



PORT OF KENNEWICK REGULAR COMMISSION MEETING

JUNE 11, 2019 MINUTES

Commission President Thomas Moak called the Regular Commission Meeting to order at 2:00 p.m. in the Port of Kennewick Commission Chambers located at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.

The following were present:

Board Members: Thomas Moak, President
Don Barnes, Vice-President
Skip Novakovich, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Amber Hanchette, Director of Real Estate and Operations
Nick Kooiker, Chief Financial Officer
Larry Peterson, Director of Planning and Development
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Commissioner Novakovich led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated June 4, 2019***
Direct Deposit and E-Payments totaling \$112,072.65
- B. Approval of Warrant Register Dated June 11, 2019***
Expense Fund Voucher Numbers 101148 through 101188 for a grand total of \$187,053.79
- C. Approval of Regular Commission Business Meeting Minutes May 28, 2019***

MOTION: Commissioner Barnes moved for approval of the Consent Agenda as presented; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

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PRESENTATION

A. Industrial Development Districts – Issuance of Revenue Bonds, Scott McJannet of K & L Gates

Ms. Luke stated at the Washington Public Ports Association (WPPA) Spring Conference, K & L Gates had a round table presentation regarding Industrial Development Districts (IDD). Ms. Luke introduced Scott McJannet, one of the presenters at the round table who offered to come to the Port of Kennewick and provide a more in depth presentation on IDD's.

Scott McJannet thanked the Commission for the opportunity to follow up on the WPPA round table and presented a customized, hypothetical IDD for the Port of Kennewick. In 1996, the Port of Kennewick created its first IDD with a six year levy period.

What is New Levy Authority:

Ports have had the authority for IDD's since 1955 and additional levies (IDD levies) since 1957.

- The levy is a substantial financial tool for port districts;
- Port's regular levy is \$.45/\$1,000;
- IDD levy is an additional \$.45/\$1,000;
 - Limited to two 6-year periods.

The Impact of a Levy:

- Potentially Doubles the Tax Levy
 - Regular tax levy is capped at \$.45/\$1,000
 - IDD levy is an additional \$.45/\$1,000

Which leads to a substantial revenue increase; however, there could be political issues. Additionally, the six levy years do not need to be consecutive.

Per RCW 53.36.160, new legislation permits up to two multi-year levy periods, not to exceed a 20 year period, with a max rate remaining at \$.45/\$1,000; even though the actual levy rate may be lower. Because of the 20 year cap, an aggregate amount is collected over each levy period.

Because the Port collected the first IDD in 1996, directed at Clover Island, it can utilize the second of its two multi-year levy periods. If the Port determined to impose an IDD levy for first collection in 2020, the base year is 2019. Based on the Port's assessed valuation in 2019 at \$13,624,080,348, and the max amount to be collected during the first multi-year period is $\$2.70 \times 13,624,020 = \$37,784,854$ is the approximate amount the Port may collect over a 20 year period.

Commissioner Moak asked Mr. McJannet if the Port used all six years in 1996, and if we did not, what happens with the remaining years.

Mr. McJannet believes the time has lapsed from the first levy period and the Port would need to open another six year period. The IDD offers port districts a method of financing that can be implemented incrementally. The original purpose of an IDD is to provide for development and redevelopment of marginal properties and grant powers of eminent domain and express authority to spend money for the purpose of development and redevelopment.

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How to implement IDD as a financial tool:

- Establish an industrial development district;
- Adopt or amend comprehensive scheme;
- Adopt a resolution during the base year (the year before the first collection year) approving the use of a first or second multi-year levy period.

Industrial Development Districts:

- Original purpose: to provide for development and redevelopment of marginal properties;
- Grant the powers of eminent domain and express authority to spend money for the purpose of development and redevelopment;
- Recognition that this is development and redevelopment

Process:

- Port should identify “marginal lands”;
- Decide on boundaries of IDD
 - A port may have one or more IDD
 - An IDD may cover all or any portion of the boundaries of the Port
- Publish notice of a public hearing on the question of formation of an IDD
 - Notice to be published at least 10 days prior to hearing
- Port Commission holds public hearing
- Port Commission adopts resolution forming the IDD
 - Resolution identifies boundaries and makes findings regarding marginal lands

Projects in the comp scheme should reference the need to finance the costs of improvements.

