspects of the complaint and subsequent investigation, including Public Records Act issues and the Port's production of records relating to the process.

Following a determination of commissioner wrongdoing (a violation of the Port's Rules) by an independent investigator, one commissioner challenged that determination. Under the Port's Rules, a hearing officer (a retired judge) was appointed, and a hearing conducted. The hearing officer concluded that the evidence did not show the commissioner committed sanctionable misconduct. That commissioner has now sought payment of his attorney fees incurred in the investigation and hearing process arising out of the complaint. The Board has not yet approved the payment of those fees. In the following we discuss the Port's obligations and risks associated with these present issues.

Analysis

In our evaluation of these issues, it appears the commissioner may have been subject to an "action or proceeding" as that phrase is used in RCW 4.96.041 (1). However, Rule 5.11 creates an ambiguity by stating:

March 22, 2021
Page 3

The Port shall not indemnify or defend any commissioner charged with misconduct except as provided under Section 18.

The Port's Rules otherwise recognize the defense of claims against a Port officer or employee. The Rules at Section 18 state:

As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of officials and employees of the Port.

Rules at Section 18.1.

We do not see an exception to the obligation to reimburse the commissioner's attorney fees (at the rate that would have been authorized by the Port's General Counsel under Rule 18). Note that an investigation of a complaint regarding a commissioner's conduct may arise internally or externally. There is no basis for a distinction arising because this matter arose internally at the Port.

As a result, the Port's Rules state that approval of defense services requires Board review and approval:

The determination whether an official or employee shall be afforded a defense by the Port under the terms of this chapter shall be made after a determination pursuant to **Section 18** as to whether the official or employee was acting within the scope of his or her duties. The CEO [Executive Director] and Port legal counsel shall prepare a recommendation to the Commission. The decision of the Commission shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter.

Rules, at Section 18.7. We are not aware of any suggestion that the conduct giving rise to the investigation did not relate to Port activities. The Hearing Officer stated: "substantial evidence does not overcome the presumption that Commissioner Barnes acted ethically and in the Port's best interests when he contacted both DPZ and the State Auditor's Office." As a result, it appears that Rules Section 18 applies and the commissioner's attorney fees may be recoverable upon approval by the Board.

Conclusion

The Port's policies may be seen as ambiguous regarding the application of responsibility for assignment of legal counsel to officers and employees and for the payment of attorney fees. However, upon a finding by the Board of the commissioner acting in good faith and within the scope of his duties, the attorney fee claim may be recognized.

We have not considered and do not comment in this analysis on the reasonableness of the requested fees. We do note that the amount of fees sought, and the lack of detail provided, does not

March 22, 2021

Page 4

provide the foundation that courts employ in approving attorney fee awards. For example, the actual narrative of work performed to support the fee claim is considered by courts in attorney fee applications.

Here, that would be a separate analysis (audit) that should be undertaken by the Port if the request for fees be approved by the Board.

We trust the foregoing is responsive to the Port's inquiry. Please advise if we may be of further assistance in this regard.

Sincerely,

FOSTER GARVEY PC

A handwritten signature in blue ink, appearing to read "P. Stephen DiJulio".

P. Stephen DiJulio
Principal



1111 Third Avenue
Suite 3000
Seattle, WA 98101

Main: 206.447.4400
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Direct Phone: 206.447.8971
Fax: 206.749.1927
steve.dijulio@foster.com

April 12, 2021

Board of Port Commissioners
Port of Kennewick
350 Clover Island Drive
Kennewick, WA 99336
By email to: luke@carneylaw.com

Re: Defense of Board Members in Investigative Proceedings and Attorney Fees

Dear Commissioners:

The Port of Kennewick ("Port") earlier requested our analysis on the Port's responsibilities with respect to providing certain legal defense to a Port Commissioner, 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. We did not evaluate or advise on the reasonableness of the requested attorney fee reimbursement. Subsequently, more detailed billings records for the legal services were submitted. The Port asks for our recommendation on the reasonableness of fees.

Background

I have previously defended against and asserted claims for attorney fees in the state's courts, including for actions originating within Benton County (for Benton County and others). I have provided expert attorney fee declarations in support of and in opposition to fee claims. For example, I provided expert testimony for the Port of Friday Harbor that was relied upon by a superior court in approving a specific fee request against that Port.

Standard

We have considered this matter under the standards applied by Washington state courts, the "lodestar" method, to determine the amount of attorney fee awards.

The lodestar method is the starting point for fee calculations. The lodestar fee is determined by multiplying the hours reasonably expended in the litigation by each lawyer's reasonable hourly rate of compensation. *Bowers v. Transamerica Title Ins. Co.*, 100 Wn.2d 581, 597 (1983). The burden of demonstrating that a fee is reasonable is on the fee applicant, who must provide documentation

sufficient “to inform the court, in addition to the number of hours worked, of the type of work performed and the category of attorney who performed the work.” *Scott Fetzer Co. v. Weeks*, 122 Wn.2d 141, 151 (1997) (“*Fetzer II*”) (internal citation and quotations omitted).

Here, the requesting Commissioner accordingly carries the initial burden of proof to demonstrate that the fees requested are reasonable and not excessive.

Also under Washington law, the reasonableness of rates depends on the prevailing market rates in the relevant community given the experience, skill, and reputation of the attorney. *Wilbur v. City of Mount Vernon, Case No. 2:11-cv-01100-RSL (W.D. Wash. April 15, 2014)*. The “relevant community” is typically the forum in which the court sits. *Id.*; see also *Van Skike v. Dir., Office of Workers’ Comp. Programs*, 557 F.3d 1041, 1046 (2009). The Port therefor should evaluate this under Benton County (or, the Tri-Cities) standards.

Review

Initially, we were provided the March 8, 2021 letter request for fees received by the Port from the firm of Miller Mertens and Comfort PLLC and attorney Joel Comfort (collectively, “Comfort”) providing a summary of billings and requesting reimbursement for fees of \$50,729.85. On March 26, 2021, we received detailed and redacted invoices from the firm Rettig Forgette Iller and Bowers LLP and attorney Francis Forgette (collectively, “Forgette”), and from Comfort. The Forgette billings covered the period May 2019 through August 14, 2019, and total \$2,986. The Comfort billings cover the period August 16, 2019 to March 2021, and total \$48,166.75.

There is no explanation for the discrepancy between the requested amount of \$50,729.85 and the total of the Forgette and Comfort billings of \$51,152.75.¹ But as discussed below, we do not find that difference to be material.

Analysis

First we note that the hourly rates for the attorneys (Forgette at \$300; Comfort at \$275) do not appear inconsistent with local attorney fee standards. But in evaluating the hours reasonably expended, we find no explanation for the work of two firms, or the relationship or transition of work between the firms. Or, there was duplicated effort in addressing issues early in the process. Whether this is discounting of the Forgette billings, or the Comfort billings, we conclude the starting point of the analysis is the amount of \$48,166.75 – the total of the Comfort billings provided to us for review.

In our review of the Comfort invoices, there is substantial time shown as spent on requests under the Public Records Act, Chapter 42.56 RCW (“PRA”). Such attorney fees normally are not recoverable under the PRA, absent legal action to enforce the PRA. However, we recognize that PRA requests regularly substitute for the discovery process in contested proceedings involving public agencies. As a

¹ March 2021 total is identified as “work in progress” and is an estimated amount.

result, we have evaluated the Comfort invoices to determine whether the extent of that PRA process is consistent with discovery processes in civil litigation. That is, in relation to the proceeding, was the discovery effort reasonable to address the appeal hearing? Or, was such effort excessive and more related to multiple PRA requests? Our conclusion is that most of that work was directly related to the hearing process.

Additionally, we reviewed the details of the Comfort invoices that show time entries for issues that do not appear reasonably related to or material to the hearing. Those include entries on October 8 (1.4) and October 9 (1.3 of 2.6) relating to Arntzen litigation issues; October 14, 2019 regarding "Bostwick" (.6); October 28-29, 2019 relating to "Arntzen" correspondence (1.3); November 6, 2019 regarding "election results" (.2); February 10, 2020 regarding attorney Michael Love payments (.3); December 7-9, 2020 regarding "Incentive" pay (.8); and, the billings for February 2021 (after the decision on appeal but before the attorney fee request (.9). These combined entries total 6.8 hours, or \$1,870.

The preparation and hearing process corresponds roughly to the period March 2020 through the December 4, 2020 hearing (decision issued December 31, 2020), and the request for legal fees. Invoices for that period total approximately \$23,758, or slightly less than 50% of the total billings. For the time expended previously, which was essentially discovery and PRA interaction, we conclude that of the balance of \$24,408.75, an amount of \$20,000 should be recognized as reasonable for that preliminary work (without further discount for the above-identified, specific entries that do not appear warranted).

Our conclusion is that reasonable attorney fees in this matter should be \$41,888 (\$23,758 - \$1,870 + \$20,000). No Lodestar (extra) amount is requested and none appears warranted.

We trust the foregoing is responsive to the Board's inquiry.

Very truly yours,

FOSTER GARVEY PC



P. Stephen DiJulio
Principal

cc: Lucinda Luke, Port Counsel



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steve.dijulio@foster.com

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

April 28, 2021

Page 2

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

A handwritten signature in blue ink, appearing to read "P. Stephen DiJulio".

P. Stephen DiJulio
Principal

cc: Lucinda Luke, Port Counsel



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steve.dijulio@foster.com

May 12, 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: Further Analysis of Attorney Fee Claim

Dear Mr. Kooiker:

The Port of Kennewick ("Port") Board of Commissioners ("Board") met on May 11, 2021. We understand one of the Board's agenda items was further review and potential approval of the reimbursement of attorney fees incurred by Commissioner Barnes relating to Port matters. This issue has been subject to our prior analysis.

We understand that you advised the Board that you did not believe you had the ability to certify \$1,292.50 of invoices on the billings from Joel Comfort due to redactions on the face of the submitted invoices. You reported that the Board instructed you to reach out to me in an attempt to resolve this issue with Mr. Comfort, the attorney for Commissioner Barnes. As requested, I interviewed Mr. Comfort by telephone calls this date. The invoices that contained certain redactions and for which you sought guidance are as follows: Invoice 148855: \$357.50, Invoice 151947: \$687.50 and Invoice 159056: \$247.50. Based on my interviews of Mr. Comfort and review of the invoices (and an additional redaction), we find and certify the following invoice entries to be supported, or appropriate for modification, as follows

- The invoice entries on September 11 and 12, 2019 are supported. The discussion is reported to be with a Seattle attorney to consider the potential candidate for the Hearing Officer to hear the appeal from the investigations conclusions.
- The invoice entry on March 2, 2020 is unrelated (thereby reduce by \$110.00).
- The invoice entry on March 5, 2020 is partially unrelated (redacted portion of .3 - thereby reduce by \$82.50).

FG:54298520.1

May 12, 2021

Page 2

- The invoice entry on March 6, 2020 is partially unrelated (redacted portion of .2 – thereby reduce by \$55.00).
- The invoice entry on February 10, 2020 (Invoice 158524) is unrelated (thereby reduce by \$110.00).
- The invoice entry on March 19, 2021 is partially unrelated (redacted portion of .4 – thereby reduce by \$110.00).

Based on the foregoing, the additional amount of \$467.50 should be reduced from the attorney fee award. Mr. Comfort has confirmed the above analysis. This reduction is in addition to the amount of reductions previously approved by the Board (\$1,870).

We trust the foregoing is responsive to your inquiry.

Sincerely,

FOSTER GARVEY PC



P. Stephen DiJulio
Principal

cc: Lucinda Luke, Port Counsel

RETTIG FORGETTE ILLER BOWERS, LLP Exhibit E

6725 W. CLEARWATER AVE.
KENNEWICK, WA 99336-1788

509-783-6154

Federal ID No. 91-0988012

ATTORNEYS
DIEHL R. RETTIG 1943-2010
FRANCOIS X. FORGETTE
BRIAN J. ILLER
G. CHARLEY BOWERS

Don Barnes

Statement Date: June 4, 2019
Statement No. 1
Account No. 4819.0000
Page: 1

ACCOUNT - 30 DAYS OVERDUE SHALL BEAR INTEREST OF 1% PER MONTH ON THE UNPAID BALANCE

RE: Port of Kennewick / Vista Field

			HOURS	
05/07/2019	FXF	[REDACTED]	1.00	
05/21/2019	FXF	[REDACTED]	0.30	
05/22/2019	FXF	[REDACTED]	0.10	
05/28/2019	FXF	[REDACTED]	1.50	
05/29/2019	FXF	[REDACTED]	0.50	
	FXF	[REDACTED]	0.25	
	FXF	[REDACTED]	2.00	
05/30/2019	FXF	[REDACTED]	0.40	
		FOR CURRENT SERVICES RENDERED	6.05	1,815.00

TIMEKEEPER	RECAPITULATION	HOURS	HOURLY RATE	TOTAL
Francois X. Forgette		6.05	\$300.00	\$1,815.00

Photocopy charges	1.00
TOTAL EXPENSES THRU 05/31/2019	1.00
TOTAL CURRENT WORK	1,816.00
BALANCE DUE	<u>\$1,816.00</u>

Don Barnes

Port of Kennewick / Vista Field

Statement Date:	06/04/2019
Statement No.	1
Account No.	4819.0000

We now accept *Visa, Mastercard, Discover and American Express*. Please call for additional information.

Credit card payments are not reflected until they clear our bank account.

Payments received after 05/31/19 may appear on your next statement.

Please reference account number on checks to ensure proper credit.

RETTIG FORGETTE ILLER BOWERS, LLP Exhibit E6725 W. CLEARWATER AVE.
KENNEWICK, WA 99336-1788

509-783-6154

Federal ID No. 91-0988012

ATTORNEYS
DIEHL R. RETTIG 1943-2010
FRANCOIS X. FORGETTE
BRIAN J. ILLER
G. CHARLEY BOWERS

Don Barnes

Statement Date: July 3, 2019
Statement No. 2
Account No. 4819.0000
Page: 1

ACCOUNT - 30 DAYS OVERDUE SHALL BEAR INTEREST OF 1% PER MONTH ON THE UNPAID BALANCE

RE: Port of Kennewick / Vista Field

		HOURS	
06/25/2019	FXF		
	FXF	0.50	
		0.10	
	FOR CURRENT SERVICES RENDERED	0.60	180.00

RECAPITULATION			
TIMEKEEPER	HOURS	HOURLY RATE	TOTAL
Francois X. Forgette	0.60	\$300.00	\$180.00

PREVIOUS BALANCE \$1,816.00

TOTAL CURRENT WORK 180.00

06/12/2019 Payment on account. Thank you. -1,816.00

BALANCE DUE \$180.00We now accept *Visa, Mastercard, Discover and American Express*. Please call for additional information.Credit card payments are not reflected until they clear our bank account.
Payments received after 6/30/19 may appear on your next statement.**Please reference account number on checks to ensure proper credit.**

RETTIG FORGETTE ILLER BOWERS, LLP Exhibit E

6725 W. CLEARWATER AVE.
KENNEWICK, WA 99336-1788

509-783-6154

Federal ID No. 91-0988012

ATTORNEYS
DIEHL R. RETTIG 1943-2010
FRANCOIS X. FORGETTE
BRIAN J. ILLER
G. CHARLEY BOWERS

Don Barnes

Statement Date: September 5, 2019
Statement No. 4
Account No. 4819.0000
Page: 1

ACCOUNT - 30 DAYS OVERDUE SHALL BEAR INTEREST OF 1% PER MONTH ON THE UNPAID BALANCE

RE: Port of Kennewick / Vista Field

Effective approximately October 14, 2019, the Law Firm of Rettig Forgette Iller Bowers, LLP, will be moving to 8836 Gage Blvd., Ste #201A, Kennewick, Washington 99336.

Phones, email and office hours will be intermittent from October 1st through October 14th while everything is getting transferred over. Thank you for your patience.

			HOURS	
08/12/2019	FXF	[REDACTED]	0.50	150.00
	FXF	[REDACTED]	1.50	450.00
	FXF	[REDACTED]	1.00	300.00
08/13/2019	FXF	[REDACTED]	0.30	90.00
08/14/2019	FXF	[REDACTED]	0.30	n/c
		FOR CURRENT SERVICES RENDERED	3.30	990.00

RECAPITULATION			
TIMEKEEPER	HOURS	HOURLY RATE	TOTAL
Francois X. Forgette	3.30	\$300.00	\$990.00

TOTAL CURRENT WORK 990.00

BALANCE DUE \$990.00

Don Barnes

Port of Kennewick / Vista Field

Statement Date:	09/05/2019
Statement No.	4
Account No.	4819.0000

PLEASE SEE THE NOTE ABOVE REGARDING OUR UPCOMING MOVE!

Credit card payments are not reflected until they clear our bank account.

Payments received after 8/31/19 may appear on your next statement.

Please reference account number on checks to ensure proper credit.

MILLER MERTENS & COMFORT PLLC
1020 N CENTER PKWY STE B
KENNEWICK WA 99336-7161
PHONE (509) 374-4200 FAX (509) 374-4229
TAX ID#91-1875775

DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 August 30, 2019
 Account No: J19304BARNESM
 Statement No: 147980

PORT OF KENNEWICK; OUR #J19304

Fees

			Rate	Hours	
08/16/2019	JRC	[REDACTED]	275.00	0.30	82.50
08/20/2019	JRC	[REDACTED]			
			275.00	4.50	1,237.50
		For Current Services Rendered		4.80	1,320.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	4.80	\$275.00	\$1,320.00

Total Current Work	1,320.00
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Balance Due	<u>\$1,320.00</u>
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Please Remit	<u>\$1,320.00</u>
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Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Payments received after the 20th are not reflected on this statement. We accept VISA, MasterCard, American Express and Discover.

MILLER MERTENS & COMFORT PLLC
1020 N CENTER PKWY STE B
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PHONE (509) 374-4200 FAX (509) 374-4229
TAX ID#91-1875775

DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 September 30, 2019
 Account No: J19304BARNESM
 Statement No: 148855

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
08/22/2019	JRC	[REDACTED]	275.00	0.90	247.50
08/23/2019	JRC	[REDACTED]	275.00	2.50	687.50
08/24/2019	JRC	[REDACTED]	275.00	0.20	55.00
08/25/2019	JRC	[REDACTED]	275.00	0.20	55.00
08/26/2019	JRC	[REDACTED]	275.00	2.50	687.50
08/27/2019	JRC	[REDACTED]	275.00	2.40	660.00
08/28/2019	JRC	[REDACTED]	275.00	1.90	522.50
08/29/2019	JRC	[REDACTED]	275.00	0.80	220.00
08/30/2019	JRC	[REDACTED]	275.00	0.30	82.50
09/02/2019	JRC	[REDACTED]	275.00	0.40	110.00

DON & CHRISTINE BARNES

Exhibit E
September 30, 2019

Account No: J19304BARNESM

Statement No: 148855

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
09/03/2019	JRC	[REDACTED]			
			275.00	1.10	302.50
09/04/2019	JRC	[REDACTED]			
			275.00	0.20	55.00
09/11/2019	JRC	[REDACTED]			
			275.00	1.10	302.50
09/12/2019	JRC	[REDACTED]			
			275.00	0.20	55.00
09/18/2019	JRC	[REDACTED]			
			275.00	0.40	110.00
09/20/2019	JRC	[REDACTED]			
			275.00	0.50	137.50
		For Current Services Rendered		15.60	4,290.00

Recapitulation				
<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>	
Joel R. Comfort	15.60	\$275.00	\$4,290.00	

Expenses

08/28/2019	Photocopies	0.60
08/28/2019	Postage	0.50
	Total Expenses	1.10
	Total Current Work	4,291.10
	Previous Balance Due	\$1,320.00

Payments

09/10/2019	Payment received - Check #4428 - thank you	-1,320.00
	Balance Due	<u>\$4,291.10</u>
	Please Remit	<u>\$4,291.10</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Payments received after the 20th are not reflected on this statement. We accept VISA, MasterCard, American Express and Discover.

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DON & CHRISTINE BARNES
2616 S KELLOGG ST
KENNEWICK WA 99338-1930

Page: 1
October 31, 2019
Account No: J19304BARNESM
Statement No: 149348

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
09/21/2019	JRC	[REDACTED]	275.00	0.40	110.00
09/23/2019	JRC	[REDACTED]	275.00	0.60	165.00
09/24/2019	JRC	[REDACTED]	275.00	0.10	27.50
09/26/2019	JRC	[REDACTED]	275.00	0.20	55.00
09/27/2019	JRC	[REDACTED]	275.00	0.20	55.00
10/02/2019	JRC	[REDACTED]	275.00	0.20	55.00
10/04/2019	JRC	[REDACTED]	275.00	1.10	302.50
10/08/2019	JRC	[REDACTED]	275.00	1.40	385.00
10/09/2019	JRC	[REDACTED]	275.00	2.60	715.00
10/10/2019	JRC	[REDACTED]	275.00	0.20	55.00
10/11/2019	JRC	[REDACTED]			

DON & CHRISTINE BARNES

Exhibit E October 31, 2019

Account No: J19304BARNESM

Statement No: 149348

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
			275.00	4.70	1,292.50
10/14/2019	JRC		275.00	1.20	330.00
10/17/2019	JRC		275.00	0.30	82.50
10/18/2019	JRC		275.00	1.10	302.50
		For Current Services Rendered		14.30	3,932.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	14.30	\$275.00	\$3,932.50

Total Current Work	3,932.50
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Previous Balance Due	\$4,291.10
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Payments

10/09/2019	Payment received - Check #4433 - thank you	-4,291.10
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Balance Due	<u>\$3,932.50</u>
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Please Remit	<u>\$3,932.50</u>
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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 November 27, 2019
 Account No: J19304BARNESM
 Statement No: 149835

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
10/21/2019	JRC	[REDACTED]			
			275.00	2.20	605.00
10/23/2019	JRC	[REDACTED]			
			275.00	1.00	275.00
10/24/2019	JRC	[REDACTED]			
			275.00	1.30	357.50
10/25/2019	JRC	[REDACTED]			
			275.00	0.50	137.50
10/28/2019	JRC	[REDACTED]			
			275.00	1.10	302.50
10/29/2019	JRC	[REDACTED]			
			275.00	0.20	55.00
10/30/2019	JRC	[REDACTED]			
			275.00	0.50	137.50
10/31/2019	JRC	[REDACTED]			
			275.00	0.60	165.00
11/01/2019	JRC	[REDACTED]			

DON & CHRISTINE BARNES

November 27, 2019

Account No: J19304BARNESM

Statement No: 149835

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
			275.00	0.70	192.50
11/06/2019	JRC		275.00	0.20	55.00
11/07/2019	JRC		275.00	0.10	27.50
11/08/2019	JRC		275.00	0.50	137.50
11/11/2019	JRC		275.00	0.50	137.50
	JRC		275.00	0.50	137.50
11/12/2019	JRC		275.00	0.40	110.00
11/13/2019	JRC		275.00	0.30	82.50
11/15/2019	JRC		275.00	2.80	770.00
		For Current Services Rendered		13.40	3,685.00

Recapitulation				
<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>	
Joel R. Comfort	13.40	\$275.00	\$3,685.00	

Total Current Work	3,685.00
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Previous Balance Due	\$3,932.50
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Payments

11/12/2019	Payment received - Check #4449 - thank you	-3,932.50
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Balance Due	<u>\$3,685.00</u>
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Please Remit	<u>\$3,685.00</u>
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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 December 24, 2019
 Account No: J19304BARNESM
 Statement No: 150500

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
11/26/2019	JRC	[REDACTED]	275.00	1.00	275.00
12/02/2019	JRC	[REDACTED]	275.00	0.50	137.50
12/03/2019	JRC	[REDACTED]	275.00	2.50	687.50
12/04/2019	JRC	[REDACTED]	275.00	0.80	220.00
12/06/2019	JRC	[REDACTED]	275.00	0.20	55.00
12/09/2019	JRC	[REDACTED]	275.00	0.80	220.00
12/11/2019	JRC	[REDACTED]	275.00	0.50	137.50
12/12/2019	JRC	[REDACTED]	275.00	0.50	137.50
12/13/2019	JRC	[REDACTED]	275.00	0.20	55.00
	JRC	[REDACTED]	275.00	2.30	632.50
	JRC	[REDACTED]	275.00	0.40	110.00
12/20/2019	JRC	[REDACTED]	275.00	2.50	687.50
For Current Services Rendered				12.20	3,355.00

DON & CHRISTINE BARNES

Exhibit E
December 24, 2019

Account No: J19304BARNESM

Statement No: 150500

PORT OF KENNEWICK; OUR #J19304

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		12.20	\$275.00	\$3,355.00

Total Current Work	3,355.00
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Previous Balance Due	\$3,685.00
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Payments

12/06/2019	Payment received - Check #4457 - thank you	-3,685.00
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Balance Due	<u>\$3,355.00</u>
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Please Remit	<u>\$3,355.00</u>
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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 January 29, 2020
 Account No: J19304BARNESM
 Statement No: 150972

