

**Minutes of Everett Port Commission  
Regular Meeting  
August 4, 2020**

<b>PRESENT:</b>	Tom Stiger Lisa Lefebber	Vice President Executive Director
<b>ZOOM:</b>	Glen Bachman David Simpson Eric Russell Brad Cattle	President Secretary Chief Finance Officer Port Attorney

**CALL TO ORDER:** Commission Vice President Tom Stiger called the meeting to order at 12:01 p.m.

**CEO/EXECUTIVE DIRECTOR'S REPORT**

CEO/Executive Director Lisa Lefebber asked the Commission if they agree to have the September Commission meetings September 1 and September 15 since September 7 is Labor Day. They all agreed with those dates. Lefebber also recommended to the Commission that due to the remote work status and current status of COVID-19, that 12 p.m. be the retained schedule going forward thru the end of the year unless something changes.

Lefebber thanked Ken Scott for all his efforts. There is a new camera system in the Blue Heron Room, it is much better, and the new technology is very helpful.

**Housing Project Fire Update**

CEO/Executive Director Lisa Lefebber reported in mid-July, the Waterfront Place project was hit with a massive fire at the southern apartment building. Lefebber was thankful to all the first responders and appreciates the work Catherine Soper did to thank the Fire and Police response teams, as well as PUD, PSE, the City, and everyone who helped. Lefebber said she knows it is just a building and it can be rebuilt, but for a lot of the community it was a sign of what was going to come with Waterfront Place. Lefebber wants the community to know that the Port is still committed to moving forward and Sealevel and Gracorp are committed to moving forward. They have already resumed construction on the north apartment building. The fire investigation is not complete, but they have preliminarily determined that it was not foul play. As a reminder, the north apartment building was always scheduled to open first and is still on track to open in 2021. The Port is trying to get a recovery schedule for the south apartment building, but they are committed to restarting as soon as they can. The Port team has been working on accessing the extent of the infrastructure damage to Port property, including roads, light poles, landscaping, irrigation, etc.

Commissioner Glen Bachman asked in the Port PSA and/or long-term leases, does the Port have or can the Port add language for an emergency management fee, something that would cover disaster insurance with further language that indemnifies the Port, somehow? The community gave credit to the Port for this project, but also pointed fingers for possible blame.

Chief of Business Development Terrie Battuello explained that in the standard lease agreement there is extensive language about emergencies. This particular project was a sale of property. She did not hear any indication that the Port was being blamed but the Port does have an extensive risk coverage for the

policies for the Port which Eric Russell, CFO, could speak to. On leases, the Port has all kinds of protection in standard form that are reviewed by the insurance advisory.

Commissioner Bachman was thinking on sales of public property if the Port could include or what can the Port include. Battuello will talk with the insurance company and ask what the Port can do.

Commissioner David Simpson thanked the first responders, the Port Security team and CEO Lisa Lefebber. He hopes there will be lessons learned that can help prepare the Port for future emergencies like this.

### **COVID-19 Update**

CEO/Executive Director Lisa Lefebber reported last week the Port partnered with regional organizations to announce an extension of the work from home policy that has been in place during the pandemic through the end of the year. This was in advanced of several of the school districts starting to explain that they will have online learning and trying to provide some leadership by extending grace to people who have young children and/or unique situations where they need an alternate schedule. The other reality is that it does not appear that Phase 3 will be happening any time soon and that is when the Port would be opening offices to the public, so it made sense to maintain status quo. Lefebber mentioned that she has worked with the ILWU Union on getting a Letter of Understanding to extend the flexible work through the end of the year.

A couple weeks ago the Port received news from the aerospace industry that they were reducing production significantly from where they have been in January, starting in 2021. The Port was able to prepare for that and mitigate through hiring freezes, project postponements, cost cutting, etc. Last week, the aerospace company in their earnings call announced additional reductions in productions to the point that it is requiring the Port to look at the budget, projects, and operating procedures once again. There will be a Chiefs' Retreat later this month to talk about how the Port can look for new revenue, continued diversification, and how to potentially trim additional money off the operating budget. To be candid, the Port has cut so much already, there is not much left to look at, so the Chiefs will have to get creative, hopefully on the revenue side. The other area of concern are the Port's assumptions that the Marina would remain steady during this time. However, if what is being reported happens, which is a discussion of shutting down the Boeing 787 line, it will likely result in additional job cuts in the area which could start to have a trickle-down effect on Marina occupancies that the Port saw after the last downturn.

