

**Minutes of Everett Port Commission  
Regular Meeting  
August 10, 2021**

<b>PRESENT:</b>	Tom Stiger	President
	Glen Bachman	Secretary
	Lisa Lefebber	Executive Director
	Eric Russell	Chief Finance Officer
	Jordan Stephens	Port Attorney

<b>ZOOM:</b>	David Simpson	Vice President
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**CALL TO ORDER:** Commission President Tom Stiger called the meeting to order at 12:00 p.m.

**CONSENT AGENDA**

- Approval of Regular Meeting Minutes of July 13, 2021
- Approval of Bills for July 2021
- Job Order Contract with Burton Construction

Commissioner David Simpson moved that the Commission approve the items on the consent agenda for August 10, 2021, including the Regular Meeting Minutes of July 13, 2021, Approval of the Bills for July 2021, as well as the Job Order Contract with Burton Construction. Commissioner Glen Bachman seconded the motion. A vote was called for:

Vote:	3-0
Yes:	Simpson, Bachman, Stiger
No:	None
Abstained:	None

Motion carried.

**Commission President's Report**

Commission President Tom Stiger congratulated Scuttlebutt Restaurant on their 25<sup>th</sup> anniversary this month.

**Commission Discussion**

There was no commission discussion.

**Citizen Comments**

There were no citizen comments.

**CEO/EXECUTIVE DIRECTOR'S REPORT**

**Memorandum of Understanding – City of Arlington and City of Marysville**

CEO/Executive Director Lisa Lefebber reported that the Port's strategic plan recognizes the significance of the City of Marysville and Arlington Cascade Industrial Center (CIC).

On January 8, 2020, during a Special Joint Meeting with the Port of Everett and the Cities of Arlington and Marysville, a Memorandum of Understanding was signed that expired August 2021. The economic development activities in this location serve to benefit the entire county, including the Port of Everett District and operations at its international deep-water port. As such, the Memorandum

recognizes the Port as a partner to these Cities in supporting recruitment, development, and finance, permitting and other types of support. The new Memorandum of Understanding with the Port of Everett between both the City of Arlington and the City of Marysville will expire in August 2023.

After discussion, Commissioner Glen Bachman moved that the Commission approve the Memorandum of Understanding (MOU) between the City of Arlington and the Port of Everett and authorize the CEO/Executive Director to sign the MOU. Commissioner David Simpson seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Bachman, Simpson, Stiger  
No: None  
Abstained: None  
Motion carried.

Commissioner David Simpson moved that the Commission approve the Memorandum of Understanding (MOU) between the City of Marysville and the Port of Everett and authorize the CEO/Executive Director to sign the MOU. Commissioner Glen Bachman seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Simpson, Bachman, Stiger  
No: None  
Abstained: None  
Motion carried.

#### **DNR Material Sales Agreement**

CEO/Executive Director Lisa Lefeber reported the Parcel O site, which is owned by the City of Everett and on which the Port has an easement, is used by the Army Corps of Engineers as an upland disposal site for Corps dredged material from the Federal Navigation channel and upstream settling basin. The Washington Department of Natural Resources (DNR) claims ownership of the dredged material and has historically made it available to public agencies free of charge for use on public projects. However, use by private parties is prohibited without a Material Sales Agreement with DNR which includes payment of a royalty fee.

In order to ensure the Port's ability to move material off of the site and maintain adequate capacity for the Corps, the Port has negotiated a Material Sales Agreement with DNR to allow for sales of the material to private parties. The royalty rate for sales to private parties is currently set at \$0.35/cubic yard and will be adjusted annually based on changes in the Producer Price Index. The agreement also includes indemnification language which is the reason it is being put before the Commission for authorization to enter into the agreement.

Upon discussion, Commissioner Glen Bachman moved that the Commission approve the Agreement for storage, conveyance, sale, and use of State-owned valuable materials with the Department of Natural Resources and authorize the CEO/Executive Director to take the necessary steps to enter into the Agreement. Commissioner David Simpson seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Bachman, Simpson, Stiger  
No: None  
Abstained: None  
Motion carried.

