

Exec. Dir. Karen Goschen gave an overview of the history of the John Wayne Marina. The marina was completed in 1985. The Port owns 36.5 acres in the marina.

In 2016 the Port Commission approved the creation of the Marina Advisory Committee. They were tasked to look at the marina as a community asset including boating culture, waterfront events, safety and capital improvements; marketing, strategic planning, clean harbor practices and education. The meetings are held on the first Thursday of the month at 10:00 at the Port Administration office.

She gave a comparison of the Port Angeles Marina and John Wayne Marina. There are many differences in the two as Port Angeles is more industrial and Sequim is more recreational; Port Angeles has 61% commercial where Sequim is 2% commercial. She also showed a comparison of revenue and expenses between Port Angeles and Sequim. John Wayne Marina does not always break even financially.

Goschen showed the JWM 2017-2021 Capital Improvement Plan. In 2020 there is potential to connect to the City's sewer system.

Update on Composite Recycling Technology Center (CRTC)

McAleer provided the history of the composite marketing campaign to grow business in Clallam County. In 2012 the partnerships broadened to include regional private industry to establish the Olympic Composites Corridor (OCC), including Bremerton, Jefferson and Clallam counties. They met with the Dept. of Energy Advanced Manufacturing Office with PNNL (Battelle). They presented at 8 national and 3 international conferences and government trade missions.

In 2013 there was development of several proposals and grant applications, each required business-driven strategy and in 2014 Washington and California joined with large entity partners. The Port wanted to take on the recycling of composites at its facility. The West Coast team didn't win but recognized huge opportunity with industry partners and pursued it with the EDA. The Port submitted multiple applications for funding and did receive grants. She described on-going developments in funding. She also spoke about where you can put carbon fiber into new uses.

Goschen stated the CRTC will benefit companies all over the world. The goal of CRTC is to create jobs. Peninsula College relocated its advanced manufacturing composite technology program/lab with a capacity of 20 students per year to the facility.

CRTC is working on an international pickleball paddle distribution deal. By mid-2017 all equipment should be in place. The i6 grant will take effect in the third quarter. CRTC has created about 20 employees or 16 FTEs. The CRTC and ELG Carbon Fiber ~~jointly develop~~ **have agreed to work together to develop** integrated recycling solutions for uncured and cured carbon fiber.

T. Miller has concerns about an excessive amount of secrecy in the CRTC. Goschen said when they are approaching companies they have to sign nondisclosure agreements. T. Miller asked how the pickleball paddles were selling. Goschen said there were pre-orders with a response of a high conversion rate. McAleer said there are opportunities for more products now that pickleball paddles were a success.

Port Angeles Air Service

Goschen provided the history of air service since 2014. A 2015-2020 Strategic Plan hopes to re-establish air service as an economic priority. The 2015 Market Demand Study research created an air service plan with a pitch to airlines. In 2015 incentives of \$500k came from the Port of Seattle, Port of Port Angeles and City of Port Angeles. In June 2016, SCASDP had a \$200k revenue guarantee. This had to be for daily service into SeaTac.

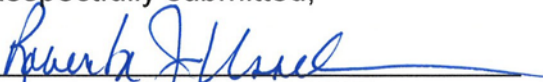
The Port worked with 13 airlines. There is one proposal under consideration with limited flights at \$160 one-way. Revenue cost challenges include the need to increase load factor and frequency and increased operating costs.


Many other small airports were subsidized by the Essential Air Service which is a federal subsidy for rural airports. The program is no longer available. We are working with Rep. Kilmer in hopes to get the Essential Air Service subsidy.

The Port is doing an actual flight count in Port Angeles. Currently the FAA's preliminary determination is they need a 3,850 ft. runway. They did not consider 200 operations by medevac and business jets, so we need a 5,000 foot runway. The Port is exploring options for emergency preparedness requirements and legislative advocacy.

Mayor Smith said the joint meeting was enlightening and hopes we can do it again. McAleer said this should happen yearly.

Respectfully submitted,


Roberta J. Usselman, MMC
Deputy City Clerk


Dennis Smith
Mayor

Minutes approved at a regular City Council meeting held on March 27, 2017.

Minutes edited and approved by the Port Commission at a regular Commission meeting held on April 4, 2017.

Colleen M. McAleer, President

Steven D. Burke, Secretary



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3 **COMMISSION WORK SESSION AGENDA**
4 **at Port of Port Angeles**
5 **March 21, 2017**
6 **9:00 AM**

7 ***Time Specific – Executive Session from 12:00 - 2:30 PM**
8

9 **PRESENT:**

10 Colleen McAleer, President
11 Connie Beauvais, Vice President
12 Steven Burke, Secretary

13 Karen Goschen, Executive Director
14 Mike Nimmo, Operations Manager
15 Chris Hartman, Dir. of Engineering
16 Holly Hairell, Admin Manager

17
18 **I. CALL TO ORDER/PLEDGE OF ALLEGIANCE (0:00 to 00:30)**
19

20 Commissioner McAleer called the meeting to order at 9:00 AM and Executive Director,
21 Karen Goschen led the pledge of allegiance.
22

