



PORT OF KENNEWICK REGULAR COMMISSION MEETING

AUGUST 8, 2017 MINUTES

CALL TO ORDER

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

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

PLEDGE OF ALLEGIANCE

Barb Carter led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT

Barb Carter, 3121 West 30th Avenue, Kennewick. Ms. Carter stated she was proud to be part of The Gathering Place and the amount of enthusiasm, respect, total acceptance and appreciation by the community was amazing. Ms. Carter has never attended a public gathering quite like The Gathering Place celebration with such broad based support. Ms. Carter stated everyone that she spoke with was impressed by The Gathering Place and was she very pleased by how it all went.

Mr. Novakovich thanked Ms. Carter for her comments and explained recently he spoke with some people who were discussing Clover Island and relayed how nice the area was.

No further comments were made.

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CONSENT AGENDA

Consent agenda consisted of the following:

- A. *Approval of Direct Deposit and E-Payments Dated August 2, 2017***
Direct Deposit and E-Payments totaling \$66,866.70
- B. *Approval of Warrant Registers Dated August 8, 2017***
Expense Fund Voucher Numbers 39334 through 39381 for a grand total of \$772,558.30
- C. *Approval of Special Commission Business Meeting Minutes July 25, 2017***

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

PRESENTATIONS

A. *Ethics Training (Exhibit A)*

Ms. Luke stated the Port regularly provides in house training opportunities for the Commission and staff as well as additional opportunities for training at conferences and seminars. Today's ethics presentation is an in-house training opportunity for the Commission to provide updates on ethics laws and regulations, and cases and scenarios that have come into play over the recent months.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Clover Island Update*

Ms. Bader Inglima reported on The Gathering Place celebration with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). Ms. Bader Inglima stated Ms. Carter has been working with the CTUIR and the Tamastslikt Cultural Institute over the past seven years to bring the vision of The Gathering Place to fruition along with the artist, engineer and contractors to effectively manage the project. Ms. Bader Inglima stated there were over 200 people in attendance at the celebration. Jeremy Wolf, Vice Chair of the CTUIR Board of Trustees was quite pleased with the artwork. Bobbie Conner, director of the Tamastslikt Cultural Institute and Malissa Minthorn spent a lot of time and effort ensuring the bronzes were historically accurate; and the project would not have happened if they had not volunteered their time to the project. Ms. Bader Inglima stated Les Minthorn, former chairman of the CTUIR Board of Trustees spoke at the celebration and expressed how meaningful the artwork is to the CTUIR.

Mr. Arntzen stated during the event the speakers collectively talked about the partnership between the CTUIR and the Port and as the event continued, the partnership became a friendship and lastly referenced as a family.

Ms. Bader Inglima stated the Port has developed and cultivated the relationship with the CTUIR and it is very meaningful. Ms. Bader Inglima stated the Port was honored to have the USACE and Raquel Crowley, Senator Patty Murray's representative speak as well. The Port was able to demonstrate the importance of the Port's partnership with the CTUIR to USACE and the federal representatives, for the 1135 Restoration Habitat project. Ms. Bader Inglima was pleased at the community support in spite of the heat and stated the event was covered by the local news stations, Charter Cable, local radio stations and the *Confederated Umatilla Journal*. Ms. Bader

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Inglima thanked the Commission for their continued investment on Clover Island and staff and the Coyote Work Crew for their team effort making the event so special.

Ms. Carter stated Ms. Conner and her mother visited Rodd Ambrosion's studio to discuss the level of detail for the bronze statues. Ms. Carter explained that it was a team effort when it came down to working on the educational panels and the signage, from John Fetterolf to the landscaper. Ms. Carter stated the Port cares about the level of detail that went into The Gathering Place and sees the same level of care being taken at Vista Field.

Mr. Peterson stated the Commission set the direction for project, to create something meaningful to the CTUIR, while setting up the shoreline for future development. The celebration last Friday was the culmination of seven years in the making and Mr. Peterson thanked Big D's Construction and all of the sub-contractors for their time and effort in capturing the vision.