What to do with the levy as collected:

- Levies are to be deposited in a special fund;
- Need not be spent in the year of collection;
- May be spent for improvements within the boundaries of IDD;
- If not spent on those improvements, shall be used to pay debt service on general obligation indebtedness (bonds or otherwise).

Mr. McJannet stated regardless of the boundaries of the IDD, the IDD levy is assessed upon all taxable property in the Port and the multi-year levy does not eliminate the politics of taxation; it does however, permit a port to plan for and implement a plan of development in a flexible manner.

Commissioner Novakovich thanked Mr. McJannet for the information and inquired if, once the boundary of the IDD is established, can it be changed at any time.

Mr. McJannet stated yes, the IDD offers flexibility and the Commission would need to amend the IDD to bring in new properties.

Commissioner Moak confirmed the Port could create an IDD for the entire Port district, but use the funds on Clover Island, as per the Comp Scheme.

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Mr. McJannet stated the Port could do that; however, there could be a small risk regarding the entire district as “marginal” properties. Mr. McJannet stated that every Port project is for the public good and the properties can be improved from a health and welfare stand point.

Commissioner Barnes inquired if there are any examples of multiple ports collaborating on an IDD.

Mr. McJannet stated other ports could contribute financially; however, it would need to be through an Interlocal Agreement (ILA) with the use of regular levy funds or bonded funds for a shared joint project. An IDD is established within specific port boundaries.

Commissioner Barnes stated that is a very large number that could perhaps assist the Vista Arts Center; however, for that to fall on directly on the Port of Kennewick constituents would not be a very popular political decision. Commissioner Barnes mulled if there are ways to involve other ports.

Commissioner Moak stated as the law as currently stands, it does not allow for a multi-jurisdictional IDD.

Mr. McJannet believes the Port would need to establish an IDD and then enter into an ILA with other entities and free up money elsewhere. The Port could use the IDD to redirect funds to a Port project and then free up funds elsewhere. Mr. McJannet will research using IDD funds within other port districts and report back to Ms. Luke.

Ms. Luke confirmed with Mr. McJannet that the next step for the Commission would be to identify marginal lands within the district for a potential IDD.

Mr. McJannet stated if the Commission would like to further explore an IDD, the first step is to decide which properties might form one or more IDD’s within the Port district. Once that assemblage of properties is identified, K & L Gates can structure a resolution and help determine why properties are identified as marginal lands.

Commissioner Moak confirmed that the Port would need to wait until 2020 to establish an IDD.

Mr. McJannet stated that is correct and reiterated that forming an IDD in no way obligates the Port to move forward with the IDD levy.

Commissioner Moak stated once the Port makes the decision to form an IDD, we are locked in on the base levy rate.

Mr. McJannet stated yes, once the Port decides to collect the IDD levy.

Commissioner Moak thanked Mr. McJannet for being here and Ms. Luke for setting up the presentation.

Ms. Luke thanked Mr. McJannet for coming over and we will be in touch after additional Commission discussion.

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Mr. Arntzen inquired if the Commission would like us to follow up with Mr. McJannet and bring back additional information.

The consensus of the Commission is for staff to gather additional information, without a commitment.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Columbia Drive Update*

Mr. Peterson presented a construction update of Columbia Gardens Phase 2B, tasting room building and parking lot.

Commissioner Moak mentioned that the bus shelter tarp needs to be replaced.

Ms. Hanchette stated staff will recover the bus shelter and reported that she is working with the engineer on the slab and up lighting. Once she receives updated drawings from the engineer, the Port can go out for bid on the installation of the bus shelter and artwork.

Commissioner Moak appreciates all the good work happening at Columbia Gardens.

B. *Vista Field Update*

Mr. Peterson presented a construction update on Vista Field infrastructure phase 1A. Total Site Services (TSS) is working in a coordinated effort on the construction.

