

**Minutes of Everett Port Commission  
Regular Meeting  
August 11, 2020**

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

**CALL TO ORDER:** Commission Vice President Tom Stiger called the meeting to order at 11:59 a.m.

**CONSENT AGENDA**

- Approval of Regular Meeting Minutes of July 14, 2020
- Approval of Bills for July 2020

Commissioner David Simpson moved to approve the items of the Consent Agenda. Commissioner Glen Bachman seconded the motion. A vote was called for:

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

Motion carried.

**CEO/EXECUTIVE DIRECTOR'S REPORT**

**Bargreen Family/Port of Everett Settlement Outline Discussion and Consideration for Approval**

CEO/Executive Director Lisa Lefebber reported that in 2017, as part of the Port's Seaport Modernization project, the Port entered into a settlement agreement with the Bargreen Family related to the addition of cranes at the South Terminal. The agreement and accompanying agreement and easement (collectively, the "Agreement") attached to the Bargreen Family's nearly 20 acres of property situated east of the South Terminal and included compensation in the amount of \$330,000 payable to the Bargreen Family. One of the provisions of the Agreement was that the cranes were to be painted "the equivalent of Sherwin-Williams 'Smoke Blue' color that was selected by the Port Gardner Neighborhood". At the time of the Agreement, the Port expected to acquire gantry cranes from the Port of Seattle that were bright orange. However, those cranes were taken off the market, and the Port ultimately procured cranes from the Port of Los Angeles Everport Terminal that were green in color with orange and white hatching above 200 feet.

Port staff proceeded to solicit bids for painting the cranes and received quotes at approximately three times the price that was expected. In addition, Port staff was advised that the orange and white hatching on the cranes above 200 feet was a Federal Aviation Administration (FAA) requirement based on the height of the cranes and that painting the cranes would require 24-hour pulsating lighting to be installed. Based on a lighting demonstration in early 2020, the community overwhelmingly opposed the pulsating white and red FAA lighting. Given the neutral green color (which is considered equivalent of

"Smoke Blue" per a color consultant opinion) and the FAA requirements, Port staff approached the Bargreen Family to request a modification to the Agreement.

Port staff had a MAI-certified appraisal performed to determine the impact, if any, between blue and green cranes on the value of the Bargreen Family's Property. The appraisal found zero impact. Port staff entered into a series of mediations with the Bargreen Family before a professional third-party mediator in an attempt to reach an agreement that, among other things, would remove the painting provision from the Agreement and avoid costly and protracted litigation over the color of the cranes.

The terms before the Commission provide a modification to the Agreement to remove the painting requirement for the cranes, an agreement by the Bargreen Family not to further pursue previously-filed public records requests, and a release of all other claims, known or unknown, between the Bargreen Family and the Port. The amount to be paid in return for this settlement to the Bargreen Family is \$590,000, exclusive of amounts previously paid to them. It is Port staff's expectation that this concludes the more than 30 years of legal challenges between the Port and the Bargreen Family.

Commissioner Glen Bachman stated this is expensive but there is some scale of economies to it. He thinks the Port has done a good job in wording the agreement to where it is at this point. Again, it is expensive, and because it is COVID-19 and deep into 2020 of all things and everything else the Port is having to give up because of the pandemic. With the concessions that the Bargreen Family have given back, this probably gives the Port smoother waters going forward.

Commissioner David Simpson stated he has been involved with the Everett economic development for the last 45 years and has served on the City Council, as a member of the Charter Review of Snohomish County, a State Representative and now as a Port Commissioner. When Snohomish County Executive, County Council, Mayor of Everett, and City Council look at their budget development, they include companies like the Boeing Company, PUD, etc. and other major business players in the community. Now, when they do their budgets, they include the Port of Everett because they know the importance of the Port in the region to economic development. When there is impact to the local economic development by many of the businesses of the community, it hurts, and all the businesses share that pain. He does not believe that this agenda item shares the community pain.

Commissioner Tom Stiger asked Port Attorney Brad Cattle to interject with any of the comments. Cattle stated that this is postured on the agenda as approval of a settlement outline. Basically, this is the deal points of the settlement that have just recently been approved by the parties in the mediation and the motion that is before the Commission is for further approval of those deal points to be translated into the final settlement documents to be executed by the executive director with an informational report back to the Commission once the agreements are complete. Cattle stated Lefebvre has done a very good job of describing the negotiating process that has been ongoing for some period and the mediations that have occurred.