Mr. Moak stated he is very proud to be part of this organization and thanked everyone who helped implement the vision.

B. Columbia Drive Update

Mr. Peterson reported that construction continues at the Wine Village and stucco color is being added to the buildings. Additionally, the mural panels will be installed to line up the brackets and holes for the artist and the panels will be shipped to Miami.

Ms. Hanchette reported that Bart Fawbush walked the construction site for the first time and was able to view the work on Building B. Mr. Fawbush has relocated his family from western Washington to Kennewick and will continue to maintain his tasting room on the west side. Mr. Fawbush submitted his permit paperwork to the Alcohol and Tobacco Tax and Trade Bureau in April for an address change, but has not heard back at this time. The winemakers have started prepping for their openings and are very excited about the transition.

Mr. Barnes asked for an update on the 211 East Columbia Drive insurance claim.

Mr. Kooiker stated at the July 25, 2017 Commission Meeting, the Commission approved Resolution 2017-13 authorizing Mr. Arntzen to move forward in settling the insurance claim for the collapse of the building at 211 East Columbia Drive. Mr. Kooiker reported that the Port declared that we will be replacing the building, however the claim amount has yet to be determined.

Mr. Arntzen stated the Port has a two year deadline for rebuilding and asked staff to look at a few ideas generated internally and some public inquires. Mr. Arntzen believes there are 2-3 plausible ideas, however, he would like to meet with Marie Mosely, City of Kennewick city manager to get the City's input. Mr. Arntzen and staff will continue to work through the ideas and bring back to the Commission for consideration. David Robison of Strategic Construction Management is assisting the Port with several scenarios, which include:

1. Arts Facility, which could include dirty arts;
2. Construct three small tasting rooms, approximately 1,000 square feet each;

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3. Construct a 6,000 square foot building for an established winery;
4. Construct a 2,500 square foot building with indoor and outdoor event space for another established winery;
5. Construct a site for an established food vendor, smaller than a restaurant but bigger than a food truck pad.

Mr. Arntzen believes Mr. Peterson would be able to accommodate a site for the food vendor near the food truck site for minimal expense as part of Phase 2, if the Commission is amiable to the idea. Mr. Arntzen is cognizant of the insurance deadline and ensured the Commission that they will have enough time to discuss the options.

Mr. Moak inquired if staff is looking to put together a formal Request for Proposals (RFP).

Mr. Arntzen stated with the limited amount of time, staff did not consider putting together a formal RFP. Mr. Arntzen recognized the compressed timeframe and stated staff is looking at ideas that have presented themselves to the Port, but is stopping short of an RFP. Mr. Arntzen asked the Commission for direction regarding ideas for the replacement of the 211 building.

Mr. Moak stated he would like to see realistic ideas, but would also like to see something that would be a catalyst for development.

Mr. Arntzen believes the ideas represent a good cross section for the development and stated he is meeting with Ms. Mosely on August 15, 2017 to discuss what the City would like to see as a potential project. Mr. Arntzen will share information with for the Commission once he meets with Ms. Mosely. Furthermore, Mr. Robison is working on a report for some of the potential options.

Mr. Robison stated whatever the amount the Port receives from the insurance company, when considering all of the costs of construction, \$900,000 is not that much money and to go out for an RFP will add to the cost and time. Mr. Robison stated in this particular situation, it is better for the Port to stay local, by generating as much interest in the project as possible.

Mr. Novakovich believes if the Port went out for a formal RFP, we would be disappointing a lot of people and spending time and money we do not have.

Mr. Moak stated he was not suggesting an RFP, however, he is looking for vision and the right business for the space.

Mr. Arntzen understands Mr. Moak's concerns and believes staff will stay within the parameters and timeframe to put together a plan that fits nicely with the Wine Village.

Mr. Barnes stated it is important to discuss ideas with the City and exchange information. The City has been a willing and supportive partner and may have other ideas, scenarios and/or options. Mr. Barnes appreciated the update and the discussion about potential opportunities.