PORT OF KENNEWICK; OUR #J19304

Fees

			Rate	Hours	
12/30/2019	JRC	[REDACTED]	275.00	0.30	82.50
01/07/2020	JRC	[REDACTED]	275.00	0.10	27.50
01/10/2020	JRC	[REDACTED]	275.00	1.50	412.50
01/13/2020	JRC	[REDACTED]	275.00	0.90	247.50
01/14/2020	JRC	[REDACTED]	275.00	0.40	110.00
01/15/2020	JRC	[REDACTED]	275.00	0.70	192.50
01/16/2020	JRC	[REDACTED]	275.00	2.10	577.50
01/17/2020	JRC	[REDACTED]	275.00	0.30	82.50
01/20/2020	JRC	[REDACTED]	275.00	0.30	82.50
For Current Services Rendered				6.60	1,815.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	6.60	\$275.00	\$1,815.00

DON & CHRISTINE BARNES

Exhibit E January 29, 2020

Account No: J19304BARNESM

Statement No: 150972

PORT OF KENNEWICK; OUR #J19304

Expenses

10/14/2019	Photocopies [REDACTED]	<u>42.75</u>
	Total Expenses	<u>42.75</u>
	Total Current Work	1,857.75
	Previous Balance Due	\$3,355.00

Payments

12/30/2019	Payment received - Check #4467 - thank you	-3,355.00
	Balance Due	<u>\$1,857.75</u>
	Please Remit	<u>\$1,857.75</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 February 28, 2020
 Account No: J19304BARNESM
 Statement No: 151445

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
01/21/2020	JRC	[REDACTED]	275.00	0.10	27.50
01/22/2020	JRC	[REDACTED]	275.00	0.10	27.50
01/24/2020	JRC	[REDACTED]	275.00	0.20	55.00
01/27/2020	JRC	[REDACTED]	275.00	3.60	990.00
01/28/2020	JRC	[REDACTED]	275.00	0.70	192.50
01/29/2020	JRC	[REDACTED]	275.00	1.00	275.00
01/30/2020	JRC	[REDACTED]	275.00	0.20	55.00
01/31/2020	JRC	[REDACTED]	275.00	1.40	385.00
02/05/2020	JRC	[REDACTED]	275.00	0.20	55.00
02/10/2020	JRC	[REDACTED]	275.00	1.90	522.50
	JRC	[REDACTED]	275.00	0.30	82.50
02/11/2020	JRC	[REDACTED]	275.00	0.80	220.00
02/19/2020	JRC	[REDACTED]	275.00	0.10	27.50

DON & CHRISTINE BARNES

February 28, 2020

Account No: J19304BARNESM

Statement No: 151445

PORT OF KENNEWICK; OUR #J19304

	Rate	Hours	
For Current Services Rendered		10.60	2,915.00
Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>
Joel R. Comfort		10.60	\$275.00
			\$2,915.00
Total Current Work			2,915.00
Previous Balance Due			\$1,857.75
<u>Payments</u>			
02/06/2020	Payment received - Check #4478 - thank you		-1,815.00
02/12/2020	Payment received - Check #4479 - thank you		-42.75
	Total Payments		-1,857.75
	Balance Due		<u>\$2,915.00</u>
	Please Remit		<u>\$2,915.00</u>

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 March 23, 2020
 Account No: J19304BARNESM
 Statement No: 151507

PORT OF KENNEWICK; OUR #J19304

Interim Statement

Fees

			Rate	Hours	
02/21/2020	JRC	[REDACTED]	275.00	0.10	27.50
02/24/2020	JRC	[REDACTED]	275.00	0.70	192.50
02/26/2020	JRC	[REDACTED]	275.00	0.20	55.00
02/28/2020	JRC	[REDACTED]	275.00	1.80	495.00
	JRC	[REDACTED]	275.00	1.50	412.50
03/02/2020	JRC	[REDACTED]	275.00	0.40	110.00
03/04/2020	JRC	[REDACTED]	275.00	0.30	82.50
03/05/2020	JRC	[REDACTED]	275.00	0.60	165.00
03/06/2020	JRC	[REDACTED]	275.00	1.50	412.50
03/09/2020	JRC	[REDACTED]	275.00	0.20	55.00
03/20/2020	JRC	[REDACTED]	275.00	1.50	412.50
		For Current Services Rendered		8.80	2,420.00

DON & CHRISTINE BARNES

Exhibit E March 23, 2020

Account No: J19304BARNESM

Statement No: 151507

PORT OF KENNEWICK; OUR #J19304

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		8.80	\$275.00	\$2,420.00

Total Current Work	2,420.00
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Previous Balance Due	\$2,915.00
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Payments

03/13/2020	Payment received - Check #4483 - thank you	-2,915.00
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Balance Due	<u>\$2,420.00</u>
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Please Remit	<u>\$2,420.00</u>
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Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 April 29, 2020
 Account No: J19304BARNESM
 Statement No: 152872

PORT OF KENNEWICK; OUR #J19304

Fees

			Rate	Hours	
03/23/2020	JRC	[REDACTED]	275.00	0.20	55.00
03/24/2020	JRC	[REDACTED]	275.00	0.40	110.00
03/26/2020	JRC	[REDACTED]	275.00	0.60	165.00
	JRC	[REDACTED]	275.00	0.50	137.50
	JRC	[REDACTED]	275.00	0.10	27.50
03/27/2020	JRC	[REDACTED]	275.00	0.10	27.50
03/30/2020	JRC	[REDACTED]	275.00	0.80	220.00
03/31/2020	JRC	[REDACTED]	275.00	0.40	110.00
04/01/2020	JRC	[REDACTED]	275.00	0.20	55.00
04/02/2020	JRC	[REDACTED]	275.00	0.20	55.00
	JRC	[REDACTED]	275.00	0.50	137.50
04/03/2020	JRC	[REDACTED]	275.00	0.40	110.00
04/07/2020	JRC	[REDACTED]	275.00	0.40	110.00
04/13/2020	JRC	[REDACTED]	275.00	0.20	55.00
04/16/2020	JRC	[REDACTED]	275.00	0.10	27.50

DON & CHRISTINE BARNES

Exhibit E April 29, 2020

Account No: J19304BARNESM

Statement No: 152872

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
04/17/2020	JRC	[REDACTED]	275.00	1.20	330.00
04/20/2020	JRC	[REDACTED]	275.00	0.50	137.50
		For Current Services Rendered		6.80	1,870.00

Recapitulation		Hours	Rate	Total
<u>Timekeeper</u>				
Joel R. Comfort		6.80	\$275.00	\$1,870.00

Total Current Work	1,870.00
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Previous Balance Due	\$3,052.50
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Payments

04/03/2020	Payment received - Check #4489 - thank you	-3,052.50
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Balance Due	<u>\$1,870.00</u>
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Please Remit	<u>\$1,870.00</u>
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Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 May 29, 2020
 Account No: J19304BARNESM
 Statement No: 153516

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
04/24/2020	JRC	[REDACTED]	275.00	0.30	82.50
	JRC	[REDACTED]	275.00	0.80	220.00
05/05/2020	JRC	[REDACTED]	275.00	0.20	55.00
05/06/2020	JRC	[REDACTED]	275.00	0.30	82.50
05/07/2020	JRC	[REDACTED]	275.00	1.00	275.00
05/11/2020	JRC	[REDACTED]	275.00	2.20	605.00
05/12/2020	JRC	[REDACTED]	275.00	0.30	82.50
05/14/2020	JRC	[REDACTED]	275.00	1.20	330.00
05/15/2020	JRC	[REDACTED]	275.00	0.40	110.00
05/19/2020	JRC	[REDACTED]	275.00	0.10	27.50
05/20/2020	JRC	[REDACTED]	275.00	0.20	55.00
For Current Services Rendered				7.00	1,925.00

DON & CHRISTINE BARNES

Exhibit E May 29, 2020

Account No: J19304BARNESM

Statement No: 153516

PORT OF KENNEWICK; OUR #J19304

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		7.00	\$275.00	\$1,925.00

Total Current Work	1,925.00
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Previous Balance Due	\$1,870.00
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Payments

05/11/2020	Payment received - Check #4496 - thank you	-1,870.00
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Balance Due	<u>\$1,925.00</u>
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Please Remit	<u>\$1,925.00</u>
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Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 June 25, 2020
 Account No: J19304BARNESM
 Statement No: 154005

PORT OF KENNEWICK; OUR #J19304

Fees

			Rate	Hours	
05/26/2020	JRC	[REDACTED]	275.00	0.20	55.00
	JRC	[REDACTED]	275.00	0.10	27.50
05/27/2020	JRC	[REDACTED]	275.00	0.60	165.00
05/28/2020	JRC	[REDACTED]	275.00	0.10	27.50
05/29/2020	JRC	[REDACTED]	275.00	0.70	192.50
06/01/2020	JRC	[REDACTED]	275.00	0.30	82.50
06/05/2020	JRC	[REDACTED]	275.00	3.20	880.00
06/11/2020	JRC	[REDACTED]	275.00	0.20	55.00
06/18/2020	JRC	[REDACTED]	275.00	0.20	55.00
06/19/2020	JRC	[REDACTED]	275.00	0.50	137.50
		For Current Services Rendered		6.10	1,677.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	6.10	\$275.00	\$1,677.50

Total Current Work 1,677.50

Previous Balance Due \$1,925.00

DON & CHRISTINE BARNES

Exhibit E June 25, 2020

Account No: J19304BARNESM

Statement No: 154005

PORT OF KENNEWICK; OUR #J19304

Payments

06/08/2020	Payment received - Check #4503 - thank you	-1,925.00
	Balance Due	<u>\$1,677.50</u>
	Please Remit	<u>\$1,677.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

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TAX ID#91-1875775

DON & CHRISTINE BARNES
 2616 S KELLOGG ST
 KENNEWICK WA 99338-1930

Page: 1
 July 29, 2020
 Account No: J19304BARNESM
 Statement No: 154497

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>			
			<u>Rate</u>	<u>Hours</u>	
06/24/2020	JRC	[REDACTED]	275.00	0.10	27.50
06/25/2020	JRC	[REDACTED]	275.00	0.50	137.50
07/09/2020	JRC	[REDACTED]	275.00	0.20	55.00
07/16/2020	JRC	[REDACTED]	275.00	0.90	247.50
		For Current Services Rendered		1.70	467.50

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		1.70	\$275.00	\$467.50

Total Current Work 467.50

Previous Balance Due \$1,677.50

		<u>Payments</u>	
07/06/2020	Payment received - Check #4510 - thank you		-1,677.50
	Balance Due		<u>\$467.50</u>
	Please Remit		<u>\$467.50</u>

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 August 28, 2020
 Account No: J19304BARNESM
 Statement No: 155005

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
07/24/2020	JRC	[REDACTED]	275.00	0.10	27.50
08/04/2020	JRC	[REDACTED]	275.00	0.30	82.50
08/05/2020	JRC	[REDACTED]			
		[REDACTED]	275.00	0.70	192.50
08/11/2020	JRC	[REDACTED]	275.00	0.10	27.50
08/13/2020	JRC	[REDACTED]	275.00	0.80	220.00
08/14/2020	JRC	[REDACTED]			
		[REDACTED]	275.00	1.00	275.00
08/17/2020	JRC	[REDACTED]	275.00	0.40	110.00
08/19/2020	JRC	[REDACTED]	275.00	0.60	165.00
For Current Services Rendered				4.00	1,100.00

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		4.00	\$275.00	\$1,100.00

Total Current Work	1,100.00
Previous Balance Due	\$467.50

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

Payments

08/17/2020	Payment received - Check #4519 - thank you	-467.50
	Balance Due	<u>\$1,100.00</u>
	Please Remit	<u>\$1,100.00</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 September 30, 2020
 Account No: J19304BARNESM
 Statement No: 155497

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
08/21/2020	JRC		275.00	0.20
08/25/2020	JRC		275.00	0.20
08/28/2020	JRC		275.00	0.20
09/01/2020	JRC		275.00	0.20
09/03/2020	JRC		275.00	1.50
For Current Services Rendered				2.30
				55.00
				55.00
				55.00
				412.50
				632.50

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		2.30	\$275.00	\$632.50

Total Current Work 632.50

Previous Balance Due \$1,100.00

<u>Payments</u>		
09/03/2020	Payment received - Check #4522 - thank you	-1,100.00
	Balance Due	<u>\$632.50</u>
	Please Remit	<u>\$632.50</u>

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DON & CHRISTINE BARNES
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Page: 1
 October 29, 2020
 Account No: J19304BARNESM
 Statement No: 155955

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
09/29/2020	JRC	[REDACTED]			
			275.00	2.50	687.50
10/02/2020	JRC	[REDACTED]	275.00	0.30	82.50
10/13/2020	JRC	[REDACTED]	275.00	0.40	110.00
10/16/2020	JRC	[REDACTED]	275.00	0.20	55.00
		For Current Services Rendered		3.40	935.00

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		3.40	\$275.00	\$935.00

Total Current Work 935.00

Previous Balance Due \$632.50

Payments

10/14/2020	Payment received - Check #4529 - thank you	-632.50
	Balance Due	<u>\$935.00</u>
	Please Remit	<u>\$935.00</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 December 03, 2020
 Account No: J19304BARNESM
 Statement No: 156405

PORT OF KENNEWICK; OUR #J19304

Interim Statement

			<u>Fees</u>		
			Rate	Hours	
10/27/2020	JRC	[REDACTED]	275.00	0.30	82.50
10/28/2020	JRC	[REDACTED]	275.00	0.70	192.50
11/02/2020	JRC	[REDACTED]	275.00	0.20	55.00
11/03/2020	JRC	[REDACTED]	275.00	2.50	687.50
11/04/2020	JRC	[REDACTED]	275.00	0.10	27.50
11/05/2020	JRC	[REDACTED]	275.00	6.50	1,787.50
11/06/2020	JRC	[REDACTED]	275.00	1.50	412.50
11/08/2020	JRC	[REDACTED]	275.00		
11/09/2020	JRC	[REDACTED]	275.00		
11/10/2020	JRC	[REDACTED]	275.00		
11/11/2020	JRC	[REDACTED]	275.00	0.50	137.50
	JRC	[REDACTED]	275.00		
11/12/2020	JRC	[REDACTED]			

DON & CHRISTINE BARNES

Exhibit E
December 03, 2020Account No: J19304BARNESM
Statement No: 156405

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
			275.00		
11/16/2020	JRC		275.00	2.00	550.00
11/17/2020	JRC		275.00	2.80	770.00
11/18/2020	JRC		275.00	0.80	220.00
11/19/2020	JRC		275.00	5.00	1,375.00
11/20/2020	JRC		275.00	7.00	1,925.00
		For Current Services Rendered		29.90	8,222.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	29.90	\$275.00	\$8,222.50

Total Current Work 8,222.50

Previous Balance Due \$935.00

Payments

11/04/2020 Payment received - Check #5003 - thank you -935.00

Balance Due \$8,222.50Please Remit \$8,222.50

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 December 23, 2020
 Account No: J19304BARNESM
 Statement No: 157124

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
11/23/2020	JRC	[REDACTED]	275.00	1.00	275.00
11/30/2020	JRC	[REDACTED]	275.00	0.20	55.00
12/01/2020	JRC	[REDACTED]	275.00	0.50	137.50
12/03/2020	JRC	[REDACTED]	275.00	8.50	2,337.50
12/04/2020	JRC	[REDACTED]	275.00	5.30	1,457.50
12/07/2020	JRC	[REDACTED]	275.00	0.50	137.50
12/09/2020	JRC	[REDACTED]	275.00	0.30	82.50
For Current Services Rendered				16.30	4,482.50

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		16.30	\$275.00	\$4,482.50

DON & CHRISTINE BARNES

Exhibit E
December 23, 2020

Account No: J19304BARNESM

Statement No: 157124

PORT OF KENNEWICK; OUR #J19304

Total Current Work	4,482.50
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Previous Balance Due	\$7,947.50
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Payments

12/10/2020	Payment received - Check #5017 - thank you	-7,947.50
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Balance Due	<u>\$4,482.50</u>
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Please Remit	<u>\$4,482.50</u>
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Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES
 2616 S KELLOGG ST
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Page: 1
 January 28, 2021
 Account No: J19304BARNESM
 Statement No: 157993

PORT OF KENNEWICK; OUR #J19304

Fees

			Rate	Hours	
12/22/2020	JRC	[REDACTED]	275.00	0.20	55.00
12/24/2020	JRC	[REDACTED]	275.00	0.30	82.50
12/31/2020	JRC	[REDACTED]	275.00	1.40	385.00
01/05/2021	JRC	[REDACTED]	275.00	0.70	192.50
01/06/2021	JRC	[REDACTED]	275.00	0.30	82.50
01/12/2021	JRC	[REDACTED]	275.00	0.40	110.00
		For Current Services Rendered		3.30	907.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	3.30	\$275.00	\$907.50

Total Current Work 907.50

Previous Balance Due \$4,482.50

Payments

12/31/2020 Payment received - Check #5021 - thank you -4,482.50

Balance Due \$907.50

Please Remit \$907.50

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

Resolution 2021-08
Exhibit E
Page: 2
January 28, 2021
Account No: J19304BARNESM
Statement No: 157993

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES
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Page: 1
 March 02, 2021
 Account No: J19304BARNESM
 Statement No: 158524

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
02/03/2021	JRC	[REDACTED]	275.00	0.20
02/09/2021	JRC	[REDACTED]	275.00	0.30
02/10/2021	JRC	[REDACTED]	275.00	0.40
				<u>0.90</u>
		For Current Services Rendered		110.00
				247.50

<u>Timekeeper</u>		Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort			0.90	\$275.00	\$247.50

Total Current Work	247.50
Previous Balance Due	\$907.50

<u>Payments</u>		
02/03/2021	Payment received - Check #5053 - thank you	-907.50
	Balance Due	<u>\$247.50</u>
	Please Remit	<u>\$247.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

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,



AGENDA REPORT

TO: Port Commission

FROM: Larry Peterson, Director of Planning & Development

MEETING DATE: June 8, 2021

AGENDA ITEMS Kennewick Historic Waterfront District (KHWD) Master Plan

I. REFERENCE(S): Kennewick Historic Waterfront District (KHWD) Master Plan, June 4, 2021 Agenda Report

II. FISCAL IMPACT: N/A

III. DISCUSSION: The draft Kennewick Historic Waterfront District (KHWD) master plan for the Port's Clover Island and Columbia Drive properties is intended to identify a vision and direction for the next 10-15 years. As currently crafted this master plan is a road map for the area at the 30,000-foot level which would be used by the Commission to adjudicate the specifics of a particular use and layout at the ground level; when proposals are forwarded. This distinction between the general 30,000-foot view and the ground level specifics is important to remember when discussing the master plan because what is excluded or not addressed due to the general nature of the document may be as or possibly more important than what is included.

At the May 11, 2021 Commission meeting staff and the MAKERS team provided a presentation of the master plan highlights and key principles and then at the May 25, 2021 meeting the draft plan was discussed and six (6) policy ideas impeded in the plan were specifically highlighted for discussion. Following that meeting the Commission directed inviting the public to comment on the draft plan, which resulted in posting of the document on the Port's website, advertising the comment period in numerous locations and formats and even resulted in a front-page article in the Tri-City Herald on June 4, 2021.

The on-line comment period closes at 11:59pm Sunday June 6th, which allows time to compile all the comments received and then share those comments with the Commission on June 8, 2021. Additionally, the public hearing scheduled and advertised for 2:00pm June 8, 2021, will provide the public the more typical opportunity to provide comments directly to the Commission. *{updates to the budget estimates are the only substantive changes between the May 24, 2021 and June 4, 2021 documents}*

V. ACTION REQUESTED OF COMMISSION:

#1) Conduct public hearing and received testimony.

#2) Commission discuss and then direction to staff regarding desired changes to the June 4, 2021 draft document such that Commission approval on June 22, 2021 would be probable.

PORT OF KENNEWICK

HISTORIC WATERFRONT DISTRICT

MASTER PLAN

DRAFT 06.04.2021



ACKNOWLEDGMENTS

PORT OF KENNEWICK

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Figure 1. Clover Island Yacht Club marina

INTRODUCTION



Figure 2. Restored shoreline and walkway leading to the Clover Island lighthouse

OVERVIEW & PURPOSE

The Port of Kennewick (Port) developed the Clover Island Master Plan in 2005, which intended to guide transformation of the area into a showcase river-shore development. With the plan as their guide, the Port:

- Improved the marina and boat launch
- Developed two small mixed-use office, retail, and community buildings with the Clover Island Yacht Club and Port as anchor tenants
- Completed western shoreline restoration and with Army Corps of Engineers support, is in the process of restoring the northern shoreline
- Added a signature gateway, completed public space enhancements (utilities, sidewalks, lighting) to the central roadway to enhance non-motorized usage, and installed much of the waterfront esplanade
- Added the iconic lighthouse attraction and plaza
- Installed art and landscaping highlighting local history and culture throughout the island

Though many improvements have been made, it has yet to yield the private mixed-use investment envisioned by the 2005 master plan. As a result, the Port recognized that integrating the surrounding area into a cohesive district will be critical to leverage their investments on Clover Island, improve the vitality and economic performance of the surrounding area, and better connect this unique waterfront district to downtown Kennewick. In response, the Port purchased and began improving properties along Columbia Drive, and initiated this new master plan which intends to:

- Unify the area between Columbia Drive and Clover Island as the historic waterfront district
- Convey a community-driven vision and desired amenities, connections, and development
- Develop a strategy to create a thriving area for residents and visitors
- Prioritize the next 15-20 years of investments to help realize the greater district vision



PLAN ORGANIZATION

This plan begins by introducing the project and reviewing the planning context. It then summarizes key findings and analysis, including community feedback, noting how this insight drove plan development. The recommendations section summarizes investments by location and includes a plan for phased implementation. The plan concludes with design guidelines that intend to create a cohesive district-wide look and feel.

PROCESS

A consultant team led by MAKERS prepared this plan in partnership with the Port of Kennewick and the community. ECONorthwest provided economic analysis and Parametrix provided transportation context.

It should be noted that this plan was developed during an unprecedented world-wide pandemic. As public engagement was crucial to development plan recommendations, the team responded to the COVID context by leading innovative virtual outreach activities. This process and its outcomes are covered in the Key Findings & Analysis chapter as well as Appendix B - Public Engagement Feedback.

The team developed the plan in three phases:

ASSESS NEEDS

The project team reviewed existing information, interviewed key stakeholders, held discussions with groups of key community members (see Project Stakeholders on page 11), and conducted a virtual open house with the public to understand district conditions and opportunities.

EVALUATE OPPORTUNITIES

Working with Port staff, the team created and evaluated development concepts that addressed priority areas. The team shared two alternative concepts in an interactive virtual open house, and then incorporated feedback into draft recommendations.

PRIORITIZE INVESTMENTS

The draft concept was presented in a final virtual open house and the public provided feedback through an online survey. The project team worked with the Port to respond to suggestions, developed a phasing and implementation schedule, and highlighted partnership opportunities and strategies for near-term activation.

REGIONAL CONTEXT

Kennewick Washington's historic waterfront district has an opportunity to play a significant role in meeting the needs for increased public services and amenities in the region. Historically an agricultural area situated at the confluence of the Yakima, Snake, and Columbia rivers, the region is home to a growing high-tech industry largely related to Pacific Northwest National Labs and clean-up efforts of the decommissioned Hanford nuclear production complex.

The Tri-Cities (Richland, Kennewick, and Pasco) anticipates continued growth in population tied to a rising number of retirees and services associated with that population. If trends continue, nearly one-fifth of the Tri-Cities population would be older adults by 2030¹.

HISTORIC WATERFRONT DISTRICT²

Originally part of a natural sedimentary island system used by Native American tribes and early settlers, early commercial use of Clover Island included a barge building site. Subsequently, a portion of the originally 162-acre island was used as fill material to create a smaller footprint remaining above the slack water created by completion of McNary Dam in 1954. Additional fill was added to the island's east end in the 1960s. Today, Clover Island is 16 acres in size.

A constructed levee enclosed part of the original shoreline adjacent to Clover Island and created the retention basin known as Duffy's Pond.

Today, greater Kennewick has transitioned from an industrial focus to a residential community. Just one mile south of Clover Island, historic downtown Kennewick is a center for retail activities, with the auto-oriented commercial and industrial Columbia Drive corridor and the railroad in between.

This plan seeks to unite Clover Island and the adjacent inland area as the historic waterfront district and support the region's unique history, character, and evolution.

