



# PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 p.m. via GoToMeeting Teleconference.

## ANNOUNCEMENTS AND ROLL CALL

The following were present:

**Board Members:** Skip Novakovich, President (via telephone)  
Kenneth Hohenberg, Vice President (via telephone)  
Thomas Moak, Secretary (via telephone)

**Staff Members:** Tim Arntzen, Chief Executive Officer (via telephone)  
Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)  
Nick Kooiker, Chief Finance Officer (via telephone)  
Larry Peterson, Director of Planning and Development (via telephone)  
Amber Hanchette, Director of Real Estate and Operations  
Lisa Schumacher, Special Projects Coordinator  
Bridgette Scott, Executive Assistant (via telephone)  
Carolyn Lake, Port Counsel (via telephone))

## PLEDGE OF ALLEGIANCE

Commissioner Novakovich led the Pledge of Allegiance.

## APPROVAL OF THE AGENDA

***MOTION:*** Commissioner Hohenberg moved to approve the Agenda as presented; Commissioner Moak 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 May 17, 2022***  
Direct Deposit and E-Payments totaling \$88,435.67
- B. ***Approval of Warrant Register Dated May 24, 2022***  
Expense Fund Voucher Number 103772 through 103818 for a grand total of \$140,843.90
- C. ***Approval of Regular Commission Meeting Minutes May 10, 2022***

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

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

---

## PRESENTATION

### A. *Ann Allen, Attorney at Law*

Mr. Arntzen introduced attorney Ann Allen, who has been assisting the Port with the COVID 19 remote work policy and the Governor's Emergency Proclamations. Ms. Allen will also be updating the Commission on the revisions to the Open Public Meetings Act.

#### 1. *Open Public Meetings Act and Public Records Emergency Proclamation Update and COVID Work Plan*

Ms. Allen stated the Governor's Emergency Proclamations have had several iterations over the last two years during the COVID emergency. Ms. Allen highlighted the recent changes to the Proclamation (*Exhibit A*) for the remote work plan and outlined the recent changes to the Open Public Meetings Act, which will go into effect June 9, 2022.

Beginning June 14, 2022, the Port office will only be open to the public for Commission Meetings; however, the Commission and staff are able to attend the Commission Meetings remotely.

Commissioner Moak stated the Port's Rules of Policy and Procedure does not allow for Commissioners to remote into meetings and inquired if the Port's policy takes precedence over the revision.

Ms. Allen stated the Port's 2020 Declaration of Emergency Resolution allows the Port to suspend the requirement and can continue meeting remotely. The Governor's Proclamation being revoked sets up the provisions of the new statutes, which are effective.

## REPORTS, COMMENTS AND DISCUSSION ITEMS

### A. *Kennewick Waterfront*

#### 1. *Columbia Gardens Covenants, Conditions & Restrictions (CC&R's)*

Ms. Hanchette stated the Commission approved the Columbia Garden's CC&R's at the May 10, 2022 Commission Meeting. Ms. Hanchette stated with assistance from Taud Hume, Port Counsel for Real Estate, a few minor modifications have been made, such as adding more flexibility for the Port in the development period. Additionally, we will be including more drawings and maps to the CC&R's. Once that is completed, staff will record the document.

#### 2. *Pipeworks Purchase and Sale Update*

Ms. Hanchette gave a brief update on the Pipeworks purchase and sale agreement for a lot at Columbia Gardens. Pipeworks is working with Ron Swanby to construct a building and commercial kitchen and will continue revising the building design according to the City of Kennewick's Urban Mixed-Use Code. The Port has offered the assistance of town architect Michael Dale of Meier Architecture, if they have any questions.

# PORT OF KENNEWICK

## REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

### 3. *Clover Island Inn Proposal Update*

Ms. Hanchette reported Mr. Hume received notification from the Clover Island Inn owner's attorney, that they would like to formally cancel their request for lease assignment to Fortify Holdings.

Ms. Hanchette stated the public was very vocal during this process about what they want to see on Clover Island and the waterfront. Ms. Hanchette stated there is a lot of demand for residential and residential mixed and inquired if the Commission would like staff to start marketing The Willows and Cable Greens property for an appropriate use.

The Commission is fully supportive of staff pursuing the marketing for Cable Greens and the Willows, if we have the capacity to do it.

Commissioner Novakovich provided a statement to staff related to the Fortify Holdings proposal and asked for it be included on the record (*Exhibit B*).

### B. *Vista Field*

#### 1. *Grand Opening June 16, 2022*

Mr. Arntzen gave a brief update on the Vista Field grand opening on June 16, 2022 (*Exhibit C*).

### C. *Pronghorn LLC (JMAC/Twin Tracks) Buyback Clause*

Ms. Hanchette outlined the history of the Pronghorn LLC (JMAC) property purchase and the current buyback clause. Ms. Hanchette stated Pronghorn LLC has been diligently working within the Benton County zoning guidelines and stated before the Commission is Resolution 2022-15, releasing Pronghorn LLC from the purchase and sale agreement buyback clause.

Commission and staff discussion commenced regarding the buyback clause.