23 **II. EARLY PUBLIC COMMENT SESSION (total session up to 10 minutes)**
24

25 None offered
26

27 **III. DISCUSSION/QUESTIONS FOR AFTERNOON REGULAR MEETING (1:00 to**
28 **4:59)**
29

30 Commissioner McAleer had one comment and two corrections to the March 6th joint
31 commission meeting minutes.

- 32 1. Commissioner McAleer asked to receive a copy of the final Olympus Consulting
33 study that was discussed during the meeting March 6, 2017 joint meeting.
34 Executive Director Goschen stated that she would provide that to the
35 Commission.
- 36 2. Page 6, line 80 – Add to the motion “approve the redline changes from
37 Commissioner McAleer” to the Commission Action section.
- 38 3. Page 6, line 88 – Add “If it were located on public property” to the opportunity
39 fund question.
40

41 **IV. WORK SESSION TOPICS**

42 A. Time Specific 9:00 AM – 10:30 AM - State of Barging Industry
43 Presentation by BST Associates and Pat Cohn with Pacific Terminals (5:07 to
44 1:23:00)

45 Mike Nimmo, Operations Manager, introduced Pat Cohn, President and Nicole Tucker,
46 Vice President of Pacific Terminals and Paul Sorensen from BST Associates to the
47 Commission. Paul Sorensen delivered a presentation entitled “Port of Port Angeles
48 Review of Barge Studies.” Mr. Sorensen covered various topics like the marine



49 highway, short sea shipping, barging customer wants and needs, requirements, benefits
50 and limitations of barging. Mr. Sorensen recapped the previous 1992 and 1999 barge
51 feasibility studies that the Port initiated and their respective outcomes and findings.

52
53 Pat Cohn, President of Pacific Terminals, presented the history and background of
54 Pacific Terminals. Mr. Cohn provided information regarding the benefits and
55 advantages of barging as well as information on Pacific Terminals.

56
57 Discussion and questions followed amongst the Commission, staff and presenters.

58 B. 2017 Community Partner Program Applicant Presentations (1:31:00 to
59 2:47:50)

60
61 Holly Hairell, Admin Manager, provided a brief synopsis of the 2017 Community Partner
62 Program thus far and the applicant presentation agenda.

63
64 The Commission asked each Community Partner Program (CPP) applicant presenter to
65 answer the following questions as part of their presentation.

- 66 1. Will your project spend the CPP dollars locally through vendors and contractors?
- 67 2. Has or will your project receive LTAC dollars?
- 68 3. How will your project recognize the Port for its funding contribution?

69
70 Captain Joseph House, Concerned Citizens of Forks, National Marine Sanctuary
71 Foundation, Olympic Peninsula Bicycle Alliance, Peninsula Trails Coalition, Port
72 Angeles Arts Council, Port Angeles Downtown Association, Port Angeles Marathon
73 Association, Port Angeles Chamber of Commerce, Sequim Logging Show, Surfrider
74 Foundation, The Answer for Youth, WSU Clallam County Extension and the Olympic
75 Culinary Loop gave three minute presentations regarding their 2017 CPP project(s) to
76 the Commission.

77
78 Questions and comments from the Commission and audience followed.

79 C. WPPA Legislative Committee update (2:48:27 to 2:58:50)

80
81 Colleen McAleer stated that she attended the WPPA legislative affairs committee
82 meeting and provided an update to the Commission. Discussion followed on the
83 advancement of Port issues at a legislative level.

84
85 V. **FUTURE AGENDA TOPICS** (2:58:51 to 3:03:16)

86 A. Work Session

87 B. Business Meeting

88



89 Commissioner McAleer inquired about the website redesign and the fishing fleet study.
90 Discussion followed.

91
92 Executive Director Goschen requested some agenda item schedule changes for the
93 business meeting to accommodate Port legal counsel.

94
95 **VI. PUBLIC COMMENT SESSION (total session up to 20 minutes)**

96
97 None offered

98
99 **VII. EXECUTIVE SESSION - The Board may recess into Executive Session for**
100 **those purposes authorized under Chapter 42.30 RCW, the Open Public**
101 **Meetings Act.**

102
103 Commissioner McAleer moved the meeting into executive session at 12:00 PM to
104 discuss one item of potential litigation. The executive session was expected to last until
105 2:30 PM. Action was not expected following executive session.

106
107 **VIII. ADJOURN**

108
109 With no further business to discuss, Commissioner McAleer adjourned the work session
110 at 2:30 PM.

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113 PORT OF PORT ANGELES
114 BOARD OF COMMISSIONERS

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118 _____
119 Colleen M. McAleer, President

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121 _____
122 Steven D. Burke, Secretary

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SPECIAL COMMISSION BUSINESS MEETING AGENDA
at Port of Port Angeles
March 21, 2017
2:30 PM.

7 **PRESENT:** 13 Jesse Waknitz, Environmental Manager
8 Colleen McAleer, President 14 Susan Scott, Real Estate Administrator
9 Connie Beauvais, Vice President 15 Holly Hairell, Admin Manager
10 Steven Burke, Secretary 16 Port Counsel, Simon Barnhart
11 Karen Goschen, Executive Director 17 Port Counsel, Chris Riffle
12 Chris Hartman, Director of Engineering

18
19 **I. CALL TO ORDER / PLEDGE OF ALLEGIANCE (0:00 to 0:28)**

20
21 Commissioner McAleer called the meeting to order at 2:30 PM and led the pledge of
22 allegiance.

