

EVERETT PORT COMMISSION
REGULAR MEETING
SEPTEMBER 10, 2019

PRESENT:	Glen Bachman	President
	Bruce Fingarson	Vice President
	Tom Stiger	Secretary
	Lisa Lefeber	Deputy Executive Director
	Eric Russell	Chief Finance Officer
	Brad Cattle	Port Attorney

CEO Les Reardanz was absent due to military duties.

CALL TO ORDER: Commission President Glen Bachman called the meeting to order at 4:00 pm.

1. CEO/EXECUTIVE DIRECTOR'S REPORT

September / October Meetings

Deputy Executive Director Lisa Lefeber reported that the second meeting in September is a special commission meeting and will be held on September 17, 2019 at 4 pm in the Blue Heron Room.

For the October meetings, there is some travel scheduled for Staff and the Commissioners during the month, and so Staff is recommending that the start time for the October 1 meeting be changed to 9 am to accommodate flight schedules. The October 8 meeting would be the normal 4 pm start time.

Upon discussion, Commissioner Bruce Fingarson moved that the Commission approve the 9 am start time for the October 1, 2019 Commission meeting due to conflicts with business travel for Staff. Commissioner Tom Stiger seconded the motion. A vote was called for:

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

Motion carried.

Grand Avenue Park Bridge Update

The City has set the schedule for the movement of the Grand Avenue Park Bridge and has installed signs that let folks know that the project is in fact a City of Everett Public Works project. The closure will officially happen September 17 – 26 which is a full closure of West Marine View Drive from 18th Street to 13th Street. There will be access through detours.

Due to heavy rain yesterday, there are temporary restrictions on West Marine View Drive because several sink holes developed, and major flooding was sustained at Marina Village, at the entrance to the Terminals, and West Marine View Drive was closed for a 5-hour period while crews tried to address all of the water. There were several reports of major flooding on Grand Avenue, and Everett High School also sustained major flooding. Lefeber stated that it was one of the most intense rain storms that this area has seen, and the infrastructure just could not support it. The Grand Avenue Bridge will serve a great purpose as all the overflows will now be directed into that facility. Currently, overflows go out into the Marina, and unfortunately that happened yesterday in excess.

Marina Crime

Lisa reported that over the past month, there has been an increase in petty crime (thefts) at the Marina and other parts of the City. The Port team has been very diligent in trying to control the crime, and Everett Police have encouraged folks to call 911 when incidents occur. The Port has been hiring off-duty police officers to help with extra emphasis patrols throughout the Marina to address the issue and stop the crime wave. Marina Staff have been taking active measures to mitigate the problem. A Crime Prevention Forum is being held at the Port on September 19 from 5:30 – 7 pm in the Blue Heron Room.

2. CHIEF FINANCE OFFICER'S REPORT

Preliminary Capital Improvement Plan Introduction

Chief Finance Officer Eric Russell provided an update on the 2020 budget process, related to the Capital Improvement Programs (CIPs). The initial requests from the different departments were submitted a week ago. As expected, more requests were generated than there is available funding, so Staff is going through a prioritization process. Proposed CIP projects include the following:

Initiative 1 Seaport Modernization:

- Continued work on new cranes to get them operational and moved to the wharf's edge
- Continue work on Mill-A cleanup and dredging

Initiative 2 Maritime Industrial Expansion:

- Complete Kimberly Clark site purchase and prepare site for use

Initiative 3 Create a New Waterfront Community

- Design, lease and construct buildings in Fisherman's Harbor; work on phase 2 expansion to west
- Repurpose Ameron site to lease

Initiative 4 Taking Care of Facilities

- Programmatic budget of \$3 Million for maintenance work (projects to be identified)

Initiative 5 Developing Sustainable Marina Operations.