***MOTION:*** *Commissioner Hohenberg moved for approval of Resolution 2022-15, releasing Pronghorn LLC from their purchase and sale agreement buyback clause and allow Pronghorn to pursue other industrial uses as allowed by Benton County Zoning; and authorize the port Chief Executive Officer to take all action necessary in furtherance hereof; Commissioner Novakovich seconded.*

## PUBLIC COMMENTS

No comments were made.

### ***Discussion:***

*Commissioner Hohenberg stated this appears to be a property that the Port has no intended future use for and he does not see a need to have a buyback clause, to where the Port would need to deal with the property in the future. Commissioner Hohenberg is fully supportive of this recommendation.*

*Commissioner Moak believes the buyback clause is important because it keep Pronghorn moving forward on this project. Commissioner Moak hopes that they would develop the property and*

# PORT OF KENNEWICK

## REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

*there would be no need for a buyback. But the property has been sitting there for some time and if the Port had to sell it to someone else who wanted to do something better, he thinks it should. Commissioner Moak thinks the Port needs to get the property into commercial use at some point. He supports their use of the property for the intended use; however, he thinks the Port should continue to "hold their feet to the fire."*

*Commissioner Novakovich stated the Port held the property for a long time and it is of no use to the Port. He does not think we have any desire to repurchase it back for future use, whether it's in our current or future Work Plan. Commissioner Novakovich is supportive of eliminating the buyback clause.*

***With no further discussion, motion carried. All in favor, 2 Ayes (Commissioners Hohenberg and Novakovich): 1 Nay (Commissioner Moak).***

### ***D. State Auditor's Office Update***

Ms. Lake stated in January 2022, the State Auditor's Office concluded that the payment for legal fees to former Commissioner Barnes was not authorized by law and issued a management letter. The Port requested a legal review of the facts and applicable laws and determined that it is within the Commissioner's discretion to not seek repayment of those legal fees. Before the Commission is a motion authorizing the Port Commission to not seek repayment of those legal fees and encompasses ratification of all actions by Port Officers and employees.

Commissioner Moak stated Jennifer Robertson of Inslee Best made recommendations related to this and inquired if this Motion will suffice for the ratification of the reimbursement of former Commissioner Barnes' attorney's fees by the current Board of Commissioners to correct the improper voting procedure.

Ms. Lake stated this motion would be the proper action to ratify the Port's decision to not request repayment of the legal fees and Resolution 2022-16 would satisfy any legal requirements that the Port may be under, based upon our legal opinion.

***MOTION: Commissioner Hohenberg moved that the Port Commission not seek repayment of legal fees related to the "Citizen's Complaint" from former Commissioner Barnes. Commissioner further moved to approve all action by port officers and employees furtherance hereof; and direct the Port Chief Executive Officer to take all action necessary in furtherance hereof; Commissioner Moak seconded.***

## **PUBLIC COMMENTS**

No comments were made.

### ***Discussion:***

*Commissioner Novakovich stated he will abstain from voting on this and even though he believes it is in the best interest of the taxpayers to not pursue recovery of legal fees, he thinks Port Policy and various RCW's were not followed. Commissioner Novakovich believes there was perhaps illegal action that was taken to replay these legal fees. Since former Commissioner Barnes'*

# PORT OF KENNEWICK

## REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

*attorney has threatened the Port of Kennewick with legal process if we were to try to recoup these legal fees, he thinks it would probably cost the Port a greater amount of money than what the legal fees are, so he thinks it is in the best interest of the Port to pay the fees\*, even though he does not agree with it. Commissioner Novakovich stated as a notice to the public, he thinks officials should be held to a higher standard. He finds it ironic that at the February 11, 2020 Commission Meeting, legal fees for a similar situation were pulled from the Consent Agenda and Commissioners Moak and Barnes refused to pay those legal fees, even though all Port policies, all RCW's, everything was followed as it should be, and yet here we are two years later, agreeing to pay legal fees when policies and RCW's were not followed and he is really concerned about the message we are sending to the public about what Commissioners at the Port of Kennewick, what kind of standards are that we are being held to. And yet, Commissioner Novakovich, as he stated previously, believes it would cost the Port more money to try and fight this than it would be to pay it. In the interest of that, he will be abstaining from this vote. He reiterated that he does not believe it is the right thing to do and believes Commissioners, all elected officials, if there are rules of policies that you agreed to by your oath of office, he believes you need to abide by them. And when you don't there's consequences to pay and he does not think they should be rewarded for not following policies, procedures and rules.*

*Commissioner Hohenberg stated his perspective as the new Commissioner, is this is not just about money, it's about time, it's about our commitment and investment back to the community. When you have distractions that are forefront, it prevents us from sticking to our core, focusing on our mission and being able to deliver to the public. For that reason, Commissioner Hohenberg supports this motion.*

*Commissioner Moak stated he has said plenty about this in the past and he would like to get it move forward.*

***With no further discussion, motion carried. All in favor, 2 Ayes (Commissioners Hohenberg and Moak):0:1 Abstain (Commissioner Novakovich).***

### ***E. Re-Districting Update***

Mr. Peterson stated the Port is in the process of updating the Commission Districts (*Exhibit D*) based upon the 2020 Census Data. Redistricting is performed every decade and reviews the districts based upon the Census population, with the focus and legal requirement to have equal or nearly equal population in each district. The last redistricting was completed in 2011, based upon the 2020 Census Data. State law requires the Port to complete this action by November 15, 2022. A public meeting on any new proposed districts must be held one week before adopting the Plan.