Commissioner Barnes thanked Mr. Peterson and stated although it may not look like a lot of progress has been made, it is very hard to see any remnants of a former airport.

Commissioner Novakovich expressed his excitement at seeing two large projects working in tandem and congratulated staff on all of the hard work.

Commissioner Moak inquired how TSS is interfacing with Paramtrix, Hall Engineering, Strategic Construction Management and the City.

Mr. Peterson stated the team is working well together and the process is moving smoothly. Mr. Peterson is pleased with the amount of equipment and manpower TSS has brought to the project.

C. *Duffy's Pond*

Ms. Hanchette updated the Commission on Duffy's Pond, which is owned by the US Army Corps of Engineers (USACE) and leased by the City of Kennewick. As an adjacent land owner, the Port has partnered with the USACE and the City on vegetation management and making the trail safer. One of the challenges of Duffy's Pond is that it is filled in with siltation and the water level is very shallow, which brings algae and a smell during the summer months. One of the Port's goals is to try and figure out how to add depth and movement to Duffy's Pond. The Port contracted with Eco-land Services, who is very familiar in dealing with bodies of water such as this. Andrew Ellison of Eco-Land Services is working with our partners and exploring ways to create depth and add movement and possibly treat the algae. The USACE is reviewing all of its submersible lands, which includes Duffy's Pond and the review requires consultation from a number of different

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agencies, which has been going on for many years. The USACE does not foresee the review being completed this year, therefore the Port cannot treat the pond for algae this year. Although the USACE supports the treatment, the Port cannot move forward, because of the review process. Mr. Ellison is discussing the possibility of adding water to the pond to add depth with the USACE; however, there are several calculations for USACE to consider. Staff continues to work with Mr. Ellison on options and ideas about what course of action may be feasible for Duffy's Pond. Ms. Hanchette continues to encourage conversations with USACE and the City, in an effort to come up with a plan.

Discussion ensued regarding Duffy's Pond.

Commissioner Moak appreciates the work and staff trying to come up with ideas to assist our partners.

D. Revision of Port Commission Rules of Policy and Procedure, Section Five

Commissioner Moak stated the motion on the table has already been moved and seconded at the May 28, 2019 Commission Meeting and asked Ms. Luke if she had any comments.

Ms. Luke stated she has not received any further input with regard to the posted revisions.

PUBLIC COMMENT

No comments were made.

MOTION: Commissioner Novakovich moved to approve Resolution 2019-10, revising Section 5 of the Commission Rules of Policy and Procedure consistent with the attached revised Section 5; Commissioner Moak seconded.

Discussion:

*Commissioner Barnes requested clarification and stated the Commission Meeting Minutes on February 13, 2018 included a red line strike out, updated version of these policies and procedures, including references to resolutions that were noted in the red line strike out version. Commissioner Barnes noted that this current document in our agenda packet does not include any of these updates that were discussed and referenced in that meeting on February 13, 2018.**

Commissioner Moak stated the policies were discussed, but not approved.

Commissioner Barnes read from the minutes of February 13, 2018 (see EXHIBIT 1 for that section):

"Ms. Scott stated in January, the Commission requested a copy of the current Port Commission Rules of Policy and Procedures. This document was originally created and adopted in February of 2011. Since then, the Commission has modified several items within the Policy by resolution, for example, Public Comments, Port Financial Goals, CEO Delegation of Authority, and the CEO

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Evaluation Process. Staff reviewed the document and made mostly clerical revision ... and updated the document to reflect the changes approved by resolutions."

Commissioner Barnes stated if there were changes made by Resolution that were referenced in this document on February 13, 2018, those changes are not reflected in this current document.

Commissioner Moak does not believe the changes are related to Section five and this discussion is related to Section five only.

Ms. Luke stated that is correct, the Commission has the most recent complete set of rules, which is the 2016-01 amended version. As far as additional changes made by Resolutions, those have not yet been incorporated. Ms. Luke focused on providing a copy of the most recent, complete document and then the proposed Section 5 revisions.