- G Dock project
- Fuel Dock - tanks to be relocated to build new fuel dock
- Relocate Marina Maintenance shop
- Review boat launch dredging needs and connection strip across DNR out to the navigation channel
- Sediment flow study

Initiative 6 Industrial Economic Development

- Use funding from existing properties/leaseholds for tenant improvements as tenants turn over
- Baywood shoreline restoration
- Riverside Business Park
- K-C parking lots

Initiative 7 Other Projects

- Blue Heron Slough construction

3. INITIATIVE ONE: SEAPORT MODERNIZATION

Deputy Executive Director Lisa Lefebber reported that the crews are making very good progress on the South Terminal Wharf project. As of right now, the wharf project is scheduled for a Thanksgiving substantial completion which means Walter Seidl and his team can start using the facility. The wharf will be useable,

they can use the mobile harbor cranes on the wharf - the only equipment not in place will be the container cranes. The Port has requests for grant funds submitted through the Marine Highways Program because that facility will serve as a critical link to Mount Baker Terminal and aerospace logistics. At one point, the Port of Everett was the only group eligible, but the agency extended the deadline for submittals. We will still be successful in a portion of the \$6.8M funding, but it won't be as much as the Port had hoped. The Port needs to prioritize the funding that it does receive to put the cranes into use.

The Port has also applied for two grants for the K-C property. One was for the Infra Grant program which was mostly a surface transportation grant, however, the Port was not successful. The Port is getting good indicators from Congress on the Build Grant for the same project which should be announced in the September/October timeframe.

Erik Gerking and Eric Russell have been working with the Department of Ecology on an innovative idea for an Ecology loan for the Mill-A project; and on October 8, Port Staff will provide the Commission with a briefing on this project.

4. **INITIATIVE TWO: WATERFRONT PLACE CENTRAL**

Ratification of Second Amendment to Right of First Offer/Refusal Agreement and First Amendment to Road & Utility Easement Agreement for SeaLevel Properties Transactions

Chief of Business Development Terrie Battuello reported that Port Administration was asked by SeaLevel Development (Waterfront Place Limited Partners) to amend a recorded easement providing for use of the Port's roads and utilities, and to approve an amendment to the Port's Right of First Offer/Refusal Agreement for the housing development project at Waterfront Place Central. This request came at the time of the loan closing August 26, 2019, and the Commission meeting wasn't scheduled to be held until after the closing. Legal Counsel advised it was acceptable to sign and seek ratification at the next Commission meeting.

The two document amendments are described, as follows:

The Second Amendment to the Right of First Offer/Refusal Agreement is an amendment to clauses contained in the Purchase and Sale Agreement for six lots in Fisherman's Harbor for the development of 266 housing units. The amendment states that the Port's right to re-purchase the land (Parcels A10, 3, 4, 5, 13, 9) would be subordinate to the HUD liens, terms, covenants and conditions. While the Port has maintained the right to claw back the land underlying this housing project, at this point in time where the project is fully funded and permitted, the level of risk that it will not proceed or that the Port would have occasion to exercise this right is greatly diminished. Further, it is unlikely the developer would pull loan funds without starting construction which would automatically terminate the Port's right to claw the property back. Additionally, the Port required that the Amendment include a clause extending the Port's right to re-purchase the property to the end of September. The current agreement (First Amendment) has the Port's right extinguished by September 14, 2019 if notice to purchase is not issued to the owner.

In the second document, the First Amendment to the Road and Utility Easement Agreement subordinates delinquent fees owed to the Port by the land owner modifying the original Section 10 of that document. In addition to the Port providing an Estoppel Certificate certifying that there are no delinquent funds owed by SeaLevel, no lien would be filed or have priority over the HUD loan. The amendment to the Easement just further assures HUD that between the time of the Estoppel and the filing of the loan lien, the Port has not filed a higher priority

lien against the property by subordinating the Port's position. If the Port has an occasion in the future to file a lien, state law would automatically subordinate it to liens filed at an earlier date such as the HUD lien.

After review of the risks and impacts with Port legal counsel, Port Staff recommends that the Commission ratify the documents as presented.

Upon discussion, Commissioner Bruce Fingarson moved that the Commission ratify the Second Amendment to the Right of First Offer/Refusal Agreement between the Port and Waterfront Place Limited Partnership as signed on August 28, 2019. Commissioner Stiger seconded the motion. A vote was called for:

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

Motion carried.

Commissioner Bruce Fingarson moved that the Commission ratify the First Amendment to the Road and Utility Easement Agreement between the Port and Waterfront Place Limited Partnership as signed on August 28, 2019.

Commissioner Stiger seconded the motion. A vote was called for:

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

Motion carried.

WATERFRONT PLACE CENTRAL UPDATE

Terrie Battuello reported that Hotel Indigo has initiated a soft opening, while they continue to work to open the remainder of the hotel. The opening of Seiner Drive has been delayed due to the Grand Avenue Bridge project. Staff is currently working on a turnaround so that people can drive on Seiner and access Pacific Rim Plaza. 14th Street is closed and will remain closed through the duration of construction of the housing project which is Spring 2021.