Commissioner Bachman thanked Cattle and stated Commissioner Simpson brought up exactly the right points and overall feel for the region and reminded everyone of the purpose and the mission of the Port of Everett to bring good family wage jobs to the area. Issues like this only slow it down. However, if the Port can get past this and get back to the strategic initiatives and make those happen, the support for the surrounding areas goes all the way up to Arlington, Washington and of course, includes Boeing. Again, the number of jobs is at a very high count and the economic impact to the area is significant and most important. Commissioner Bachman appreciates everyone's efforts on this.

Commissioner Stiger asked Cattle if he was suggesting that perhaps the Commission not take any action and wait until the next meeting when the documents have been finalized. Cattle stated not at all, he is suggesting that the Commission take the action that is described in the agenda motion, and Staff will bring back the final agreements as an information item at the next meeting.

Commissioner Stiger asked Lefebber if she was going to make a comment. Lefebber stated the Commission's strategic priority on the South Terminal Modernization, of which this settlement agreement came out of, was to move forward with supporting the extra requirements of the 777x program, the larger parts require larger cranes and bigger ships. This project is a critical project for the overall economy and as Commissioner Bachman mentioned, especially now given the current state of the aerospace industry with COVID-19, getting this project up and running is going to be very critical to the future.

Commissioner Stiger stated he is not very happy with this proposed settlement. Considering the \$330,000 that the Port has already paid out and now \$500,000 and attorney fees of \$90,000 and probably additional, talking around \$1 million. It couldn't come at a worst time, the Port just a month ago had to find almost \$1 million in budget cuts including ten staff positions, cuts in terminal operations, cuts in the marina, cuts in property operations and administration. That was before Boeing announced their cut back. It is difficult since the Commission has a responsibility to proceed with this but as the Commissioners and Lefebber have pointed out timing is an issue. Stiger said it is hard to believe that this whole issue is over the color of the cranes, blue versus green, and feels that the Bargreen family, generally, with the exception of this issue, have been supportive of the Port. Stiger is a friend of Howie's and they have done business and community activities together over the years, so this is certainly not a personal issue.

After discussion, Commissioner Glen Bachman moved that the Commission authorize the CEO/Executive Director to execute a settlement agreement with the Bargreen family on the presented terms and proceed with a payment in the amount of \$590,000. Commissioner David Simpson seconded the motion. Cattle indicated that implicit in this motion is that the Staff is directed to prepare the final settlement documents that would include, not only the settlement agreement, but also the amendment to the agreement ancillary to easement and amendment to the marine terminal impact easement.

A vote was called for:

Vote:	2-1
Yes:	Bachman, Simpson
No:	Stiger
Abstained:	None

Motion carried.

### **Strategic Plan Implementation Status**

CEO/Executive Director Lisa Lefebber started out by stating how proud she is of the Port team. Even though they set these goals in December 2019 before COVID-19 happened and now working through this pandemic, Staff have been able to make great progress on the initiatives. As Commissioner Stiger mentioned, because of COVID-19, the Port has modified spending but luckily have not had to lay employees off. However, the Port does have ten vacant positions which is equivalent to \$1 million annually. Lefebber reported the Port of Everett Commission approved a new Strategic Plan that created a new road map for the next ten years. As part of the Strategic Plan, Staff developed a report card system

to set annual goals and track the progress toward the strategic goals looking through the lens of environmental stewardship, technology, and innovation. Lefebber gave an overview of each progress report.

Commissioner Glen Bachman stated that this report is very readable and the next opportunity that the Port has an open house, to set up progress reports panels for the public to review. He believes this report pulls everything together for the citizens that live in the Port district.

Commissioner David Simpson asked if the Port does not receive federal pandemic relief funding, will the Port see some impact in terms of going forward on capital projects and so forth. Lefebber stated Staff is working on getting federal funding and the Port also just wrote a joint letter with the Seaport Alliance and several other ports regarding relief funding. Up until now, ports have not been eligible for any relief funding opportunities, including CARES funding. The Port has deferred around \$26 million in capital investments and if the Port is able to get some stimulus dollars the Port can revive some of the initiatives that have been delayed. As Lefebber has mentioned before, the Port is proceeding with Fisherman's Harbor, the former Kimberly-Clark mill site development and getting the Ameron building back into productive use.