### **13<sup>th</sup> St. Sewer Claim Settlement**

CEO/Executive Director Lisa Lefeber reported on or about November 2, 2019, the Port received reports that the sewer system serving Waterfront Place Central was backing up. Upon investigation, it was learned that grout being injected into the ground for the new apartment buildings had penetrated an abandoned sewer line on Parcel A10 and filled a portion of the sewer lines under 13<sup>th</sup> Street and Seiner Drive. Due to the impacts of the backup and the lack of action of other parties, the Port declared an emergency and proceeded to clear the sewer line, incurring approximately \$765,000 in cleanout and replacement costs.

As part of the response efforts, Waterfront Place LP (WPLP), the owner of the real property and apartment building, provided pumps to reroute the line. At the completion of work, WPLP made a claim to the Port for reimbursement of their costs for the rental in the amount of approximately \$161,000. In turn, the Port made a claim against WPLP and its contractor, Graham Construction & Management, Inc. (Graham), as well as against the Port's insurance carriers for the Port's costs.

The Port, WPLP, Graham, and the parties' respective insurers (Liberty Mutual Insurance, Chubb Insurance Company, and Lexington Insurance for the Port) met for a second mediation effort to settle the claims on July 22, 2021. As a result, that mediation, the parties agreed to resolve the dispute on the following terms:

1. The carrier for WPLP/Graham will pay the Port of Everett \$50,000.
2. Liberty Mutual Insurance Company will pay the Port of Everett \$475,000.
3. Chubb Insurance Company, on behalf of the Port of Everett, will pay WPLP \$100,000.
4. Liberty Mutual Insurance Company and Chubb Insurance Company will pay the Port's reasonable attorneys' fees, costs, and expenses in accordance with the applicable policy.
5. The Port will execute a claim release in favor of Chubb and Liberty Mutual, fully, and completely release them from any further claims relating to the incident that formed the basis for this claim, except for claims by the Port for reimbursement of attorney's fees.
6. Except for the promises in this agreement, the Port and WPLP and related entities release each other from any and all claims relating to the incident that led to this dispute.

Upon discussion, Commissioner David Simpson moved that the Commission ratify the settlement of the claim related to the 13th St Sewer Grout Incident with Liberty Mutual Insurance Company, Chubb Insurance Company, WPLP and Graham and authorizes the Executive Director to execute all necessary documents to implement the settlement. Commissioner Glen Bachman seconded the motion. A vote was called for:

Vote:	3-0
Yes:	Simpson, Bachman, Stiger
No:	None
Abstained:	None

Motion carried.

### **RFP Legal Services**

Procurement and Contracts Manager Maija Lampinen reported a Request for Proposal was issued on June 10, 2021 for Legal Services following Brad Cattle's announcement of his retirement. The Port received three submittals on July 13, 2021. The evaluation team reviewed the submittals and shortlisted to two firms, Anderson Hunter and Weed, Graafstra & Associates. Interviews have been scheduled with both firms for the first week of September. Lampinen anticipates Staff will come back to the Commission either in September or October with a recommendation.

### **Other Informational Items**

CEO/Executive Director Lisa Lefebber reported the Port has been included in the County Executive's budget for potential recovery funding and that will go through the council process.

Per the Commission's request, the Port did weigh in on the Sound Transit timeline and was able to sign on to a letter for the County Executive to sponsor an amendment which helps try to keep the Sound Transit to Everett on track.

Lefebber had a request from a commissioner about the future meeting schedule given the current Covid cases and the desire to have a Zoom option continuing for the Commissioners in September and potentially through the end of the year. There was no Commission objection.

### **CHIEF FINANCE OFFICER'S REPORT**

#### **Interlocal Agreement for Job Order Contracting – Whatcom Transit Authority**

Procurement and Contracts Manager Maija Lampinen reported the Whatcom Transit Authority (WTA) has requested to piggyback on the Port's Job Order Contracts with Forma Construction Company and Burton Construction, Incorporated (BCI).