23
24 **II. APPROVAL OF CONSENT AGENDA (0:29 to 3:12)**

25
26 **A. Commission Meeting Minutes**

- 27 1. March 6, 2017 Commission Meeting minutes
28 2. March 6, 2017 Joint Commission Meeting minutes

29 **B. Vouchers in the amount of \$1,192,080.74**

30 Commissioner McAleer pulled the commission meeting minutes off the consent agenda.

31
32 **Commission Action:** Commissioner Beauvais made a motion to approve the vouchers in the
33 amount of \$1,192,080.74. Commissioner Burke seconded the motion for discussion. A brief
34 discussion followed regarding large payments in the vouchers. With no further discussion, the
35 vote was called for and it passed unanimously.

36
37 **Commission Action:** Commissioner McAleer moved to approve the March 6, 2017 meeting
38 minutes with the following changes to the March 6, 2017 Joint Commission meeting minutes;

- 39
40 1. Page 6, line 80 – Add to the motion “approve the redline changes from Commissioner
41 McAleer” to the Commission Action section.
42
43 2. Page 6, line 88 – Add “If it were located on public property” to the opportunity fund
44 question.
45



46 Commissioner Beauvais seconded the motion. With no discussion, the vote was called for and
47 passed. Commissioner Burke abstained from the vote due to his excused absence during the
48 March 6th meetings.

49 **III. COMPLETION OF RECORDS – February 2017 Monthly Report (3:13 to 4:09)**

50
51 A brief discussion followed amongst the commission.
52

53 **IV. EARLY PUBLIC COMMENT SESSION (total session up to 20 minutes)**

54 None offered
55

56 **V. PLANNING**

57 **A. Boat Haven Laundry Facility Advertise for Bid (4:21 to 23:02)**

58 Jesse Waknitz, Environmental Manager presented the Boat Haven Laundry Facility
59 Advertisement for Bids to the Commission. He recapped a previous grant application in 2014,
60 described the project and the fiscal impact of the laundry facility. Discussion and questions
61 followed amongst the Commission and staff.
62

63 **Commission Action:** Commissioner Beauvais made a motion to direct staff to move forward
64 with soliciting bids for the Port Angeles Boat Haven Laundry Facility and to authorize
65 approximately \$30,000 to be deducted from the 2017 flexible capital budget for the project.
66 Commissioner Burke seconded the motion for discussion. The vote was called for and passed
67 unanimously.

68 **B. WPAHG NRD Work Order #3 (23:04 to 27:49)**

69 Jesse Waknitz, Environmental Manager, presented the Western Port Angeles Harbor Group
70 Professional Service Agreement-Anchor QEA, Work Order No. 3 and provided details of the
71 work order. He explained how work order No. 2 was to create a natural resources damage
72 (NRD) feasibility study. He further explained that there is a need to evaluate the effectiveness
73 of a potential restoration action by placing a sand cap on wood debris through a pilot study.
74 Further explanation and discussion followed.
75

76 Mr. Waknitz asked the Commission to authorize the Executive Director to execute the
77 agreement amendment in the form of Work Order No. 3 with Anchor QEA, LLC as part of the
78 WPAHG participation agreement for the Western Harbor with Anchor QEA, LLC in the amount
79 not to exceed \$77,000. The Port's share has been covered by the Port's insurance.
80

81 **Commission Action:** Commissioner Beauvais made the motion to authorize the Executive
82 Director to execute the agreement in the form of Work Order No. 3 with Anchor QEA, LLC as
83 part of the WPAHG and per the participation agreement for the Western Harbor with Anchor



84 QEA, LLC in the amount not to exceed \$77,000. Commissioner Burke seconded the motion
85 for discussion. With no further discussion and the motion carried unanimously.
86

87 VI. PROPERTY

88 A. Real Estate Broker Commission Policy (46:55 to 1:34:08)

89 Port Counsel, Chris Riffle described the work that has been done and the feedback he has
90 received on the Real Estate Broker Commission Policy since the last Commission meeting.
91 Mr. Riffle also detailed the state forms he was asked to review at the March 6th Commission
92 meeting.

93
94 Mr. Riffle passed out a memo on his recommendations for the Real Estate Broker Commission
95 Policy based on review of commercial sale and real estate forms. He detailed his proposed
96 changes and recommendations regarding leases and sales. Discussion followed.

97
98 **Commission Direction:** The Commission asked Port counsel to present a final draft of the
99 Real Estate Broker Commission Policy for final approval at the next Commission meeting.
100

101 VII. MARINAS

102 No Items

103 VIII. AIRPORTS

104 No Items

105 IX. OTHER BUSINESS

106 A. Community Partner Program Funding Decisions (27:58 to 44:57)

107
108 Holly Hairell, Admin Manager detailed the process the Commission utilized to establish funding
109 recommendations for the 2017 CPP projects. Mrs. Hairell then read the average funding
110 amounts for each project.

111
112 **Commission Action:** Commissioner Burke made a motion to accept the average funding
113 amounts for each project rounded up to the nearest hundred. Commissioner Beauvais
114 seconded the motion for discussion. The vote was called for and the motion passed
115 unanimously.

116
117 **Commission Direction:** Commissioner Beauvais requested that each 2017 Community
118 Partner Program fund recipient be sent the current Port logo to promote the Port as a funding
119 partner.