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

##### **First Half Financial Report**

Chief Financial Officer Eric Russell reported the Commission received the first half 2020 financials. Russell presented an overview of account summaries for operating revenue and operating expenses for the Terminals, Marina, Properties and Development, Administration, Public Access, and the entire Port. CEO/Executive Director Lisa Lefebber added, as a base point of reference, the Port expects 2020 to be down from budget but overall tracking closely with budget on the bottom line. The reductions that the Port has made in 2020 are to not only help some of the downturns but more importantly, the downturns the Port knows are coming in 2021.

##### **2021 Budget Schedule**

Chief Financial Officer Eric Russell provided a copy of the Preliminary 2021 budget schedule to the Commission in their packets. There are several bolded dates related to meetings with commissioners. As this is preliminary, it is subject to change. Russell will be asking Office Manager Emily Hammer to set individual meetings with each commissioner soon.

#### **SEAPORT MODERNIZATION**

##### **Mill-A MTCA Loan**

Director of Environmental Programs Erik Gerking reported Port staff is seeking Commission authorization to enter into a loan issued by the Department of Ecology (Ecology) to support the Mill-A cleanup project, which is being conducted under an Ecology Agreed Order. This loan is a unique cleanup project financing tool being offered by Ecology as their first official loan in many years under the Model Toxics Control Act (MTCA) Grants and Loan program, and is the culmination of over a year's worth of collaboration between Port and Ecology Staff. Ecology considers this a pilot project.

The loan will serve as the Port's matching funds for the existing Remedial Action Grant, and when combined, will fund 100-percent of the eligible project costs up to \$8,600,000. The loan and grant are anticipated to allow the Port to achieve shovel ready status for this cleanup, including Remedial Investigations and Feasibility Studies, Cleanup Action Plans, permitting, engineering design, agency approvals, and other related activities.

The basic terms of the loan are: loan amount is \$4,300,000; effective interest rate is 1.30%; draw for eligible costs is quarterly; repayment will start upon project completion; repayment period is ten years; and, no prepayment penalty.

As background, the Port's financing for this project was affected when Weyerhaeuser, the co-responsible party for the cleanup, unilaterally terminated the parties' Cooperation and Cost Sharing agreement in 2018. This resulted in the Port having to advance the entire cleanup costs, subject to the 50% match from the existing grant. This loan allows the Port to borrow funds for the Port's share of the clean-up costs, while negotiating with Weyerhaeuser for payment of their share.

The Port has been working with Ecology and our lead consultant to align and adjust the project phasing and workflow with the Port's financial capacity. For example, the Port has not yet implemented the upland data gaps investigation which is a relatively heavy cash flow requirement. With the loan, the Port can move forward aggressively to accomplish multiple lines of work simultaneously. By doing this, the parties will be able to reach cleanup agreements, advance cost recovery actions and complete the cleanup sooner.

Upon discussion, Commissioner David Simpson moved that the Commission authorize the CEO/Executive Director to sign and enter the Ecology MTCA Loan for Mill-A, 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.

## **WATERFRONT PLACE CENTRAL**

### **South Fork Bakery Lease**

Chief of Business Development Terrie Battuello reported the matter before the Commission is the first of an anticipated three leases to be executed for a new retail building anticipated on the Everett waterfront. South Fork Baking Company, LLC is a sole proprietorship owned by Katherine Hillmann formed to supply retail and commercial consumers a variety of baked goods made fresh daily from quality ingredients. Offerings will include light fare featuring locally produced foods, pastry, cookies, and decorated cakes. They will also provide cake decorating and pastry skills classes.

For over seven years, Katherine has honed her skills as head baker at the Red Twig Café and Bakery in Edmonds. She is enthusiastic about opening this business and applying her combined commercial food and recipe development experience with her bachelor's in business administration and marketing education. The business will employ four people. In preparation for this leasing decision, Katherine prepared a business and financial plan and lined up commercial credit to fund her plan. She also developed a marketing strategy with creative tactics designed to earn broad acceptance and customer loyalty.

To accommodate this lease, the Port plans to construct an approximately 5,200 retail rentable square foot building with space for three tenants immediately adjacent and south of the Pacific Rim Plaza. This building is located on the A8 parcel and the Bakery suite will be on the south end of the building and