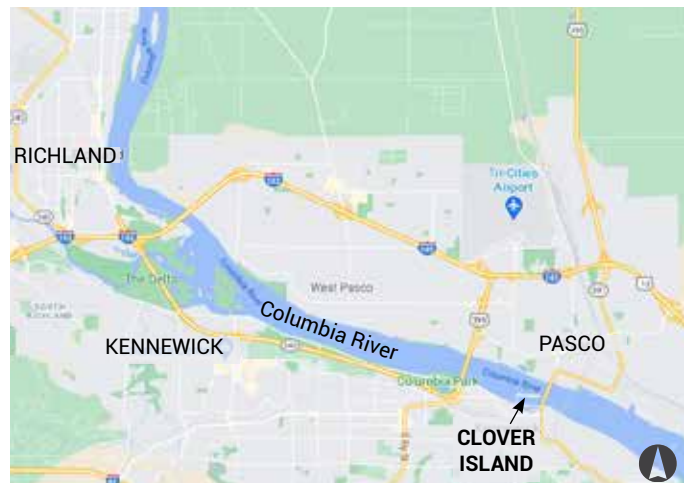


Figure 3. Regional context map (Source: Google Map)

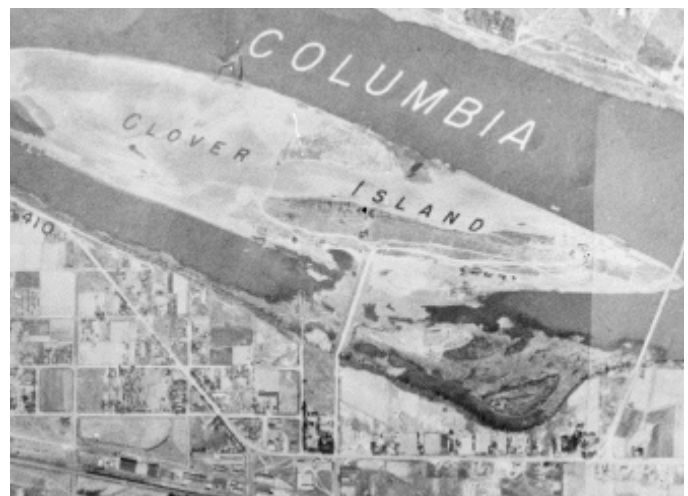


Figure 4. Former footprint of Clover Island and east Kennewick, ca 1942 (Source: Port of Kennewick)



Figure 5. East Kennewick (Source: Google Map)

¹ "The Tri-Cities' Graying Population Will Grow Over Next Decade", Tri-Cities Area Journal of Business, February 2021

² Port of Kennewick

PROJECT ORIENTATION

This plan is intended to convey a community-driven vision and guide development for Clover Island and Port-owned properties within the historic waterfront district. The graphic below indicates the properties owned by the Port included within this plan¹.

CLOVER ISLAND

The Port owns most of Clover Island aside from the U.S. Coast Guard's Aids to Navigation Team Kennewick station (Coast Guard Station). The three sections of Clover Island are currently used in the following manner:

- **Clover Island West** includes the Clover Island Yacht Club and marina, the lighthouse plaza, a boat launch and open gravel parking area, and the Clover Island Riverwalk
- **Clover Island Central** includes the Port offices, Ice Harbor Brewery and Cedars restaurants, and a pocket park known as The Gathering Place
- **Clover Island East** includes the Coast Guard station, Clover Island Inn, and a temporary event space used to host a summer concert series

COLUMBIA DRIVE

The Port-owned parcels along Columbia Drive are grouped into three properties:

- **The Willows** is primarily undeveloped open space that includes the Veterans Memorial Christmas Tree
- **Columbia Gardens Urban Wine & Artisan Village** includes wineries, tasting rooms, and a food truck plaza
- **Cable Greens** consists primarily of undeveloped open space

¹ Note, this plan focuses on the Port's "upland" assets due to the significant technical, environmental, and financial complexities of in-water development.



Figure 6. Port-owned property in Kennewick's historic waterfront district



Figure 7. Lighthouse Plaza (Source: Port of Kennewick)



Figure 8. Building with Port offices and Ice Harbor Brewing Company



Figure 9. Clover Island Inn



Figure 10. Undeveloped land at The Willows (Source: Port of Kennewick)



Figure 11. Food truck plaza at Columbia Gardens (Source: Port of Kennewick)



Figure 12. Trail around Duffy's Pond



Figure 13. Food Truck Plaza at Columbia Gardens (Source: Kim Fetrow Photography)

KEY FINDINGS & ANALYSIS

Community feedback, economic analysis, and urban design principles were the three main drivers that shaped this master plan.

Findings from the community engagement process described on page 12 informed this plan's vision and recommendations. Though traditional in-person outreach was curtailed by the COVID-19 pandemic, the team leveraged virtual tools to connect to hundreds of stakeholders and were inspired by thoughtful suggestions and ideas contributed by the community.

During the needs assessment phase, MAKERS held virtual discussions with over 50 stakeholders and focused on topics ranging from local culture, desired amenities, and hopes for this changing district.

An analysis of the market demand for different types of development further guided the recommendations.

PROJECT STAKEHOLDERS

Port Commissioners and Staff
City of Kennewick Staff and Elected Officials
Benton County
Ben-Franklin Transit
Historic Downtown Kennewick Association
Tri-City Regional Chamber of Commerce
Hispanic Chamber of Commerce
Columbia Basin College
U.S. Coast Guard
U.S. Army Corps of Engineers
Local Businesses, Developers, and Architects
Tourism and Historical Organizations
Community Recreation Groups
Engaged Community Members

COMMUNITY PRIORITIES

The community values this area's connection to nature and water and desires more amenities and activities that focus on the area's rich history and culture.

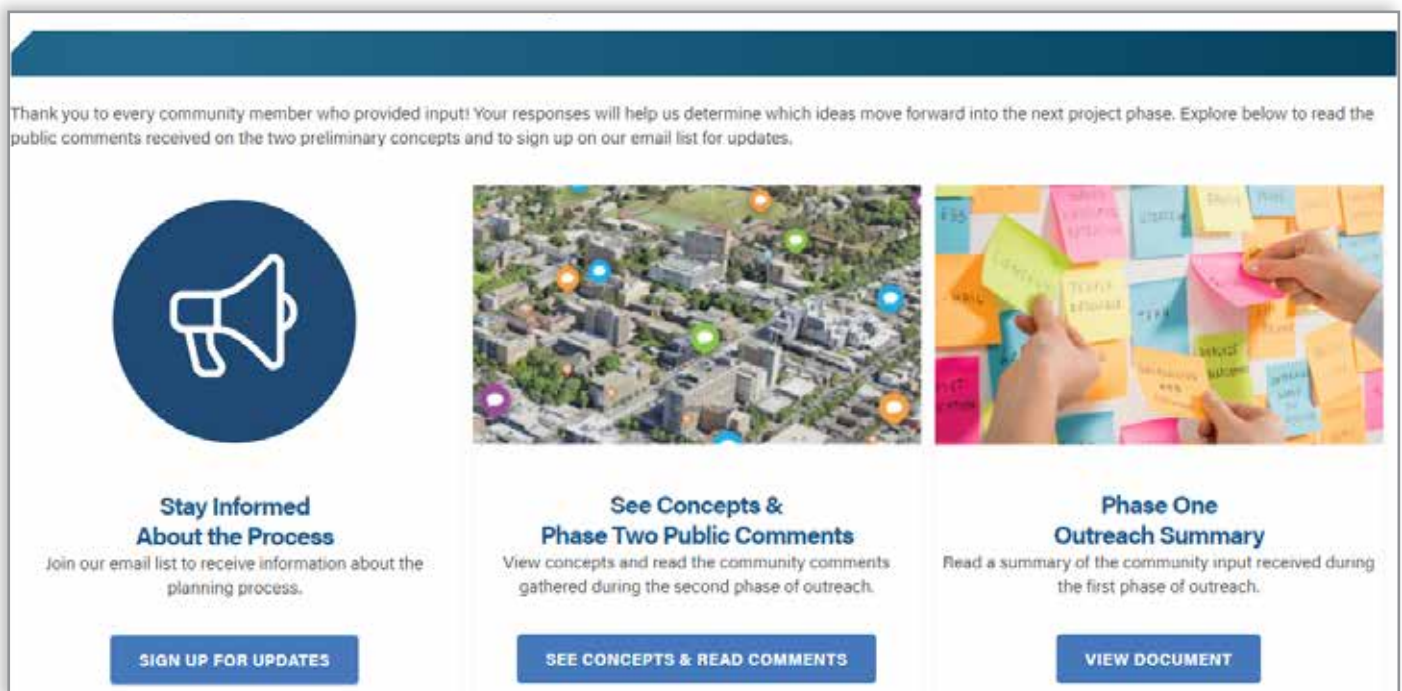


Figure 14. Example community engagement tools used in project outreach (Source: Port of Kennewick)

FAST FACTS

2,365 unique website visitors

168 comments

137 survey responses



Figure 15. Open house #1 map activity showing location-based feedback

OPEN HOUSES

MAKERS hosted three virtual open houses to support plan development. The first asked the community about the area's strengths, weaknesses, and potential. Results showed the community wants an activated district with a variety of amenities for people to recreate, gather, and celebrate and support local culture. The community also expressed concern about the aesthetics of some existing development, such as the Clover Island Inn and nearby residences, limiting development potential. Findings helped to develop preliminary plan concepts for further consideration.

In the second open house, the community provided feedback on two alternative concepts for the district. The first concept focused on creating a new district-wide residential community and the second concept created a local tourism destination rich with amenities and activities.

The community prioritized:

- **Activation:** lively public spaces with amenities
- **Access:** improved boardwalk at Duffy's Pond and trails throughout the district
- **Amenities:** formal performance area and artisan market
- **Residential:** small scale and attractive



Figure 16. Concept B featured in the second open house focused on creating an amenity-rich destination

The community showed interest in Duffy's Pond as a local oasis, waterfowl habitat, and aesthetically defining feature of the district, though it requires ecological improvements to fully integrate as a community amenity.

The community also expressed concerns about residential development that would block views, lack vitality, and be too dense for the area. The planning team incorporated this feedback into plan revisions.

The third open house presented the draft plan to the public. Feedback indicated the public remains concerned about residential development and a potential lack of parking in the district. Responses also showed overwhelming support for the plan, noting proposed amenities would benefit the area. Maintaining access to the water and viewpoints and preserving this area's natural habitat remained top community priorities.



Figure 17. Excerpted draft recommendations as summarized for the final open house



Figure 18. Highlighting the area's unique walkable waterfront will be key to the district's success (Source: Kim Fetrow Photography)

HORIZONTAL VS. VERTICAL MIXED-USE

Vertical mixed-use development typically has apartments or condominiums stacked on top commercial development. Horizontal mixed-use development places the two alongside each other, as seen in the picture below.



Figure 19. Example of horizontal mixed use with retail next to medium density residential

ECONOMIC ANALYSIS

Much of the envisioned district development will rely on private sector investment. An economic analysis helped ensure plan recommendations are likely to be economically feasible for private sector partners. This section summarizes major findings from the analysis.

FINDINGS

- Emphasize a **balance of uses, activated public spaces, and strong circulation network** throughout, especially to connect the Willows to Columbia Gardens.
- Consider **medium density residential** as the most economically viable use in the near term, a potential key source of revenue generation, and an activity anchor for the district. **Higher density residential** is more costly to construct and potentially slower to sell or lease.
- Highlight the **unique, walkable, dynamic waterfront location** and consider demographic trends to guide marketing efforts.
- Begin by pursuing **"horizontal" mixed use with medium density residential** near retail development. "Vertical" mixed use is more expensive, complex, and harder to finance.
- Consider the development of a **boutique hotel** as not likely viable in the near term (2022- 2026).

URBAN DESIGN PRINCIPLES

Plan recommendations consider the Port of Kennewick's 2015 Vista Field Project Pattern Language study and incorporate the following urban design principles:

- Provide multiple points of access and egress.
- Create distinct character in each "node" (see page 17) to help people locate where they are within the district.
- Add smaller articulated points of interest on trails to encourage awareness and heighten expectation.
- Cluster a variety of attractions to increase walkability and encourage visitors to spend more time in the district.
- Incorporate design elements inspired by regional qualities and contexts.



Figure 20. Community input showed interest in more variety of activities for all ages and abilities

FEEDBACK IN ACTION

The team considered community feedback, economic analysis findings, and the urban design principles summarized above to develop the vision for the district and plan recommendations. Recommendations fall into the following three areas of focus.

AN ACTIVE DISTRICT

The community desires increased activities and amenities. The plan fosters development of a variety of dining, shopping, and equipment rentals, provides several event spaces, and encourages programming diverse, welcoming, and year-round activities throughout the district.

RECREATION

Plan recommendations reflect the demand for increased recreation opportunities in the area. Completed trails, open spaces, and play areas will connect the district and provide space for users to enjoy the river and rich natural environment.

A PLACE TO CALL HOME

The plan includes residential development as a key revenue generator that can help the Port fund the desired amenities and public spaces. Residential development will also support the district's commercial business activity and increase the feeling of vibrancy and safety. At the same time, the plan reflects community feedback by limiting the scale of residential development and ensuring it is included in a context that welcomes visitors and retains public access to waterfront trails, views, and amenities.

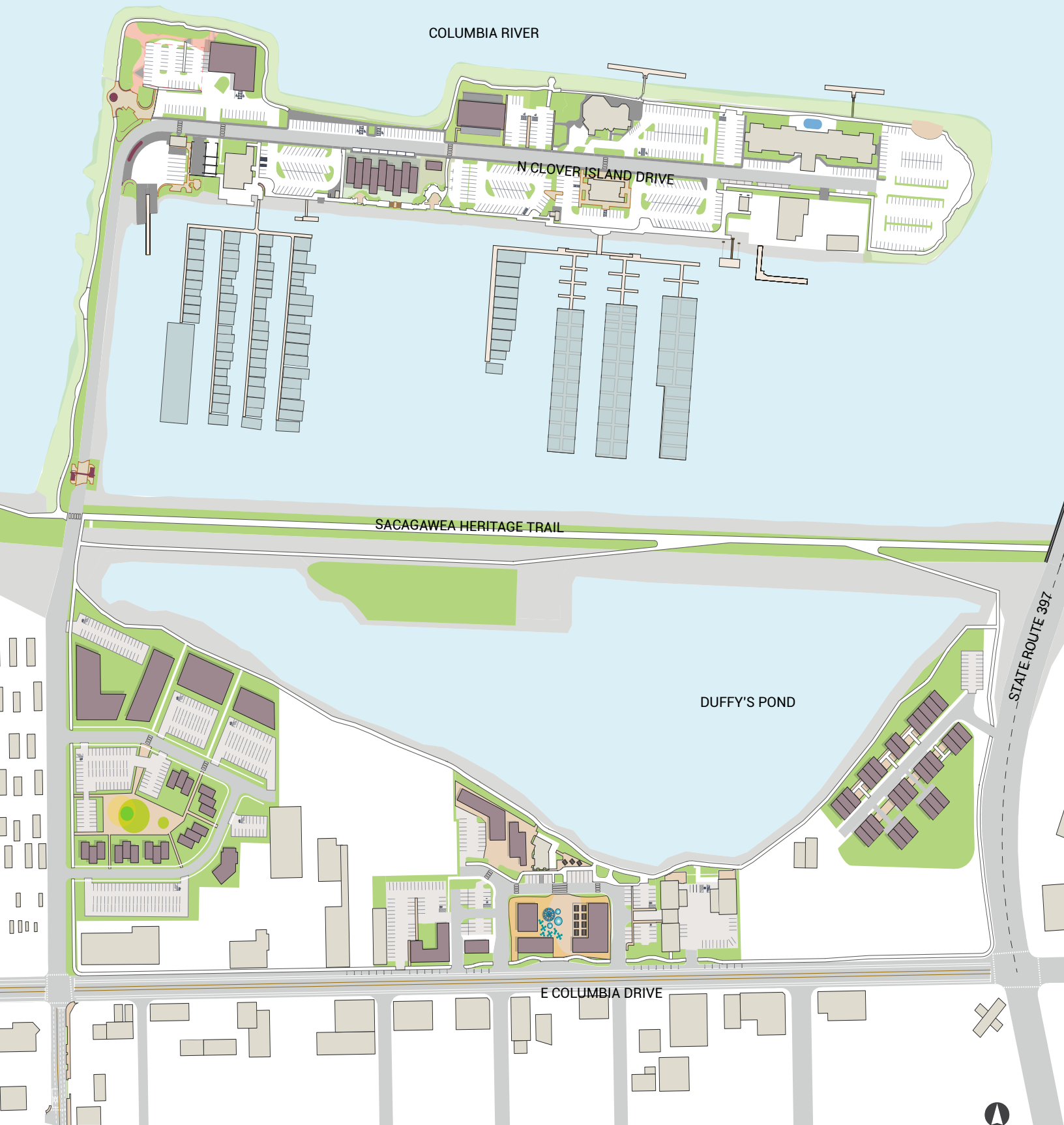


Figure 21. Preferred concept illustration

PLAN OVERVIEW



Figure 22. District nodes

This section outlines recommended actions that will help achieve the community's vision for the historic waterfront district and attract complementary investments from district property owners, business owners, tenants, and developers. It first presents a checklist designed to assist the Port staff and commission in using the master plan to guide district development. It then summarizes the vision for each district node across the following three categories:

- An Active District
- Recreation
- A Place to Call Home

Site plans and sketches in each section summarize and illustrate recommendations to achieve the vision. Together, these recommendations will create a unified and attractive district that is an enjoyable destination for visitors, safe and comfortable place for residents, and support economic recovery, growth, and vitality.

Please note, though specific private development types are described and illustrated, economic conditions and partnership opportunities are evolving and difficult to predict with certainty. Recommendations described in this section are intended to clarify the vision for each node but provide the Port flexibility to evolve with market conditions and respond to opportunities that arise.

DISTRICT-WIDE RECOMMENDATIONS

In addition to the node-specific recommendations that follow, the Port should implement the district-wide actions listed below.

- Use design guidelines to create a cohesive district identity (see "Design Guidelines" on page 41).
- Support the City's efforts to improve the pedestrian and bicycle experience on Washington Street and Columbia Drive. Work with the City to enhance connections to historic downtown Kennewick.
- Evaluate acquiring additional land as opportunities arise.
- Increase the ability for the community to connect with water on site.
- Improve and protect Duffy's Pond ecology and function as a key district amenity.
- Retain ownership of Clover Island as a distinct environment and special community asset.
- Complete Clover Island shoreline enhancements in partnership with the United States Army Corps of Engineers (USACE).
- Pursue private development that contributes to achieving the community's vision and generates revenue to support amenities, economic recovery activities, and year-round event programming.

HOW TO USE THIS PLAN

This master plan is intended as a tool to guide development of the district according to the community-driven vision. To that end, recommendations have been translated into a checklist to help the Port employ master plan principles to weigh options and make decisions around district development.

The following questions are intended to guide Port review of development proposals, improvement design, parcel marketing, and event programming selection. They can function to evaluate a single action or as a framework to rank competing ideas. The checklist is divided into overall and site-specific considerations.

OVERALL

How well does the proposal:

- ☐ Bring people to the district to activate spaces, patronize businesses, and increase the feeling of safety, vibrancy, and comfort?
- ☐ Support economic development and local businesses, post-COVID economic recovery, and long-term economic vitality?
- ☐ Generate revenue to support Port installation, maintenance, and operation of district amenities?

- ☐ Comply with district design standards and embody development of a scale and type consistent with the master plan vision?
- ☐ Increase access to district trails, viewpoints, amenities, and recreation opportunities?
- ☐ Protect or enhance publicly accessible riverfront and Duffy's pond views?
- ☐ Showcase local art and culture to build a unique sense of place
- ☐ Provide adequate parking for the proposed use?



Figure 23. Supporting local businesses is critical to the district's vitality



Figure 24. The district's natural beauty is a vital community asset (Source: Kim Fetrow Photography)

SITE-SPECIFIC

If located on **Clover Island West**, how well does the proposal:

- ☐ Relate to and enhance the iconic lighthouse and civic space?
- ☐ Support event programming to increase district visibility, economic activity, and build interest and momentum around plan implementation?

If located on **Clover Island Central**, how well does the proposal:

- ☐ Expand island dining options and complement existing businesses?
- ☐ Offer boating, recreational, event-oriented, or general supplies to district boaters, visitors, and residents?
- ☐ Relate to and enhance the central island small park, trails, and civic spaces?

If located on **Clover Island East**, how well does the proposal:

- ☐ Support event programming to increase district visibility, economic activity, and build interest and momentum around plan implementation?
- ☐ Improve the aesthetic appeal of the Clover Island Inn?
- ☐ Improve connections to the perimeter trail and viewpoints on the east end of the island?



Figure 25. Development around Duffy's Pond should be oriented to appreciate and enhance its natural beauty

If located on **Columbia Drive West: The Willows**, how well does the proposal:

- ☐ Serve as a district gateway by setting a welcoming tone and emphasizing quality public spaces?
- ☐ Connect to and support the wineries, food purveyors, and other businesses in Columbia Gardens?
- ☐ Relate to and enhance the Veterans Memorial Christmas Tree plaza, Duffy's pond trail, and connections to Columbia Gardens and Clover Island Drive?

If located on **Columbia Drive Central: Columbia Gardens**, how well does the proposal:

- ☐ Contribute to creation of a vibrant, welcoming activity hub?
- ☐ Relate to and enhance the Duffy's pond trail, civic space, and connections to The Willows and Cable Greens?
- ☐ Utilize City and Port investments in the wine effluent treatment system?
- ☐ Support event programming to increase district visibility, economic activity, and build interest and momentum around plan implementation?

If located on **Columbia Drive East: Cable Greens**, how well does the proposal:

- ☐ Connect to and support the wineries, food purveyors, and other businesses in Columbia Gardens?
- ☐ Relate to and enhance the Duffy's pond trail and connections to Columbia Gardens?

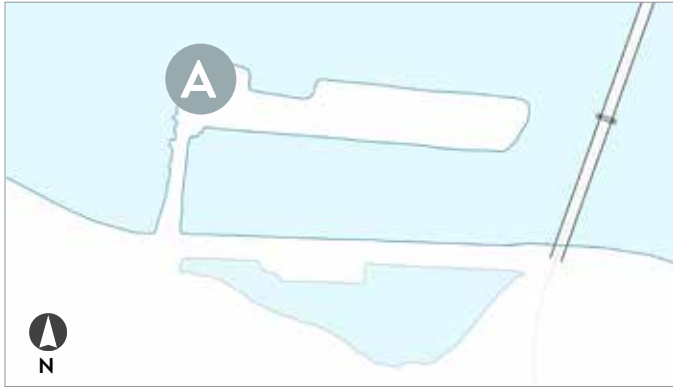


Figure 26. New development should help create a vibrant, welcoming activity hub around the wineries at Columbia Gardens



Figure 27. Completing the Duffy's Pond trail is critical to connect the district and regional trail network

CLOVER ISLAND WEST



Located in the district's northwest corner, Clover Island West is the most visible of the district's nodes. The island's iconic lighthouse anchors this node and gives visitors a place to enjoy sweeping water views. It currently contains the Clover Island Yacht Club, public boat launch, and has a gravel lot used for overflow and boat trailer parking during peak boating and event season.

VISION

AN ACTIVE DISTRICT

Already well-loved, this node continues to grow in popularity as a community meeting space. Prior to securing a permanent signature development, a new covered open-air event space will host public events, community celebrations, and private gatherings.

Partners will recognize the site's unique advantages and the benefits of locating adjacent to well designed and maintained public amenities. Future development may include a permanent event space, boutique hotel, or other signature development that activates the space and generates revenues to support investments in community amenities.



Figure 28. Example of covered rentable space for events and celebrations in New Orleans



Figure 29. New covered rentable event space and enhanced lighthouse plaza with a boutique hotel

RECREATION

An enhanced gathering space and extended perimeter trail showcase the shoreline restoration and expand opportunities to congregate and recreate. The trail wraps around the new event space and future development, connects to the district's circulation network, and provides opportunities to enjoy the area's riverfront location and spectacular views.

RECOMMENDATIONS SUMMARY

- Build a temporary rentable, covered, open-air event space.
- Expand this area's civic space and optimize connectivity between the expanded perimeter trail and future development; design space to accommodate food trucks or other pop-up vendors to support events.
- Market site for private development of a boutique hotel or other compatible use that includes indoor event space, respects and responds to the lighthouse icon and community gathering area, activates the island, and generates revenues to support Port investments.