### ***F. Port Policies Update***

Mr. Arntzen reported that the Commission Rules of Policy and Procedure were adopted in 2011 and slightly revised in 2016 and most recently, the Commission consensus was to have a policy review completed. Mr. Arntzen has asked Ms. Lake to provide a review of the document for updates and will keep the Commission apprised of possible revisions to the document.

Commission and staff discussed the review of the Commission Policies and Procedures.

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

---

## ***G. Commissioner Meetings (formal and informal meetings with groups or individuals)***

Commissioners reported on their respective committee meetings.

## ***H. Non-Scheduled Items***

Mr. Kooiker stated the Port has filed the 2021 annual financial report in compliance with the State Auditor's Office requirements. The SAO is completing the 2020 audit and Mr. Kooiker will notify the Commission once it is completed.

Mr. Arntzen stated the Port is now working with attorney Carolyn Lake, who will be acting as general Port counsel; Ann Allen will continue to assist with human resources; and Taudd Hume will be assisting with real estate matters.

Mr. Arntzen stated the Port has been discussing the Fortify Holdings for several months and it has taken a lot of time for everyone involved. Mr. Arntzen stated not all deals come to fruition and this was a very complicated process, and he appreciates the Commission support and the opportunity to work through the process.

Commissioner Hohenberg stated in response to Mr. Arntzen's comments, the Fortify Holdings proposal was a very complicated process, and he was pleased that the Port held the discussions in a public setting. It would have been easy to address the proposal in Executive Session; however, the Port chose to involve the public, and he has only heard positive comments since the Commission made their final decision. Commissioner Hohenberg stated this was his first challenging and controversial decision, and he believes the guidance Mr. Arntzen provided, as well as staff and legal counsel, it could not have been done any better. At the end of the day, the Commission has an obligation to not only protect and provide public access, especially to our waterfront, but we also have an obligation to do what's best for our constituents. Commissioner Hohenberg appreciates the way the issue was handled.

## **PUBLIC COMMENTS**

No comments were made.

## **COMMISSION COMMENTS**

No comments were made.

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 24, 2022 MINUTES

---

## ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:38 p.m.

## APPROVED:

## PORT of KENNEWICK

## BOARD of COMMISSIONERS

DocuSigned by:

*Skip Novakovich*

0E53A30E1C8E442...

*Skip Novakovich, President*

DocuSigned by:

*Kenneth Hohenberg*

89F77EAC8921416...

*Kenneth Hohenberg, Vice President*

DocuSigned by:

**Thomas Moak**

A35176A2D2CD413...

*Thomas Moak, Secretary*

*\*Clerks note: Former Commissioner Barnes legal fees were reimbursed on May 25, 2021 via Resolution 2021-08. There are no additional fees to be paid associated with Resolution 2022-16.*

# ***PORT OF KENNEWICK***

## **RESOLUTION No. 2022-15**

### ***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK AUTHORIZING BUYBACK CLAUSE RELEASE TO PRONGHORN LLC***

**WHEREAS**, Pronghorn LLC (Purchaser), purchased 34.66 acres of vacant land from the Port of Kennewick on June 13, 2017 in Kennewick, Washington and graphically depicted on “*Exhibit A*”; and

**WHEREAS**, a restriction to the Statutory Warranty Deed recorded September 13, 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**, on April 23, 2019 through Resolution 2019-08 the Port Commission approved a 24-month extension (expiration April 23, 2021) of the Purchaser’s Obligation to Construct as specified under Section 10.1 of the Purchase and Sale Agreement; and

**WHEREAS**, on May 25, 2021 the Port Commission agreed to further extend the Purchaser’s Obligation to Construct as specified under Section 10.1 of the Purchase and Sale Agreement to July 31, 2022; and

**WHEREAS**, the Port Commission agrees to release Pronghorn LLC of the buyback clause in favor of construction of a future industrial use on the property.

**NOW, THEREFORE; BE IT HEREBY RESOLVED** that the Board of Commissioners of the Port of Kennewick hereby agrees to release Pronghorn LLC of the buyback clause in favor of construction of a future industrial use on the property and authorizes the Port’s Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the extension as specified above.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 24th day of May, 2022.

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

By: DocuSigned by:  
*Skip Novakovich*  
0E53A30E1C8E442...

SKIP NOVAKOVICH, President

By: DocuSigned by:  
*Kenneth Hohenberg*  
89F77EAC8921416...