120 B. Commissioner Travel Authorization (45:00 to 45:54)

121



122 **Commission Action:** Commissioner Burke made a motion to authorize travel for himself and
123 Commissioner Beauvais to attend the 2017 International Mass Timber Conference in Portland,
124 OR on March 28-30, 2017. Commissioner Beauvais seconded the motion for discussion.
125 With a short discussion, the vote was called for and passed unanimously.

126 C. Letter of Appreciation for Mr. Stewart Harris (45:55 to 46:52)

127
128 Commissioner Burke stated that he would present the letter of appreciation from the Port
129 Commission to the late Mr. Stewart Harris' partner at the April Sequim Bay Yacht Club
130 meeting.

131
132 **Commission Action:** Commissioner McAleer made a motion for the Commission to sign the
133 letter of appreciation for Mr. Stewart Harris' partner. Commissioner Beauvais seconded the
134 motion. The vote was called for and the motion carried unanimously.

135 **X. PUBLIC COMMENTS SESSION (total session up to 20 minutes)**

136 None offered

137 **XI. NEXT MEETINGS (1:34:35 to 1:34:45)**

138 ➤ April 4, 2017 Commission Work Session at 9:00 AM

139 ➤ April 4, 2017 Commission Business Meeting at 1:00 PM

140 **XII. UPCOMING EVENTS (1:34:46 to 1:35:34)**

- 141 • Mass Timber Conference – March 28-30, 2017 Portland, OR
- 142 • Olympic Logging Conference – April 26-28, 2017, Victoria, B.C.
- 143 • WPPA Spring Meeting – May 17-19, 2017 in Cle Elum, WA

144
145 **XIII. EXECUTIVE SESSION The Board may recess into Executive Session for those**
146 **purposes authorized under Chapter 42.30 RCW, the Open Public Meetings Act.**

147 Commissioner McAleer moved the meeting into executive session at 4:15 PM to discuss two
148 items concerning the purchase of real estate, four items concerning the lease of Port property,
149 three items concerning potential litigation and one item concerning the legal risks of current or
150 proposed action. The executive session is expected to last one and one half hours. Action
151 was not expected to be taken following the executive session.

152
153 At 5:45 PM, the Commission extended the executive session for fifteen minutes until 6:00 PM.

154 At 6:00 PM, the Commission extended the executive session for fifteen minutes until 6:15 PM.

155 At 6:15 PM, the Commission extended the executive session for fifteen minutes until 6:30 PM.

156 At 6:30 PM, the Commission extended the executive session for fifteen minutes until 6:45 PM.

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158 **XIV. ADJOURN**

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160 With no further business to discuss, Commissioner McAleer adjourned the special business
161 meeting at 6:45 PM.

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PORT OF PORT ANGELES
BOARD OF COMMISSIONERS

Colleen M. McAleer, President

Steven D. Burke, Secretary

DRAFT

**PORT OF PORT ANGELES
GENERAL FUND – LETTER OF TRANSMITTAL
VOUCHER APPROVAL**

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the Port of Port Angeles, and that I am authorized to authenticate and certify to said claim.

SUMMARY TRANSMITTAL March 17, 2017 thru March 30, 2017

Accounts Payable

	Begin	End		
	Check #	Check #		
For General Expenses and Construction				
Accts Payable Checks (computer)	405302	405377	\$	281,233.90
VOIDED/ZERO PAYABLE CHECKS			\$	-
Manual Checks	003697	003697	\$	91.18
VOIDED MANUAL CHECKS				
Wire Transfer – (Excise Tax)			\$	8,788.59
Total General Expenses and Construction			\$	290,113.67

Payroll

Employee Payroll – Draws Checks			\$	-
Employee Draw Checks PPD			\$	-
Employee Payroll Checks	201150	201162	\$	23,216.50
Employee Payroll Checks PPD (direct dep)	801214	801253	\$	112,792.96
Voided Payroll Check - checks printed over			\$	-
VOIDED PAYROLL CHECKS (stub overrun)				
Voided checks (stub overrun)				
Wire Transfer – (Payroll Taxes, Retirement, Deferred Comp, L&I)				
Total Payroll			\$	136,009.46

Total General Exp & Payroll

\$ 426,123.13

Date: March 30, 2017

Port Representative

Port Representative

Commissioner, Steven D. Burke

Commissioner, Connie Beauvais

Commissioner, Colleen McAleer

**ITEM FOR CONSIDERSTION
FOR THE
BOARD OF PORT COMMISSIONERS**

April 4, 2017

SUBJECT: Backflow Valve Replacement Buildings 1010 thru 1050 - Bid Award

Presented by: Chris Rasmussen-Facilities Manager

RCW & POLICY REQUIREMENT

The award of the above referenced project meets the definition of “Public Works” defined by RCW 39.04.010 as “all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein.”

The Port’s Master Policy Section III.A requires all Public Works contracts over \$50,000 be approved by the Commission.

BACKGROUND:

The proposed project is to install (7) seven new double check valve assemblies (DVCA) on fire sprinkler risers in building 1010 thru 1050 at the Composites Manufacturing Campus (CMC). The existing riser assemblies in buildings 1010 thru 1050 only have a single wet alarm valve and do not meet current NFPA 13 requirements. This requirement states that a DCVA shall be installed to protect against back pressure and siphonage when fire sprinkler systems are directly connected to the domestic water supply.