Lefebber said it is not all doom and gloom. If there was an opportunity ever to be at a good place to pause and move projects to the right, now is the time. While the Port is going to proceed with the cargo terminal at Kimberly-Clark and the retail pads at Fisherman's Harbor, the Port has completed a lot of projects over the last 5-10 years, almost \$200 million worth of projects. The Port recently completed the South Terminal Modernization project and is adding the cargo handling equipment and is going into service this fall. The Port has completed a \$36 million revitalization of the Central Marina with new bulkheads, boathouse relocations and environmental cleanups. The Port has created a new business park in the old Weyerhaeuser Mill-B which houses two fortune 500 companies and over 800 jobs for the first time since early 2000's. The Port has built all the infrastructure for Fisherman's Harbor. This helped set the stage for the Port's future with acquiring the Kimberly-Clark property and that will be an area of growth for revenue going into the future.

Lefebber mentioned that the Port has been working with staff and the union on an early retirement program and are getting ready to finalize it. There will be a couple staff members interested in participating in the program.

#### **Cascade Industrial Center (CIC) Report**

CEO/Executive Director Lisa Lefebber reported on the look ahead for the Port. The Port is fortunately in a good spot and has completed a lot of major capital investments. Now the Port is looking into the planning phase for what is next.

Chief of Business Development Terrie Battuello explained she has been working with Lefebber on not only what the Port's job with the Cascade Industrial Center (CIC) is, which is located in Arlington and Marysville, but how does the Port frame that with what the Port entails and what is the future of the Port. Most agencies have a short-term current planning group and a long-term planning group. In the Port of Everett staff wears both hats. The CIC is thinking about the future and how to set this program up so the Port of Everett over the next generation will be successful. The presentation explained what is going on with the CIC, what the Port is doing to participate and place it into context with the Port's future. Battuello gave an overview of Port growth related strategies using the policies that the Commission has already approved, funded, and touched on policies as it relates to tactical moves, foundation of adoption for the growth of the Port boundary, status of out of district economic development activity, and next steps.

Lefebber thanked Battuello for the good overview on the Port's "Go North" strategy that has been discussed with the Commission for several years and is part of the Port's strategic plan. As Battuello mentioned, this presentation was supposed to be shared at the Commission Retreat but there wasn't one due to the pandemic, so it was a little longer than typical presentations. The goal was to make sure the Commission is up to speed with all the work the Port has been working on the CIC because it is not insignificant. It is a lot of time and a lot of effort helping CIC get up and running. Lefebber thanked Battuello and all the Port staff for all their work on this strategy.

Commissioner David Simpson asked Battuello if there were plans for a diversified possibility of putting in a float plane activity close to the Port or a helipad for Port customers. Battuello mentioned that the Port has looked at seaplanes at Waterfront Place, but the Navy does not want them here. An area of possibility could be the Jeld Wen/Bay Wood area. Battuello has talked to Kenmore Air and San Juan Air and she thinks it would be great to have a float plane seaport but there a lot of parking requirements, same with foot ferries.

Commissioner Tom Stiger asked Battuello what the options are when a port district expands its boundaries to include a reservation and did the CIC consider the lands to the west of I5. Battuello answered that reservations would not be incorporated into the Port district but that does not negate partnerships, in fact, the Port has partnered with tribes many times on many projects. Lefebber added that boundary expansion must be contiguous. Lefebber does not think that anything precludes tribal lands from being considered but it would be a conversation that would have to be had with the tribes before it goes out to vote. Lefebber will report back to the Commission regarding tribal lands, she does not foresee that being an obstacle.

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

### **Audit Entrance Conference**

Assistant State Auditor Tina Hjorten and Assistant Audit Manager Erika Davies announced that the Auditor's Office will be performing an accountability audit, a financial statement audit and a federal grant compliance audit for the period January 1, 2019 through December 31, 2019. Financial Controller Bob Marion will be the main contact person during the audit and the deadline will be the end of September. The estimated cost of the audit is \$81,000, including travel expenses.