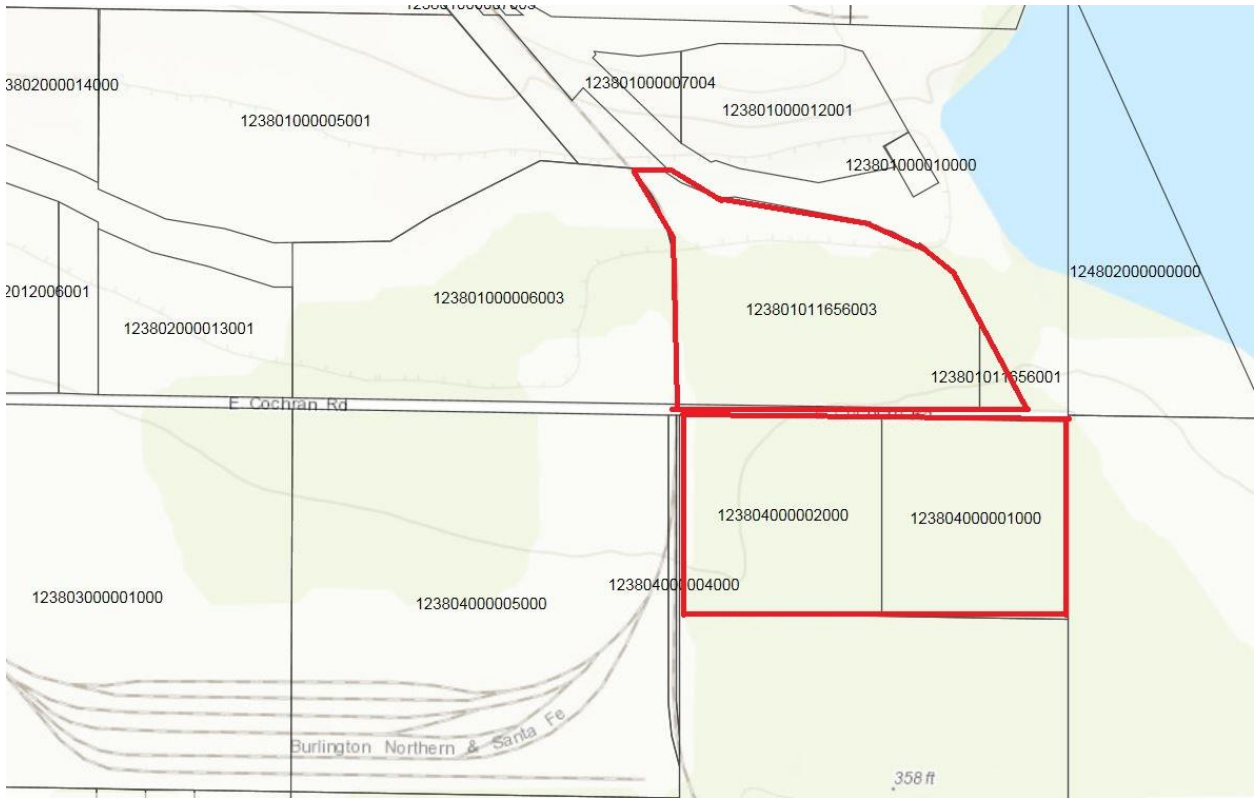
KENNETH HOHENBERG, Vice President

By: Disapprove

THOMAS MOAK, Secretary



*Resolution 2022-15*  
*Exhibit A*



**PORT OF KENNEWICK**

**RESOLUTION No. 2022-16**

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK  
RELATED TO REPAYMENT OF LEGAL FEES***

**WHEREAS**, on May 25, 2021, the Commission voted to repay former Commissioner Barnes' legal fees expended with respect to a complaint alleging misconduct (the Citizen's Complaint); and

**WHEREAS**, Commissioner Novakovich abstained from the vote for repayment; and

**WHEREAS**, the State Auditor's Office (SAO) concluded that repayment was not authorized by law; and

**WHEREAS**, the SAO issued the Port a "management letter" related to the repayment and suggested the Port determine whether the former Commissioner should be required to repay the Port; and

**WHEREAS**, legal review has been conducted, indicating that the Commission has the discretion to not seek repayment for legal fees; and

**WHEREAS**, the Commission is cognizant that the SAO is not bound by a Port legal opinion.


**NOW, THEREFORE, BE IT RESOLVED** that the Port Commission directs the Port CEO to not seek repayment of legal fees from former Commissioner Barnes, which were paid by the Port with respect to the "Citizen's Complaint"; and further ratify and approve all action by Port officers and employees in furtherance hereof; and directs the Port Chief Executive Officer to take all action necessary in furtherance hereof.

**ADOPTED** by the Board of Commissioners of Port of Kennewick on the 24th day of May 2022.


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

By: Abstain

SKIP NOVAKOVICH, President

By:  89F77EAC8921416...

KEN HOHENBERG, Vice President

By:  A35176A2D2CD413...

THOMAS MOAK, Secretary

**Memorandum****May 24, 2022**

For: The Port of Kennewick  
From: Ann Allen, Attorney at Law  
Re: Washington Ready Update

---

Last September 28, the Port's plan related to employment practices and reopening related to the COVID-19 pandemic was discussed at a regular meeting of the Board of Port Commissioners. The following information is provided as an update to that plan that continues to evolve. The state of emergency proclaimed at the state level due to the pandemic continues to remain in effect. Proclamation 20-05 (February 29, 2020) *et seq.* The Port of Kennewick has also declared a local emergency due to this circumstance on March 24, 2020. Resolution No. 2020-6. In the last two months, however, various proclamations of the Governor and have been terminated and rescinded as have the guidance documents provided by the state Department of Health (DOH) and Department of Labor and Industries (L&I). These changes have and will alter the plan set by the Port of Kennewick as discussed below.