ANALYSIS:

The original bid opening was scheduled for February 23, 2017 but was postponed due to lack of interest and no attendees at the February 13, 2017 pre-bid meeting. The bid opening was rescheduled to March 9, 2017. During the (2) two week bid delay staff contacted contractors to try and garner interest. Staff was able to find (3) three potential bidders and expected that same turnout on the bid date. On the bid date the Port only received (1) one bid because of a contractor dropping out and the other (2) two contractors joining forces to submit a single bid. The bid result is as follows:

Bidder	Base Bid	Total bid amount including WSST 8.4%
1. Olympic Peninsula Construction, INC	\$97,900.00	\$106,123.60

The low bid received is Olympic Peninsula Construction, INC (OPC) of Poulsbo, WA.

OPC's bid was a responsive bid meeting the substantive requirements of the bid documents. Additionally, staff checked OPC's bank, bond, prevailing wage compliance and relevant project experience and concluded that OPC is a responsible bidder.

ENVIRONMENTAL IMPACT

Without the installation of a DVCA there is greater risk of a drinking water contamination due to back pressure or siphonage. This type of contamination does not create a health hazard but can distort water color, taste and odor.

FISCAL IMPACT:

OPC's total base bid with Washington State Sales Tax is \$106,123.60 and exceeds the engineer's estimate of \$85,000.00. Through analysis it was determined that this is due to the inflation of DCVA prices which impacts project cost by approximately \$16,661.00 plus contractor markup. The additional \$21,123.60 over the engineers estimate will be offset by the Port capital flexible project budget. There is currently \$130,000 remaining in the flexible project budget that hasn't been allocated.

RECOMMENDED ACTION:

Staff recommends the Commission authorize the Executive Director to award and execute a contract with Olympic Peninsula Construction, Inc. in the amount of One Hundred and Six Thousand One Hundred Twenty Three Dollars and Sixty Cents (\$106,123.60).

**ITEM FOR CONSIDERATION
FOR THE
BOARD OF PORT COMMISSIONERS**

April 4, 2017

SUBJECT: Proposed Real Estate Broker Commission Policy

**Presented by: Karen Goschen, Executive Director
Susan Scott, Real Estate Administrator**

RCW & POLICY REQUIREMENTS:

The lease and sale of Port property are authorized by RCW 53.08.080 and 53.08.090, respectively. The port commission may lease property under such terms as the port commission deems proper. A port district may sell property when the port commission has, by resolution, declared the property to be surplus, and the surplus property is consistent with the comprehensive plan of improvement.

BACKGROUND:

From time to time it may be necessary or advantageous for the Port to use the services of a real estate broker to assist with the lease or sale of Port property. A licensed broker can provide additional resources to market Port real estate, either for sale or lease, and thereby foster greater economic development opportunities.

On February 6, 2017 staff presented an initial draft of a Broker Commission Policy. The proposed policy was based on the review of policies from four Washington ports. Port staff had contacted seven ports for information. During the review of the proposed policy the Commission raised several questions.

On February 21, 2017 Port counsel, Chris Riffle proposed changes to the Broker Commission Policy. Commissioner McAleer advised that standard real estate commission practices would be necessary to attract commercial brokers and that 5% over 5 years would be arduous. Discussion followed regarding risk of public dollars if tenant fails after broker is paid the full commission within the first year and it was acknowledged that balanced risk is needed. Commissioner Burke asked staff to find out if the Port of Kennewick's broker policy of 5% commission paid over 5 years had hindered or had been a barrier for attracting potential tenant. A threshold was suggested based on square footage. Commission agreed to delegate authority to the Executive Director to approve broker commissions up to \$50,000 and that staff would provide a monthly report to commission on broker commissions paid. Under 2.2 Prospective Customer's Discretion, Commission suggested that a lapse in transaction activity should be for 6 months instead of a length of time solely at the Port's discretion. Commission agreed that payment to a broker would not exceed 5 years. Commission asked for additional information on how other ports structured their installments payment over 1 and up to 5 years.

On March 6, 2017, staff and Port Counsel presented additional information on commission rates as well as a revised draft of a Broker Commission Policy. Staff reported that only one port, the Port of Kennewick, had the 5%/5 year broker commission schedule and they have not had any issues with the policy. This port also stated that there were few transactions and their leased properties were mostly office/nonindustrial.

Commission McAleer reported that the commercial brokers she polled found the policy to not be at industry standard, believed the policy needed better balance and that the Port should align its policy to better meet industry standards. Port Counsel agreed to review industry standard real estate forms to determine if the proposed Broker Commission Policy would create any conflicts. The Commission discussed adding to the monthly report the reporting of broker commissions of \$50,000 or less and that the delegation of authority would be revised.

On March 21, 2017, after his review of several real estate industry related forms and an interview with Dan Gase, Port Counsel discussed his findings and considerations if the Port wanted to incorporate more standard terms in the Broker Commission Policy draft dated March 6, 2017.

LEASING

- Removing negotiation language
- Procurement fees of \$10,000 or under, consider one half paid upon execution of lease and the remainder upon occupancy
- Remove the procurement fees paid over the course of up to five years.

SALES

- Increase sales commission up to 5%
- Commission paid at closing out of escrow.

ANALYSIS:

While there was discussion about standard terms it was difficult to determine clear direction. The more standard terms conflict with prior discussions. It was noted that Port Counsel would attempt to capture the Commission's intent to move toward more standard terms and that a redline version of the Broker Commission Policy would be provided for discussion at the next meeting.