Commissioner Barnes stated the red-line strike out version provided as part of the February 13, 2018 meeting noted changes in Section 5 and inquired if those changes had been incorporated.

Ms. Luke recommended the Commission take care of these changes now, and at some point in the future, it would be appropriate to look at the complete document to fold in all revisions that have been made through resolutions, so that we have an updated version of the rules. Ms. Luke believes Commissioner Moak has been working on revisions.

Commissioner Barnes has overarching general concerns that if by adopting these changes, are we creating a policy that impedes or restricts, the rule of majority, pathways or avenues, for end runs, to the democratic process.

**Clerks Note:*

The Port Commission Rules of Policy and Procedure were adopted on February 11, 2011, Resolution 2011-05. Resolution 2014-04 amended Section 6 of the Port Commission Rules of Policy and Procedure. Resolution 2016-01 amended Section 6 of the Port Commission Rules of Policy.

The Commission received as part of the February 13, 2018 Final Agenda Packet, a DRAFT Port Commission Rules of Policy and Procedure with red-line strike outs. Commissioners were asked to review that document; however those changes have not been incorporated and adopted.

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

E. Spaulding Business Park (Tri-Cities Chaplaincy) Property Update – Resolution 2019-11

Ms. Hanchette stated the Port sold land in Spaulding Business Park to Tri-Cities Chaplaincy in 2017 to expand their parking lot for the Administration Building. The Purchase and Sale Agreement (PSA) outlines an obligation to construct within an 18 month term, which expires in June. The Commission has the option to exercise the right to repurchase the .53 acres under the PSA or relinquish the repurchase option. Ms. Hanchette stated Gary Castillo, executive director of Tri-Cities Chaplaincy informed her that staff has been concentrating on locating and procuring

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a site for a new hospice house. Chaplaincy has been working with Meier Architecture's civil engineers on the parking lot design and has been instructed to move forward and believes the plans will be executed within the next 35 days. Ms. Hanchette inquired if the Commission would like to exercise the buyback option for \$137,508 or release the property.

Commissioner Moak is happy to hear that the Chaplaincy has secured a new location for the hospice house which offers a tremendous service to the community. It is clear that Chaplaincy is prepared to move forward with the construction of the parking lot.

MOTION: Commissioner Barnes moved to relinquish the repurchase option for .53 acres at the Spaulding Business Park sold to Tri-Cities Chaplaincy via Purchase and Sales Agreement dated March 28, 2017 and Statutory Warranty Deed recorded December 8, 2017, per Resolution 2019-11; Commissioner Novakovich seconded.

PUBLIC COMMENT

No comments were made.

Discussion:

Commissioner Barnes supports Resolution 2019-11 and stated various entities have purchased property from the Port over the years, where the PSA included a buy-back option. Purchasers have included individuals, speculators, developers, or businesses looking for an opportunity to establish their business; however, in this particular case, the entity provides a tremendous service to our community and is not a speculator. Commissioner Barnes whole heartedly supports this relinquishment and stated Chaplaincy provides a tremendous service, and he appreciates what they do in our community.

Commissioner Moak stated there are design guidelines in the CCR's for Spaulding Business which outlines what can be constructed. Commissioner Moak stated it is good to have buy-back clauses, even if it is just to get an update with the purchaser to see that they are moving forward on their project. Commissioner Moak appreciates the work on this.

With no further discussion. All in favor 3:0

F. Teambuilding Event Report

Mr. Arntzen stated part of the CEO's Goals and Objectives for 2019-2020 was to conduct a staff retreat/team building event. A small team of employees worked on the details of the retreat, which was held in Coeur d'Alene, Idaho and Spokane, Washington, May 30-31, 2019. The retreat included a walking arts tour of Coeur d'Alene, an annual safety training, and a tour and presentation of the Kendall Yards project in Spokane. Mr. Arntzen stated it was a good opportunity for staff to get away from day to day business and build bonds and see some new things. Mr. Arntzen stated not all of the staff has been able to see what a New Urbanist project looks like, so our visit to Kendall Yards gave everyone an idea of what the Port is trying to accomplish at Vista Field.