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Mr. Arntzen inquired if it was more appealing to the Commission if the Port had a firm commitment from a business versus a great idea without a commitment.

Mr. Barnes stated having a commitment is a more appealing option, however, if the Port had a partner who was interested in contributing to the project to make the idea more viable, would be even better.

Mr. Moak inquired if there was a demand for event space in regards to the potential idea of the 2,500 square foot building with indoor and outdoor event space.

Mr. Arntzen will discuss the idea with the City and report back at the next meeting.

Mr. Moak stated the ideas sound like great opportunities for the Port.

C. *Vista Field Update*

Mr. Arntzen asked Mr. Peterson and Mr. Robison to brief the Commission on the hangar remodel and the architectural firm that may provide the plans.

Mr. Peterson reported that the City continues to work through the water, sewer, storm drain and fire flow elements for Vista Field. As staff reported previously, the storm water issue has been settled and the City is currently working with consultants JUB Engineering to determine the sewer impact to overall system. The Port provided information to Carey Roe, City Public Works Director, and believes we will have an answer by mid-August of the analysis. Furthermore, the Port provided the fire department additional information for the requirements for the sprinkler system. Mr. Peterson reported Mr. Robison has met with the fire department on the proposed fire flow elements.

1. *Hangar Design*

Mr. Robison requested a moment of silence for Port of Pasco Commissioner Ron Reimann. Mr. Robison recently met with Mr. Peterson to discuss Vista Field and the hangar remodel. Mr. Robison and Mr. Peterson are proposing the Port hire the firm CKJT Architects, LLC. CKJT is a sixty-year old firm and recently completed the Port of Pasco Airport remodel. Mr. Robison believes CKJT has the clarity to take the hangar designs created by Michael Mehaffy and Laurence Qamar and articulate the design to a full set of plans for implementation. CKJT is committed to revitalizing and repurposing hangars, if their contract is approved. Mr. Robison stated CKJT wants to take the Commission's vision for Vista Field and turn it into the hub for the arts and entertainment, civic and commercial and residential uses. Mr. Robison asked the Commission for patience in this process, with staff and the consultant team, because, as the work is articulated in concept, into a collective and cohesive create, some of the design intents will change or be discarded. But at the end of the day, the Port will achieve an articulated design in the hangars and repurpose them a way that they become a gateway into Vista Field.

Mr. Peterson stated the idea of creating the visuals and turning them into full construction documents is similar to what the Port did at the Wine Village. The vision of the Wine Village was created by Gary Black and local architect Terence Thornhill created the full set of

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documents. In this case, the concept for the hangar remodel was created by Mr. Mehaffy and Mr. Qamar. Mr. Peterson presented the general concept of the hangar remodel to the Commission and stated it is now time to turn the concept into reality. Mr. Peterson stated the benefit of contracting with CKJT is that they are willing and excited to take someone else's vision and make a reality. CKJT will take the vision and put a price to it to make it a reality. Mr. Peterson stated the proposed contract is within Mr. Arntzen's delegation of authority, however, Mr. Peterson inquired if the Commission would like staff to continue working on the design of Vista Field, in conjunction with the Master Plan approval process.

Mr. Novakovich believes working in conjunction with the Master Plan approval process makes sense. Mr. Novakovich stated it is important to keep moving forward with the remodel design to alleviate extending the time frame further, once the Master Plan is approved.

Mr. Moak inquired if CKJT would be working on all three hangars.

Mr. Peterson stated CKJT would work on all three hangars because they have the same structural design and will require the same utility work. By working on all three, we create an economies of scale and efficiencies.

Mr. Moak inquired if the utility needs would be the same for all three hangars and accommodate food and beverage uses.

Mr. Peterson stated staff and consultants believe two hangars may house some kind of restaurant, however, the third hangar will be in close proximity to the residential area and it is important to take that into consideration. Mr. Peterson explained it is prudent to build flexibility into the shell while tying the proposed parking area between the narrow road to create vibrancy and variety.