Substantive revisions to the policy include:

- An introductory statement about the purpose of the policy as added.
- Section 2.2 removed the specific acknowledgement of the Broker and Prospective Customer of section 4, regarding Broker Fees in excess of \$50,000 are subject to the additional approval of the Port Commission.
- Section 3.1 added that the Broker Fee to be paid by the Port will "be pre-established" for each listed property instead of "will be negotiated."
- Section 3.1.a. changes the total Broker Fee paid upon occupancy from "\$10,000 or less" to "\$50,000 or less." It also states that one-half will be paid upon execution of the lease, and one-half upon occupancy.
- Section 3.1.b. changes the total Broker Fee paid in installments from amounts that exceed "\$10,000" to amounts that exceed "\$50,000" and that \$25,000 will be

paid upon execution of the lease, \$25,000 upon occupancy. Any unpaid Broker Fee will be paid based on the pre-established Broker Fee for each listed property unless otherwise mutually determined by the Port, Tenant and Broker.

- Section 3.1.c. expands the definition of net base rent.
- Section 3.2. provides clarification of the Broker Fee for sales transactions and changes the payment of the Broker Fee from “within thirty (30) days” to “as soon as is practicable following the closing of the transaction.”

Attachments:

- Broker Commission Policies of Other Washington Ports
- Redline version of Broker Commission Policy

ENVIRONMENTAL IMPACT:

None.

FISCAL IMPACT:

It will vary based on size of transaction.

RECOMMENDED ACTION:

Port staff recommends the Commission discuss the proposed changes and adopt the Broker Commission Policy with any additional changes.

Broker Commission Policies of Other Washington Ports				
Port	Policy in Place?	Terms	Limits/Comments	Payment
Everett	none		Too many types of transactions. Commissions are negotiated for each transaction.	
Grays Harbor	none			
Kennewick (Commercial)	yes	<ul style="list-style-type: none"> • 5% first 5 years • 2.5% second 5 years 	Not to exceed 5% of net lease payments for the first 5 years and 2.5% of the net lease payment for the second five years.	1/2 of the first year of lease payments paid after 6 months of executed lease and Lessee has taken occupancy. Remaining ½ of first 12 months commission paid at the end of 12 months from lease effective date. Commission then paid annually from the lease effective date after the rent has been collected.
Kalama (Industrial)	yes	<ul style="list-style-type: none"> • 5% of net lease rent years 1-5. • 5% on term leases less than 5 years 	Fee not to exceed 5% of the net annual base rent and not to exceed five years.	½ commission within 30 days of fully executed lease. Remaining ½ within 30 days of date of occupancy.
Bellingham (Commercial/Industrial)	yes	<ul style="list-style-type: none"> • 5% first 5 years 	Not to exceed 5% and not to exceed 5 years.	½ of the brokerage fee within 30 days after executed lease and contingency periods have expired that allow the tenant to terminate the lease. Remaining ½ with 30 days after occupancy.
Sunnyside (Commercial/Industrial)	Yes	<ul style="list-style-type: none"> • 3% over 5 years 	Not to exceed 3% and not to exceed 5 years.	Annual payments commencing at occupancy.
NW Seaport Alliance	yes	<ul style="list-style-type: none"> • Generally market commission fees 	Master Policy states limits for broker commissions and each transaction's broker fee is negotiated within these limits.	

[Proposed] Broker Commission Policy

Port of Port Angeles

(~~March 6~~ April 4, 2017)

~~Port Staff Negotiations.~~—The Port of Port Angeles (“Port”) recognizes that prospective tenants and purchasers often engage real estate brokers to facilitate a commercial real estate lease or sale.

The Port also recognizes that the development of a policy which provides relevant information and detail regarding the Port’s willingness to pay a broker commission for the lease or sale of Port property would facilitate engagement of prospective tenants and purchasers in consideration of available Port property.

The Port therefore developed the following Broker Commission Policy (“Policy”) which establishes the terms and conditions on which the Port will pay a broker commission to a prospective tenant’s or purchaser’s broker for the facilitation of a successful lease or sale of Port property.

1. **Port Negotiations.** Appropriate Port staff ~~will~~ is authorized to negotiate with prospective tenants and purchasers ~~and tenants~~ (collectively, the “Prospective Customer”) ~~whenever possible and feasible. However, the Port acknowledges that there may be~~), subject to final approval of a lease or sale by the Port Commission. In circumstances in which a licensed real estate broker (a “Broker”) has been engaged by the Prospective Customer to ~~assist with facilitating~~ facilitate a sale or lease or sale of Port property. ~~In~~, Port staff is likewise authorized to negotiate with such circumstances, broker, subject to the terms and conditions for the Port’s agreement to pay a commission to a Broker are established by ~~of this Broker~~ Policy and final approval of such lease or sale by the Port Commission Policy (“Policy”).

2. **Registration of a Licensed Real Estate Broker; Receipt of Broker Fee.**

2.1. In order to qualify for receipt of a broker commission fee (a “Broker Fee”) from the Port, a Broker must (i) be licensed in the State of Washington; (ii) register with the Port as the “procuring cause” of the sale or lease or sale of Port-owned land or buildings; and (iii) have provided the Port a fully executed copy of the representation agreement between the Broker and Prospective Customer. ~~For a Broker to~~

2.2. ~~To~~ be considered the “procuring cause” of the sale or lease or sale of Port property (and/or improvements) the Broker and Prospective Customer must both agree in writing in a form acceptable to the Port that the Broker is ~~representing~~ represents the Prospective Customer in the proposed transaction with the Port. This written confirmation must (i) include acknowledgment that this Policy has been received and reviewed by both parties; ~~(ii) include specific acknowledgement of,~~

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and agreement to the requirements of Section 4 of this Policy; and (iii) and (ii) be received by the Port before any substantial discussions have occurred between the Prospective Customer and Port.