Figure 30. View from lighthouse looking west to the Blue Bridge

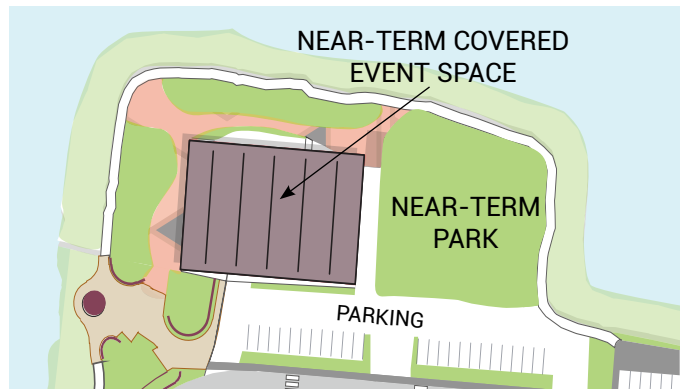


Figure 32. Recommended interim event space

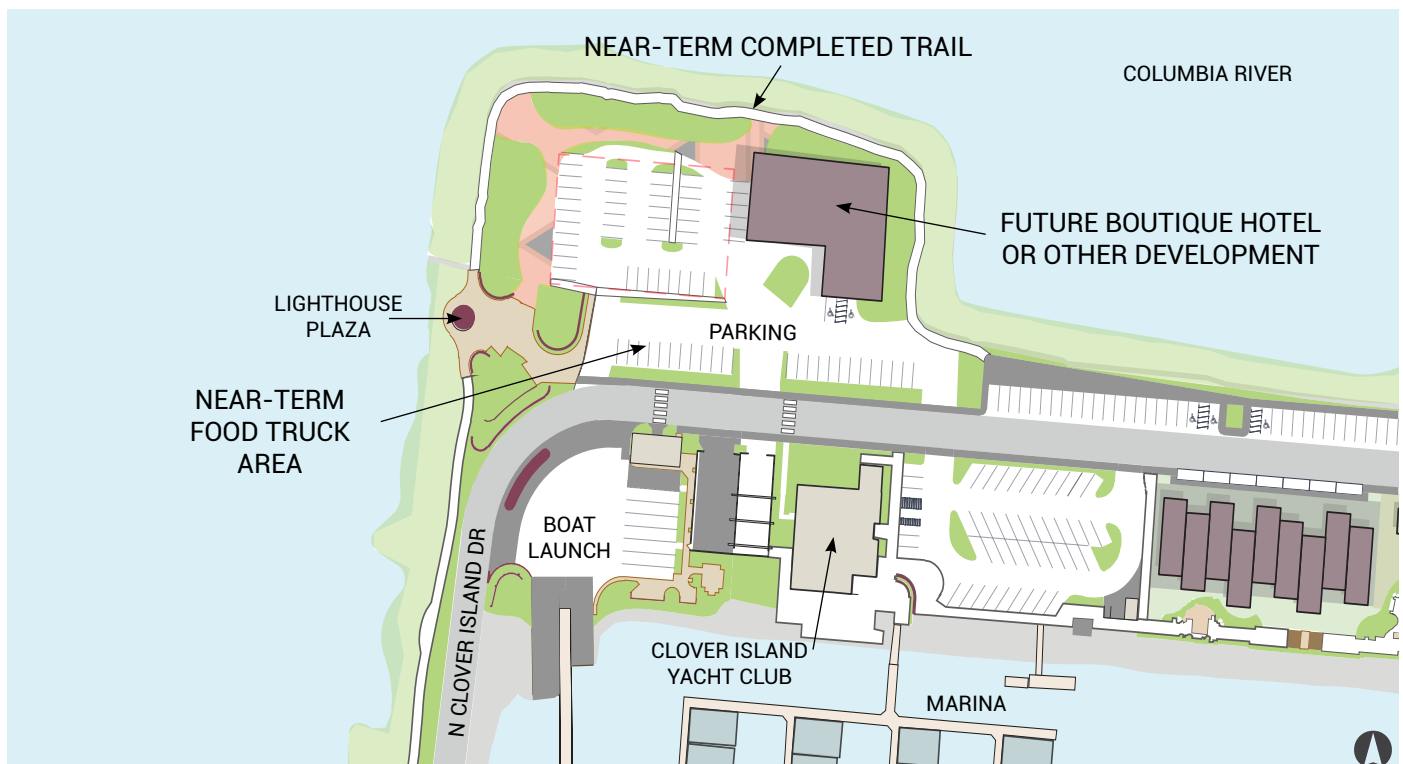
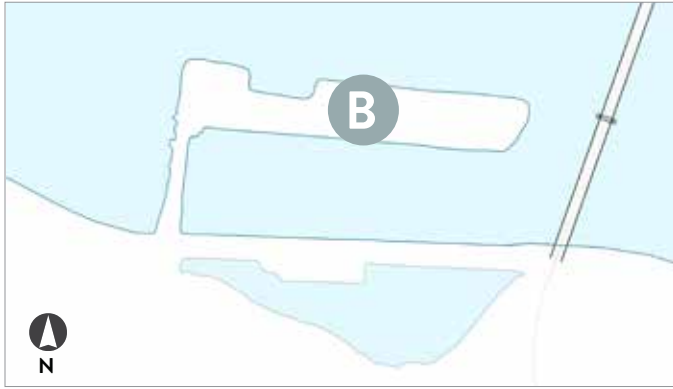


Figure 31. Clover Island West recommendations, private development may vary

CLOVER ISLAND CENTRAL



Clover Island Central includes Cedars, an iconic Tri-Cities waterfront restaurant, the Port offices, Ice Harbor Brewery, and parking, loading, and access for the Port's marina.

VISION

AN ACTIVE DISTRICT

Clover Island Central offers a range of eating options and supplies for the boater, biker, walker, or district resident, and is well-suited for additional food and retail that will help the island draw more customers and become a hub of activity. Clustered around a central open space and linked to island trails, this area hosts year-round activities and highlights local art and culture.

RECREATION

Visitors and trail users can stop in the central node to grab a snack, enjoy views of the river, and relax at picnic tables under covered shade structures. In later phases, the addition of a small play space would be an even greater draw for families.



Figure 33. Casual dining opportunities geared towards river views



Figure 34. New amenities and a small unique cluster of housing enhances the existing attractions and brings customers to the core of Clover Island

A PLACE TO CALL HOME

A new residential community offers a unique "island lifestyle" to boaters, water enthusiasts, and others drawn to this special place.

RECOMMENDATIONS SUMMARY

- Market the site for private development of casual grab-and-go dining, small recreational supply shop, and/or other compatible uses that support on-the-go or seasonal needs. Attract permanent year-round amenities as demand grows.
- Build a small park, connect to trail, and tie the north and south sides of the island together through a linked series of amenities and connections.
- Orient new commercial development around existing publicly accessible plazas and walkways showcasing local art and culture.
- Market the site for private development of a residential townhouse community or other compatible use.



Figure 35. Grab-and-go casual dining lets visitors enjoy food while they are on the move

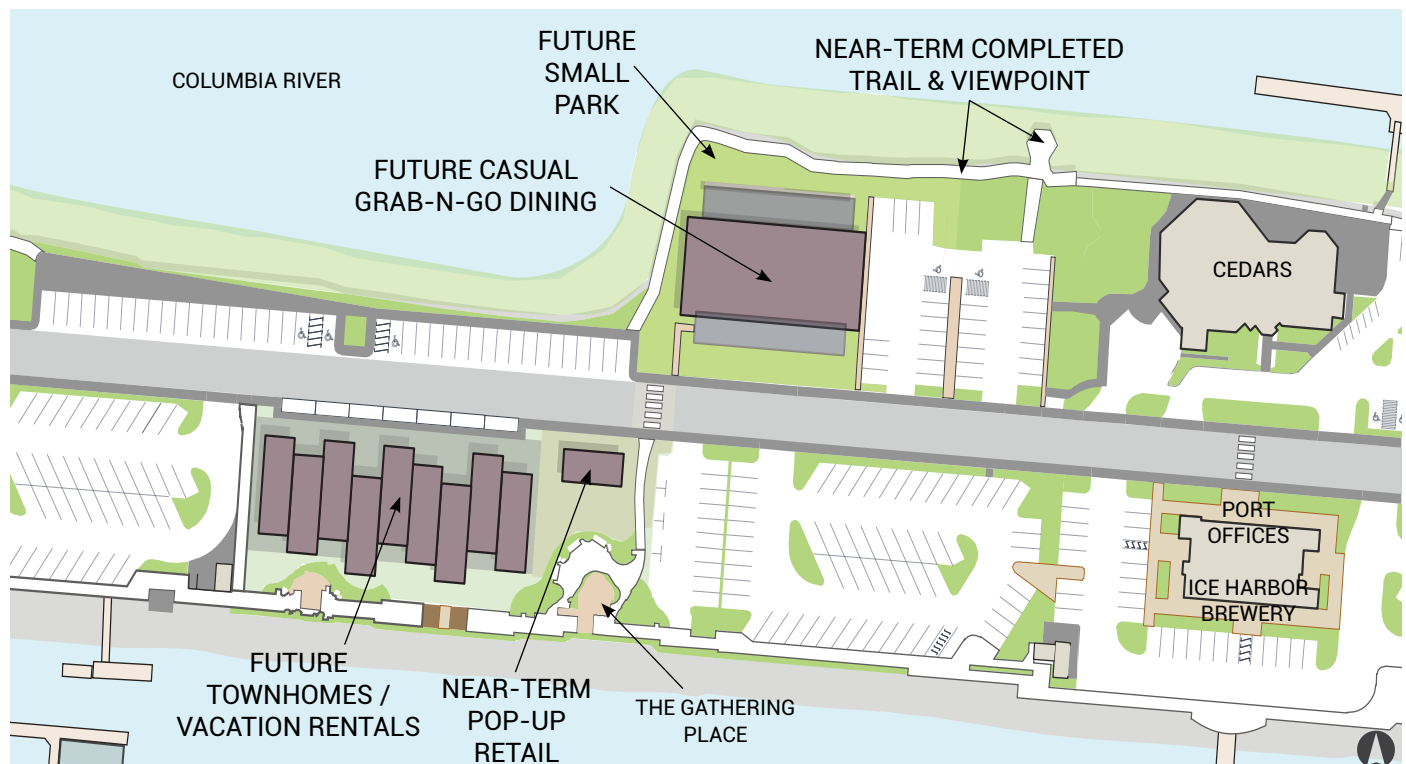


Figure 36. Clover Island Central recommendations, private development may vary

CLOVER ISLAND EAST

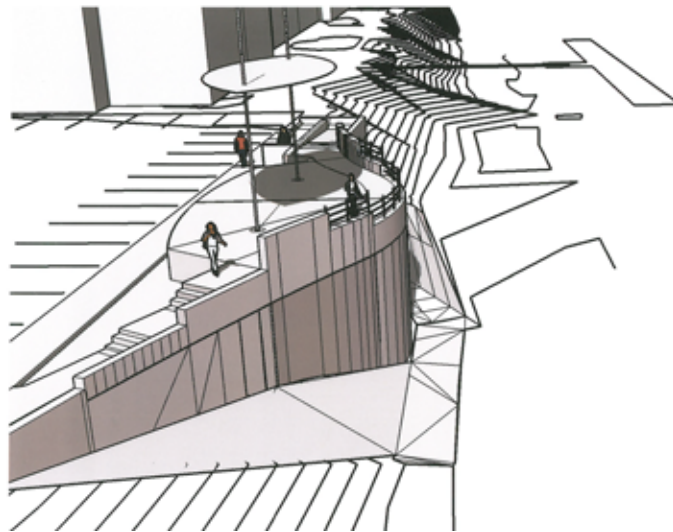
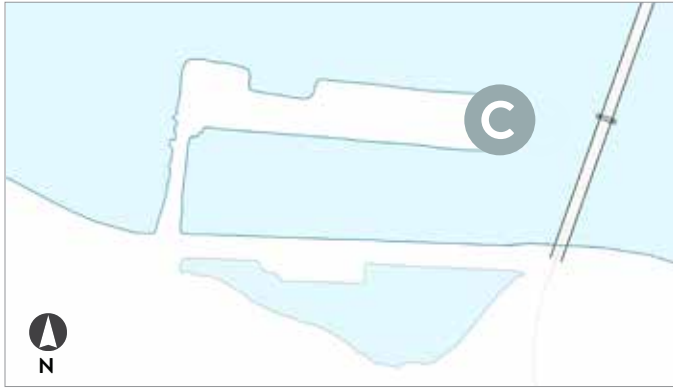


Figure 37. Design for enhanced entertainment space next to Clover Island Inn
(Source: HDJ Design Group, 2009)



Figure 38. A permanent event space, viewpoint, and trail improvements bring people to enjoy great views of the Cable Bridge

Clover Island East contains the Clover Island Inn and parking area, which doubles as concert space with a temporary stage used for seasonal programming. The U.S. Coast Guard Station is also located on this end of the island.

VISION

AN ACTIVE DISTRICT

The non-coast guard Clover Island East graces the district as an entertainment destination with features such as an improved music pavilion, the refurbished Clover Island Inn, and a landscaped vantage point that boasts unparalleled views up river and to the Ed Hendler Columbia River Bridge (commonly referred to as the Cable Bridge). In partnership with the hotel, visitors will enjoy live performances, artisan fairs, cultural events, weddings, corporate retreats, and other events on Clover Island East.

RECREATION

The new loop trail along the shoreline will provide active users with continuous connectivity that extends up the river. Physical fitness activity stations or other features add interest along the trail, creating a workout opportunity for Clover Island's U.S. Coast Guard staff and district residents and visitors.

RECOMMENDATIONS SUMMARY

- Create an enhanced event space near the Clover Island Inn and partner to host events.
- Extend the perimeter trail to create a contiguous loop.
- Add a vantage point similar to others around the island, that is oriented toward the Ed Hendler Bridge.
- Install trail-side physical activity stations or other focal points to add interest throughout the district.
- Prioritize exterior upgrades, modernization, and/or redevelopment to improve the aesthetic appeal of the Clover Island Inn and grounds as future leases are negotiated. Partner to expand walkways near the building to better connect with the island trail.



Figure 39. Workout stations could be placed along the pedestrian trail

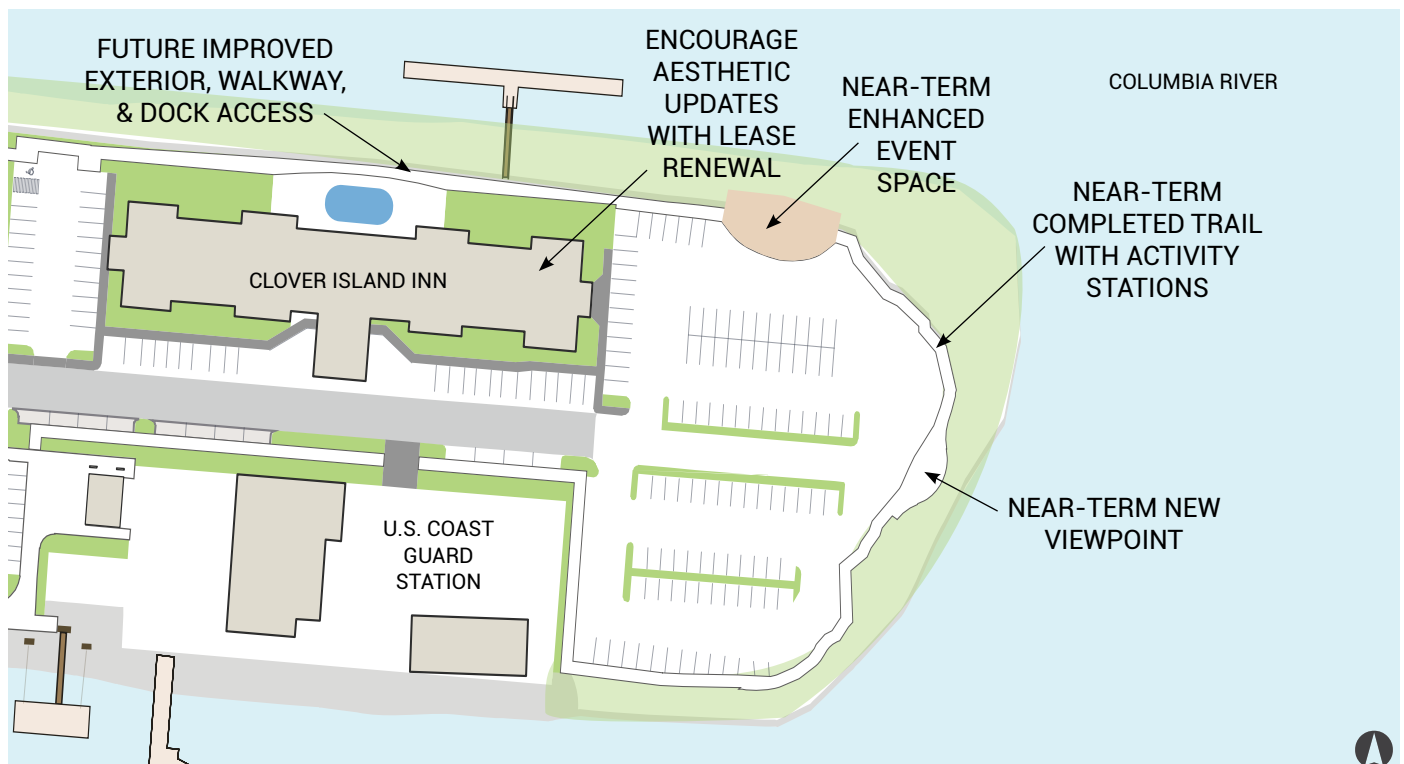
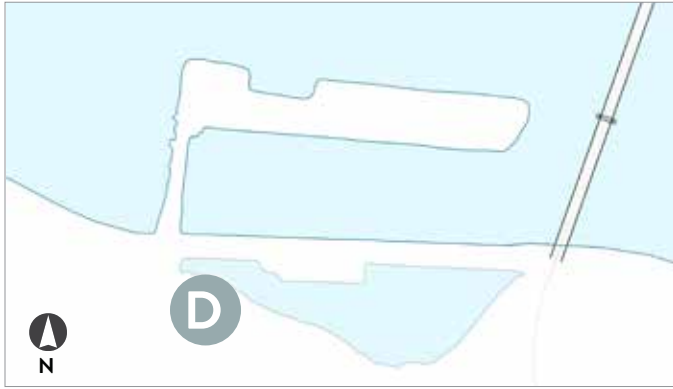


Figure 40. Clover Island East recommendations, private development may vary

COLUMBIA DRIVE WEST: THE WILLOWS



The Willows is the land-based gateway to the historic waterfront district. It is primarily undeveloped land with trees, including one designated as a veterans memorial.

VISION

AN ACTIVE DISTRICT

Future residents will have prime access to the activity centers at Clover Island, Columbia Gardens, and downtown Kennewick. Residents will delight in the festive holiday lighting of the Veterans Memorial Christmas Tree and enjoy the plaza as a quiet space for reflection.

RECREATION

The district and regional trail system will converge at The Willows. Improved trails with lighting and wayfinding will encourage use, and parking for regional trail users will be provided.



Figure 41. A community garden could be integrated into the residential development.



Figure 42. New small scale residential will bring activity to the area



A PLACE TO CALL HOME

Striking a balance between active uses and natural beauty, this is the district's prime location for new residential development.

The Willows residential community is nestled into a serene tree-lined setting and offers access to nature, local food and beverage options, views of the water, and an easy walk to Clover Island and historic downtown Kennewick. Just off Columbia Drive, The Willows offers easy access to arterials and regional employment centers.

RECOMMENDATIONS SUMMARY

- Market the site for private development of a residential community that supports wineries, food purveyors, breweries, local artisans, and boutique retail and generates revenues for wider area improvements.
- Create a plaza around the Veterans Memorial Christmas Tree.
- Enhance regional trail connections and add a parking lot near the levee for all ages and abilities trail users.
- Retain mature trees as feasible and replace failing trees as needed.



Figure 43. A surrounding plaza would complement the Veterans Memorial Christmas Tree

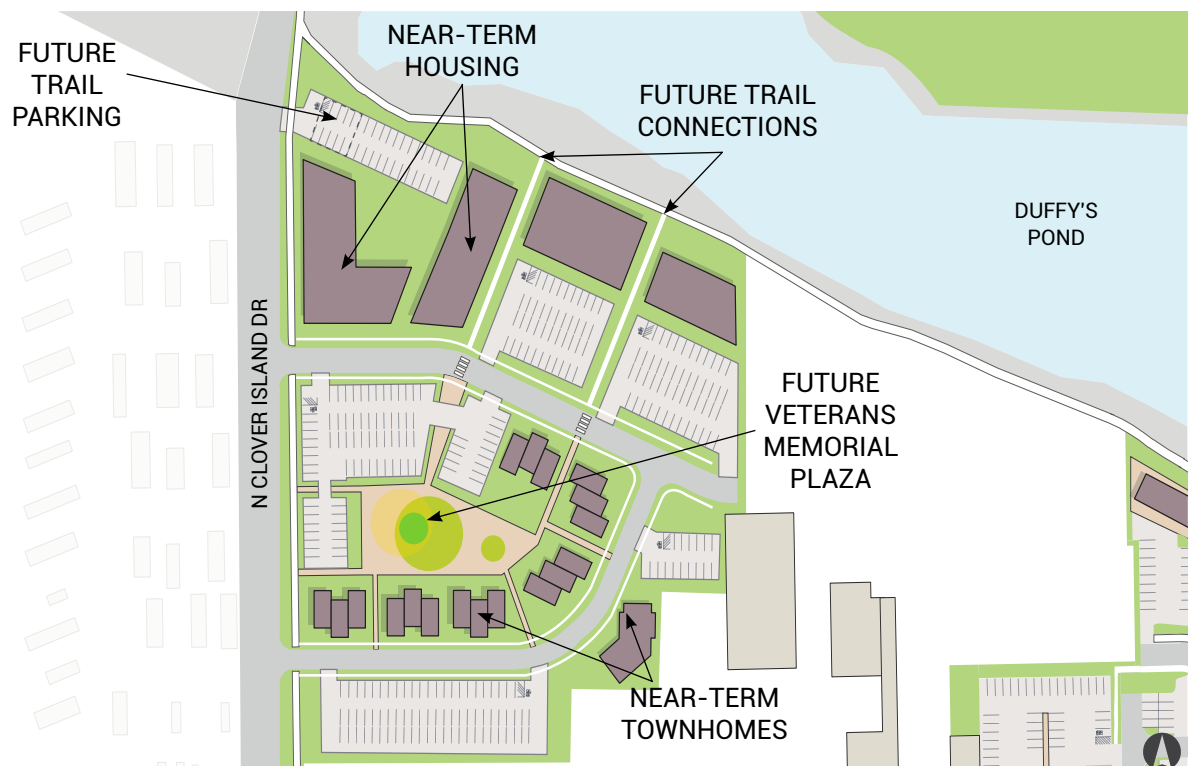
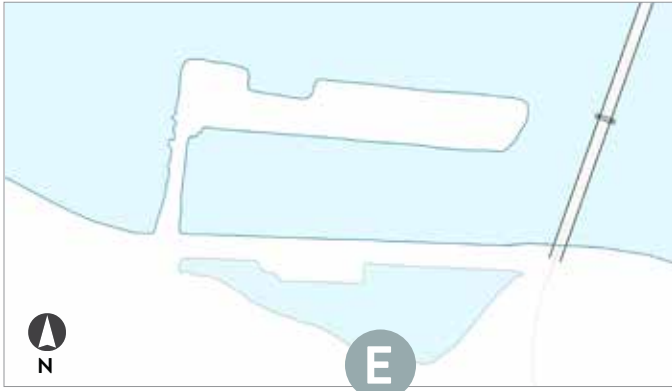


Figure 44. Willows recommendations, private development may vary

COLUMBIA DRIVE CENTRAL: COLUMBIA GARDENS



Columbia Gardens is a thriving center of visitor activity within the waterfront district. This property sits between private property and alongside the center of Duffy's Pond. Existing wineries with ample space for expansion serve as the catalyst for increased economic and social activities. A large mural by Andrew Reid creates a warm, welcoming tone for the area that celebrates the local culture. This portion of the district will benefit from the City of Kennewick's plans for traffic calming and safety improvements along both Washington Street and Columbia Drive.

VISION

AN ACTIVE DISTRICT

This node is a critical area for investment with potential to become a true district hub by adding amenities that support existing wineries, local artisans, and area farms.



Figure 45. Mid-Columbia Heritage Mural honoring the area's Latino history on display at the wineries (Artist: Andrew Reid)



Figure 46. Recommendations enhance the thriving winery setting with an artisan market, brewery, and play space

Columbia Garden's informal indoor/outdoor artisan market and new restaurants, winery tasting rooms, shops, brewery and taphouse, and farmers market create a bustling food district. A well-connected and high-quality pedestrian circulation network encourages afternoons and evenings exploring the district, visiting local businesses, and enjoying time with friends and family.

RECREATION

The Duffy's Pond trail connects users of all ages and abilities to the district-wide trail system. A local sports equipment rental and bicycle repair shop serves district visitors and regional and local trail riders.