Mr. Robison stated the plans for the utilities would be as generic as possible considering there may be different opportunities for each space. Providing the correct utility infrastructure enables the Port to serve the space and make tenant improvements at a later date.

Mr. Barnes believes it is prudent to move forward with the design process. Staff received input regarding the hangar space and that it is suitable for restaurant use and which is consistent with the Master Plan. The hangars are in close proximity to the main street and the design will take the main entrance into consideration by creating a gateway or archway. Mr. Barnes stated to sacrifice some of the indoor square footage in order to add walkways and outdoor seating will add to the vibrancy of the main street.

Mr. Peterson stated the hangars are approximately 4,500 square feet and will lose about 900 square feet for covered outdoor space in the redesign.

Mr. Barnes stated the scope of work is for CKJT to complete the design for the remodeling of the three hangars. Mr. Barnes believes it is prudent to continue moving forward, as opposed to waiting for the City and final approval of Master Plan. It is important for the Port to

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undertake the design to convert the hangars to their highest and best use and given the location and probability of what will take place, moving forward with the design makes good sense.

Mr. Novakovich agrees with Mr. Barnes' comments.

Mr. Arntzen appreciates the discussion and inquired if there is anything that the Commission does not like. Mr. Arntzen stated the arcade is a cool structure, however, it could be expensive. Staff is trying to determine if the arcade will be economically feasible and has asked CKJT to determine the cost and report back.

Mr. Moak stated there is a lack of good outdoor seating for restaurants in the area and believes it would be a good value add.

Mr. Arntzen agrees with Mr. Moak, however, since we do not know what the cost of the arcade will be, CKJT will work on the design and if needed, we will value engineer as we did with the Wine Village and The Gathering Place to come up with alternatives. Mr. Arntzen thanked the Commission for their comments regarding the contract with CKJT for the design work for the hangars, working in conjunction of the approval of the Master Plan and reiterated if the Master Plan is not approved, the design may have limited use.

Mr. Novakovich appreciates Mr. Arntzen's willingness to be transparent about the CKJT contract, because the Port has limited resources with what we are undertaking at Vista Field. Some of the issues the Commission is addressing may take away from completing the plans that we have for Vista Field, with the resources that are available. Mr. Novakovich believes the Commission needs to do what the community wants and do it in a first class way that the Port is known for. The Commission expressed the same sentiment during the design phase for the Wine Village; the importance of a first impression could impact the rest of development.

Mr. Arntzen believes the Port has the best team possible for Vista Field, however, the Master Plan is taking longer than initially anticipated and the four questions the City would like addressed is taking extra financial and staffing resources. As Mr. Novakovich alluded to the fact that the Port may need to take some funding from the bank loan to cover some of the unanticipated extras. Mr. Arntzen stated the Port cannot build without an approved Master Plan and the public will not appreciate a second rate Master Plan either. Mr. Arntzen feels he has no other option other than putting forth additional resources to ensure the Port sufficiently answers the City's four concerns to get the Master Plan approved by the City. Mr. Arntzen stated the process of bringing a New Urbanism Master Plan to this community is about as difficult as closing the airport.

Mr. Novakovich stated the Port is doing things that have never been done before in this community and we are doing the best job we can with the resources we have, and if we have to limit some things because the resources are not available, we still do the best job we can.

Mr. Moak stated if you create the first, great, impressionable project, then eventually the value of that land will increase. Mr. Moak hopes that if the Port creates an exciting project and needs

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to spend a little more to create the place, the value of the land will go up. Mr. Moak believes if the Port does not do it right the first time, we will not be able to recoup anything at the end. However, the Port must be realistic about finances and Mr. Kooiker is very realistic about the budget, but that does not mean we cannot do it right.

Mr. Arntzen agrees with Mr. Moak and stated the Port is working within the financial parameters of the 2017-2018 Work Plan and Budget.

Mr. Novakovich recessed the meeting at 4:26 p.m. for eight minutes and will reconvene at approximately 4:35 p.m.

Mr. Novakovich reconvened the Regular Commission Business Meeting at 4:36 p.m.