Additional equipment arrived today for the Snohomish County PUD substation which is shaping up and looking good.

The Parking Committee held a meeting this morning and there was only one parking complaint to review. The number of parking complaints has sharply dropped off. There has been a lot of tickets generated in Marina Village, and so Staff has been working very closely with Anthony's on a variety of things. The Port is in the process of preparing a new Request for Proposals for the parking situation and hopefully it will generate a more sophisticated plan in May 2020.

The Herald reported today that Amazon was open at the Panattoni site at the Riverside Business Park. Panattoni has been a great partner to the Port and we appreciate them identifying the Port and all our strength and support we've given them over the last three years. Panattoni is the largest family owned industrial development company in the country. It is an Amazon Prime Now Forward location and they have signed a five-year lease, enabling them to do one-hour deliveries in the Everett and Marysville area. They will employ around 100 people. Two parcels are left in the Riverside Business Park and the Port is in negotiations for both parcels.

Parking issues at Riverside Business Park are being worked on for each tenant. The bigger concern is traffic on the bridge. We have been working with the City on the U-turn issue at the bridge and Broadway/West Marine View Drive. John Klekotka and Lisa Lefebber have partnered with the City to work on a traffic study for 2020.

5. DEPARTMENT REPORTS

Properties

Everett Community College ORCA Program

Terrie Battuello reported that the Washington State Department of Enterprise Services has negotiated with Port Administration to create a new lease (replacing the expiring lease) for the Everett Community College Ocean Research College Academy (ORCA) program to continue to occupy 7,339 square foot of classroom and laboratory space in Waterfront Center (Suite #203). The space will be used to facilitate a Running Start program and related activities focused on integrated studies grounded in the marine environment. The program was established at the Port in 2006, then expanded under a funding agreement wherein the Port completed building improvements (including a laboratory to house the program) under a National Science Foundation Academic Research Infrastructure Grant. Since the initial 5,732 sf (2011) lease, the program has experienced great success and expanded in 2014 to its current size to provide a unique educational opportunity for more than 100 students per year. Key terms of the lease are as follows: five year term gross lease (no common area charges are passed through); the Tenant has an option to extend another five years but under a new lease negotiated at that time; the Tenant will pay for its own janitorial (unlike prior leases); a new section on snow removal (Section 6.1) provides requirements for the Port to clear ice and snow under certain situations; no new improvements are required although the Tenant did require a number of repairs as part of the renewal process. As before, the Lease document was drafted by the State and is not the Port's standard boiler plate. Underlined terms were written in and negotiated. The Lease price was based on state-provided comparable gross rents and on five years expenses paid by the Port for services provided to the State. The lease basis is \$29 per square foot and assumes \$30,000 a year will be paid by the Port for Common Area Expenses normally passed through to the Tenant. The rate is lower in the first year of the lease because the State budget was already approved at the time of the lease negotiation. The loss of revenue in the first year is carried forward to the second and third year with 5% interest charged. A 2.5% escalation for inflation is included in each year. Under the current lease expiring September 2019, the tenant pays \$14,083.33 per month.

Terrie Battuello asked that the Commission authorize the CEO to sign a Lease for 7,339 square feet of classroom and laboratory space with the State of Washington on behalf of the Everett Community College ORCA Program, in a form substantially as presented.

Upon discussion, Commissioner Tom Stiger moved that the Commission authorize the CEO to sign a lease for 7,339 square feet of classroom and laboratory space between the Port and the State of Washington on behalf of the Everett Community College ORCA Program, in the form substantially as presented. Commissioner Bruce Fingarson seconded the motion. A vote was called for:

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

Motion carried.

Marina

Vessel Auction – Resolution No. 1130 (2019)

Marina Director Jeff Lindhout reported that the Port is currently in possession of twelve (12) vessels that have been identified as abandoned or owned by persons responsible for outstanding fees owed to the Port. Staff wishes to advertise and conduct an online auction October 16 - 23, 2019. Owners of vessels which are related to unpaid fees, will receive written notice of impound and process of auctioning, if identified. Additionally, vessels which lack sufficient value to support the repayment of debt through secondary post-auction sale or deemed unseaworthy/inoperable at risk of returning are scrapped under the provisions of law that allow the Port to dispose of them. Expenditure of \$1,000 is a flat fee payable to the auctioneer for their services. No other expenses are anticipated at this time.