RECOMMENDATIONS SUMMARY

- Market the site for private development of an indoor/outdoor artisan market and food and beverage-oriented establishments or other compatible use that builds out an activity hub. Distinguish project design and offerings from other similar planned development in the region.
- Continue to coordinate with USACE and the City to improve and protect Duffy's Pond ecology and function as a key district amenity.
- Increase event programming and art installations.
- Support surrounding roadway improvements and work with the City to enhance the connection to historic downtown Kennewick.
- Invest in a quality trail system that integrates the node with other district areas, includes wayfinding and lighting to encourage use, and provides buffers where needed between private properties and public trail users.
- Partner with community organizations to create a play space.



Figure 47. Artisan markets, such as San Francisco's Ferry Building provide space for local artists and vendors to sell their goods

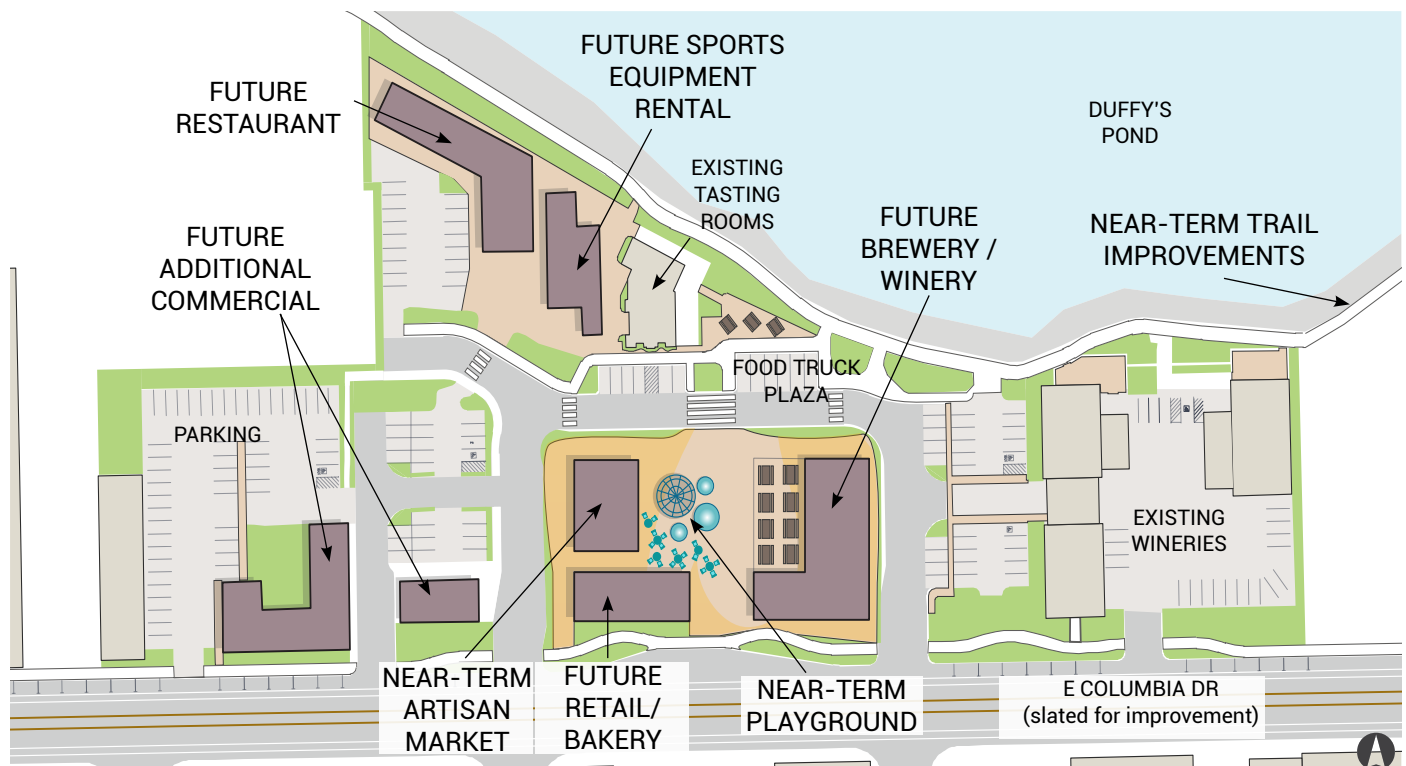
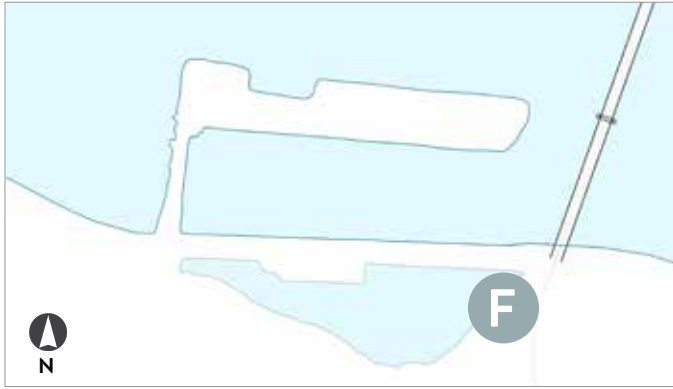


Figure 48. Columbia Gardens recommendations, private development may vary

COLUMBIA DRIVE EAST: CABLE GREENS



Cable Greens is a flexible-use area in the southeast section of the district that is currently undeveloped. The City is strongly considering reconfiguring the free right-turn from State Route (SR) 397 onto Columbia Drive which will slow traffic and improve safety in the area.

VISION

AN ACTIVE DISTRICT

As Columbia Gardens evolves, development in this area has the potential to bring more customers and generate revenues to help support trail improvements and amenities throughout the district.

RECREATION

Cable Greens will support pedestrians and bikers with an extensive trail network that connects the regional Sacagawea Heritage Trail to the Duffy's Pond trail and other district pathways. Parking for trail access will be provided. Interim use of the site could build upon the park-like setting with the addition of viewpoints into Duffy's Pond, a community dog park, and/or other interim activities or recreational uses.



Figure 49. Small townhomes next to the pedestrian trail would provide unique views of Duffy's Pond and the river



Figure 50. Recommendations include opportunities for residential or commercial development adjacent to Duffy's Pond at Cable Greens

A PLACE TO CALL HOME

A future residential community will benefit from this unique setting and convenient location near regional highways and trails, Kennewick's historic downtown, and the Columbia River and the waterfront district's many amenities.

RECOMMENDATIONS SUMMARY

- Market the site for private development of a residential community or other use compatible with the district vision.
 - In the interim, consider installing a dog park, bicycle course, or other amenity to increase district visibility, use and vibrancy. Weigh maintenance, liability, and expectations set by interim use proposals against potential benefits before moving forward.
 - Secure easements along Duffy's Pond and complete the trail.
 - Develop Duffy's Pond trail to connect with the Sacagawea Heritage Trail.
- Incorporate mature trees and other vegetation as a permanent buffer to SR 397.
 - Support completion of the SR 397 traffic calming improvements.



Figure 51. Interim amenities, like art installations, could draw customers, showcase local artists, and add shade to a community plaza

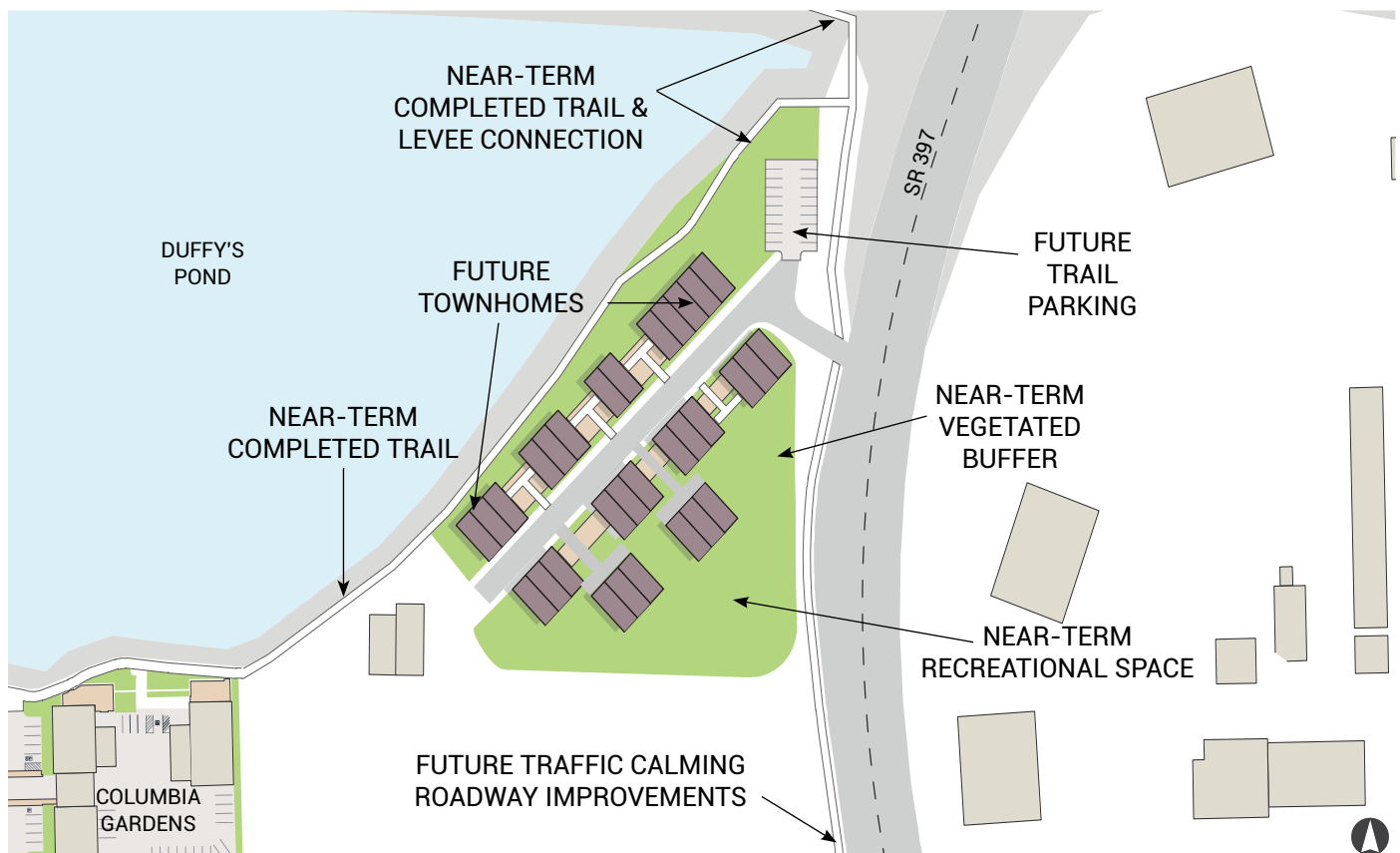


Figure 52. Cable Greens recommendations, private development may vary

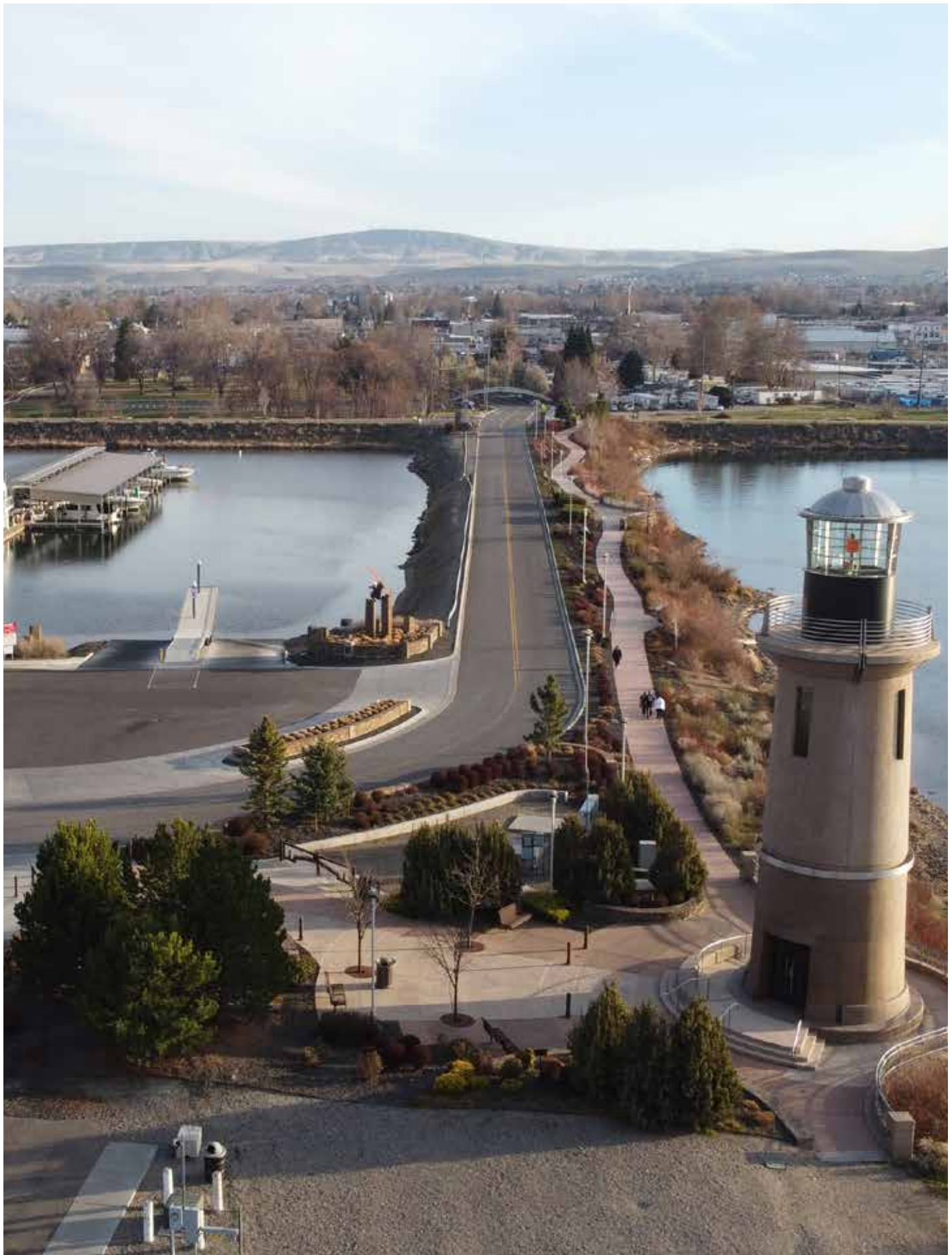


Figure 53. Lighthouse Plaza and restored shoreline

PLAN IMPLEMENTATION



Figure 54. Wiyákuktpa (a.k.a. The Gathering Place) on Clover Island, artists Rodd Ambrosion (bronze statues), Tim Park (casting), and Tim Norman (patina)

OVERVIEW

The historic waterfront district is off to a great start, but it will take some key investments and event programming; commitment to building partnerships, interim activations, and marketing; an aligned property strategy; and adequately resourcing staff to achieve the community's vision. Design guidelines to help unify the district as recommendations are implemented over time are provided starting on page 41.

KEY INVESTMENTS

The Port can generate momentum by making relatively low cost key investments that demonstrate its commitment to achieving the community's vision for the district and supporting post-COVID economic recovery.

There are three critical sites to focus investments in the near term: the northwest corner of Clover Island, The Willows, and Columbia Gardens. Investments in these sites will act as catalysts for development of the surrounding parcels and attract greater numbers of users, support businesses, and activate the space.

Interim activations are another low cost recommendation in the near term. They are a critical means of increasing awareness and generating excitement for the historic waterfront district. These "activations" can range from supporting pop-up seasonal retail, attracting various food trucks, hosting summer concerts, and programming a variety of events around Columbia Gardens new artisan market or Clover Island's new events pavilion. The activations can be replaced with more permanent options as demand increases. These activities will build the district's reputation as a unique destination and attract developer and business interest in investing.



Figure 55. Partnering with community organizations to host events in the district will raise awareness and support businesses, such as this event where volunteers built trikes for tots in historic downtown Kennewick

BUILDING PARTNERSHIPS

Coordinating with other governmental, business, and community partners will be critical to realizing the vision. The Port should continue to develop relationships with partners who will bring fun short-term activations to the space. For example, local businesses, like the Columbia Gardens wineries, Clover Island restaurants, or Clover Island Inn, can help with event programming and recreational groups can help with trail improvements.

The Port should also create a district-wide art plan and partner with local artists to add art installations to new and existing development highlighting local history and culture. Cultivating these partnerships will be critical to increase visibility and build a sense of community ownership of the district.

CITY OF KENNEWICK

The historic waterfront district and downtown Kennewick offer distinct experiences that complement each other, but the sites could be better linked. The Port should support the City's efforts to improve Washington Street and Columbia Drive to reduce traffic speed, improve comfort and safety for pedestrians and bicyclists, and further create a unique district identity. Further, the plan recommends the Port and City identify additional ways to partner to better connect the two areas and increase the economic vitality of both. These could include adopting design standards for the greater area, improving wayfinding, and adding safe and comfortable pedestrian and bicycle connections.



Figure 56. Partnering with the City to improve the safety, walkability, and aesthetics of Washington Street and Columbia Drive will increase the area's economic vitality and improve its link to downtown Kennewick.

ALIGNED PROPERTY STRATEGY

This plan recommends the Port retain ownership of current Clover Island property in recognition of the island's distinct environment and function as a community amenity. In addition, the Port should continue to evaluate acquiring additional property in the district as opportunities arise and develop disparate parcels according to the community's vision as conveyed within this plan.

RESOURCING PORT STAFF

Finally, it will be important to adequately resource Port staff during the 15-year implementation time period so they can:

- Market available development parcels and ensure proposals achieve the plan's vision.
- Manage Port investments in the district.
- Develop partnerships and activate the space with expanded year-round programming.

The Port commission should consider this additional workload as they consider annual budgets and work plan priorities. They could potentially augment staff resources (e.g., add a part time position to coordinate event programming) or clarify priorities within existing resources to accomplish master plan recommendations.

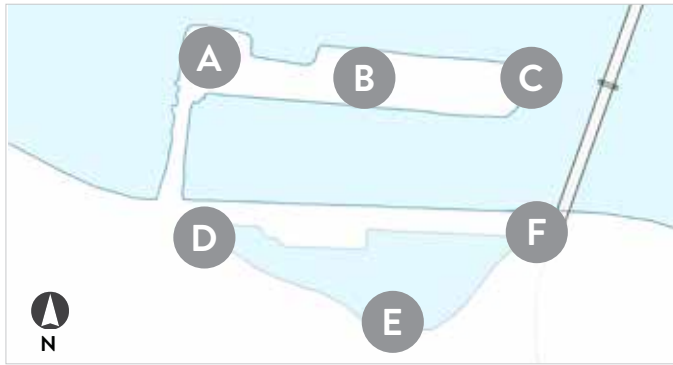


Figure 57. Event programming by local businesses can draw more patrons to support the thriving new development (Source: Columbia Gardens Wine and Artisan Village on Facebook)



Figure 58. Increased staffing will better support marketing efforts that attract revenue-generating development, such as the Port's efforts for properties such as Columbia Gardens (Source: Port of Kennewick)

RECOMMENDED TASK PHASING



To achieve the community's vision, this plan identifies near-, medium-, and long-term tasks to be accomplished. Each task notes the district location and task lead, whether Port, City, or other party. Recommendations are further classified as marketing, physical improvements, or opportunities for partnership and coordination. Rough order-of-magnitude (ROM) estimate of costs for Port-led physical improvement investments are also included with key assumptions on page 37. Tasks are further described in the Plan Overview chapter on page 17.

PROJECT LOCATION		PROJECT LEAD	PROJECT TYPE	PROJECT CATEGORY
A Clover Island West	D Willows	P Port lead	Marketing	Recreation
B Clover Island Central	E Columbia Gardens	C City lead	Physical Improvement	Amenities/Activation
C Clover Island East	F Cable Greens	O Other party lead	Coordination	Residential
				General

NEAR TERM PROJECTS (2022-2026)

			LEAD	COST (000)*			
1	Create a marketing plan to attract near term private investment; assess resources needed and budget accordingly	All	P				
2	Coordinate with City on plans for Washington St and Hwy 397	D/E/F	P/C				
3	Work with City on applicable design guidelines along Washington St and Columbia Dr	D/E/F	P/C				
4	Improve Duffy's Pond ecology to alleviate odor and stagnation	D/E/F	P/C				
5	Replace existing fixtures to meet design standards	All	P				
6	Complete shoreline enhancements around Clover Island in partnership with the United States Army Corps of Engineers (USACE)	A/B/C	P				
7	Improve Trails	All	P				
	Continue pathway lighting around district pathways	All	P	\$225			
	Install additional orientation signage and include district trail map	All	P	\$75			
	Design and construct remaining trail sections (does not include shoreline restoration)	All	P	\$250			
	Coordinate with interested parties to locate fitness stations, art, or other improvements along pedestrian pathways	All	P/O	\$50			
	Work with USCG to reroute street-side walkway in front of the station so that its adjacent to the street	B/C	P/O				
	Shield private properties with fencing around Duffy's Pond	D/E/F	P	\$125			
	Obtain easement through athletic retail property	E/F	P/C/O				
	Complete trail around Duffy's Pond	E/F	P/C	\$75			
	Work with USACE on trail connection to levee	F	P/O				
8	Develop a playground in partnership with interested parties	E	P/O	\$375			
9	Create picnic area, dog park, or other shared open space	F	P	\$75			
10	Design and install an open-air covered event space and integrate with lighthouse plaza	A	P	\$1,250			
11	Develop space for food trucks	A	P				
12	Market for and support development of a pop-up retail/tackle shop on Clover Island	B	P/O				
13	Design and develop permanent event space adjacent to Clover Island Inn	C	P	\$500			

Figure 59. District-wide task phasing

NEAR TERM PROJECTS (CONTINUED)



LEAD

COST
(000)*



14	Market for retail, brewery, and food development that fosters community partnerships and aligns with economic recovery strategies	A/B/ C/E	P				
15	Develop modular open-air artisan market and market to local artists; distinguish from similar projects in the area through design, offerings, and marketing	E	P				
16	Design and develop river viewpoint to Cable Bridge	C	P	\$250			
17	Market for residential development on Clover Island	B	P				
18	Develop roadway and utilities, market for, and support private development of residential at The Willows	D	P/O	\$1,000			

MEDIUM TERM PROJECTS (2027-2031)

19	Develop central gathering space with spray park	B	P	\$750			
20	Work with Clover Island Inn to continue waterfront walkway (does not include shoreline restoration)	B/C	P/O	\$250			
21	Develop pedestrian trail parking	D/F	P/O	\$300			
22	Support private development of a casual dining restaurant at Columbia Gardens	E	O				
23	Market for additional Columbia Gardens retail and Cable Greens development	E/F	P				
24	Plant new trees to replace existing trees	D	P				
25	Develop celebratory plaza around Veterans Memorial Christmas Tree	D	P	\$150			
26	Support private residential development on Clover Island	B	O				
27	Market for and support additional residential development at The Willows	D	P/O				
28	Market for residential development opportunities at Cable Greens	F	P				

LONG TERM PROJECTS (2032-2041)

29	Work with Inn to incorporate requirements for improvements to exterior and dock access in lease renewal	C	O				
30	Market for and support private development of a boutique hotel or other development that accomplishes objectives	A	P/O				
31	Support private development of a casual dining restaurant at Clover Island	B	O				
32	Enhance Columbia Gardens artisan market	E	P/O				
33	Support private development of Columbia Gardens retail	E	O				
34	Support additional residential development at The Willows	D	O				
35	Support private residential or commercial development at Cable Greens	F	O				

ONGOING PROJECTS

36	Work with Inn to upgrade exterior in alignment with design guidance	C	O				
37	Look for opportunities to acquire adjacent property	D/E/F	P				
38	Market available parcels to attract development that achieves community vision	All	P				
39	Market lighthouse event space for rentals	A	P				
40	Coordinate with Inn, wineries, and community organizations to increase district-wide event planning	C	P				
41	Develop a district art plan and work with local artists on installations	All	P/O				

*Costs are planning level ROM estimates, in 2021 dollars, rounded, and provided to the nearest thousand developed in collaboration with Port of Kennewick staff. Please note, estimates were provided in May 2021, in the context of an extremely volatile pricing environment. All estimates should be verified when projects are selected for implementation. Construction estimates include a 50% mark up for soft costs, sales tax, and contingencies appropriate at the planning level. Estimates do not account for increased unit prices for small projects; packaging smaller projects together would likely be beneficial.