**I. Safe Workplace Practices:** All employers must provide a place of employment free of recognized hazards that are causing or likely to cause serious injury or death to employees. RCW § 49.17.060. On this basis, the Port of Kennewick must continue to assess the risks COVID-19 present in the workplace. This assessment will include evaluation of infection, hospitalization, and death statistics related to the virus in the Tri-Cities area. The following practices must continue to be applied.

**A. Cleaning/Hygiene:** Employers must continue to ensure that employees entering the workplace have handwashing facilities and supplies. Further, work surfaces should be regularly cleaned and sanitized as before. L&I Requirements and Guidance for Preventing Covid-19, April 21, 2022.

**B. Employee Education:** Employees should be kept up to date as to the best approaches to prevent the spread of the virus. L&I Requirements and Guidance for Preventing Covid-19, April 21, 2022.

**C. Exclusion:** Employers must continue to ensure that workers that have COVID-19 or are suspected to have the virus return only after applying applicable isolation and/or quarantine actions and periods as set out by the DOH. L&I Requirements and Guidance for Preventing Covid-19, April 21, 2022.

**D. Notification:** Employees must still be given written notice if they had close contact with a person at work that tested positive for COVID-19.

**II. High Risk Employees:** The Health Emergency Labor Standards Act (HELSEA) continues to apply throughout this or any similar state of emergency. Employees at a high risk of severe illness from COVID-19 due to age or underlying condition may continue to seek accommodation that will protect them from the risk of exposure. Accommodation may take the form of remote work, for example. Where an accommodation is not available, the employee may take all

available leave options in the order chosen by the employee, until the state of emergency ends, or an accommodation is available. RCW § 49.17.064.

**III. Remote Work Model:** Over the past two years, employers around the world have had the opportunity to rethink the concept of employee productivity. Many employers have found that employees are more productive working remotely and have determined it best to utilize a remote work structure permanently. Examples of employers making this approach permanent include tech companies such as Alphabet, Apple, Meta, and Microsoft. Additionally, organizations in the retail, service, and even manufacturing sectors are creating new remote work models to suit their individualized business needs while allowing employees who are not required to be physically present to choose whether they will work remotely, on employer premises, or will apply a hybrid model. Organizations moving forward with such full or partial plans include Amazon, Capital One, Coca-Cola, Deloitte, REI, Siemens, StateFarm, the US Air Force, and the US Navy. At this time, given the success the Port's employees have had working remotely, the employer is reviewing the matter and intends to move forward with a permanent remote work plan that allows those who are not required to be physically present on Port premises to choose to work in the office, remotely, or a combination of the two. This step allows the organization to eliminate the uncertainty employees currently face while the emergency conditions continue to apply due to the pandemic with no indication as to when these circumstances will change. It also allows the Port to be a leader in this area by applying a flexible model to employment relations while ensuring the organization serves its community with the greatest care and efficiency.

**IV. Mask Requirements:** The face covering requirement applied to indoor spaces in Washington State was rescinded on March 12, 2022. Proclamation 20-25.19. Thus, masking is not currently required for commissioners, employees, or members of the public entering Port facilities. The Proclamation has been replaced with DOH guidance documents. It is possible that masking may be required in particular counties should infection, hospitalization, and death rates rise to critical levels in those locales.

**V. Vaccine Verification or Requirements:** There is currently no requirement applicable to the Port of Kennewick that requires that the organization verify or require vaccination of commissioners, employees, or members of the public entering Port facilities or participating in open public meetings.

**VI. Open Public Meetings:** On April 29, 2022, Governor Inslee terminated and rescinded Proclamation 20-28 (March 24, 2020) which suspended the provisions of the state's Open Public Meetings Act (OPMA) that hindered the holding of meetings remotely. The suspension was originally meant to continue so long as a state of emergency applied. Due to legislative changes to the OPMA, the rescission and termination of the proclamation is effective June 1, 2022. Proclamation 20-28.16 (April 29, 2022).

Engrossed Substitute House Bill 1329 became law on March 24, 2022. The legislation revised or amended several sections of the current OPMA and added several new sections. Some of the provisions became effective immediately and address circumstances applicable during a state of emergency. Other modifications to the law apply on a more generalized basis. The specific terms are discussed below.

#### **A. Portions of the Law Now in Effect:**

**1. Emergency Circumstances:** If an emergency has been declared at a federal, state, or local level, the organization may determine that the meetings cannot safely be held with public attendance. In that case, the organization may hold meetings without a physical location or may limit the number of attendees.

**2. Remote Participation of the Governing Board During an Emergency:** In such cases, the members of the governing body may attend remotely so long as the approach taken allows for real-time verbal communication. An option to listen to the meeting must be provided members of the public. The technology applied must be readily available without additional cost to members of the public who will be listening in. Required notice of the meeting must also include instructions as to the use of such technology.

**3 Public Access in Emergent Circumstances:** In no circumstance may members of the public be required to register for attendance or fill out questionnaires to attend meetings either in person or remotely. The organization may be required to take additional steps, however, to ensure safety of the public in these cases.