Jeff Lindhout recommended that the Commission adopt Resolution No. 1130 (2019) as presented.

After discussion, Commissioner Bruce Fingarson moved that the Commission adopt Resolution No. 1130 (2019) authorizing Port Staff to advertise and proceed with the public sale of vessels abandoned through the non-payment of moorage/storage fees under RCW 53.08 & 79.100. Commissioner Tom Stiger seconded the motion. A vote was called for:

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

Motion carried.

Projects Update

Marina Guide Pile, Fire Repairs & Gangway Replacement

Chief of Engineering & Planning John Klekotka reported that the Marina Guide Pile project includes the replacement of nine existing timber guide piles with steel pipe piles in various locations in the S. Marina, work on South Marina D-Dock to repair fire damage incurred in July 2017 including installation of three pipe piles, and replacement of an old steel gangway with an owner-provided aluminum gangway on Guest Dock 3 in the Central Marina. Replacement of the guide piles was budgeted at \$120,000 under the Marina Programmatic budget. The rebuild of South D-Dock is an insurance claim and any funds expended above the current projected insurance adjuster claim budget will be submitted for reimbursement under the insurance claim. The installation of the replacement gangway will be paid for under the 2021 operating budget. Staff had estimated the cost of these three work components at \$262,620 (incl. WSST) and solicited public works bids under the small works process in late July. Bids were received on August 20, with four bidders submitting. The low bidder, who submitted a bid close to the Engineer's estimate, failed to submit a bid bond with their bid, so their bid was disqualified. The second low bid was deemed responsive, but their bid is greater than the CEO/Executive Director's (CEO/ED) authority of \$300,000. Based on analysis of the second low bid versus the Engineer's estimate, the largest difference was in the fire damage reconstruction schedule, where the cost to reconstruct the dock and supply new floats was underestimated by approximately \$49,000. Even with this difference, and because this work is part of an insurance claim, Staff believes the work has been reasonably priced. Staff therefore recommends Commission authorization to allow the CEO/ED to award this project to the low bidder, Carlson Construction, in the amount of \$306,647.24, including WSST.

After discussion, Commissioner Bruce Fingarson moved that the Commission authorize the CEO/ED to award the public works contract for the Marina Guide Pile, Fire Repairs, and Gangway Installation contract in the amount of \$306,647.24, including WSST to the lowest responsible and responsive bidder, Carlson Construction, Inc. as presented. Commissioner Tom Stiger seconded the motion. A vote was called for:

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

Motion carried.

Commission President's Report

Commissioner Glen Bachman said he attended the wooden boat festival in Port Townsend recently which was a great event. Port Townsend did an excellent job and it was well attended.

Glen said he and the other two Commissioners attended a behind the scenes presentation on OceanGate's operation at the Port which was intricate, detailed and enjoyed by many.

Commission Discussion

Commissioner Stiger mentioned that the Boats Afloat Show is being held on September 13-15, 2019 on Lake Union. The Boats Afloat Show will be relocated to the Port of Everett next year.

Citizen Comments

Jeff Lalone, Bayside Marine, commented that last week, Bayside did the northern weigh station for the Edmonds Coho Derby which involved 750 participants. The prize for the biggest fish was \$5,000. The biggest fish was 8 lbs 6oz. Saturday is the Salmon for Soldiers fishing derby and Sunday is the blind derby which is in its 50th year. The Everett Coho Derby is scheduled for September 21-22, 2019 which is the largest derby on the west coast and will have 2,200 participants with a \$10,000 prize.

The meeting was recessed into Executive Session at 5:30 pm for approximately 30 minutes – to 6:00 pm. The purposes of the Executive Session were to discuss with legal counsel 1) a real estate litigation matter; and 2) to consider the minimum price at which a piece of real estate may be offered for lease when public knowledge regarding such consideration would cause a likelihood of decreased price.

At the conclusion of the Executive Session, there was no action taken by the Commission and there were no announcements.

THE REGULAR MEETING WAS ADJOURNED at 6:00 pm.

APPROVED this ____ day of October 2019.

EVERETT PORT COMMISSION

By: 
Glen Bachman, President


Bruce Fingarson, Vice President


Tom Stiger, Secretary