D. City of Kennewick Planning Commission Meeting August 21, 2017

Mr. Arntzen reported on August 21, 2017 at 6:00 p.m. the City of Kennewick Planning Commission will be holding a public hearing on the Urban Mixed Use (UMU) zoning.

Mr. Peterson stated the Planning Commission will be considering adopting multiple zoning districts including the UMU zoning for the Bridge to Bridge area, which will also apply to Columbia Drive and Vista Field. Mr. Peterson stated he and Ms. Bader Inglima will be attending the public hearing and speaking on behalf of the Port's interest. Furthermore, representatives from Columbia Basin College (CBC) will be in attendance to relay the importance of the bigger vision of the UMU and how crucial it is for the development of CBC's Culinary Arts School. Some of the key elements of the UMU is to bring residential back to the area and using land-use as a mechanism to drive investment. Staff believes there is support for the long term vision and reconnecting to the waterfront. Mr. Peterson stated it is important to have as many people as possible show up and support the future development of Columbia Drive, Vista Field, and the UMU zoning. The Port has a lot invested in this meeting and following the workshop, the Planning Commission will make a recommendation to City Council and then the City Council will hold another public hearing.

Mr. Novakovich inquired if the Port would be sending in any written comments.

Mr. Peterson stated the Port may submit some written comments, however, it is essential to have people in the room to emphasize the importance of the zoning to the decision makers.

Mr. Arntzen stated if community members would like to attend and speak, it would be appreciated.

Mr. Moak inquired if more than one Commissioner attended the workshop, would it be considered a public meeting.

Ms. Luke stated that is correct; the Board would need to designate a representative for the Commission.

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Mr. Arntzen stated Mr. Peterson will present on behalf of the Port staff. Mr. Arntzen stated if a Commissioner that has some tie-in to the neighborhood would like to show support and possibly speak, he believes that will resonate with the Planning Commission.

Mr. Moak will work to re-arrange his schedule and let staff know if he is unable to attend.

Mr. Arntzen stated Ms. Bader Inglima has prepared a few bullet points for anyone wishing to speak. Mr. Arntzen represented the Port at the earlier public hearing and observed the City Planner, Greg McCormick did an excellent job laying out facts. Mr. McCormick relayed to the Planning Commission the City Councils desire to improve the Bridge to Bridge area. Mr. McCormick did state there will be opposition, however, approving the ordinance is the right thing to do. Mr. Arntzen spoke about the Port's vision and how we have worked to turn around the area; our partnership with the City, and that CBC is investing in the area. Mr. Arntzen believes CBC would be reluctant to start a \$10,000,000 fundraising campaign if the zoning is not passed.

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

Commissioners reported on their respective committee meetings.

F. Non Scheduled Items

1. Mr. Novakovich asked for the Joint Meeting between the CTUIR and the Port of Kennewick be placed on a future Agenda to discuss some of the items that were addressed.
2. Ms. Scott reported the International Economic Development Council (IEDC) will be having a webinar on affordable housing and inquired if the Commission would like to participate.

Mr. Novakovich would like to be registered for the IEDC webinar and Mr. Moak and Mr. Barnes will check their schedule.

Ms. Scott stated Mr. Barnes and Mr. Moak are registered to participate in the Benton Franklin Fair Grand Parade and will be driven in jeeps provided by Lithia Dodge. Ms. Scott asked Mr. Barnes and Mr. Moak to please see Kandy Yates for more information.

3. Ms. Bader Inglima reported the Tri-Cities Cancer insert which was recently placed in the *Tri-City Herald* showed a photo of the lighthouse and shoreline improvements on the cover. The photo shows how the Commission's investment has created another iconic element in the Tri-Cities.
4. Mr. Arntzen stated during the break, Ms. Carter shared her thoughts regarding the replacement of the 211 building and asked the Commission if Ms. Carter could share her thoughts as a Port consultant.