**4. Interruptions:** Nothing in the law prohibits the governing body from stopping people from speaking if they have not been recognized to speak.

**5. Notice of Meetings:**

a. Regular Meetings: The prior requirements for providing notice of meeting dates as set by law, ordinance, or by-laws continues to apply RCW § 42.30.070. Agendas for regular meetings must be posted on the organization's website at least twenty-four hours prior to the meeting. RCW § 42.30.077.

b. Special Meetings: The procedures related to the calling of special meetings also generally remains the same. RCW § 42.30.080. Notices of such meetings must be provided the members of governing body twenty-four hours prior to the meeting unless a waiver is on file for the individuals. In addition to posting the notice to the public on the organization's website, a notice must be prominently displayed at the main entrance of the agency's principal location. During a declared emergency, the physical posting may be waived if the meeting will be held remotely.

**6. Adjournment:** The governing body may adjourn any regular or special meeting to a time and place specified in the order of adjournment. RCW § 42.30.090. That notice needs to be posted on the door where the meeting was held unless the meeting has been held remotely due to a declared emergency.

**B. Provisions of the OPMA that are Effective June 9, 2022:** These new provisions and revisions are effective on an ongoing basis and apply when an emergency has not been declared. Some of the provisions of the law are mandatory and others are essentially aspirational as discussed below.

**1. Meetings Must Have a Physical Location:** Unless an emergency has been declared, all meetings must have a physical location. This allows members of the public to attend the meeting at that location to observe and provide comment. In order to comply with these provisions, the Port has taken steps to ensure that a physical location at the Port's offices is open to the public for attendance even if some or all of the Commissioners and staff are not physically present at the location. At least two staff members will be present during that time. Technology will be utilized on premises to allow members of the public

to observe the meeting and provide comment. The audio portion of the meeting will be recorded and posted on the Port's website.

**2. The Governing Body May Attend Remotely:** Commissioners and staff may attend meetings remotely so long as the public is able to observe the meeting in real-time. A new section added to the prior law encourages public entities to increase the ability of the public to observe and participate in meetings through technological means that allow remote access by readily available methods that do not require additional costs for such access. RCW 42.30.030(2).

**3. Recordings:** A new section has been added to the law to encourage recording of meetings. Those recordings should then be provided online for at least six months. The Port already meets this standard.

**4. Executive Sessions:** The law already allows the use of executive sessions for certain purposes during both regular and special meetings. The new law has added a purpose to include consideration of proprietary or confidential data collected or analyzed pursuant to chapter 70. RCW § 42.30.110. The amendment also makes clear the requirement that the announced purpose of the meeting must be entered into the minutes of the meeting. The Port already meets this standard.

**5. Public Comment:** The governing body is required to take public comment prior to taking any final action at a regular meeting, absent an emergency. Public comment may be taken orally. The public may also be provided an opportunity to provide comments in writing prior to the meeting. If written comments are to be accepted, the governing board must set a reasonable deadline for receipt of comments and then they must be distributed to each member of the board. Additionally, the governing body must allow any individual who has difficulty attending due to a disability, limited mobility, or other reason, to provide oral comments remotely if comments are being accepted at the given meeting. The Port already meets this standard. The governing body may put reasonable limits on the time available for comment to ensure orderly conduct of business. The taking of public comment is recommended by the law for special meetings. Such opportunities are not required or recommended during an emergency.

Fortify Holdings, LLC of Beaverton, Oregon approached the Port in January of this year indicating it was purchasing the Clover Island Inn, with an intention to convert the hotel to micro apartments. Since the Port owns the land under the hotel Fortify asked to purchase the land from the Port.

The Commission informed Fortify that the land was not for sale in conformance with public policy established via the public's recent waterfront master plan. And it was established that micro-apartments are not consistent with the master plan, nor were micro-apartments favored by the public.

Fortify then amended its proposal, indicating instead of operating the property as micro apartments it intended to operate the property as a hotel and asked for an assignment of the lease for the land. In connection with its request for a lease assignment, it also requested a 40-year lease extension.

At that point I felt that I had to ask some tough questions in my role as a representative of the public's trust. Specifically, I had questions concerning Fortify's intention to operate the Inn as a hotel, as opposed to micro-apartments. I thought a possibility might exist that, over time, there might be incremental changes in property use, from hotel, to "extended stay" and possibly to the micro-apartment scenario originally contemplated.

Such a change in use would present planning-related complexities, including potential strain on existing parking which would lead to user conflicts; as well as potentially impacting the port's other tenants and our ability to fully develop the island according to our adopted master plan and the consistently expressed will of the public. I also had concerns about the potential environmental impacts of adding up to 200 permanent residents on Clover Island, an area meant primarily for recreational use.

As is our standard practice at the Port of Kennewick when considering lease amendments or assignments, my fellow commissioners and I authorized the Port CEO to perform routine due diligence by requesting information from Fortify regarding their ability to perform under the conditions of the lease. The Port asked Fortify about their experience and financial capability related to the proposed purchase and operation of the Clover Island Inn. However, there was little information provided by Fortify, and indeed not all questions were answered, which served to make the due diligence process challenging and, in my opinion, incomplete and perhaps even considered non-responsive. In short, despite being given ample opportunity, the Port was never presented with the information requested, which would have given us a basis to properly understand their request for a lease assignment and evaluate them as a putative sub-lessee.