Commissioner Tom Stiger asked Hjorten if they monitor the Port's G.O. and Revenue Bond obligations to see if they follow the appropriate accounting procedures. Davies responded in terms of these bonds; it is not something they look at every year. If something comes to their attention as far as if there are certain trends or if they're aware of certain items in the bond covenants that are particularly challenging to be in compliance with, they may look at those. They do some preliminary procedures on that as it pertains to the information that the Port reports in their notes to the financial statements regarding that activity, so they do look at supporting documents that relate to that and make sure that activity is supported and being accurately presented. Chief Financial Officer Eric Russell added the Port does have compliance obligations that the Port is responsible for as far as filing annual reports and updates on any changes that would affect the bonds. The Port does those through the Electronic Municipal Market Access (EMMA) which is a clearing house for Bond holders to be able to see information. The Port is also engaged with the underwriters who stay in contact in case they see something that they have questions about and the Port is talking to the Bond Council about things that come up. While the State Auditor looks at issues and make sure the Port is accounting for them correctly on financial statements and not doing something obvious that would affect financial reporting obligations, they are not looking at whether or not the Port is following IRS rules or other rules applicable to bonds issued.

## **MARITIME INDUSTRIAL EXPANSION**

CEO/Executive Director Lisa Lefeber reported the Port did apply for some grants for this project in Spring 2020 with an expectation to hear at earliest sometime in September if the Port was successful. Lefeber reminded the Commission on the way the Port structured the engineering contract award was structured with Task Orders.

### **Maritime Industrial Expansion – Approval of Task Order for 60% Design**

Chief of Engineering and Planning John Klekotka reported last year the Port closed its purchase for the acquisition of the former K-C paper mill site, and in February 2020, the Commission awarded a Professional Services Agreement, PSA 1-2020-02, with KPFF Engineers in the amount of \$2,600,000 for design and permitting services for marine terminal and other improvements to Norton Terminal to be constructed on the former mill site.

The contract with KPFF has been split into a number of task orders for various parts of the work and task orders are issued to KPFF as they are needed. To date, six task orders have been issued, equaling \$582,000.

Planning, permitting, and engineering work began in March, and in July the 30% design was completed, which included plans, cost estimate, and the basis of design report. In order to continue to move the project through the permitting process and then on to construction, Staff is recommending a new Task Order #7 for 60% plans, specifications, and cost estimate to be completed in the fall. The design work includes advancement of the civil and electrical utility systems, the grading and storm drainage collection plans, landscaping design, coordination with utility purveyors (PUD, City, etc.), on-going permit support services and an updated cost estimate.

Commissioner David Simpson requested the Commissioners get a notebook with a continuous rundown of the progress of this project. Simpson would like to know more about the project and be up to date as much as possible. Lefebber added that yes, Staff can create notebooks. Lefebber plans to update the Commissioners in the upcoming weeks to give a more detailed update on what is included in 30% design, as well as permitting and hopefully by that point the Port will know more. One of the reasons Staff hasn't done that yet is because if the Port does not get the grant, Staff will have to look at how to modify the 30% design.

After discussion, Commissioner Glen Bachman moved that the Commission authorize the execution of Task Order No. 007, under PSA 1-2020-02 with KPFF Engineers for 60% side design services in the amount of \$400,000. Commissioner David Simpson seconded the motion. A vote was called for:

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

Motion carried.

#### **SEAPORT MODERNIZATION**

CEO/Executive Director Lisa Lefebber updated the Commissioners that the wharf has been completed and the panzer belt to accommodate the cranes has been completed. The Port is currently working on crane upgrades and Staff is getting ready to prepare to move the cranes onto South Terminal in the October/November timeframe.

#### **DEPARTMENT REPORTS**

##### **Properties**

##### **Amendment to Bay Wood Purchase and Sale Agreement**

Chief of Business Development Terrie Battuello presented a second amendment to the Purchase and Sale Agreement (PSA) for real property known as the "Bay Wood" site and generally located at 200 W. Marine View Drive in Everett. It is estimated that the property to be transferred will include approximately 12.5 acres of developable land plus surrounding shoreline and buffers, where an 8' wide, soft-surface public access trail will be constructed and maintained by the developer. This sale produces \$4.9 million at closing for the Port, which is now estimated to occur no later than December 31, 2021 under the proposed amendment.