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Mr. Peterson reported that Kendall Yards is located on the north bank of the Spokane River, just across from downtown Spokane. Greenstone Development purchased the cleared site in 2004 and incorporated many of the principles of new urbanism. This is the closest example of what the Port is trying to do at Vista field. Staff toured the neighborhood and then met with Ike Bubna from Greenstone Development, who spent an hour explaining the site's history, principles, management, challenges, and efforts involved in Kendall Yards. Mr. Peterson stated the development utilizes simple ideas and sits on 77 acres, with a grocery store anchoring the development. This was a good learning experience for staff and it was an opportunity for everyone to see and hear what we are doing at Vista Field.

Commissioner Moak inquired if Kendall Yards is a private development and if it is fully built out.

Mr. Peterson stated the development is private; however the City maintains the trail. Mr. Peterson estimated that the development is 50% complete. Mr. Bubna of Greenstone indicated they will be constructing several 3-5 story buildings in the near future.

Commissioner Barnes inquired how long has Greenstone be working on the development.

Mr. Peterson stated there were two firms that purchased and cleaned up the area; however, both companies went bankrupt. Greenstone purchased the property in 2004.

Ms. Hanchette stated a portion of the staff retreat was dedicated to safety and we focused on the Port office and Marina. Staff had a lively question and answer session and discussed what to do if certain situations arise.

Commissioner Moak asked Mr. Arntzen if he thought it was a good retreat.

Mr. Arntzen believes it was a very good retreat and staff members commented that it was beneficial and they got a lot out of it.

G. Discuss Cancellation of July 23, 2019 Meeting due to WPPA's Commissioner's Seminar

Ms. Scott stated this year, the WPPA Commissioner's Seminar falls on Monday, July 22 through Wednesday, July 24, 2019, and the Regular Commission Business Meeting is scheduled for July 23, 2019. The Seminar will be held in Suncadia and at this time, WPPA has not posted an agenda for the Seminar. Ms. Scott stated if the Commission would like to attend the Seminar, staff will need to know ahead of time, to be able to notify the public of the cancellation of the Regular Commission Business Meeting.

Commissioner Barnes inquired if there is something significant to discuss at the July 23 Commission Meeting.

Mr. Arntzen would need to review the potential agenda topics and report back to the Commission.

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Commissioner Novakovich stated the Commission could call a Special Meeting if there was something important to discuss.

Mr. Arntzen stated staff could move any important business topics to the July 9 or August 13 Regular Commission Business Meeting move.

Commissioner Barnes would like to attend the WPPA Commissioner's Seminar.

Commissioner Moak indicated that he will not be attending the WPPA Commissioner's Seminar.

Commissioner Novakovich would like to attend the WPPA Commissioner's Seminar.

The consensus of the Commission is to address the cancellation of the July 23, 2019 Regular Commission Business Meeting at the June 25, 2019 Regular Commission Business Meeting.

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

Commissioners reported on their respective committee meetings.

I. Non-Scheduled Items

1. Commissioner Moak recently attended the open house for the new Richland City Hall, where Mayor Thompson paid tribute to those who came before him and started the process. Commissioner Moak stated the Commission has been involved in many ground breaking and ribbon cutting ceremonies because of the people who made decisions several years ago. And today, the Port continues to work on developing those projects because of decisions made many years ago. Commissioner Moak appreciated Mayor Thompson's recognition of the people who had a long term vision and the partners who helped make it happen. Commissioner Moak stated it is good to be reminded of all those who came before us and the partnerships that helped make projects happen.
2. Mr. Arntzen has been working with Julie Bassuk from Maker's Architecture on the Clover Island Master Plan. Mr. Arntzen stated Ms. Bassuk will present a scope of work to the Commission, of what she believes the Master Plan might encompass. Mr. Arntzen stated the contract with Maker's will be less than \$10,000 and lets Ms. Bassuk interview our partners, who will be involved in the larger process, about the vision for Clover Island. From there, staff and Ms. Bassuk can further define the larger scope and what the budget might entail for the Master Plan.