Commissioner Glen Bachman asked with these interlocal agreements, is there something measurable in time and money saved with budgeting? Lampinen explained the interlocal agreements reduces a lot of the bidding time that is associated with a particular contract so that would be at least a 6–8-week savings in job initiation through actually starting the work. Once it starts the work, it is a tradition public works project.

After discussion, Commissioner Glen Bachman moved that the Commission approve the Job Order Contracting Interagency Agreement with the Whatcom Transit Authority in the form substantially as presented and authorize the CEO to sign the Agreement. Commissioner David Simpson seconded the motion. A vote was called for:

Vote:	3-0
Yes:	Bachman, Simpson, Stiger
No:	None
Abstained:	None

Motion carried.

#### **2021 First Half Results**

Chief Financial Officer Eric Russell presented the financial report through June 2021 which included operations, non-operating, and statement of net position. The revenue was greater than budget by \$3.9 million and greater than 2020 by \$4.2 million. Operating expenses totaled \$13 million which is 18% greater than 2<sup>nd</sup> quarter of 2020.

#### **2022 Budget Process & Schedule**

Chief Financial Officer Eric Russell presented the 2022 budget process and schedule. A few major capital projects for 2022 budget include Norton Terminal, A8 (Fisherman Jacks and Southfork Bakery), A17 (public restrooms and marine related tenants), Port Gardner Landing (Woods Coffee and one or two other tenants), and boat launch dredging. The operating budget is based off 2021 budget plus a growth factor. The Marina rates will increase in January 2022, there will be some increase in property revenue and a 1% increase in tax levy.

**SEAPORT MODERNIZATION  
NORTON TERMINAL**

**Terminal Development Contract Award**

Chief of Engineering & Planning John Klekotka reported on June 24, 2021, the Port issued a Request for Bids for Norton Terminal Development & MTCA 3rd Interim Action. Work under this contract includes site preparation and demolition, construction of storm water drainage and treatment systems, sanitary sewer service for several facilities, water service/fire protection throughout the site, extensive electrical distribution and communications systems, site lighting, removal and spreading of the preload material, asphalt paving, and several small support structures on the site. Construction is expected to take approximately 12 months. The work for this contract, will be funded by the \$17.75M BUILD Grant thru MARAD, a \$7.65M grant from the Washington State Dept. of Ecology, and the remainder funded by the Port. The Port received six bids all from qualified, competent, and responsible bidders. The Engineers estimate was \$29,913,033.60 and Strider Construction Company, Inc. submitted the lowest responsive bid at \$25,199,495.28.

Upon discussion, Commissioner Glen Bachman moved that the Commission award the Norton Terminal Development & MTCA 3rd Interim Action Contract to Strider Construction Company, Inc. in the amount of \$25,199,495.28, including Washington State Sales Tax and authorize the CEO/Executive Director to sign the Contract. Commissioner David Simpson seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Bachman, Simpson, Stiger  
No: None  
Abstained: None  
Motion carried.

**Department of Ecology Grant**

Grant Administrator Nancy Overton reported the Department of Ecology Toxics Cleanup Remedial Action Grant will provide \$7,900,000 in state MTCA funds to be used for Norton Terminal to assist the Port in completing the actions required under the Second Amendment to the Agreed Order DE9476 for the Kimberly-Clark Worldwide Site. The Second Amendment to the Agreed Order requires the Port to complete a third Interim Action, generally described as construction of an environmental pavement cap, and completion of the Remedial Investigation/Feasibility Study (RI/FS) Report and the Draft Cleanup Action Plan (DCAP).

The Port's costs to implement this work are eligible for Ecology MTCA grant reimbursement at a rate of 50-percent. The \$7,650,000 interim action work will be matched by the federal BUILD grant funding associated with the MTCA eligible work at the Norton Terminal. The \$250,000 in RI/FS, DCAP, Grant Administration, and Long-Term Monitoring match will be provided through the Port's annual CIP budget.

After discussion, Commissioner David Simpson moved that the Commission authorize the CEO/Executive Director to sign the Department of Ecology Toxics Cleanup Remedial Action Grant Program Agreement TCPRA-2123-EverPo-00018 in substantially the form as presented. Commissioner Glen Bachman seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Simpson, Bachman, Stiger  
No: None  
Abstained: None  
Motion carried.