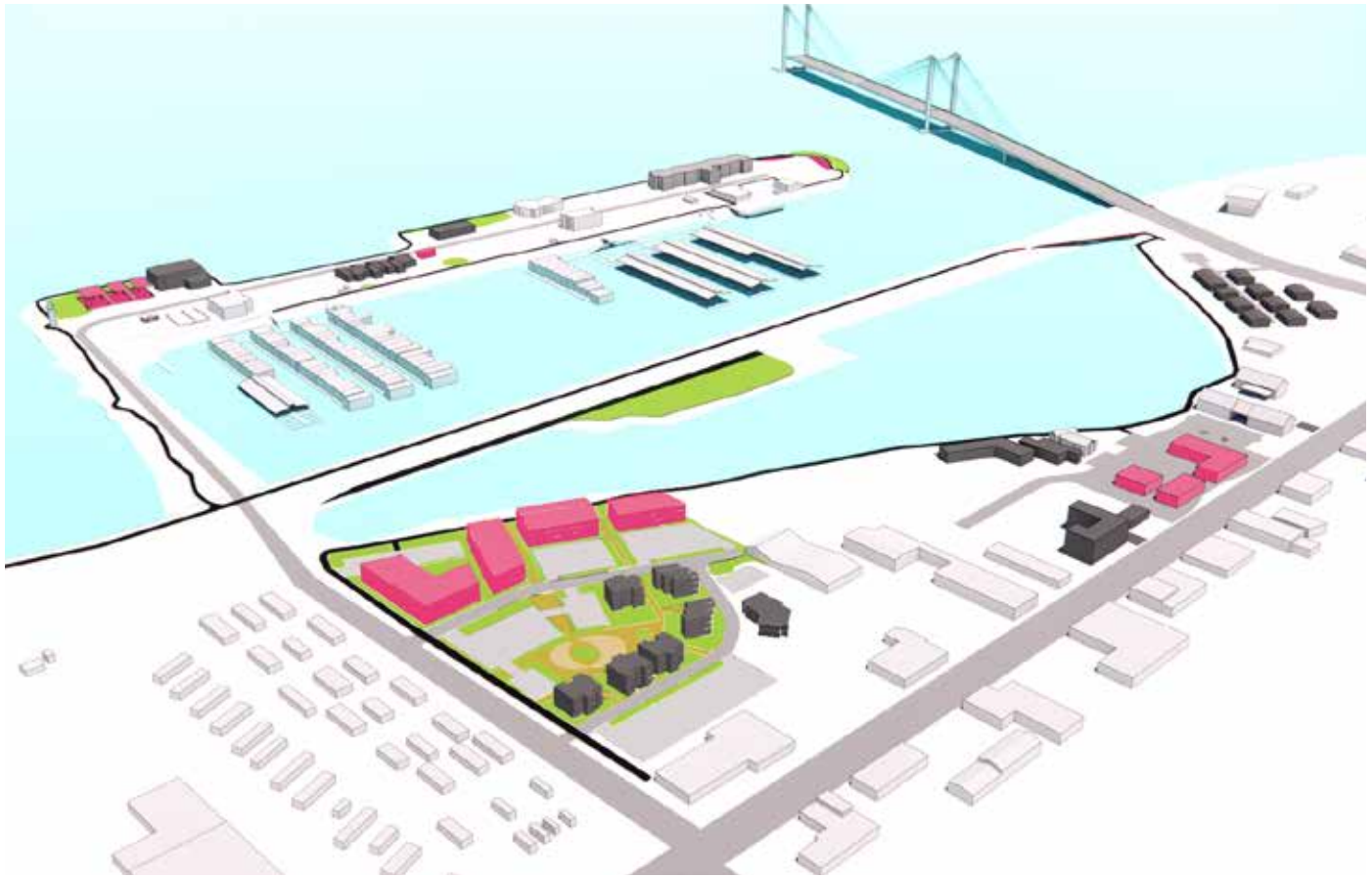


Figure 60. Near-term areas of focus identified in pink

NEAR TERM PROJECTS (2022-2026)

The short term focus for the district is to raise awareness and create energy and excitement around all this area can become. Investments that attract people to the site should be prioritized. Near-term priorities are highlighted in Figure 60 and summarized below.

- Create an activation plan for the district that focuses on developing key partnerships and jointly programming events in the district.
- Increase pedestrian scale lighting, wayfinding, and private property shielding on trails.
- Design and create river viewpoint on Clover Island to Cable Bridge, add workout stops or other focal points along the pedestrian pathway, and complete missing trail connections.
- Develop flexible retail spaces in Columbia Gardens around a community plaza and play area and lease to a variety of artisans, makers, and local craftspeople.
- Develop park and recreation spaces including the viewpoint at the east end of Clover Island, activating the Cable Green site, and integrating the lighthouse plaza with the new covered event space.
- Market to attract a pop-up retail/tackle shop on Clover Island.
- Create entertainment spaces and event venues including the covered area at northwest corner and performance area at the east end of Clover Island.
- Market development parcels with a focus on The Willows and Columbia Gardens; evaluate proposals to ensure development achieves goals and vision.
- Support private development of housing or other compatible residential at The Willows.
- Continue to support roadway safety improvements in partnership with the City of Kennewick.

MEDIUM TERM PROJECTS (2027-2031)

Once momentum has been built, it will be time to market additional areas of the site for private development with coordinated community amenities.

- Develop park and trail parking at The Willows and Cable Greens.
- Create a plaza around the Veterans Memorial Christmas Tree for holiday celebrations.
- Develop residential on Clover Island and at The Willows and a casual dining restaurant at Columbia Gardens.
- Market remaining development parcels with a focus on The Willows, Clover Island Central, and Columbia Gardens; ensure development achieves goal and vision.

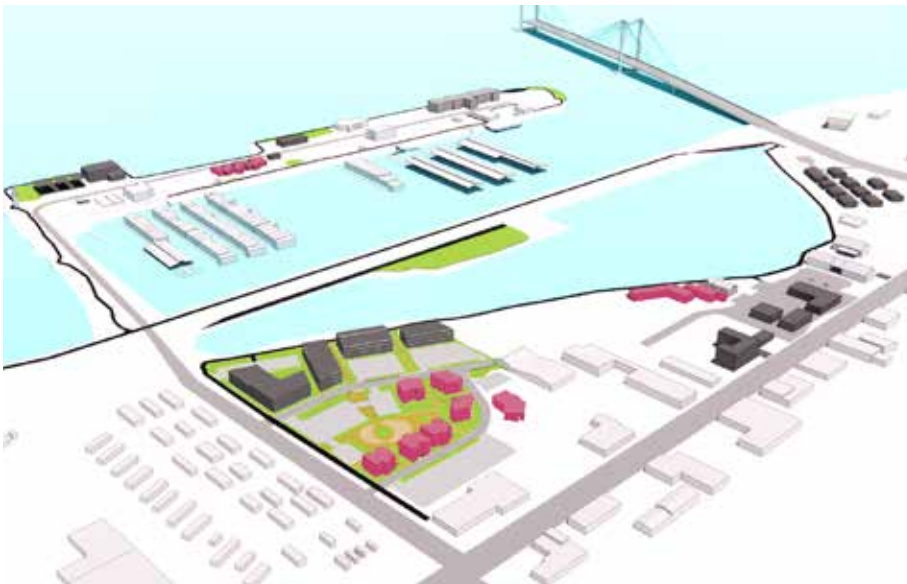


Figure 61. Medium term areas of focus identified in pink

LONG TERM PROJECTS (2032-2041)

Developing the Cable Greens site and adding a boutique hotel or other use that meets plan objectives on Clover Island West are longer term focuses of the plan.

- Develop a casual dining restaurant on Clover Island and residential at The Willows and Cable Greens.
- Market remaining development parcels with a focus on Clover Island West and Columbia Greens; evaluate proposals to ensure development achieves goals and vision.
- Coordinate with Clover Island Inn on exterior improvements and dock access.

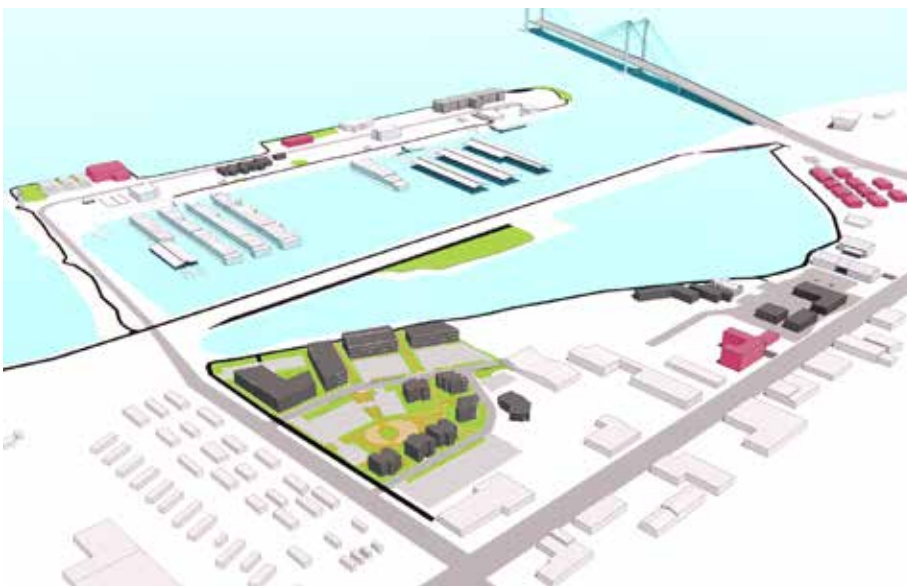


Figure 62. Long-term areas of focus identified in pink

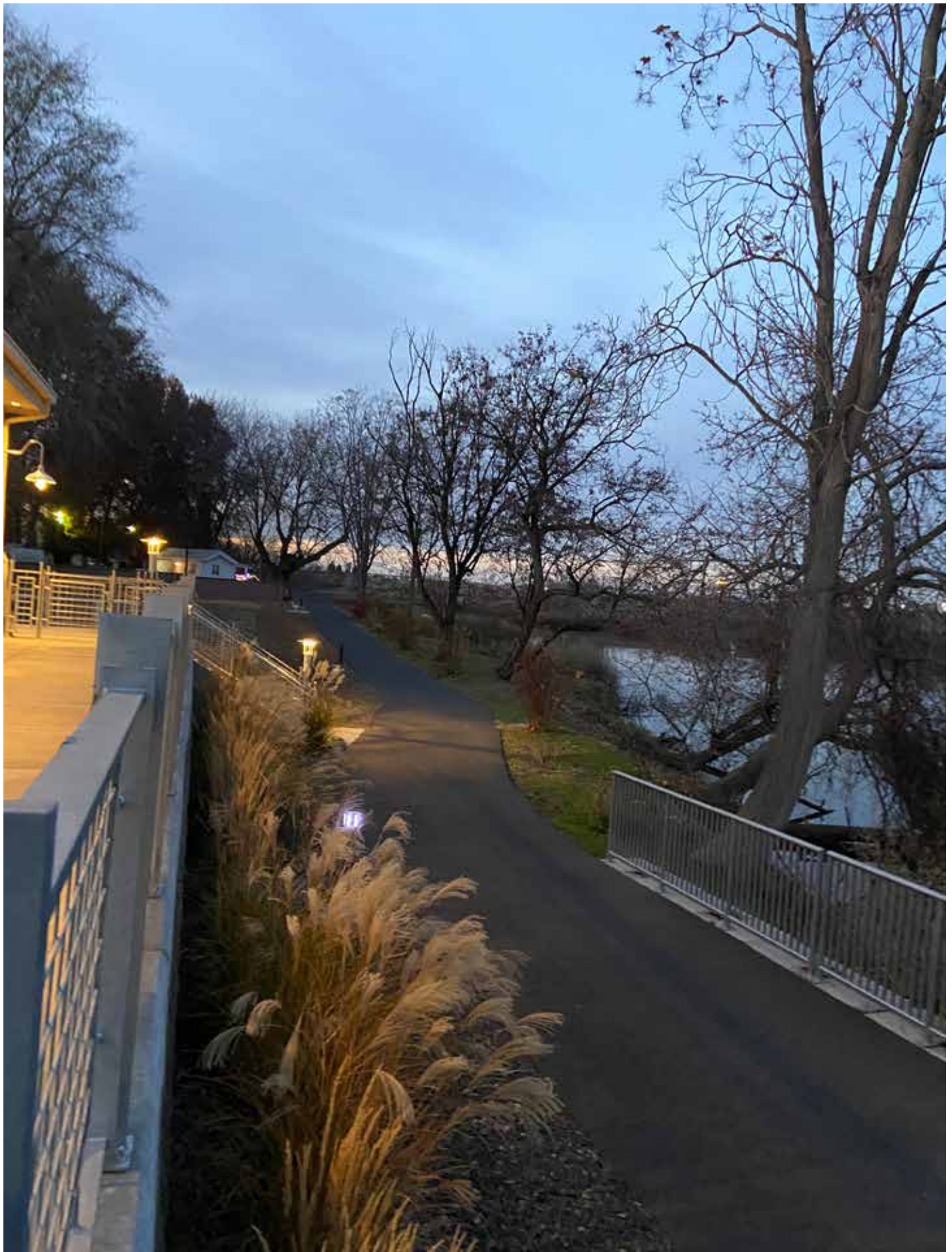


Figure 63. Pathway along the Columbia Gardens wine tasting rooms provides beautiful views of Duffy's Pond

DESIGN GUIDELINES



Figure 64. The Food Truck Plaza provides space for people to enjoy the scenic interior waterfront (Source: Kim Fetrow Photography)

The historic waterfront district has two unique areas – Clover Island and the area along Columbia Drive. While Clover Island is heavily tied to the Columbia River, Columbia Drive is connected to the area's industrial past and historic downtown. Design guidelines will help unify new and existing development by creating a singular and coordinated identity.

Design guidelines define an area's look and feel to create a unique identity. The following guidelines are intended to celebrate the waterfront district's history, connection to water, and pedestrian focus. Rooted in the guidance established in the 2005 Clover Island Master Plan and the 2011 Willows Wine Village Pattern Language document, these updated guidelines reflect building styles that now extend to Port-owned parcels along Columbia Drive.

DISTRICT-WIDE GOALS

- Maintain high quality craftsmanship using context sensitive building styles, design elements, and materials.
- Integrate local cultural and historical themes and artwork into building and site design where appropriate.
- Celebrate and enhance connections to the Columbia River and Duffy's Pond.
- Emphasize pedestrian-oriented buildings and site planning.
- Provide a year-round enjoyable pedestrian experience by incorporating design elements that respond to the region's specific environmental conditions. This includes protection from wind and snow in winter and access to shade, views of the water, and areas of respite in the summer.
- Accommodate all modes of transportation including bicycles and transit, where available.



Figure 65. Clustered buildings create a pedestrian friendly area



Figure 66. Monarcha's active interface at Columbia Gardens adjacent to the pedestrian trail with outdoor seating, low fencing, and landscaping



Figure 67. Townhouse articulation

The following pages present guidelines for:

- Architecture: building design and orientation, public plazas, and gathering spaces
- Fixtures and landscape: lighting, fencing, seating, vegetation, and wayfinding and signage
- Recreation: trails and pathways, and bike facilities
- Transportation: street grid and parking

ARCHITECTURE

BUILDING ORIENTATION

Waterfront district buildings should be designed to create a visual and functional relationship with one another.

- Whenever possible, cluster multiple buildings to achieve a "village" environment and create opportunities for plazas and pedestrian areas (see Figure 65).
- When site constraints prevent clustering, establish a visual link between buildings with integrated landscape elements, such as trees and plantings, pathways, shared seating areas, public art, small pocket parks, and enhanced paving.
- Create active interfaces between buildings and predominant district pathways, plazas, and site features, such as Duffy's Pond. Include outdoor seating, trees and landscaping, pedestrian-scale lighting, and low, transparent fencing or walls, as appropriate (see Figure 66).
- Create a vibrant and pedestrian-oriented streetscape by including large storefront windows, awnings, and outdoor spaces for dining and other activities along main streets.
- Building frontage and setbacks should seamlessly integrate with the public realm.

BUILDING DESIGN

The 2005 Clover Island Master Plan's architectural design guidelines for roofs, building exteriors, and windows remain the current standards.

RESIDENTIAL AREAS

District housing guidelines complement those of district businesses, especially in mixed-use developments. Residential design guidelines address multiple housing options, encourage minimal setbacks, and specify landscaping with drought tolerant plantings.

- Place front windows to preserve privacy.
- Articulate façades with architectural elements such as porches and other entrance treatments, balconies, bay windows, and vertically divided building volumes.
- Create welcoming and safe multi-family or clustered housing through neighborhood site planning that avoids “turning its back” on the rest of the district.
- Landscaping should be used to soften the pedestrian environment around structures.
- Homes should front pedestrian pathways and provide access to the district’s trail system that meets the Americans with Disabilities Act (ADA) universal accessibility guidelines. When possible, homes should be oriented to maximize views of the Columbia River and Duffy’s Pond, and should be staggered to provide view corridors (see Figure 68).
- Neighborhoods should dedicate generous space to landscaping as both open space for play and gathering and vegetated areas with drought tolerant native plantings (see Figure 69).
- Walk-up units adjacent to a street should have a primary pedestrian entrance from the street sidewalk. Where individual units have access to the street sidewalk, private front yards should have small, low fences.
- Medium density projects, such as proposed for The Willows, should be designed such that ground floor units have individual sidewalk entrances, and courtyard projects have at least one significant pedestrian entrance from the street sidewalk.
- Design intent should avoid unnecessary complexity and focus on how the building relates to and ties into the surrounding site and buildings.



Figure 68. Pedestrian pathways connecting townhomes



Figure 69. Generous landscaping and low lying walls can distinguish private and public areas.



Figure 70. Seating provides areas for rest and relaxation



Figure 71. Downward facing lighting creates the feeling of a safe space to walk at night



Figure 72. Lighting should highlight art features and landscaping



Figure 73. New development should incorporate existing, healthy mature trees where feasible

PUBLIC PLAZAS AND GATHERING SPACES

- As stated in Building Orientation, buildings should orient toward plazas and gathering spaces and must feature pedestrian-oriented façades. Buildings facing the artisan market plaza in Columbia Gardens must include transparent windows or large glass doors along at least 75% of the façade.
- Plazas should include pedestrian-scale lighting, landscaping, and flexible seating options and offer some protection from the elements.

FIXTURES & LANDSCAPE

The waterfront district benefits from containing significantly more large trees than surrounding areas. Mature trees provide shade and local habitat, aid stormwater management functions, sequester carbon, and offer other relief from the built environment.

SEATING

Integrate seating elements throughout the district to allow for rest and conversation, and maximize seating orientation toward significant views (see Figure 70).

LIGHTING

The design, scale, and placement of outdoor lighting fixtures on buildings and in parking lots should be in keeping with the architectural style of the buildings and should be consistent in style wherever possible.

- Incorporate smaller-scale, softer parking lot lights and minimize tall parking lot lights where feasible.
- Outdoor light fixtures mounted on building walls should be pedestrian scale and not exceed eight to 10 feet in height.
- Light fixtures should be directed downward and shielded so the light source is not visible to minimize glare and blind spots for passersby, according to crime prevention through environmental design (CPTED) standards.
- Light all pedestrian pathways to illuminate ground surfaces and draw attention to significant landscaping features, such as mature or significant trees, public art, and design details (see Figure 72).
- Lighting along pathways should be continuous to safely guide visitors throughout the district and to public transit stops and vehicle and bicycle parking.
- Encourage seasonal, holiday, and festival lighting as a large-scale attraction to the site.

VEGETATION

District landscaping and vegetation should adhere to the following:

- Preserve and integrate existing healthy mature trees wherever possible.
- Where practical, new residential and commercial development should incorporate existing healthy mature trees in site and building designs, especially in areas of public open space (see Figure 73).
- Retain urban tree canopy by replacing mature trees that are removed due to development, condition, or age with similarly scaled trees at maturity, to be planted as near to the removed trees' location as possible (see Figure 74).



Figure 74. Some mature trees at Columbia Gardens may need to be replaced due to condition or age

FENCES AND WALLS

The design and placement of fences, retaining walls, gates, arbors, footbridges, and other site features should relate to building architecture, site topography, and pedestrian experience.

- Fence and wall styles should be consistent along Duffy's Pond and around Clover Island.
- Fences and walls adjacent to commercial spaces should provide visibility to the surrounding site and preserve views of the water.
- Avoid the use of chain link fencing and long, monotonous fences or walls.
- Fences and walls should be set back differently at least every 10 feet, with landscaping in offset areas where appropriate.
- Fences or walls should not impede pedestrian routes or block lighting.
- Coordinate landscaping along fences and walls with the Port's street tree planting and maintenance scheme.



Figure 75. Lighting should highlight art features, landscaping, and public spaces



Figure 76. Suspended sign adds visual interest



Figure 77. Bike parking can reflect the culture of the community



Figure 78. Updated wayfinding should be integrated at key entrance points into the district

WAYFINDING AND SIGNAGE

Wayfinding orients visitors, welcomes, and increases feelings of comfort in a space. Wayfinding elements in the waterfront district should be designed to follow a consistent style and be easily identifiable.

- Display maps of the district at major entryways to highlight key points of interest and encourage exploration.
- Orient signage throughout the district toward pedestrians, bicyclists, and slow moving vehicles.
- Provide permanent, pedestrian-oriented window displays, awnings, and suspended signs to encourage meandering throughout the space and enrich the visual quality of the building (see Figure 76).
- Signage should be maintained to demonstrate a sense of pride and care that contributes to the vibrancy of the area. Unkempt signage can be confusing and detract from an area's appeal.

RECREATION

TRAILS AND PATHWAYS

- Pathways should retain a minimum width of five feet.
- Provide low-level bollard lighting, no more than 3½ feet in height, to reduce visual glare and light spill onto adjacent uses.



Figure 79. Pedestrian pathways buffered by planting strips

- Planting strips of a minimum four feet width are required between parking lots and pathways (see Figure 79).
- Maintain adequate space to accommodate pedestrian circulation where buildings must be sited directly adjacent to pathways.
- Sidewalks require a minimum five-foot width and a landscaped buffer from roadways.
- Locate public and/or private right-of-ways, connections, and open space to reflect the contextual block pattern.
- Establish an internal district roadway alignment that encourages slow driving speeds to support pedestrian safety and responsible enjoyment of the views and natural site elements. Road widths should be limited to a maximum of 24 feet.

BIKE FACILITIES

- Place bike racks throughout the district in well-lit, safe, and convenient locations to encourage bicycle use and appropriate securing of bicycles that avoids encroaching on private property.
- Bike rack design should allow for artistic elements and reflect the character of the area.
- Install at least one publicly accessible bike pump station.

TRANSPORTATION

STREET GRID

The current configuration of the waterfront district lacks north-south oriented streets that could connect with the surrounding industrial area. The Port should work with the City to create more cross connections throughout the district and to downtown Kennewick.

PARKING

- Create pedestrian-minded parking lots that eliminate safety conflicts with vehicles and add value to the district landscape.
- Delineate safe and accessible walkways for all ages and abilities with special pavement treatments, such as color, texture, and/or materials.
- Orient parking lot aisles to run perpendicular to the building's entry and allow pedestrians to walk parallel with moving cars. Look for opportunities to add separate pedestrian pathways within the parking aisles to minimize pedestrians' need to cross traffic and landscaped areas.
- Create shared-parking regimes between businesses and other entities whose high-peak use occurs at different times of day and seasons.



Figure 80. New development should have all-ages accessible walkways within parking areas, enhanced with landscaping

A. ECONOMIC ANALYSIS



Figure 81. View of Clover Island looking east to the Cable Bridge

DATE: October 19, 2020
TO: Julie Bassuk, MAKERS
FROM: Matt Craigie
SUBJECT: Port of Kennewick – Waterfront District Concepts – ECONorthwest Feedback

Purpose and Context

MAKERS and ECONorthwest are assisting the Port of Kennewick with the creation of a master plan for their Historic Waterfront District properties. MAKERS has developed two preliminary concepts for the properties and is in the process of gathering feedback from the Port and the community. MAKERS asked ECONorthwest staff for our input on the following questions:

1. What elements of each concept are likely to work? Which elements raise concerns?
2. What recommendations do you have regarding phasing of development on the Port's properties?
3. Given the mix of uses presented in each concept, what incentives should the Port use to encourage new development?

This document presents our answers to these questions.

Concept A: Activity Destination

This concept creates a destination spot with new things to do and places for visitors to stay.



- | | |
|--|---|
| A1 Boutique hotel & event rentals | A7 Boardwalk connection to Sacagawea Trail |
| A2 Condo vacation rentals with art/gathering space | A8 Activity rentals (bicycle, scooter, kayak, peddle boat) |
| A3 Activity cluster with shaded enjoyment area (grab & go cafe, retail, covered public space) | A9 Activity cluster (brewery, arts, restaurant, winery) |
| A4 Permanent performance space, lookout point, completed pedestrian pathway | A10 Housing and vacation rental options around pond & courtyard enjoyment spaces |
| A5 Cable Greens condos | A11 Future potential ped, bike, and vehicle connection |
| A6 Completed Duffy's Pond Trail | |

What elements are likely to work?