Mr. Arntzen reported that Ms. Bader Inglima is attending the Public Relations Society of America (PRSA) Public Affairs and Government Summit. Ms. Bader Inglima has been working on the branding process and each Commissioner has been involved in the process. Mr. Arntzen stated staff continues to move forward with the process and was pleased to hear the positive responses. Branding is more than a logo or street names, but is an in depth process to get the feeling for Vista Field. Mr. Arntzen appreciates the Commission feedback and patience, but it is important to get the brand right.

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Commissioner Moak appreciated the interdisciplinary work of Rusty George and Senen Antonio from DPZ Partners, and staff and what the brand meant and how they viewed it.

3. Mr. Kooiker will present a budget update at the June 25 Regular Commission Business Meeting.
4. Mr. Arntzen recently met with Renee Adams, Executive Director of the Art Center Task Force (ACTF) and Steve Wiley. Mr. Arntzen stated the Letter of Intent (LOI) between the Port and ACTF has technically expired; however, ACTF will be submitting a new LOI. Mr. Arntzen has great confidence in ACTF as they continue to fundraise and work through administrative items.

PUBLIC COMMENTS

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick inquired if Vista Field would be considered a marginal land.

Commissioner Moak believes Mr. McJannet would say yes, because it does not have any streets.

No further were made comments.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT


With no further business to bring before the Board; the meeting was adjourned 4:01 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**



Thomas Moak, President



Don Barnes, Vice President



Skip Novakovich, Secretary

PORT OF KENNEWICK

Resolution No. 2019-10

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK ADOPTING REVISED SECTION 5 OF THE PORT COMMISSION RULES OF POLICY AND PROCEDURE

WHEREAS, the Port of Kennewick Commission adopted Resolution 2011-05 on February 22, 2011 establishing a formal policy and procedures document to address the specific roles, expectations of conduct, knowledge, disclosures, prohibitions, legal requirements, and accountability of the elected officials who are responsible for the current operation and future direction of the Port of Kennewick; and

WHEREAS, the Port of Kennewick Commission adopted Resolution 2016-01 adopting revised Port Commission Rules of Policy and Procedure (Section 6.1 "Officers"); and

WHEREAS, Port Counsel has identified necessary revisions to Section 5 of the Port Commission Rules of Policy and Procedure that may be required to be implemented to complete the processing the currently pending citizen complaint.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby adopts the attached revised Section 5 of the Port Commission Rules of Policy and Procedure.


ADOPTED by the Board of Commissioners of the Port of Kennewick on the 11th day of June, 2019.

PORT OF KENNEWICK BOARD OF COMMISSIONERS

By:


THOMAS MOAK, President

By:


DON BARNES, Vice President

By:


SKIP NOVAKOVICH, Secretary

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and this policy. Complaints against staff (other than the Executive Director) shall be resolved by the Executive Director, according to law and the Port Policies and Procedures manual. Complaints against the Executive Director shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and the Port Policies and Procedures manual. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner or Commissioners have engaged in misconduct, the Executive Director shall investigate consistent with Section 5.3 and report to the Commission. No employee will be discharged, threatened, or discriminated against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation and in the event that an action is taken.

5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice and counsel of Port general or special legal counsel ("Port counsel"), the Executive Director shall determine whether sufficient evidence exists to proceed with an investigation. If the Executive Director determines that insufficient evidence exists, the complaint shall be dismissed. Otherwise, the Executive Director shall proceed as follows.

5.4 Investigation. If an investigation is warranted, the Executive Director shall recuse himself from the process and delegate all further steps to Port counsel, and/or an investigator retained for such purpose by Port counsel. Port counsel shall inform the party/ies subject of the complaint (Respondent(s)) in writing that a complaint has been filed and that an investigation will take place. Port counsel shall provide a copy of the complaint to the Respondent(s) and the Respondent(s) shall have a reasonable time to prepare and submit a response in writing. Port counsel may seek additional information regarding the matter from the Complainant, the Respondent(s) and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port's counsel shall presume that the Respondent(s) acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port counsel shall evaluate the complaint and issue a determination within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port counsel finds misconduct and the complaint substantiated, a report to Executive Director and the Commission shall set forth the basis for the determination and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.