comprise 1,200 square feet. The leased area will also include non-exclusive use of indoor/outdoor patios surrounding the building. The lease is effective after signing. However, a contingency provides the lease is dependent on construction, which the Port is not obligated to undertake or complete. The Port anticipates bidding the project in January 2021 with design being completed this fall. The base 10-year term is expected to commence in April of 2022, three months after the project is handed over to the tenant. The Landlord work letter requires "grey shell" construction (unfinished interior, no mechanical) with the tenant being reimbursed up to \$60 per RSF (total \$72,000) for their improvements to the building which, once constructed, are a part of the building (flooring, lighting and other attached materials). The tenant will also do additional construction and funds to cover those costs will be placed in escrow. Rent is assessed at \$30 per RSF plus percentage rent of 3% of gross sales over the natural break point. Annual escalations of 3% of base rent are included. The tenant will pay a 23% pro rata share of all building maintenance expenses under the triple net contract (taxes, insurance, and expenses), plus Washington State Leasehold Excise Tax of 12.84% of rent. The security deposit is equal to three months rent to be deposited upon execution of the lease. The tenant must be open seven days a week and may not sublet the space. Gross base revenue to the Port for the lease term is \$412,700.

After discussion, Commissioner Glen Bachman moved that the Commission authorize the CEO/Executive Director to sign the Commercial Lease with South Fork Baking Company, LLC with security deposit equal to three months' rent, 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.

## **DEPARTMENT REPORTS**

### **Marine Terminals**

#### **Everett Ship Repair Lease**

Chief Operating Officer Carl Wollebek reported Everett Ship Repair (ESR) brought the submersible barge "Faithful Servant" into Pier 3 North and began operating as a shipyard in October of 2019. They have been operating under a Temporary Use Agreement. The lease requested for approval formalizes a long-term relationship. Highlighted deal points include a 5-year lease with two 5-year option extensions subject to mutual agreement. There are three revenue streams. First, base rent for approximately 2.72 acres of uplands at \$27,200 per month due upon execution of the lease plus Washington State Leasehold Excise Tax currently 12.84% per month. The Base Rent is subject to annual CPI escalations of not less than 2% and not more than 3%, commencing on the third anniversary. The monthly Base Rent for the first year of each option shall be the Fair Market Rental Value as agreed between the Port and ESR or as determined by arbitration. Second, Preferential Use Fee for the Use of Pier 3 North paid quarterly in an amount equal to the amount by which two percent (2%) of Tenant's Annual Gross Revenues for a Lease Year exceeds the Base Rent payable during such Lease Year; provided that, during the first two (2) Lease Years only, the Preferential Use Fee shall be 1% payable if Tenants Annual Gross Revenues for such lease year exceed \$15,000,000 and 2% payable only if Tenant's Annual Gross Revenues for such Lease Year exceed \$30,000,000. Third, ILWU line handling fees for vessels that tie up or let go from Pier 3 North. The security deposit is a performance bond in an amount equal to three months rent.

ESR shall use commercially reasonable, diligent, and good faith efforts to secure and support the drydocking of US Navy surface combatants, including but not limited to, Destroyers (DDG) at the Premises by the fifth (5<sup>th</sup>) anniversary of the Commencement Date. If after five years ESR is unable to support US Navy combatants, the Port, at its option, has the right to have ESR remove the submersible barge at their expense on 180 days advance notice. Gross base lease revenue over the initial term of the lease is \$1,651,715.

Upon discussion, Commissioner David Simpson moved that the Commission authorize the CEO/Executive Director to sign the Lease Assignment with Everett Ship Repair LLC with security deposit equal to three months' rent, 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.

### **Properties**

#### **Evergreen Moneysource Mortgage Co. Lease**

Chief of Business Development Terrie Battuello reported Evergreen Moneysource assumed a lease from Eagle Mortgage in 2019 and has been occupying Suite 103 in the Waterfront Center building since that time. They provide mortgage brokerage services to the Everett community. This lease is for 1,148 rentable square foot (RSF) representing 1.5% of the overall RSF in this building. The lease is for two years and includes one two-year option to extend their lease in this space. Rent will escalate each anniversary at a rate of 3%. The rent is set at \$26 per RSF annually, triple net. They pay their own utilities and leasehold excise tax. Their security deposit is one month's rent, equal to \$2,489.05, to be deposited at the time the lease is executed. Total gross rent to the Port for the term of the lease is \$60,633.

After discussion, Commissioner Glen Bachman moved that the Commission authorize the CEO/Executive Director to sign the Evergreen Moneysource Mortgage Company Office Lease for 1,148 square feet in Waterfront Center's Suite 103, 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.