Ms. Carter stated when she heard about the extra funding for the replacement of the 211 building, her thoughts immediately went to an artists' complex, however, her economic development past believes the best use of that funding would be to put the final nail in the

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identity of the Wine Village as a Wine Village. Ms. Carter stated it is important to increase the number of opportunities for wineries now, instead of waiting for Phase 3. Ms. Carter encouraged the use of those extra funds to cement the identity of the Wine Village as a Wine Village, first and foremost and add more public art to the development. Ms. Carter appreciates Mr. Arntzen's comments regarding arts, and believes a facility for the artists can come later.

5. Mr. Kooiker stated the revenue source for the hangar remodel will be a bank loan, which the Port has not acquired at this time. Mr. Kooiker stated there is a small risk, however, the Commission has budgeted conservatively so the Port can cash flow contracts ahead of time.

PUBLIC COMMENTS

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick inquired if the CKJT contract will be providing a cost estimate for the remodel that are more than just dollar per square foot. Additionally, Mr. Burdick believes the idea of outdoor seating is vastly overrated in the Tri-Cities. The Tri-Cities boasts 100 degree temperatures and Mr. Burdick does not believe it is a comfortable experience in the heat.

Barb Carter, 3121 West 30th Avenue, Kennewick. Ms. Carter enjoys outdoor seating and believes it is important to have in our area and the way an area is designed is what makes it enjoyable. Ms. Carter stated the arcade drawings that were presented will provide the much needed shade in the summer for people to sit outside for longer periods of time.

No further comments were made.

COMMISSIONER COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 4:55 p.m.

APPROVED:

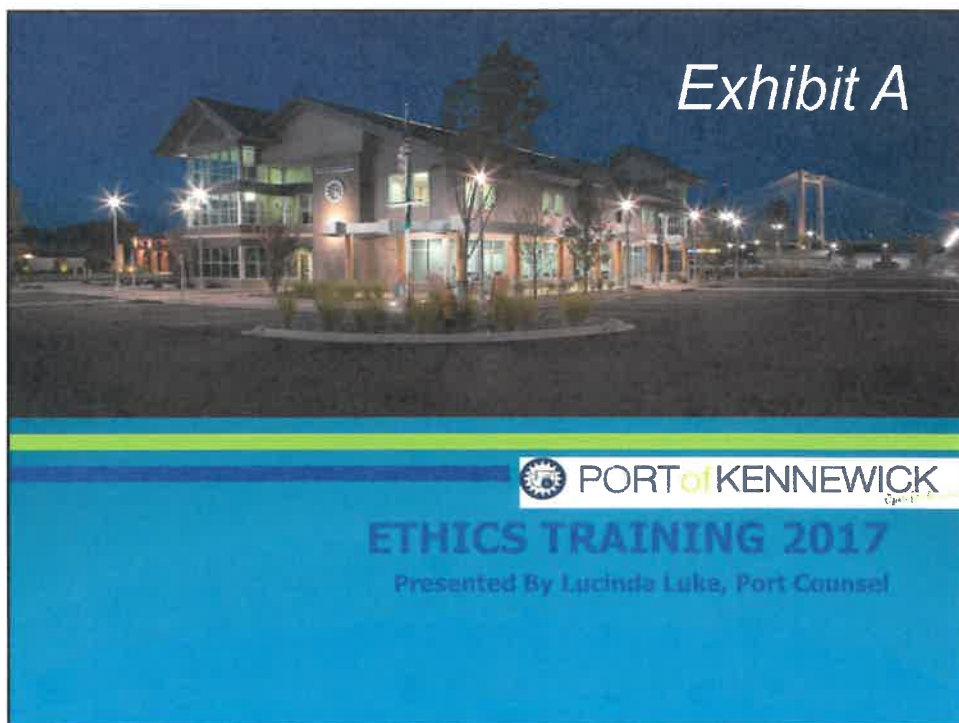
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BOARD of COMMISSIONERS


Skip Novakovich, President


Thomas Moak, Vice President


Don Barnes, Secretary



Why Ethics Training?