And I do respect that not all Port Commissioners felt the way I did. Commissioner Moak expressed initial support for the Fortify proposal when initially told of the potential of a twenty-million-dollar investment. That's his opinion and I respect it. But if it appears too good to be true maybe it is. I believe the due diligent exercise proved this to be the case. But I sincerely appreciate that my colleague, Commissioner Ken Hohenberg, stood alongside me in advocating for the public's best interest—and for consistency in following the Port's recently adopted, and community-driven, master plan for Clover Island.



The actions the Port of Kennewick Commission took that led to the final outcome reflect what the public told us they wanted. But I would be remiss if I did not give thanks to our CEO, Tim Arntzen, and the excellent staff for helping us work through this complex, difficult issue.

I also applaud the Clover Island Inn ownership group, including Bill Lampson, for seeing this issue through to a logical conclusion. The Seller and Buyer could not come to an agreement on how to proceed to a sale and have now gone their separate ways.

The Clover Island Inn stays as it has been and will not be converted to a micro-housing project. And, the Port of Kennewick looks forward to continuing to partner with the Clover Island Inn to create a destination waterfront on Clover Island.



# Vista Field Site Opening Celebration Event

June 16, 2022  
2:30 p.m.



**VISTA FIELD**



—— Phase 1 Infrastructure Complete ——

## Join Us for the Vista Field Opening Day Celebration

Thursday, June 16, 2022 at 2:30 p.m.  
6600 W. Deschutes Ave., Bldg. B in Kennewick  
(enter from Deschutes Avenue; other entrances open after event)



Help open the site. Explore a streamside promenade.  
And celebrate with food, music and more.



## OPENING DAY CELEBRATION

Thursday, June 16, 2022 at 2:30 p.m.  
6600 W. Deschutes Ave., Bldg. B in Kennewick  
Please RSVP to [POK@portofkennewick.org](mailto:POK@portofkennewick.org)



Please RSVP to [POK@portofkennewick.org](mailto:POK@portofkennewick.org)

Vista Field is a Port of Kennewick project in partnership  
with City of Kennewick and Benton County.

[VistaField.com](http://VistaField.com)

# SAVE THE DATE





**MEDIA ADVISORY – April 25, 2022**

Contacts: Tana Bader Inglis, Port of Kennewick (509) 948-3514 mobile  
Evelyn Lusignan, City of Kennewick (509) 585-4265 work  
Shyanne Palmus, Benton County (509) 222-3760 work

### Vista Field Grand Opening Celebration Planned Save the Date

Kennewick, Wash. Port of Kennewick and its Vista Field investment partners, City of Kennewick and Benton County, invite everyone to a grand opening celebration for the Vista Field urban town center on Thursday, June 16, at 2:30 p.m.

Attendees will help open the site and enjoy food trucks, a photo booth and music. They will be among the first to walk the streamside promenade, drive across the new Crosswind Boulevard, and discover Vista Field's many public amenities, including fountains, pedestrian bridges, a pond, a commercial plaza, tree-filled landscaping and more. Immediately following the opening festival, Kennewick Fire Department's new Vista Field Station #3 will also be open for tours.

**WHAT:** Vista Field Opening Day Celebration

**WHEN:** Thursday, June 16, beginning at 2:30 p.m.

**WHERE:** Vista Field – 6600 W. Deschutes Avenue, Kennewick, WA 99336  
(Enter from Deschutes Avenue; other roadways will open following event)

**RSVP:**

Attendees are asked to RSVP to [POK@portofkennewick.org](mailto:POK@portofkennewick.org)

Vista Field will blend mixed-use neighborhoods with urban lifestyle amenities. Port of Kennewick is an economic development entity focused on developing assets to create sustainable jobs, build infrastructure and user-friendly transportation systems and enhance the quality of life with (taxable) buildings, and 3,380 jobs.

###

Port of Kennewick is an economic development entity focused on developing assets to create sustainable jobs, build infrastructure and user-friendly transportation systems and enhance the quality of life with (taxable) buildings, and 3,380 jobs.

## You're Invited



## Join Us for the Vista Field Opening Day Celebration

Thursday, June 16, 2022 at 2:30 p.m.  
6600 W. Deschutes Ave., Bldg. B in Kennewick  
(enter from Deschutes Avenue; other entrances open after event)

Please RSVP to [POK@portofkennewick.org](mailto:POK@portofkennewick.org)

Help open the site. Explore a streamside promenade.  
And celebrate with food, music and more.



PORT of  
**KENNEWICK**

Vista Field is a Port of Kennewick project in partnership with City of Kennewick and Benton County.

[VistaField.com](http://VistaField.com)

YOU'RE INVITED



**VISTAFIELD**  
**Phase 1**

**Infrastructure Complete**  
**Join Us to Celebrate**

Thursday, June 16, 2022 at 2:30 p.m.  
6600 W. Deschutes Ave., Bldg. B in Kennewick  
(enter from Deschutes Avenue; other entrances open after event)



Help open the site. Explore a streamside promenade.  
And celebrate with food, music and more.