### **Projects**

#### **Bay Wood Shoreline Restoration – Authorization to Bid**

Director of Environmental Programs Erik Gerking reported Port Staff is seeking Commission authorization to conduct a public works bid for the Bay Wood Interim Action – Shoreline Restoration and Cleanup project. The project is being conducted in partnership with the Department of Ecology (Ecology) under an Agreed Order as an Interim Cleanup Action (Interim Action). The scope of the project is critical to the commercial development of the Bay Wood property as it will address legacy contamination, restore and create new habitat along an environmentally damaged shoreline, and achieve a reduction in the shoreline



buffer setback. Notably, the funding for this project is provided in large part by a unique Ecology Remedial Action Grant that covers 90% of the eligible Interim Action costs. Issuance of the Corps Permit is imminent and receipt of the permit by the port is anticipated prior to the scheduled bid solicitation date of August 17, 2020.

Upon discussion, Commissioner David Simpson moved that the Commission authorize Port Staff to solicit a public bid for the Bay Wood Shoreline Restoration and Cleanup 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.

#### **Commission President's Report**

Commissioner Glen Bachman reported he was talking with the City of Everett Mayor, Cassie Franklin, with regard to Sail-In Cinema, she really appreciated the effort, once again, for both the popularity and structure. Her comment was "with COVID-19 and everything else that has been canceled, this was the only game in town". Commissioner Bachman and his wife celebrated their 50-year wedding anniversary Friday night at Anthony's Homeport. They were very good about turning over the tables, providing paper menus and scheduling.

Also, Commissioner Bachman noticed there are two Coast Guard ships tied up, blue water tenders, he believes and the military vessel "Pathfinder", and the longshoremen were offloading items.

Regarding 5G, Commissioner Bachman thanked Chief of Business Development Terrie Battuello for her work on that. This is essential to keep the Port work close and be world class.

#### **Commission Discussion**

Commissioner David Simpson congratulated Commissioner Bachman on his 50-year wedding anniversary and told Staff to continue to be safe. He stated CEO, Lisa Lefeber, Chief of Business Development Terrie Battuello and staff have been putting projects together for economic development purposes and the through all that is going on, there are no layoffs which is a good thing. He thanked all Port staff for working as a team.

#### **Citizen Comments**

There were no citizen comments.

#### **Executive Session**

Commission Vice President Tom Stiger recessed the meeting into Executive Session at 2:17 p.m. for approximately 20 minutes – to conclude by 2:45 p.m. The purpose of the Executive Session is to consider the factors influencing the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreasing the revenue to the Port.

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  
August 11, 2020

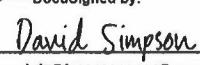
**THE REGULAR MEETING WAS ADJOURNED at 2:45 p.m.**

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

**EVERETT PORT COMMISSION**

By:  DocuSigned by:  
Glen Bachman, President

By:  DocuSigned by:  
Tom Stiger, Vice President

By:  DocuSigned by:  
David Simpson, Secretary



Port of Everett

ORIGINAL

**Port of Everett**  
**Voucher Certification and Approval**  
**for the month of**  
**JULY**  
**2020**

<b>AP Claims Transactions</b>		<b>Total</b>
Claim Checks Issued	89221 - 89343	\$1,988,252.30
P-Card Transactions		57,676.23
ACH Transactions	#496 - 544	1,566,434.86
<b>Total Claims Check Register</b>		<b>3,612,363.39</b>

**Electronic Claims Transactions:**

7/1, 7/2, 7/9, 7/10, 7/13, 7/15, 7/16, 7/17, 7/30, 7/31	Electronic Transfer - Health Equity/Navia/Guardian/Accrue CMS	\$183,309.53
7/1, 7/16	Electronic Transfer - IRS	210,050.96
7/23	Electronic Transfer - WA St Dept of Rev	39,220.84
7/1, 7/2, 7/14	Electronic Transfer - U.S. Bank	9,133.39
7/1, 7/2	Electronic Transfer - U.S. Bank LOC Fees	5,102.41
7/24	Electronic Transfer - Pitney Bowes	1,500.00
7/17	Electronic Transfer - Alliant Ins	1,476.37
<b>Total Electronic Claims</b>		<b>449,793.50</b>
<b>Total Claims</b>		<b>4,062,156.89</b>

**Payroll Transactions**

Payroll Checks Issued	50560 - 50563	\$496,048.94
7/7, 7/14, 7/21, 7/28	PMA Payroll (Longshore Labor)	160,419.81
<b>Total Payroll</b>		<b>656,468.75</b>

<b>Total Payments</b>	<b>4,718,625.64</b>
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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:

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 11th day of Aug, 2020:

DocuSigned by:

DB84C4BAE80F4AD6...

President

Vice President

DocuSigned by:

Secretary

CE451231364A4A6...