2.2.3. The term "**substantial discussions**" shall mean that point in the negotiations where price and terms for a specific Port-owned property are being negotiated. It is the express intent of this Policy that the Port be made aware of any Broker involved in a transaction before price and terms are negotiated.

2.4.2.4. Multiple Brokers. Multiple Brokers may register with regard to a Prospective Customer under this Policy. In such an event the Port will only pay one Broker Fee. Prior to disbursement of any approved Broker Fee the Brokers and the Prospective Customer will provide a written agreement, acceptable to the Port and signed by all parties, indicating the exact division of the Broker Fee between the Brokers.

2.2.2.5. Prospective Customer's Discretion Concerning Brokers. It is the Prospective Customer's sole decision, prior to the point of substantial discussions, whether or not a Broker is representing the Prospective Customer in a real estate transaction with the Port. Notwithstanding the foregoing, if a period of six (6) months has elapsed since the initial registration of the Broker with no substantive activity from the Broker and/or Prospective Customer regarding the contemplated transaction, then updated written confirmation of the contractual relationship between the Broker and Prospective Customer may be requested by the Port.

2.3.2.6. Termination of Broker by Prospective Customer. If a Prospective Customer informs the Port, in writing, that the Prospective Customer has terminated the business relationship with the Broker prior to the execution of a binding and definitive lease or sale agreement then no compensation shall be paid by the Port.

3. **Fee Paid to Broker.** The amount of the Broker Fee the Port will pay a Broker is subject to the following:

3.1. Lease transactions. A Broker Fee will be paid to the Broker who is the procuring cause of the lease of Port property and who has registered in accordance with this Policy. The Broker Fee **to be paid by the Port** will be ~~negotiated~~ **pre-established** for each ~~transaction~~ **listed property**, and will not exceed five percent (5%) of the **net annual base rent** for the initial term of the lease not to exceed five (5) years. The Port will pay the ~~lease-related~~ Broker Fee as follows:

a. If the total Broker Fee is \$~~40~~**50,000** or less, then **one-half of**

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such Broker Fee will be paid to Broker ~~upon execution of a lease and one-half~~ upon occupancy of the leased premises by the Prospective Customer.

b. If the total Broker Fee exceeds \$~~40~~50,000, then such Broker Fee will be paid to Broker in ~~multiple~~ installments, with the ~~initial installment of \$10~~\$25,000 paid to Broker ~~upon execution of the lease, \$25,000~~ upon occupancy of the leased premises by the Prospective Customer; and the ~~remainder~~ ~~unpaid portion~~ of the Broker Fee ~~to be prorated and paid in annual installments at the end of each year of the lease for up to the next five (5) years of such lease (as advertised by the Port or as mutually determined by the effective date of such lease) and calculated using the net base rent payments actually received from the tenant.~~ If the tenant terminates the lease early, ~~payment of~~ Prospective Customer does not pay rent for any period for which the Broker Fee ~~has been calculated, then the Port will be pay only that portion of the unpaid Broker Fee for which rent has been paid through the lease termination date.~~

c. Calculations of Broker Fees for lease transactions shall be ~~based~~ on the “~~net annual base rent~~” for the original term of the lease, not to exceed five (5) years and shall not include rent-free periods, Washington State leasehold tax, triple net charges, common area maintenance charges, gross receipts or any other fees or charges, ~~percentage or concession fees, fees related to amortization of costs for improvements,~~ options to extend leases, renewals, or expired leases or on expansion of lease areas. The Port's reasonable determination of the amount owed shall be final and binding. All Broker Fee payments due hereunder will be paid by the Port within thirty (30) days of the date on which the calculation for such fee is to be determined.

3.2. Sale transactions. A Broker Fee will be paid to the Broker who is the procuring cause of the sale of ~~Port property~~ and ~~who~~ has registered in accordance with this Policy. The Broker Fee ~~will be negotiated for each transaction,~~ will not exceed three percent (3%) of the total sales price, and will be based upon, but not limited to, the following factors: (i) the ~~dollar value of~~ ~~commission negotiated between the transaction,~~ Broker and Prospective Customer in the representation agreement between them; (ii) the total purchase price; (iii) the length of any due diligence period; (iv) the length of time ~~and complications necessary~~ to close the transaction; (v) the financial terms, ~~and existing~~ of the transaction; and (vi) prevailing market commission rates. A sale-based Broker Fee calculation will not include options to purchase or similar options made available to the Prospective Customer. The Broker shall receive payment of the Broker Fee ~~within thirty (30) days after the sale closes and all funds from the sale are received by~~ sales proceeds as soon as is practicable following the closing of the ~~Port~~ transaction. If the sale is an installment sale, payment terms for the Broker Fee will be negotiated between the Port and the Broker.