### **Department of Homeland Security Grant**

CEO/Executive Director Lisa Lefebber reported the Port did receive another Homeland Security Grant for fencing and cameras for the Norton Terminal project.

### **WATERFRONT PLACE CENTRAL**

#### **Status Report**

Planner Brandon Whitaker presented a Waterfront Place Central status update. Whitaker went over current status updates for projects and planning that included Fisherman's Harbor Commercial Development A8 and A17, Destination Retail pads, Phase 2 Millwright District Development Request for Qualifications (RFQ), Port Gardner Landing Building (PGL), and Bulkhead Segment E. Whitaker also presented additional projects that are linked to the future of major construction which included relocation of the marina fuel tanks, marina restrooms, Central Marina parking lots and relocation of the marina maintenance shop.

### **DEPARTMENT REPORTS**

#### **Marine Terminals**

##### **Cargo Activity**

Chief Operations Officer Carl Wollebek reported in the month of July, the terminals had over 94,000 tons of cargo. In all of last year, the terminals had 242,048 tons. Last month, the terminals handled almost 3,300 containers and in all of last year, the terminals handled 3,875 containers. Wollebek thanked the Staff, especially with what has been going on this year.

Right now, there is a big military shipment in that is going out primarily by rail and by truck. There are a lot of standard containers which the Port has done in the past, but the volume has increased. The Port has supported Westwood and they have their traditional volumes at the Port plus all their Seattle volume, about eight ships. The Port has handled over 2,000 53-foot containers to date and looking ahead, over the next 30 days, there are another 1,000 coming in. On top of this additional business, the traditional business such as project and steel, is starting to come back.

There has been issues with labor shortages. Usually when the Port of Everett gets really busy, the longshoremen pull from other locals for support but that is not happening right now, so ships are having to wait. .

CEO/Executive Director Lisa Lefebber added one of the main reasons the Port is able to see and achieve some of this cargo volume is because of the investments the commission made with the new container cranes. The Port of Everett is probably only the port of this size on the West Coast that has those types of cranes. The commission's investment into the cranes is paying dividends right now.

Wollebek added according to the local customs officer in Everett, the Port had more vessel boardings than Seattle last month, with 18 ship calls in July.

#### **Marina**

##### **Public Access**

Chief of Marina Operations Jeff Lindhout presented a Marina and Public Access update. Overall average occupancy at the marina increased 5% to 90% with a high occupancy topping out at 100% in July 2021. The waitlist consists of nearly 250 boats in the 40-foot plus range. Guest moorage visits were up by 10% through June 2021 and new Central Guest Dock 5 was added this year. The average boater spends \$220

at local businesses while in port. The Travelift hauled 90 more boats through July 2021. Work yard revenues increased almost \$20,000 and storage yard revenues are up almost \$51,000. Fuel dock revenues are up a little over \$390,000 with almost 75,000 gallons sold. There has been \$165M invested into marina improvements at destination waterfront since early 2000s.

The Port provides public access by committing 2% of Capital Improvement Projects to public access, maintenance and repair. Other types of public access include local sponsorship for Corps of Engineers maintenance dredging for the Snohomish River Channel, Jetty Island Beach nourishment and expansion and freight mobility project support. Since 1988 total public access improvements, including 2%, maintenance and capital projects, total more than \$34 million. The bulk of the investments are at the destination waterfront which is approximately \$26 million.

### **Projects**

#### **Boat Launch Dredging Project – Authorization to Bid**

Senior Planner Laura Gurley reported that in order to maintain navigable depths and function at the Jetty Landing Boat Launch maintenance dredging is required. All permits have been received. Estimated volume is 41,000 CY and estimated gross cost is \$820,000 (based on \$20/CY). If emergency authorization to dredge a connector channel between the boat launch basin and the Federal Navigation channel can be obtained in time to be included in this bid solicitation, the total volume would be 49,000 CY for a gross cost of \$980,000. Staff anticipates going out to bid in the September/October time frame for mobilization in December 2021, construction starting January 2022, and completion by February 15, 2022. The Port will be requesting reimbursement from the co-owners towards this project.