Please RSVP to [POK@portofkennewick.org](mailto:POK@portofkennewick.org)



PORT of  
**KENNEWICK**

Vista Field is a Port of Kennewick project in partnership with City of Kennewick and Benton County.

[VistaField.com](http://VistaField.com)




**Site Opening  
Celebration**  
6/16 at 2:30PM



**RSVP NOW**

**VistaField.com**



**Site Opening**  
6/16 at 2:30pm

**RSVP NOW**




June 16<sup>th</sup> at 2:30pm

**Site Opening Celebration**



**RSVP NOW**


**VistaField.com**



**VISTAFIELD**

**Site Opening  
Celebration**

June 16<sup>th</sup> at 2:30pm



**RSVP NOW**

**VistaField.com**





Port of Kennewick's Vista Field project will blend mixed-use neighborhoods with urban lifestyle amenities. Port of Kennewick is following a community-driven master plan with the goal of transforming the 103-acre site into a vibrant, regional town center.

Visit often to stroll a streamside promenade and explore the commercial plaza, public commons, pedestrian bridges and fountains. Parcels are now available to builders of new-urbanism style commercial or residential construction.

Cover images show Vista Field amenities and improvements—photos by Kim Fetrow Photography for Port of Kennewick



---

---

---

---





# VISTAFIELD

*An Urban Town Center*

Grand Opening Phase One | June 16, 2022

**VistaField.com**









Swampy's BBQ



Taste of Wok



Culture Shock Bistro



Rollin' Fresh Ice Cream





**LEGAL MEMORANDUM**

**To:** Tim Arntzen, CEO, Port of Kennewick  
**From:** Carolyn Lake, GLG PLLC  
**Date:** 5/13/22  
**Re:** Port Redistricting Overview

**Redistricting Introduction, Purpose & Criteria**

State Law (RCW 29A.76.010) requires the Port of Kennewick, along with all other counties, municipal corporations, and special purpose districts to assess their district boundaries every ten years, based on population information from the most recent federal decennial census.

The primary goals of redistricting are to re-assess whether the district areas from which Commissioners are elected (1) encompass balanced populations, i.e., to the extent possible hold equal populations of residents, and (2) are drawn based on logical geographical boundaries.

The specific criteria of State law are:

- (a) each commissioner district shall be as nearly equal in population as possible,
- (b) each district shall be as compact as possible, (avoiding circuitous, meandering, or finger-like boundaries),
- (c) each district shall consist of geographically contiguous,
- (d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party, and
- (e) To the extent feasible district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

**Past Port Redistricting**

At the Port of Kenwick, Commission district boundaries were previously revised in 1992 following the 1990 Census, were reviewed in 2000, at which time a determination was made that the district boundaries were consistent with State law requirements, and most recently, the Port district boundaries were updated in 2011 after Census data statistically demonstrated that the Port's population had substantially increased. Due to the growth at that time, primarily in south Kennewick, south Richland and West Richland, the previous current district boundaries were determined to no longer reflect an equal division of population as required by State law. As a result, after conducting the population and geographical analysis, holding the required a public hearing and receiving comments, the Commission adopted Resolution 2011-46 on November 22, 2011, which adopted the current district boundaries.

**Current Proposed Redistricting Process**

When redistricting was last undertaken, the Port utilized the computer mapping capabilities of an engineering firm (JUB Engineering ) to create a draft boundary scenario which encompass the criteria of State law. Records from that year reflect that the public, the Port Commission and Port Management believed that process worked well, so it's proposed that the current redistricting assessment follow that process.

The Port has or will obtain the most recent Federal Census data. That data will be reviewed to determine the numbers of persons residing within the Port district. That number will be divided by three representing the number of Port districts to determine the ideal or target Commission district population. District boundaries will be proposed that best balance the target population within the three districts and which meet state law geographical criteria.

As applied to the Port of Kennewick, State law requires the Port complete this action by November 15, 2022. A public meeting on any new proposed districts must be held at least one week before adopting the Plan and be preceded by at least ten day's public notice.

Note: An appeal of the new districts can be lodged by any registered voter residing in an area affected by the redistricting plan. The appeal is to superior court and the deadline to appeal is fifteen days after the plan's adoption. The appeal must specify the reason or reasons alleged why the proposed plan is not consistent with the applicable redistricting criteria. Then:

- If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.
- If the superior court determines the plan does not meet state law requirements, the Court remands the plan for further or corrective action within a specified and reasonable time period.
- If the superior court finds the appeal is frivolous or filed solely for purposes of harassment or delay, it may impose appropriate sanctions, including attorneys' fees and costs to the Port

For the current process, recommended Commission touch points include regular updates on the work, a workshop in September, the public hearing in October on the new districts' configurations if that action is deemed necessary to meet state law requirements, and last, if applicable, the Commission's adoption of a Resolution adopting the new district boundaries in late October.

Ultimately, when the Port District boundaries are finalized, all associated information is transmitted to the County Auditor for use in future election processes. Please advise if more information would be useful.