- **Retail/Maker Activity Cluster (A9):** The retail/quasi-industrial uses at A9 should continue to flourish once the pandemic has subsided. These uses make sense here and, from a market perspective, should be feasible in the near-term.
- **Repositioning Clover Island Inn:** The Port should work with the Clover Island Inn to maximize occupancy levels as the region comes out of the pandemic downturn. Pre-COVID, there were major shifts happening in the hotel business. "Flags"—hotel sub-brands—were changing rapidly in a response to generational changes in leisure and business travel. The Clover Island Inn might have been planning or considering a flag change to appeal to these changing preferences. The hotel's ownership may want to reposition the Inn to sync with the same visitors that would be drawn to the proposed area amenities, e.g., wine tourists, boaters/river users. In this way, the Port can leverage the hotel asset that is already present.

Which elements raise concerns?

- **Permanent Performance Venue (A4):** A permanent performance space could be a necessity for Concept A. A frequently programmed venue that draws in visitors at least on a weekly basis for three seasons will be necessary to draw in the constant visitors that this concept will require. However, access and parking are major considerations for a performance venue.
 - Can parking for some of the uses on the island be shared during off-hours with concert goers?
 - With only one way on and off the island, are there off-island locations for concert goers to park and use a shuttle for access?
- **Commercial Cluster (A2, A3):** Clustering of commercial uses such as condo vacation rentals with art/gathering space (A2) and activity cluster with shaded enjoyment area (A3) could work well. However, since most visitors will drive and park at their

destination, businesses may struggle unless they have easy access points and adequate parking. The island's physical restrictions could inhibit the creation of a strong hub of activity. Since the island is long and linear, parking will most likely need to stay at surface level for the near to mid-term (i.e., subterranean parking is likely not physically possible and structured parking is cost prohibitive).

- **Residential Cluster (A10):** One issue with the off-island uses is that there does not appear to be a good way to build strong connections between each of the clusters. For example, the residential uses at A10 would be more appealing for prospective residents if they were closely tied with uses at A8 and A9. These connections should be explored to the extent possible with existing property ownership patterns.
- **New Boutique Hotel (A1):** The COVID-19 pandemic has decimated the hospitality industry, with plummeting occupancy levels and room rates. Despite the overall attraction of the Tri Cities region, new hotel developments will not be likely to pencil until at least the next market cycle (five years in the future). For this reason, hotels are going to remain unfavorable investments for years to come. In thinking about a potential new hotel, the Port should analyze (1) how a boutique hotel would differentiate itself from the Clover Island Inn and (2) how the two hotels would compete.

What are phasing recommendations for development on the Port's properties?

Short Term:

- **Permanent Performance Venue (A4):** A performance venue could be an early phase development. Even a temporary setup in a parking lot could go a long way to draw in visitor traffic and start to create more buzz about development on the island.
- **Outdoor Amenities (A6, A7, A8, A11):** The Port should seek ways to fund and develop those outdoor amenities—trails, Duffy pond improvements, etc.—during initial phases. This will help drive the appeal of residential uses.
- **Activity Cluster (A9):** The retail/quasi-industrial uses at A9 should continue to flourish once the pandemic has subsided. These uses make sense here and, from a market perspective, should be feasible in the near-term.

Longer Term:

- **New Boutique Hotel (A1):** Hotels are rarely first or second phase projects, even in times with more favorable economic conditions. They need strong occupancy levels to survive and therefore usually only get built when the "there-there" is already present.
- **Residential Uses (A5 and A10):** Residential uses become much more appealing once the outdoor amenities are in place. Otherwise, it could be a hard sell for many prospective buyers/renters.

Concept B: Residential Hub

This concept envisions the area evolving into a dynamic residential community with services and gathering spaces.



- | | |
|---|---|
| B1 Artisan market (local food/craft vendors, entertainment) | B7 Boardwalk connection to Sacagawea Trail |
| B2 Unique island living condominiums | B8 Recreation cluster (covered public space, bike shop) |
| B3 Amenity cluster (grab & go cafe, sports equipment rental) | B9 Amenity cluster (cafe, bakery, casual dining) |
| B4 Performance space and open gathering space | B10 Residential around pond & courtyard enjoyment spaces |
| B5 Cable Greens townhomes & vegetated buffer | B11 Mixed-use with retail/grocery |
| B6 Completed Duffy's Pond Trail | B12 Future potential ped, bike, and vehicle connections |

What elements are likely to work?

- **On-island Housing (B2).** Condos on the island is a unique housing option with only a few true competitors in the region (e.g., Columbia Point). Seniors and river enthusiasts would be drawn to it. To support this residential use, consideration should be given to on-site and on-island amenities.
 - An important benefit of on-island housing is that residents will help "anchor" on-island commercial businesses and could generate off-peak hour activities.
- **Residential around Pond and Courtyard Enjoyment Spaces (B10).** In both concepts, it makes sense that new development in this area would be residential. A more achievable scale of residential development at this location would be the smaller multifamily pod buildings shown in Concept A. In addition, there are not mirrored uses across Clover Island drive or directly to the east of this property
 - **Additional Considerations:** To achieve higher multifamily densities, the Port might want to consider senior housing or assisted living facilities. The competition for these uses in the Tri-City area is unknown but likely the demographics are generally conducive to this type of use.

From an economics perspective, these uses can be profitable for landowners. They might even be able to work with a ground lease situation.

One downside of an assisted living or memory care facility would be that the residents are not likely to be able to leave the facility to support area businesses.

Which elements raise concerns?

- **Artisan Village (Public Market) (B1).** While the Artisan village (B1) is an exciting concept, the Port should know that these projects are always economically challenging and even those that have been in use for years lack financial stability. That said, if public

markets are carefully planned and well supported, they can become major tourist attractions and valued community gathering places. Key threshold considerations include:

- **Building New vs. Repurposing a Building.** Building new is a financially challenging option, as none of these facilities can support a debt payment. The most successful public market in Eastern Washington is the [Pybus Market in Wenatchee](#). In that case, a preexisting building was repurposed for the market.
- **The Location.** Location could be a challenge from a transportation and access standpoint. Left-turning visitors to the market might create a slowdown or bottle neck with other island users. A more appropriate location could be adjacent to the existing amenity cluster (B9). This would build on energy of the existing retail and offer better ingress/egress via a traffic light on Columbia Blvd. (Of course, in this situation, it would not have the draw of being directly on the waterfront).
- **Mixed-Use Building (B11).** This should be considered as two buildings. While the Port does not control the building at the corner of Clover and Columbia, that is the most visible and desirable location for a larger retail building like a grocery store. Mixing a grocery store with upper floor retail is not only challenging from a financing/economics standpoint but also due to a floor plate and column spacing mismatch between uses. This type of development is usually only found in dense urban environments where high rents allow for its costly construction type.

What are phasing recommendations for development on the Port's properties?

Short Term:

- **On-island Housing (B2)** may be a viable near-term option with the right developer, especially given that this is such a unique site within the region.
- **Public Market (B1).** A two building concept would allow for phasing—one building is constructed first, and then as visitor volume and revenues increase, a second building could be constructed.

Longer Term:

- **Residential around Pond and Courtyard Enjoyment Spaces (B10).** In both concepts, it makes sense that this area would be residential. However, residential at the scale shown in the renderings would only be possible in later phases of development.
- **Mixed-Use Building (B11).** Vertical mixed uses should only be considered for later phase projects, if at all. Vertical mixed-use is much more costly and difficult to finance. A horizontal mix of uses, say a condo building next to a coffeeshop, can offer the same use types without the same economic and financing issues. Many times, there is a demand for first floor retail in residential buildings. While in dense urban environments these spaces can live up to their promise of street activation, in almost all other locations they are difficult to lease and become financial burdens for developers.

Given the mix of uses presented, what incentives should the Port consider using to encourage new development?

- **Opportunity Zone.** It appears that the Waterfront District is within a Federally designated Opportunity Zone. It is unclear what actual power this program will have to incentivize new development; however, it should be considered by new businesses and real estate projects.
 - The program allows private investors to defer, reduce, and in some cases, cancel out their capital gain taxes on specific investments. The program does have a graduated sunset, which encourages near-term investments.
 - Our assessment of this program as it impacts real estate development projects is that, in most cases, it does not tip the balance towards financial feasibility for a project that otherwise would not get funding. Rather, it layers an extra incentive on top of an already financially attractive project.
- **Reconsider Port Land Sale Policy.** One hurdle for new development that the Port needs to contend with is the impact that a "no land sale" policy has on prospective developments. In most situations, developers (and their investors) are unwilling to deal with a ground-lease encumbrance. Ground-leases make project financing and sale difficult. Ground-leases are most successful in growth-oriented markets (e.g., big cities). In this case, developers and investors are able to balance the multiple risks of a ground lease situation with the potential profit upside and confidence that they will be able to find a buyer in the future.
 - To counter the ground-lease impacts, the Port should offer generous ground-lease terms like low rates, deferred or "step up" payments, and long-term payment schedules with multiple options; they are already doing some of these things.
- **U.S. Treasury New Market Tax Credits.** This program provides private investors with federal tax credit for investments made in economically distressed communities. It appears that the Waterfront properties are [within an eligible census tract](#). Although these can be powerful funding tools for projects like a public market, these funds have been harder to access in recent years.
- **Washington State Grants.** The State has several grant programs that should be considered. The Port is familiar with some of these options. The State's Community Economic Development Board (CERB) grant program could assist with future planning efforts. Other state grants might be able to assist with infrastructure or public/private development deals, like the artisan market.
- **Federal Grants.** The Port is familiar with some, if not most available Federal grant programs. There are annual opportunities for grants from the U.S. Economic Development Administration (EDA), United States Department of Agriculture (USDA), and other Federal departments and bureaus. The Port should look out for new grant opportunities should another stimulus package get approved in 2021.

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B. PUBLIC ENGAGEMENT FEEDBACK



Figure 82. Landscaped walkway adjacent to the marina

VIRTUAL ENGAGEMENT SUMMARY

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



1

OUTREACH SUMMARY

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 and appropriately scaled and sited mixed-use residential

2

OUTREACH SUMMARY

PLAN RESPONSES



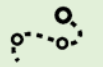
WATER

- 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



3

OUTREACH SUMMARY

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

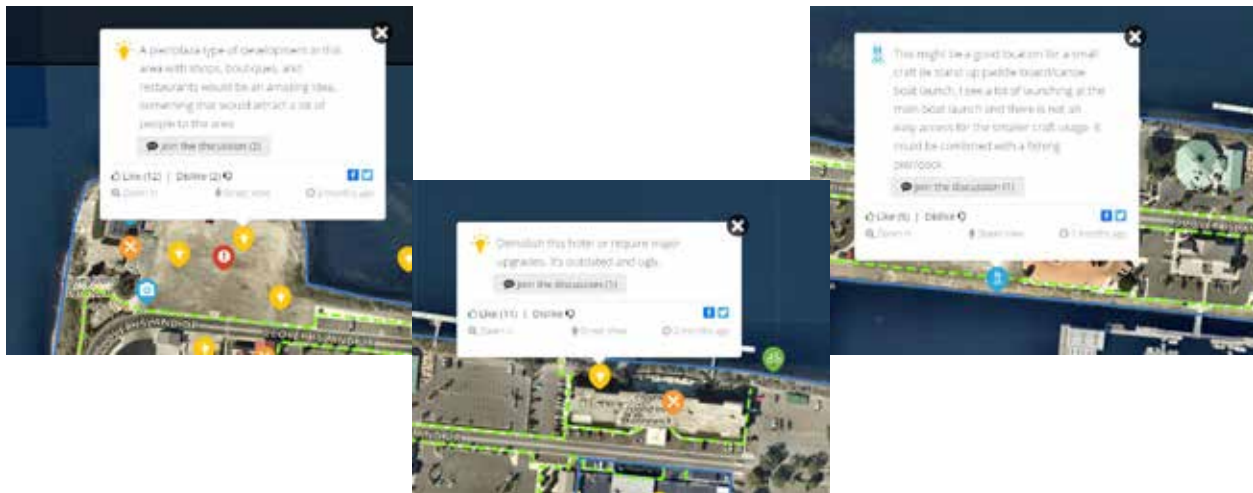


4

OPEN HOUSE #1

MAP ACTIVITY HIGHLIGHTS

Clover Island Development Ideas



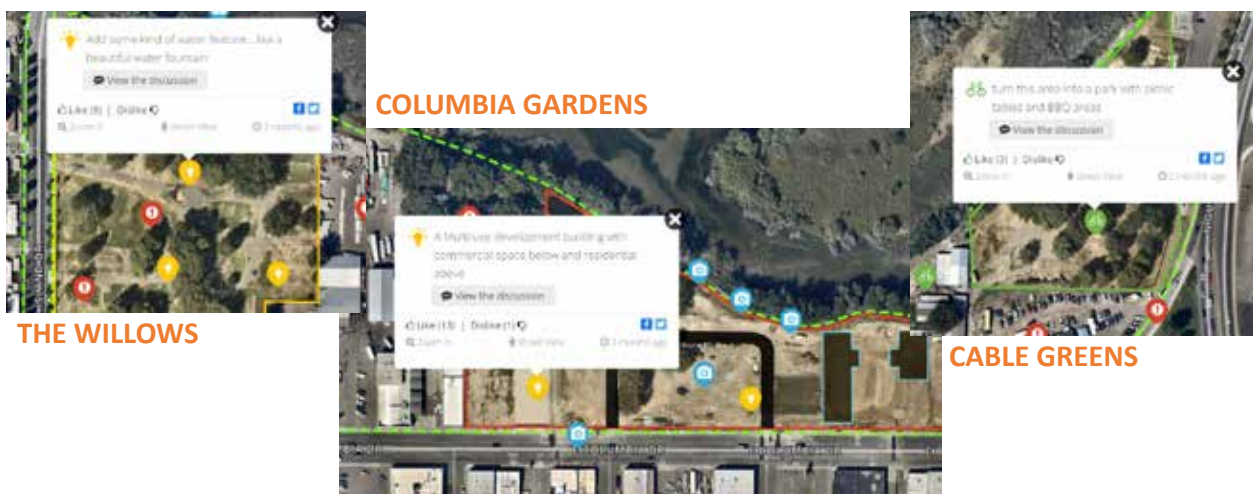
Inn remodel – pier – shops – plaza – boutique – canoe launch – fishing pier – restaurant

7

OPEN HOUSE #1

MAP ACTIVITY HIGHLIGHTS

Columbia Drive Development Ideas

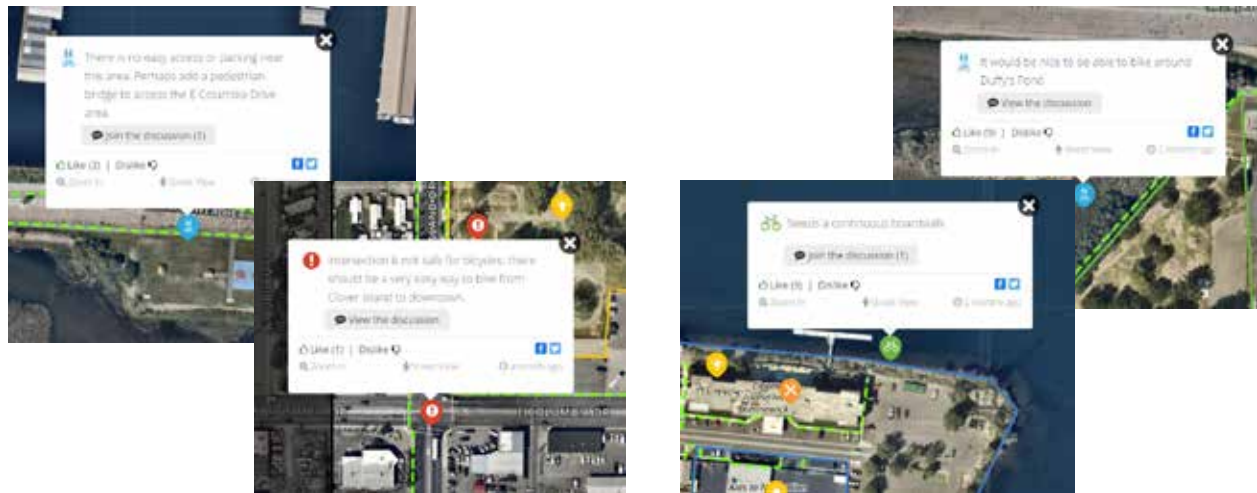


multi-use – commercial space – residential – BBQ pit – picnic spot – water feature

8

MAP ACTIVITY HIGHLIGHTS

Access Concerns



continuous boardwalk – safe intersections – improved access – pedestrian bridge

9

PHASE 1 OUTREACH

TAKEAWAYS

- Clover Island's views, lighthouse, and proximity to the river are main attractions
- Pedestrians and cyclists would benefit from completed trails and safety improvements
- The new wine village and food truck area attracts visitors, more amenities desired
- Blight and nighttime safety concerns can be deterrents to visitors and developers
- The variety of unique local businesses is *great* and there is appetite for more
- Island gets a lot of boat traffic and parking is limited during peak use periods



10

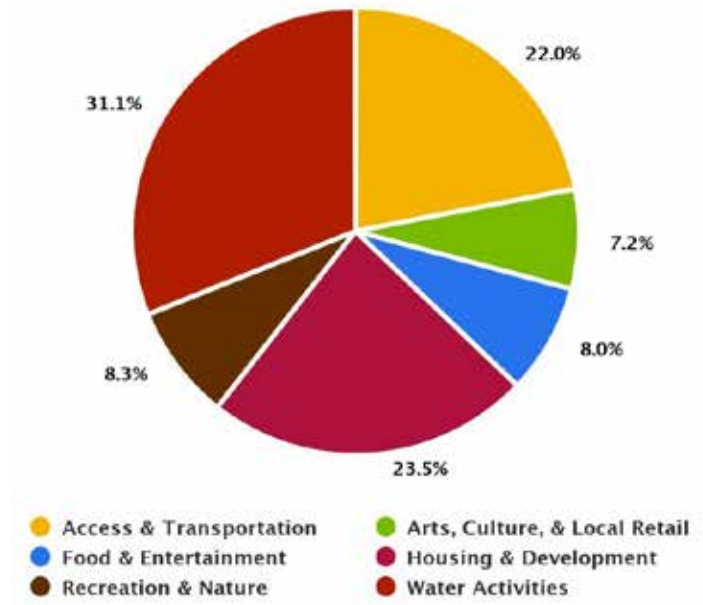
OPEN HOUSE #2 - OUTREACH SUMMARY

OPEN HOUSE

- 523 unique visitors
- 63 comments
- 76 survey responses

MOST POPULAR TOPICS

- Water activities
- Housing and development
- Access and transportation



11

OPEN HOUSE #2

CONCEPT FEEDBACK HIGHLIGHTS

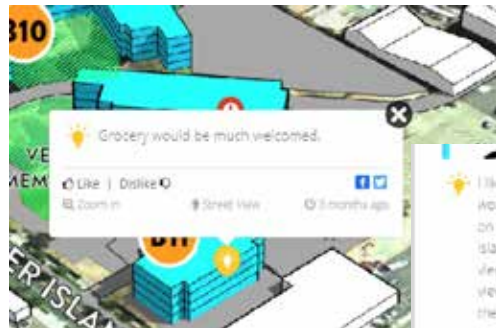
Concept A: Activity Destination



12

CONCEPT FEEDBACK HIGHLIGHTS

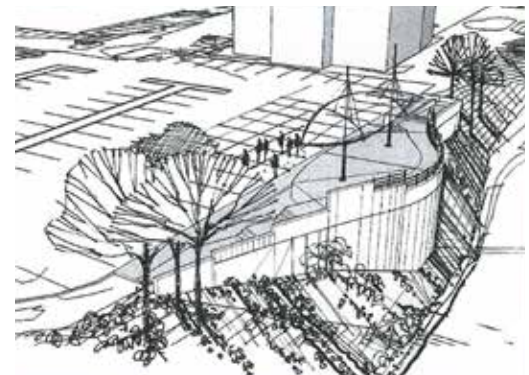
Concept B: Residential Community



13

TAKEAWAYS

- **Activation:** high level of interest in lively public spaces with amenities
- **Access:** improved trails and Duffy's Pond boardwalk are strongly desired
- **Amenities:** formal performance area and artisan market had the most positive feedback
- **Residential:** concern with the potential for blocked views and a perceived lack of vitality within residential areas



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OPEN HOUSE #3 - OUTREACH SUMMARY

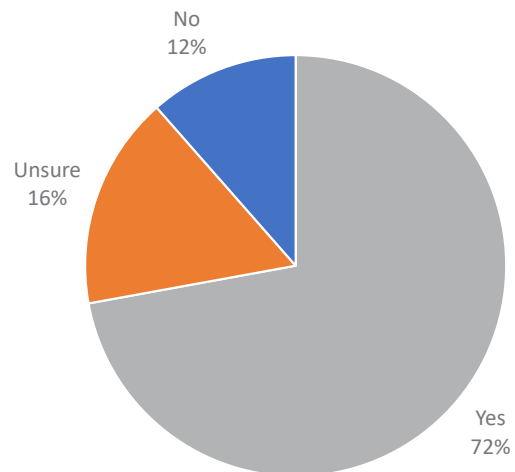
OPEN HOUSE

- 147 unique visitors
- 61 survey responses

FINDINGS

- 80% support a completed trail network
- 66% support adding community gathering spaces
- 70% support an artisan market

Proposed plan provides enjoyable activities

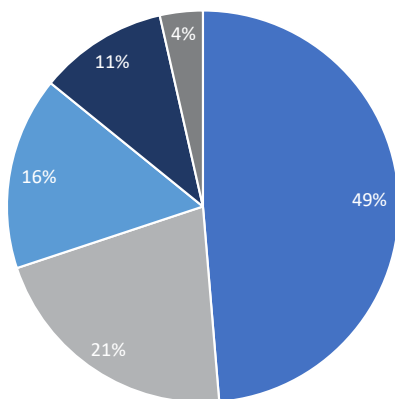


15

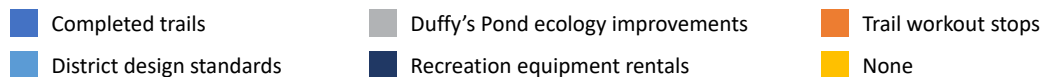
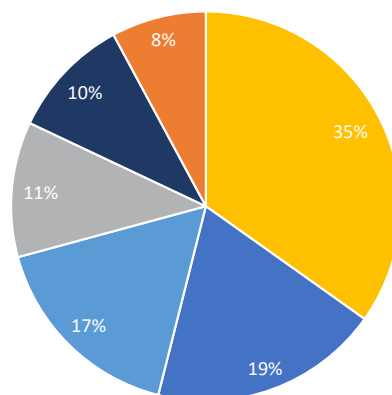
OPEN HOUSE #3

OUTREACH SUMMARY

Highest Priority Amenities



Amenities Causing Concern



16

OPEN HOUSE #3

TAKE-AWAYS

Priority Amenities

1. Completed trail network
2. Improved Duffy's Pond ecology

Priority Development

1. Additional shopping & local food spots near Columbia Gardens
2. Artisan market at Columbia Gardens
3. Improved Clover Island concert location



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OPEN HOUSE #3

TAKE-AWAYS

Concerns

1. Residential development that blocks views
2. Increased development and programming that impacts available parking
3. Uses that limit public access to the river and Duffy's Pond
4. Development that detracts from existing attractions like the lighthouse, and is not in scale with other development
5. Attractions that cater to tourism and neglect the desires of the local community



18

Historic Kennewick Waterfront - Master Plan

Port of Kennewick
June 7, 2021 @ 11:00am

Public Comments Received May 26, 2021 - June 6, 2021

Share your comments:

Email Address:

I support mixed use development and mixed income housing but am concerned that it be done in a thoughtful way, not merely as an afterthought to possibly secure federal infrastructure funding. The redevelopment plan has been focused on improving the area and increasing the tax base, which needs to remain the focus.

julicat@charter.net

I believe the idea of turning The Willows into homes for low-income and the homeless is one of the worst public planning ideas I've ever heard. That will destroy the entire attempt to revitalize that area. I'm a real estate investor and broker for the last 20 years. On a government official could think something like that made sense. No one in the private sector would ever do something so foolish. That area is extremely desirable (see the development happening in Pasco). Please for the love of God, don't be ridiculous. Low income housing shouldn't be located ON THE RIVER. It's the opposite of best-use strategy of land. Please share this message in its entirety at the meeting. Jared Fielding

jaredfielding@gmail.com

I like the plan with the exception of more food trucks. Food trucks take up valuable parking spaces and do not provide the ambience you want in a valuable real estate area. If you can create a beautiful Riverwalk similar to San Antonio, it will draw people to retail stores and restaurants. Please don't settle. Food trucks do little to add value to our community. They have a role but please do not expand their current role in our community. We need a high-end open air restaurant at the waterfront similar to LuLu's. As for the architecture for the area, I highly recommend following a colorful European look similar to Passau, Germany. Water taxis could transport people to and from Clover Island when extra parking is needed for popular events. Rentals of non-motorized activities like paddle boards or paddle boats (similar to Catalina, CA) would add to the waterfront ambience. The Kennewick waterfront is a valuable piece of real estate that can upgrade our community. Do not settle for food trucks and picnic tables. Be patient. If you plan this correctly, restaurateurs and upscale retailers will be eager to be a part of the area.