Upon discussion, Commissioner David Simpson moved that the Commission authorize staff to solicit public works bids for the Boat Launch Maintenance Dredging project. Commissioner Glen Bachman seconded the motion. A vote was called for:

Vote:	3-0
Yes:	Simpson, Bachman, Stiger
No:	None
Abstained:	None

Motion carried.

#### **Ameron Cleanup - Contract Closeout**

Project Manager Elise Gronewald reported Port Staff is seeking Commission authorization to close a public works contract for the Ameron/Hulbert Site Final Cleanup Action project with Strider Construction. In partnership with the Department of Ecology (Ecology) the Port was able to complete construction of the Final Cleanup Action for the North Marina Ameron/Hulbert Model Toxics Control Act (MTCA, WAC 173-340) site (Ameron/Hulbert Site), pursuant to Consent Decree No. 15 2 01720 7 between the Port and Ecology. The Port settled with the other potentially liable parties for \$2.2 million in 2014, making the Port the sole responsible party for executing the remaining terms of the Consent Decree.

This project included the removal and disposal of 4,937 tons of contaminated soil, import and placement of 5,859 tons of clean backfill, and restoration of the site, including 380 tons of asphalt pavement. The Port and Ecology will initiate long term groundwater monitoring to ensure the cleanup is meeting the required cleanup standards. The Port's final cost to implement the Final Cleanup Action was eligible for Ecology MTCA grant reimbursement at a rate of 50-percent. The final construction cost was \$789,373.16 including WSST. This is \$66,415.99 below the original contracted amount. Physical

completion was achieved on July 2, 2021.

Significantly, it should be noted, this relatively minor cleanup has monumental significance, in that it represents the last physical cleanup required at the Port's 65-acre Waterfront Place Central redevelopment. The cleanup of Waterfront Place Central began in the early 2000s, spanning six separate cleanup sites, and requiring the removal of over 110,000 tons of contaminated soil.

After discussion, Commissioner Glen Bachman moved that the Commission authorize the close out of the public works contract for the Ameron/Hulbert Site Final Cleanup Action project with Strider Construction Co. in the amount of \$789,373.16, including Washington State sales tax. Commissioner David Simpson Glen Bachman seconded the motion. A vote was called for:

Vote: 3-0  
Yes: Bachman, Simpson, Stiger  
No: None  
Abstained: None  
Motion carried.

#### Executive Session

Commission President Tom Stiger recessed the meeting at 2:36 p.m. for an Executive Session, with a small break prior to the Session, to conclude by 2:50 p.m. The purpose of the Executive Session is to discuss leasing or real estate matters as public knowledge regarding such consideration would cause a likelihood of increased price.

At 2:50 p.m. in open session, Port legal counsel Jordan Stephens announced that the Executive Session would be extended an additional 9 minutes – to conclude by 2:59 p.m.

At the conclusion of the Executive Session, there was no action taken by the Commission and there were no announcements. The Regular Commission meeting adjourned at the conclusion of the Executive Session.

**THE REGULAR MEETING WAS ADJOURNED at 2:59 p.m.**

**APPROVED** this 21<sup>st</sup> day of September, 2021.

#### EVERETT PORT COMMISSION

By: Tom Stiger  
Tom Stiger, President

By: David Simpson  
David Simpson, Vice President

By: Glen Bachman  
Glen Bachman, Secretary





ORIGINAL

Port of Everett
Voucher Certification and Approval
for the month of
JULY
2021

Table with columns for transaction type, details, and total amounts. Includes sections for AP Claims Transactions, Electronic Claims Transactions, and Payroll Transactions.

I, the undersigned, do hereby certify under penalty of perjury that the material have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the Port of Everett and that I am authorized to authenticate and certify to said claim. Authorize signature

Attest: [Signature] Port Auditor

We, the undersigned Commissioners of the Port of Everett, Snohomish County, Washington, do hereby certify the following vouchers/warrants have been certified and approved for payment this the 10th day of August, 2021:

[Signatures of Tom Stiger, David Simpson, and another official] President, Vice President, Secretary