Port goals in this transaction are to resolve legacy environmental impairments and thereafter restore property to the tax rolls, create family-wage jobs and further enhance Everett's recreational waterfront trail system. The partially submerged, 38.63-acre site on Port Gardner Bay was previously occupied by wood products manufacturer Bay Wood Products, Inc. Extensive uplands cleanup activities were performed by the Port, culminating in 2014, utilizing a State Model Toxics Control Act (MTCA) program grant to fund portions of the work and the raw land was offered for sale.

On September 21, 2018, a PSA, entered between the Port and Latitude Development, established activities to occur prior to the sale. The process was anticipated to be difficult and the agreement optimistically anticipated many complex entitlement tasks to be completed by the Port in 210 days. In 2019, the Port negotiated a First Amendment providing an extension to the Port's Entitlement Period. Because the sale price for the property, established in 2018, fell behind recent comparable sales, the

developer agreed to increase the selling price of the land to \$9 per developable square foot as part of the First Amendment.

The major attribute of the original PSA modified under this second amendment replaces the original Section 4.09 requiring signed leases with a high-quality industrial tenant(s) from targeted industrial sectors providing >10 jobs per acre prior to the sale closing. However, market requirements from quality industrial prospects frequently require time-to-occupancy less than 15 months from lease signing. A good example of this is the recent Riverside manufacturing facility built on spec and tenanted prior to completion.

Inasmuch as construction is likely to take greater than 24 months to complete, the developer desires to shift to an alternative marketing strategy working with a venture capital partner to build the site on speculation (spec) without a tenant commitment. While a change such as this gives the Port, staff pause to consider the ramifications and the original intentions of the Commission, the project's financial pro forma and the characteristics of the design clearly necessitate tenants who will provide the requisite number of employees per acre. Nonetheless, the proposed Second Amendment provides the Port the ability to veto a tenant not consistent with the requirements of the original PSA.

Under the First and Second Amendments, a new schedule for closing has evolved. Once the Port's Entitlement Period ends on August 31, 2020, the developer could move to close within 30 days or take advantage of options provided in the original PSA to extend the study periods to align with his expected construction. As of August 31, Latitude could extend their study period up to three times of 60 days each, with an extension deposit of \$25,000 for each 60-day extension. These additional extension deposits will be applied to the escrow amount but are not reimbursable if the Seller chooses to terminate after August 31, 2020.

The Port and the developer have experienced difficulties in obtaining the Army Corps permit for modification and use of an existing outfall within the timeframe needed to start the Port's cleanup and restoration project in 2020. The stormwater outfall modification was originally included in the Port's Corps permit application for the larger MTCA Interim Action shoreline cleanup and restoration project but was later removed due to the US Army Corps' inability to issue the permit within the timeline needed to start shoreline construction in 2020. By removing the stormwater outfall from the shoreline restoration and cleanup project, the Corps will be able to issue the permit in time for the Port's project to move forward on schedule. Because of the removal of the stormwater outfall element from the Port's permit, the developer seeks a higher degree of security and confidence that his permit will be issued before his time runs out on this PSA agreement. If the agreement were to terminate the developer's considerable soft money investment, estimated by them as \$250,000, would be lost, along with the extension payments. While the Port believes the Army Corps permit will be issued by spring of 2021, provided the Developer expeditiously go through the permit submittal and review process, making way for a 2021 project commencement, the developer's risk tolerance has led them to push for more time if the storm permit is not approved by the end of the extension periods. The second amendment provides the developer a further 30-day extension (an Outfall Extension) upon payment of \$10,000, under certain conditions. The Outfall Extensions payments will apply to the purchase price and closing cannot be extended past December 31, 2021.

Finally, the second amendment provides a method for the Port to rescind the agreement if the developer does not begin construction within 2 years of closing. The Port would have to repay the sale price if the Port elects to rescind the purchase.

Port Administration recommend this Second Amendment to the PSA but share the Developer's goal to move this project quickly to construction in 2021. However, the complexity of the project and permitting has required this Second Amendment that achieves several important goals in approved: start construction on spec without a tenant at their own risk; preserves the Port's ability to veto tenants that will not produce the desired job count post-closing; extends the closing period to no later than December 31, 2021.

Upon discussion, Commissioner David Simpson moved that the Commission authorize the CEO to sign the Second Amendment to the Purchase and Sale Agreement with Latitude Development, in a form substantially 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.