- 1. Strengthens internal controls.*
- 2. Helps commissioners and staff understand expectations.*
- 3. Protects the integrity of the entity.*

Washington State's Ranking

How does Washington rank for transparency and accountability?

The Center for Public Integrity's November 2015 State Integrity Investigation used extensive research to grade states based on the laws and systems they have in place to deter corruption.

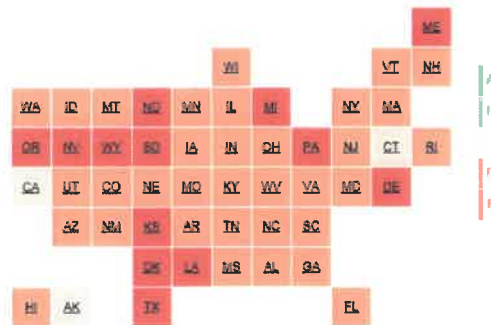
The CPI's report on the investigation finds that

- In 2012 Washington's Integrity Ranking is 3rd
- In 2015 Washington's Ranking had fallen to 8th
- Washington's Overall Grade is a D+
- Even so, Washington is "one of the cleanest dirty shirts' in test of states' integrity"

Washington's Integrity Ranking

Public Access to Information	GRADE: F(65)	RANK: 32 nd
Political Financing	GRADE: C+(70)	RANK: 12 th
Electoral Oversight	GRADE: C-(70)	RANK: 20 th
Executive Accountability	GRADE: F(65)	RANK: 30 th
Legislative Accountability	GRADE: D+(64)	RANK: 19 th
Judicial Accountability	GRADE: D-(62)	RANK: 11 th
State Budget Processes	GRADE: C(75)	RANK: 24 th
State Civil Service Management	GRADE: D-(63)	RANK: 28 th
Procurement	GRADE: C(75)	RANK: 13 th
Internal Auditing	GRADE: B+(87)	RANK: 4 th
Lobbying Disclosure	GRADE: D-(62)	RANK: 28 th
Ethics Enforcement Agencies	GRADE: C-(70)	RANK: 7 th
State Pension Fund Management	GRADE: C(75)	RANK: 12 th

Integrity Report Cards for the Rest of the States



Alaska, California and Connecticut are top 3 with grades of C and C-.

National Ethical Trends

2014 Ethics Resource Center survey

- Workplace misconduct is on the decline
- 41% of employees observed misconduct in 2013, down from 55% in 2007
- 9% of employees felt pressure to compromise their standards in 2013, down from 13% in the previous survey in 2011
- Employers are doing a better job of holding workers accountable

Commission Rules of Policy and Procedure

On February 11, 2011 the Port Commission adopted Resolution No. 2011-05 which sets forth the Port Commission's Rules of Policy and Procedure.

These Rules contain the Commission Code of Conduct in compliance with RCW 42.23 – Washington State's ethics and conflict of interest laws for public officials.

Code of Conduct

Section 3.2 Conflict Avoidance provides:

Commissioners are strictly prohibited by law from

- Entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest
- Conduct that may present an appearance of a conflict of interest

Code of Conduct cont'd

Commissioners shall

- 3.4 Disclose any remote conflicts of interest
- 3.6 Conduct themselves with civility and respect
Demonstrate undivided loyalty to the interests of the Port and its taxpayers - such loyalty shall supersede any conflicting loyalty to advocacy or special interest groups
- 3.8 Not represent a position as being the position of the Port unless authorized

Conflict of Interest

The definition of conflict of interest

- A conflict between the private interests and the official responsibilities of a person in a position of trust
- An interest **need not be financial** to create a conflict of interest
- Most conflicts result from the exercise of discretionary authority

Statutory and Other Guidance

RCW 42.23.030 – Contract Interests

Specifically prohibits a municipal officer, or their office, from directly or indirectly receiving a financial benefit from a contract if the contract is made by, through, or under the supervision of the municipal officer, in whole or in part.

Any such contract is void.

How has this restriction been applied in the courts?