jkur@att.net

We are writing to express our dismay and concern regarding the Port of Kennewick's decision to allow construction of low-income housing which had been paid for and removed previously to allow the proposed project in the premier Kennewick Historic Waterfront District. The Kennewick Master Plan for this area according to the Tri-City Herald is "A long-term vision for the waterfront near downtown Kennewick proposes bringing a mix of places to live, shop, and play to the area near Clover Island" and has been years in the making. This last-minute decision to allow low-income housing is not consistent with our communities vision for this location and will not be in the best interest of this prime retail and residential property. This is a unique piece of property and the community has worked years to bring this vision of a wine village, tourism, shopping, and walking paths to this area. This decision is unacceptable and we ask you to vote against the resolution and do not accept federal monies with conditions attached. As it was stated by Port Commissioner Mr. Novakovich in the Port meeting minutes on May 11, 2021 expressed his concern over the contradiction of the alignment of the vision of the KHWD draft Master Plan and Resolution 2021-06 which may approve future infrastructure in The Willows and a partnership with the Kennewick Housing Authority (KHA). Novakovich asked if additional public outreach should be done for The Willows infrastructure project and discuss the potential direction the Port is going, which is a DRASTIC change The Makers is proposing. Commissioner Novakovich does not believe it is the right use for the project. The public comments read into the May 11, 2021 Port of Kennewick meeting by Ron Swanby and Andrew Klein, Klein Griffith Properties, LLC did a great job laying out the public and potential investor issues on this subject and need to be taken seriously if the Master Plan for the Kennewick Historic Waterfront District is to ever be fully realized. Thank you for supporting the wishes of the community, Port Commissioner Novakovich and not the short sightedness of a few Port of Kennewick Commissioners and others.

mbutter104@charter.net

Historic Kennewick Waterfront - Master Plan

Port of Kennewick
June 7, 2021 @ 11:00am

Public Comments Received May 26, 2021 - June 6, 2021

Share your comments:	Email Address:
The commissioners need to follow their own mission statement "The Port of Kennewick is an economic development entity focused on developing assets to create sustainable family-wage jobs, build infrastructure and user-friendly transportation systems and enhance the quality of life within the port district." The Willows area needs to be developed within these guidelines, long term community growth and prosperity can be achieved. Changing mission goals for possible federal dollars is not in the best interest of the community.	guysteen@ymail.com
Accessibility is going to be a problem for the quality on public use. Foresight into the number of people wanting to experience the river, fireworks displays, boat races will be compromised over parking & open spaces .	Sweetpea50@comcast.net
The proposed partnership with KHA is not the best use of the Willows property and does not follow the wishes of the stakeholders and the majority of partners in the Historic Waterfront District Master Plan. As a member of Clover Island Yacht Club (CIYC), I contend that the club is a very important partner in the master planning for Clover Island. But nowhere is the club identified as such. The club's mission statement states: "The CIYC is organized for the purpose of promoting the development of interest in yachting and boating of all kinds on Washington State navigable waterways and to promote marine construction of all kinds and to further perform all services relative thereto including civic and social functions and to that end is dedicated to the promotion of a spirit of cooperation and fellowship on the part of the inhabitants of this area." The club's lease with POK gives us control of the best asset for Clover Island West. Our club house and the second floor are hugely under utilized for their potential. Using the ground floor as an event center and the second floor as the casual dining space would generate considerable income for the club and POK, eliminate the need for an event center on the NW corner and put parking for the whole island. Site the boutique hotel at the Willows where it won't take up valuable shoreline that public can't access. CIYC would need POK backing for a floating replacement club house to replace the current one.	mikegrimes8433@gmail.com
They should remove the Dike separating the marina and the pond and make a swimming area.	Rickfellows@ymail.com
Please move forward with the plan as fast as possible. It is time to stop talking and get building. I hope to live in one of the townhouses!	georgia.talbert@yahoo.com
No multi story buildings. No neon. No housing to block off public access. Must have attractions for locals not just visitors. Whats with the wine obsession. Need more places to eat there. Souvenir shop would be good. But you really have to address parking issue. A dedicated BFT shuttle might work too.	Gibsonb74@yahoo.com
All of the planned amenities will not mean anything if nobody lives there. Development of affordable housing is essential for the vitality and successful growth of this area. I don't think a fancy hotel or upscale condo complex directly on clover island is good for the island itself.	Mgdoenges1@yahoo.com
If you look at most successful waterfront areas they have similar venues and attractions - Hotels, Restaurants, public gathering spaces, and small business shops (antiques, boutiques, home decor, etc.). We have a couple of these plus something a majority don't have, a marina. One town that has been successful (even after a historic fire gutted the waterfront dist.) is Bandon Oregon. We mirror that place and we will drive in the tourists, business meetings, and vacationers which only increases our revenues.	bluewake@msn.com
Please do not turn Willows back into low-income housing. There has to be other properties that can be developed for low-income housing. I would also like to see an area for botanical/gardens. This could be an area or more emphasis on strategic planting along the trails and walkways. Please consider use of 100% local construction forces including Prime Contractors, subcontractors and skilled workforce.	washcowgirl@gmail.com
I am 100% against Low income housing in the Port District. This makes no sense at all after all the hard work to clean up that area and bring in businesses and revive downtown. This seems like a project based on grants or money. Our community deserves a waterfront area that is Safe, Clean and Nice for all. By bringing in Low income housing, this will not be accomplished. I am all for providing low income housing but, this is not the place to do it. What happened to the idea of condos in that area? That makes sense. I truly hope that the Port of Kennewick looks at the big picture. The master plan should include all and not just a select few.	mark1jay1@icloud.com

Historic Kennewick Waterfront - Master Plan

Port of Kennewick
June 7, 2021 @ 11:00am

Public Comments Received May 26, 2021 - June 6, 2021

Share your comments:	Email Address:
Get er done! It's about time!!!	221625kmcafee@chareter.net
Need more docks more room for boat parking. Update!!	
Our concern is with the almost secret activities by the Port of Kennewick (POK) to suddenly change the strategy of improvements as described in the Kennewick Historic Waterfront District Master Plan to partnering with Kennewick Housing Authority to create low income and homeless housing in the Willows area without getting input from taxpayers and the businesses in that area, especially those that were created by recruitment to support upgrading to the properties. For years the POK has been spending money and publicizing efforts to make the Clover Island and Columbia Drive properties a desirable place to participate in water activities, dining, biking, hiking and potentially create desirable residential area(s). They have used such words as "family events, upscale, perhaps boutique businesses and hotel(s)." Housing homeless and low income people does not create a vision as sited in the much advertised plan for that area. We have all watched situations across the West where low income and homeless have moved in. Why would we (you) spend thousands of dollars to clear out low income, less desirable housing and replace it with the same or similar thing. Further, the City of Kennewick has already identified a location on 10th Avenue in Kennewick for such housing and it is more central and accessible to groceries, medical, schools, etc. We implore the POK Commissioners to vote against this change without gathering more supporting input from taxpayers.	littlebear1945@hotmail.com
Thank you for providing comments. This is an interesting area and it looks like a profitable plan. I am not originally from the Tri-Cities. I moved here in the 1980s. Personally, I have never liked the idea of expanding residential or commercial developments out beyond the shoreline of the river. I don't think it's esthetically pleasing. I think the edge of the shoreline should be preserved. This future plan with the new construction to be placed on the land seems like a fairly good addition to this area. Environmental provisions should be strictly enforced. my final opinion is to not build any new structures out into the Columbia River.	sonlander@aol.com
I am 100% against Low income housing in the Port District. This makes no sense at all after all the hard work to clean up that area and bring in businesses and revive downtown. This seems like a project based on grants or money. Our community deserves a waterfront area that is Safe, Clean and Nice for all. By bringing in Low income housing, this will not be accomplished. I am all for providing low income housing but, this is not the place to do it. What happened to the idea of condos in that area? That makes sense. I truly hope that the Port of Kennewick looks at the big picture. The master plan should include all and not just a select few.	mark1jay1@charter.net
This plan look wonderful. I can't wait to see its completion! As Executive Director of The Arc of Tri-Cities, my only input would be requesting that there are allowances and accommodations for people with Intellectual and Developmental Disabilities, in addition to physical disabilities. Parking spots close to entrances, so people who may have a tendency to dart across parking lots without looking will be safe, and parking inlets for a quick drop off and pick up that are large enough for the Ben Franklin Transit Dial A Ride vehicles to easily navigate without blocking traffic (a good example is the parking lot at Fred Meyer in Richland on Wellsian).	cindyo@arcoftricity.com
Sounds great! Any way to fit in paddle boat/SUP/kayak/etc. rentals. Boardwalk and fishing pier amongst the additional eateries and lodging would be awesome.	kennalyn10@hotmail.com
This is NOT the vision that had been presented to the community or businesses of Kennewick for the Historic Waterfront District. The Port has spent millions of dollar to clean up and remove the low income house from the, Willows" area. I am a Kennewick resident and I am Adamantly opposed to the Willows project as an area for low income housing.	mark1jay1@charter.net
What the POK has done to date has been top notch! The addition and development of Artisan Wineries and Restaurants will be a welcoming addition. Our concern is "The Willows", it doesn't seem to fit into the plan for improvements. The area had a previous "eye sore" and thank you POK for clearing that up. We feel a better location for TriCity homeless could be found. Thank you for your dedication to our community.	boatinbudds@yahoo.com
Where will boaters park their vehicles and trailers?	carlwalker56@gmail.com

Historic Kennewick Waterfront - Master Plan

Port of Kennewick
June 7, 2021 @ 11:00am

Public Comments Received May 26, 2021 - June 6, 2021

Share your comments:	Email Address:
Kennewick needs to develop this area with upscale Condos and Hotels.	lhein@basinsod.com
Please make sure there is plenty of parking space.	Susanlopez1021@yahoo.com
This is repeating the mistakes of Vista Field and creating a tightly congested mess--(think future pandemics). There is not enough access and parking. The residential plans are not in alignment with use for the entire region instead of less than 0.003% if the population--also senior living will not fund the venues. DELETE ALL RESIDENTIAL Plans, especially on the Island and include more hotels. Hotels do not need to be "boutique". You already removed residential in the willows area--DO NOT PUT IT BACK! Add more parking. Clover Island Inn is fine--at least it has some character--unlike the new cookie cutter designs. Add more Restaurants. Summary: Delete Residential, add more Hotels, Restaurants and Parking. (I wonder why we keep trying to look like a Portland or Seattle compressed mess).	carlk4895@gmail.com
the plans for the inclusion of homeless shelters/housing in the development is wrongheaded and should be dropped.	tricitysolar@frontier.com
As a business owner and a resident of the tri cities for 30 yrs. I believe that the current new plan of changing the master plan to hold a new low income housing project in the willows at clover island is the wrong approach to what the community wants in that area. A lot of people and businesses have spent time and money preparing for the future of this area and having that type of housing would not benefit the businesses at all in that area. there is even not a local grocery store etc. around that area. our community does need more of the proposed type of housing but that is not the area for it. some times free money (grants) aren't always the best solution to a problem especially when the community doesn't agree with it.	sabel7007@gmail.com
We have been in this area for 22 years and watch lots of great change taking place on our waterfronts to make it more accessible, and gives our families and community a place to visit and share with each other. I understand that there are plans to build a low income housing in the planning are of the port of kennewick improvements. I feel like that is not the intent of the community to have this as part of our plan! Please use this as a voice to not go forward with plan to build low income housing.	Sauceda07@gmail.com
On the west or east side of the island, we need a Hugh dock for swimming, and boating with considerable parking and shade structures	Oldarchitectmjb@aol.com
Should of left the mini-golf course alone. In my opinion that would of been a great recreation activity for all .	dbowland588@gmail.com
I am so excited too see all the new amenities coming to cover island! I love the idea of a concert venue and more boutique shopping and restaurants. I'm very hopeful that any new food and shopping that comes to the area is more unique and that in general, the area does not allow for these spaces to be filled with fast food or fast casual chains. The uniqueness of the space would be ruined with chipotle and Starbucks. I also really hate the idea of so much space being taken up by more housing. With space limitations already presented for parking and amenity use, adding housing would take up even more retail and parking space, and be an eyesore for tourists on clover island.	Kimberlynlouise@gmail.com
Make it like nothing we have here. Local arts, music, something that works for families during the day but can switch to music entertainment at night.	abellaphotography@ymail.com
The plan looks like a nice use and development use of the Island and the waterfront area. BUT. Now go down and photograph the view you'll see across Columbia drive. Why would anyone want to go there for events of activities when across the street is an urban ghetto area. Your spending huge money on developing while the view you don't show in your pictures is a disaster. I use to live in that area of Kennewick and was run out by the cities obvious plan to make eastern Kennewick a ghetto where no city ordinances meant anything. Your waiting your money and time unless you get the city to clean up their ghetto they let develop with their blessing.	Pacube@msn.com
Need more handicapped parking	pbraun1770@hotmail.com

Historic Kennewick Waterfront - Master Plan

Port of Kennewick
June 7, 2021 @ 11:00am

Public Comments Received May 26, 2021 - June 6, 2021

Share your comments:	Email Address:
We feel the new direction of the Historic Waterfront District Master Plan is not consistent with the original. We were shocked and disappointed to learn that the Port commissioners were even considering low income or homeless housing in the Willows area. We are not opposed to the such housing but feel there are many other more appropriate areas to construct it. Such a proposal is unfair to the businesses and private enterprises in the area. They bought into the original concept of Clover Island developments and this new proposal negates all of the positive momentum and effects achieved thus far. We need developments and businesses that will encourage locals and visitors to look forward to what the Island has to offer. We need to preserve the uniqueness and beauty of Clover Island for generations to come.	loerajp@gmail.com
Not thrilled about the boutique hotel idea for Clover Island West. I wasn't sure about the open air market but after seeing that plan I am more positive about it. I would like to keep residential and hotel living away from the river walks and the view of the river; okay on the south side of the levy.	barbaraash25@gmail.com
The willows development would be a great place to sell lots to people who would enjoy living close the water. The proceeds could be used to house the homeless in another area of town that wouldn't negatively impact local businesses. Let me know if you decide to sell lots.. I would be intrested in buying one.	givtols@q.com
They should take advantage of the beautiful Columbia river. Build a casino, a restaurant, motels. Think about building a small theme park, or something new to attract other people along with the community right here. It would bring in tourists plus millions of dollars for tricies.	www.kimberlydumond6@gmail.com
I am so excited to see new life coming to downtown Kennewick. I hope they can move quickly and make this reality. The longer it takes the less interested people will become. It would be great to bring new life and activities to teens and children in our area as well.	
The proposal for the Clover Island West area does not show adequate parking for users of the public boat launch across the street. This launch is used heavily by residents. The current gravel parking area is often heavily used for vehicles and trailers. Provisions should be made to allow adequate, safe parking for vehicles and boat trailers.	Jswan93426@gmail.com
I would love to see a fishing dock installed. We have an amazing river with lots of opportunities for fish and no way to really catch unless your rich and can afford a boat. Charge 8 bucks a head. Install it next to clover Island in the calm water opposite if the marina and there you go. It'll be paid for and then some in a years time. If you had tournaments and stuff off them it'd be a great community activity and Bring all walks of life together. Who doesn't love to fish.	Sageshinobi509@gmail.com
Condos in front of the Bay Area will be problematic, they will complain about boaters using the bay for recreation , not to mention that parking is limited.... There just is not enough room to add a possible 40-50 more vehicles for residents to the island at that location. A better option would be to put the condos at the east end of the island by the Hotel and move the concert venue in front of the bay.	Brian_achenbach@msn.com
If this area is just going to be developed in to low income housing, why was it not left as the trailer park that was there originally. The master plan has never show plans for low income housing in this area until now, at the very last minute in the comment period. How can you expect to bring in new businesses and generate the needed synergy for development, if you put a lot of low income housing in this area. The city of Kennewick agrees that they have plenty of other areas that can be developed for low income housing. This is a bad idea for this specific area of Kennewick.	Greg@inlinecomputer.com
Please consider traffic and children. Just a thought after southridge area experienced wreck a week. So access, young and old drivers. Pedestrian, bikes, Harley-Davidson s,visitors. Please consider generously roadways and signage. It's profitable in the long term. Too many wrecks on 68 in Pasco , Clearwater people avoid the area. I avoid southridge and am concerned still about the congestion. Atleast 4 elderly drivers have died locally from wrong way driving. One died at Anthony's in Richland drove into river. My huge concern. Thank you. Also litter, water quality climate centered landscaping. Don't underestimate the power of birds, fish and trees in Benton county.	Jamie_yardley@yahoo.com

Historic Kennewick Waterfront - Master Plan

Port of Kennewick
June 7, 2021 @ 11:00am

Public Comments Received May 26, 2021 - June 6, 2021

Share your comments:	Email Address:
Is it possible to open up a waterway between the Columbia River into Duffy's Pond so that small boats could dock along the walking path and enjoy the food and recreation areas for an hour or so?	kevin.grumbling@outlook.com
Please no more residential housing from wine village to clover island. I would love to see it all as commercial use for tourists and the locals. No residential!	cucol2009@gmail.com
Regarding your plan to put homeless housing in the Willows, please do not continue down this path! This is not the highest and best use of this critical property. Looking at how you are marketing the waterfront development, the homeless housing is in direct conflict with your plan. Do you really want it to be the first thing people see as the drive onto Clover Island? No doubt you will greatly reduce enthusiasm for future investment. Please pass on any funding that will ultimately result in only a perceived short-term benefit at the cost of future development. There will be no putting the Jeannie back in the bottle, so to speak. My family and I use the Island amenities almost weekly. Please do not make it an unwelcoming place. Thank you for considering my input.	dratcliffe10@gmail.com
I am a boater and user of the Clover Island amenities. Why would you build a homeless development in such a prime location? You're going against your own original master plan. Apparently you have been contacted by other commercial developers and choose not to pursue something more in line with your master plan. What ever short-term financial incentives your receiving for this homeless housing development will be minor to the future revenue losses you'll experience from loss property value and stunted development. I, therefore, do not agree with the Port moving forward with this Homeless development plan! I'm struggling to even comprehend why you would even consider this!	theratcliffes@charter.net
This is not in the best interest of the wider TriCities community. This area should be developed for maximum recreational use and putting a homeless housing will drive down ability to use this area and feel safe for recreational purposes. Please, please rethink this. There are many other area a homeless shelter could be built. And there are a few commercial developers who are interested in developing this area consistent with	Kerryb22@charter.net
Port Commissioners have shown both incompetence and dereliction of their duties in their complicit acceptance to the proposed use of Port resources and property as a homeless shelter in connection with The Willows project. The mere fact they are considering it is of no shock considering they lack any foresight to the absolute potential of this area as a recreational destination. This is demonstrated by their inaction to their own commissioned studies recommendation to do minor improvements including an "actual stage" on the east end of the Island. So, rather than consider proposed use for the greater good of the community as a whole, they seek short term compensation to construct housing for the homeless, which could be done anywhere else cheaper. If this housing is put in, increased crime, decreased property values and any hope for creating a safe recreation destination along the downtown Kennewick waterfront is lost. Port of Kennewick Commissioners are on notice. Your continued support of this plan will mark your ultimate removal from office and ability represents the interests of the community. Simply put, we do not support the planned use of the Willows as a homeless housing development project.	hadley_ryan@hotmail.com
Putting a homeless camp at the entrance to Clover Island is the WORST idea I have ever heard. Why would you destroy all the money you have invested in Clover Island and the surrounding area that way? I am totally opposed to this idea.	TVause01@yahoo.com
As a Business Owner and Boathouse Owner on Clover Island, I am very concerned with the joint project with the Housing Authority being proposed for the Willows. I do not think this is a good fit and does not follow community expectations for this recreational area.	calundgren61@hotmail.com
testing the waterfront page to see if this form submits.	tana@portofkennewick.org

Columbia Gardens Playground

The Kiwanis Club of Kennewick is proposing that the club build a playground structure in partnership with the Port of Kennewick on land owned by the Port of Kennewick at its Columbia Gardens redevelopment project between Columbia Drive and Duffy's Pond. It is anticipated that the project will cost approximately \$237,350 with contingencies. A draft budget is attached identifying the costs as can best be estimated now and viable sources of revenue to cover those costs. The project would be constructed in the spring of 2022. The proposed project site borders the bike-hike trail through the Wine Village and overlooks the picturesque Duffy's Pond.

Kiwanis Club responsibilities would include fundraising, oversight of the project, equipment selection, ongoing maintenance of the equipment and Port of Kennewick responsibilities would include provision of a site on their property, financial contribution, overall construction on the broader Columbia Gardens site, ongoing liability, and security for the playground.

The Kiwanis Club Board of Directors has committed \$25,000 of club funds to this project and approval to fund raise an additional \$25,000 from club members and friends. The Board commitment was made on June 3, 2021.

The playground equipment will be supplied by GameTime who will supply the most up-to-date, compact obstacle course for children aged 5-12, The Stadium. A firm quote of \$185,349.86 for the equipment and installation has been received from Great Western Recreation of Seattle (contact is Quinn Connell, Territory Manager). Additionally, an eight-foot concrete walkway from the nearest internal street and an eight-foot concrete buffer around the playground will be built. There will be a bike rack, benches and picnic tables placed in the buffer area along with waste receptacles.

Fund raising will include grant applications, sponsorships and a Go Fund Me community appeal.

The Kiwanis Club seeks the Port of Kennewick Commissioners' approval of the project and commitment of \$100,000 towards the project construction. The Kiwanis Club plans to have all the funds in hand by January 1, 2022 to provide for spring 2022 construction.

Committee Members

Wayne Bell, Chair	Maureen Bell
Tom Moak	Gary Puckett
Chuck DeGooyer	Russ Burtner
Vickie Bergum	Bob Kelly
Art King	Elizabeth McLaughlin

Columbia Gardens GT-Stadium-Project 103229-01-Opt 1
Kennewick, WA



A STRONG FOUNDATION IN PLAY FOR OVER 50 YEARS

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PORT OF KENNEWICK

RESOLUTION No. 2021-11

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AUTHORIZING
AN EXTENSION OF OBLIGATION TO CONSTRUCT CLAUSE
FOR A 2017 LAND SALE TO PRONGHORN LLC***

WHEREAS, Pronghorn LLC (Purchaser), purchased 34.66 acres of vacant land from the Port of Kennewick on June 13, 2017 in Kennewick, Washington and graphically depicted on “*Exhibit A*”(the “Property”); and

WHEREAS, a restriction to the Statutory Warranty Deed recorded September 13, 2017 allows the Port of Kennewick the option to repurchase the Property should the Purchaser not develop the Property within eighteen months of closing; and

WHEREAS, on April 23, 2019 through Resolution 2019-08 the Port Commission approved a 24-month extension (expiration April 23, 2021) of the Purchaser’s Obligation to Construct as specified under Section 10.1 of the Purchase and Sale Agreement; and

WHEREAS, on May 25, 2021 the Port Commission agreed to further extend the Purchaser’s Obligation to Construct as specified under Section 10.1 of the Purchase and Sale Agreement to July 31, 2022; and

WHEREAS, the Port Commission also agrees to expand the uses for the Property specified in the Purchaser’s Obligations to Construct as described in Section 10.2 of the Purchase and Sale Agreement to include asphalt recycling, warehousing and ancillary uses (office, laydown yard, bullpen space).

FURTHER, the Port Commission extends the Port of Kennewick’s Option to Repurchase the Property to September 19, 2023.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby authorizes the Port’s Chief Executive Officer to execute all documents and agreements on behalf of the Port to expand the uses for the Property to those specified above, and to extend the deadlines for the Purchaser’s Obligation to Construct and the Port’s Option to Repurchase as specified above.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 8th day of June 2021.

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

By: _____

DON BARNES, President

By: _____

SKIP NOVAKOVICH, Vice President

By: _____

TOM MOAK, Secretary

	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
<i>60 month Repurchase Period</i>	<i>September 13, 2017 – September 13, 2022</i>						
<i>18-month obligation to construct deadline.</i>	<i>Expiration April 13, 2019</i>						
<i>24-month extension on obligation to construct. (Approved 4/23/2019)</i>			<i>April 23, 2019 – April 23, 2021</i>				
<i>Extension approved on obligation to construct Approved 5/25/2021. (371 days)</i>					<i>May 25, 2021 – July 31, 2022</i>		
<i>Repurchase period extension by commission approval 5/25/2021. (371 days)</i>						<i>September 13, 2022 – September 19, 2023</i>	