#### **OceanGate Inc. Commercial Lease Ratification**

Chief of Business Development Terrie Battuello reported OceanGate, Inc. is a provider of manned submersibles, and an anchor tenant since 2015. The Port Administration briefed the Commission on July 14, in regular session, on the terms for the OceanGate Lease, which would replace their lease expiring on July 31, 2020. Terms for a lease were presented at that time, and the final lease prepared utilizing the Port's standard commercial lease format. The proposed Lease term is five years starting in August 2020 with no additional option periods. As a technology startup, their future is dependent upon the execution of their business plan and key benchmarks, one of which must be reached in the next two years or the lease may be terminated by OceanGate without default. Additionally, the tenant will return office Suite 107 to the Port to conserve their resources as they push towards these important goals. The remaining 5,518.51 BOMA rentable square foot (RSF) is being renewed at \$59,373.72 per year or \$10.76 per square foot. At 2022 anniversary, the rate would be increased 10% as a substitute for a market adjustment and then increase by a 2.5% annual escalator for the remaining term of the lease. Under RCW 53.08.085, the Port Commission has the right to authorize a security deposit lower than the State's one-year standard, assuming that the level of rent security is consistent with like-kind property. Because no additional Port capital investments are required, and prior investments have been recovered, the Administration recommends the \$7,023 cash security currently held by the Port be maintained and represents approximately a month and a half rent. They will pay leasehold excise tax of 12.84% and 7% of Waterfront Center triple net costs which represents a fair share of the allocated floor space. The tenant will be issued parking permits for use in the Boatyard. Total rent received over the term of the lease is \$319,620.

After discussion, Commissioner Glen Bachman moved that the Commission authorize the CEO to approve the Commercial Lease with OceanGate Inc. with a cash security deposit of \$7,023, in a form substantially as presented. Commissioner David Simpson seconded the motion. A vote was called for:

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

Motion carried.



**Consider Approval of 2125, LLC Assignment to Your Boat Shop, LLC**

Chief of Business Development Terrie Battuello reported 2125, LLC has operated since 2018 as Your Boat Shop, LLC in the Craftsman District, providing a variety of recreational boating services to slipholders. Last year, Michael McCarthy, the principle for 2125, LLC, passed away and Nancy Livingston, manager of the shop at that time, has taken over with the company. This Lease Assignment, Assumption and Consent Agreement recognizes this transfer and, if approved, authorizes their use of the shop under the prior company's lease. The Lease assumed will become the responsibility of the new owner of the company.

Upon discussion, Commissioner David Simpson moved that the Commission authorize the CEO to approve the Lease Assignment, Assumption and Consent Agreement between tenant 2125, LLC Commercial Lease to Your Boat Shop, LLC, substantially 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.

**Commission President's Report**

Commissioner Glen Bachman mentioned that he has not been able to see if there are openings at the Sail-In Cinema. Bachman saw the quick concept drawing for the structure at Bay Wood, what struck him, he's had the chance over the time at various meetings at other Ports to do their boat tour of their Ports, and so, with the completion of Bay Wood, he thinks it will add very nice curb appeal, both waterside and West Marine View Drive side.

**Commission Discussion**

Commissioner David Simpson thanked everyone that has been involved with Sail-In Cinema. He attended the first and second night, briefly. Simpson believes the drive-in solution was a great idea from the CEO and Public Affairs team.

**Citizen Comments**

There were no citizen comments.

**Executive Session**

Commission Vice President Tom Stiger recessed the meeting into Executive Session at 2:04 p.m. for approximately 25 minutes – to conclude by 2:30 p.m. The purpose of the Executive Session is to discuss with legal counsel a potential litigation matter.

At 2:30 p.m. in open session, Port legal counsel Brad Cattle announced that the Executive Session would be extended an additional 20 minutes – to conclude by 2:50 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 adjourned at the conclusion of the Executive Session.

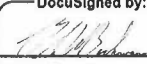


Regular Commission Meeting Minutes  
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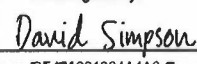
**THE REGULAR MEETING WAS ADJOURNED at 2:50 p.m.**

**APPROVED** this 15<sup>th</sup> day of September, 2020.

**EVERETT PORT COMMISSION**

DocuSigned by:  
By:   
Glen Bachman, President

By:   
Tom Stiger, Vice President

DocuSigned by:  
By:   
David Simpson, Secretary