City of Raymond v. Runyon

Facts:

- A city commissioner of public works owned a local rock quarry
- Sold rock to contractors holding city contracts
- Supervised by the commissioner's public works department

Court's Decision:

- Violation of RCW 42.23.030 because the commissioner was responsible for supervision such contracts
- Commissioner's good faith efforts to comply with statute no defense
- Contracts were void and commissioner fined

RCW 42.23.030 Exceptions

There are a number of very specific exceptions allowing municipal officers to have contract interests in certain situations.

If an exception applies, the municipal officer must still

- Fully disclose the contract interest to the governing body
- Not vote on the contract under any circumstances.

Situation #1

Port Commissioner has a very small partnership interest in a local restaurant, and the restaurant wants to become a Port tenant.

What actions should the Commissioner take?

Situation #2

Port Commissioner serves on the board of directors for a non-profit organization. The non-profit bids on a contract from the Port.

What actions should the Commissioner take?

Prohibited Acts - Privileges

RCW 42.23.070 - Prohibited acts.

- ***(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.***
- ***What does this mean?***
- ***Attorney General Opinion 2010 No. 3 states:***
- ***A special privilege involves being allowed to do something that would otherwise be prohibited, and a special exemption involved being relieved from doing something that would be otherwise mandated.***

Prohibited Acts - Gifts

- RCW 42.23.070 - Prohibited acts.
- (2) No municipal officer may, **directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity** from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

Basic Rules re Gifts

- **Do not accept a gift personally when it is in connection with a Port transaction (expenditure, contract award, land sale, property purchase, etc.)**
- **Gifts received (not as described above) are allowable; however, commissioner should report any gift over \$50 to Port auditor to ensure no conflict exists**

Situation #3

You receive a plaque and a \$100 check from the Center for New Urbanism for your many contributions to the field.

What should you do?

Situation #4

You have approved a contract with ABC Corp. ABC is sponsoring a regional conference and tells you that if you attend, ABC will waive your conference fees.

What should you do?

Prohibited Acts – Confidential Information

RCW 42.23.070 - Prohibited acts.

(3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to **disclose confidential information** acquired by reason of his or her official position.

(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise **use such information for his or her personal gain or benefit.**

Public Records

Standards for disclosure:

- **May not intentionally act to conceal a record if under a personal obligation to release the record.**
- **Applies to e-mail communications, text messages, phone calls, and home computers if used for Port business.**

Transparency

Public employees must practice open and accountable government. They should be as open as possible about their decisions and actions, and protect truly confidential information.

- *Open Public Meetings Act*
- *Commission Rules of Policy and Procedures–Section 4*

Self-Check -- Questions to Ask Yourself

- **Will my use of Port resources result in added costs or any other disadvantage to the Port?**
- **Am I using this resource in order to avoid personal expense?**
- **Am I confident that my use of Port resources will not compromise the security or integrity of Port information or software?**
- **Are Port resources being used for purposes that could be embarrassing for the Port if reported publicly?**

Tammy's Traffic Light



Public employees have a duty to conserve public resources and funds against misuse and abuse.

- **Green Light** – Go! Go! Go! Official Duties
- **Yellow Light** – Caution - Personal Use Under Limited Circumstances
- **Red Light** – Stop ----- Prohibited Use

Green Light



Any Use that is Reasonably Related to Your Official Duties

Yellow Light



Personal Use OK Under Limited Circumstances

➤ Really *de Minimis* exceptions:

- There is little or no cost to the Port;
- There is no interference with the performance of official duties;
- The use is brief in duration and frequency;
- The use does not distract from the conduct of Port business; and
- The use does not disrupt other Port employees and does not obligate them to make a personal use of Port resources; and

Red Light



Prohibited Uses

- Outside business interests
- Commercial uses
- Illegal or unprofessional activities
- Political activities, including lobbying

Creating a Culture of Great Ethics

- Establish expectations
- Be a model for ethical behavior
- Reinforce ethical behavior
- Develop ethics skills and problem solving
- Regularly review commitment to ethics

Thank You!

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