5.7 Hearing and Decision upon Recommended Action. The Complainant and Respondent(s) shall have the right to be heard before the Commission or, if pending before a neutral as discussed below, to be heard before the neutral. If the complaint received is against one Commissioner, following receipt of the determination and recommended action from Port counsel, the Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint received is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port counsel shall be submitted to a mutually agreeable neutral selected from the panel of neutrals available at the Seattle office of Judicial Arbitration and Mediation Services (“JAMS”) or Judicial Dispute Resolution (“JDR”), or other similarly qualified third party neutral as agreed upon by the Complainant and the Respondents. The neutral selected shall promptly hear, consider and issue a decision regarding the recommended action. If the parties cannot agree upon the selection of a neutral, the presiding judge for Benton County Superior Court shall select a neutral from the panel available at the Seattle office of JAMS or JDR. The neutral shall determine the hearing process and shall issue a decision within 30 days of the hearing.

5.8 Reconsideration. A decision (whether by Commission vote or issued by a neutral) is subject to reconsideration upon written request by Complainant or Respondent(s). The sole ground for reconsideration shall be that the party seeking reconsideration has new, relevant information which was not considered by Port counsel. A party having new information to submit to the Commissioners or neutral, shall have fifteen (15) days of receipt of the written notice of decision to file a written request for reconsideration stating the reason and including the new information not considered by the Port counsel. Following review of the entire investigative file, the decision and recommendation of the Port counsel and the new information submitted by a party or parties, the Commission or, if applicable, the neutral, shall, within fifteen (15) days of receipt of such new information, hear, consider and render a final decision which may not be further appealed. The parties shall be notified of the final decision, and any action required by the final decision shall be implemented immediately.

5.9 Sanctions. Censure and/or reprimand may be invoked with respect to Commissioner misconduct, in addition to reassignment of committee assignments and other actions.

5.10 Public Notification. Unless otherwise determined by the Commission or neutral in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission or neutral, the fact of any sanction.

5.11 Other Remedies Reserved. Any action taken by the Commission or neutral shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner charged with misconduct, except as otherwise provided under Section 18.

PORT OF KENNEWICK

RESOLUTION No. 2019-11

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AUTHORIZING
THE RELEASE OF BUYBACK CLAUSE FOR 2017 LAND SALE TO
TRI-CITIES CHAPLAINCY***

WHEREAS, Tri-Cities Chaplaincy (Purchaser), purchased 0.53 acres of vacant land from the Port of Kennewick on March 28, 2017 in Kennewick, Washington and graphically depicted on "Exhibit A"; and

WHEREAS, a restriction to the Statutory Warranty Deed recorded December 8, 2017 allows the Port of Kennewick the option to repurchase the property should the Purchaser not develop the property within eighteen months of closing; and

WHEREAS, the Port Commission finds that said property is outside the scope of the Port's current Comprehensive Scheme of Development and releases such repurchase option from said property.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby authorize the Port's Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the release of the repurchase option as specified above.


ADOPTED by the Board of Commissioners of the Port of Kennewick on the 11th day of June, 2019.

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

By:


THOMAS MOAK, President

By:

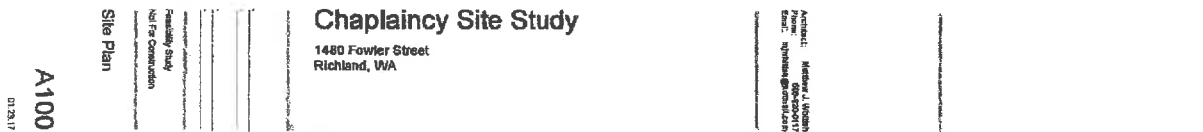

DON BARNES, Vice President

By:


SKIP NOVAKOVICH, Secretary

EXISTING
CONCRETE CURB

PROPERTY LINE



1480 Fowler Street
Richland, WA

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Phone: 606-520-0177
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