3.3. Variations May Be Considered. In special circumstances, including

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transactions of unusual magnitude of size or value, or economic incentives, or if a Prospective Customer is seeking fiscal concessions as part of the lease or sale negotiation, the Port may, in its sole discretion, negotiate variations from the policies set forth herein.

4. **Approval by Commission.** All Broker Fees in excess of \$50,000 shall be subject to the additional approval of the Port Commission.

5. **Claims Against~~against~~ the Port.** The Broker and Prospective Customer expressly acknowledge and agree that any dispute regarding a Broker Fee allegedly owed to Broker by the Prospective Customer is strictly between those parties. The Port's agreement to pay a Broker Fee under this Policy is subject to and strictly limited by the requirement that the Broker and Prospective Customer provide written notice to the Port as required herein and further satisfaction of the terms and conditions of this Policy. The Broker and the Prospective Customer understand and agree that no claim, action, cause of action or proceeding, administrative or judicial, may be maintained against the Port, or its Commissioners, employees, agents or representatives, to collect any Broker Fee or other compensation allegedly due to the Broker.

6. **Litigation; Attorneys' Fees and Costs.** In the event of any litigation arising from or related to this Policy, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred including staff time, court costs, attorneys' fees, and all other related expenses incurred in such litigation. In the event of a non-adjudicative settlement of litigation between the parties or a resolution of a dispute by arbitration, the term "**prevailing party**" shall be determined by that process.

7. **Amendment of this Policy.** This Policy may only be amended by a written agreement approved by the Commission and executed by the Port.

8. **Annual Report to Commission.** Port staff shall report annually to the Port Commission regarding this Policy and make recommendations on whether this Policy should be amended from time to time.

**ITEM FOR CONSIDERATION
FOR THE
BOARD OF PORT COMMISSIONERS**

April 4, 2017

**SUBJECT: Proposed 2140 W 18th Street (1010 building)
Procurement Fee**

**Presented by: Karen Goschen, Executive Director
Susan Scott, Real Estate Administrator**

RCW & POLICY REQUIREMENTS:

The lease and sale of Port property are authorized by RCW 53.08.080 and 53.08.090, respectively. The port commission may lease property under such terms as the port commission deems proper. A port district may sell property when the port commission has, by resolution, declared the property to be surplus, and the surplus property is consistent with the comprehensive plan of improvement.

BACKGROUND:

It has been deemed necessary and advantageous for the Port to list and advertise the 10:10/10:50 building for lease. To that end, the Port must establish at minimum, a competitive procurement fee percentage and payment schedule for a broker that brings a viable tenant. As the overall Port Broker Commission Policy awaits approval by the Port Commission, staff would commence the listing of the 10:10/10:50 building with the establishment of this fee.

ANALYSIS:

The more competitive market places offer 5% commission with half paid at time of lease execution and half paid on occupancy. This also is consistent with standard real estate leasing forms. Because of Port Angeles's remote location and the large square foot size of the 1010 Building, we believe it will be a challenge to find a tenant that will take the full building. We are trying to make the listing attractive to a broker that may have interested clients.

In order to be competitive we believe we should offer 5% of net annual rent over 5 years. We believe a broker will take into consideration that the Port is a public entity and will be willing to accept payment of the broker procurement fee over several years instead of at lease execution and upon occupancy. We propose a fee payment schedule over 3 years.

Attachment: Broker Commission Policies of Other Washington Ports

ENVIRONMENTAL IMPACT: None.

FISCAL IMPACT:

If the 2140 W 18th Street (1010 building) advertises a broker procurement fee at 5% for each of the first five years, the total fee will be \$98,742.60. If the fee is paid over 3 years, the fiscal impact in the first year would be \$50,000.00 with the remainder paid out evenly over the next two years at \$24,371.30 per year.

Annual Rent - Finished Area 16,160 sf @ \$.60/sf	\$116,352.00	2140 W 18th Street (1010 building) Procuring Broker Commission Analysis
Annual Rent - Unfinished Area 77,394 sf @ \$.30/sf	\$278,618.40	
Total Annual Rent	\$394,970.40	

	Percentage	Total Commission	Fee Payment per year	Terms
5%/5 year Procurement Fee Disbursement Paid over 3 years	5%	\$98,742.60	Year 1	
			\$50,000	\$25,000 paid upon executed lease
				\$25,000 paid upon occupancy
			Year 2	
			\$24,371.30	Paid at anniversary of occupancy
			Year 3	
\$24,371.30	Paid at anniversary of occupancy			

RECOMMENDED ACTION:

Port staff requests the Commission approve a 5% broker procurement fee for each of the first five years and to payout the procurement fee over 3 years.

Broker Commission Policies of Other Washington Ports

Port	Policy in Place?	Terms	Limits/Comments	Payment
Everett	none		Too many types of transactions. Commissions are negotiated for each transaction.	
Grays Harbor	none			
Kennewick (Commercial)	yes	<ul style="list-style-type: none"> • 5% first 5 years • 2.5% second 5 years 	Not to exceed 5% of net lease payments for the first 5 years and 2.5% of the net lease payment for the second five years.	1/2 of the first year of lease payments paid after 6 months of executed lease and Lessee has taken occupancy. Remaining ½ of first 12 months commission paid at the end of 12 months from lease effective date. Commission then paid annually from the lease effective date after the rent has been collected.
Kalama (Industrial)	yes	<ul style="list-style-type: none"> • 5% of net lease rent years 1-5. • 5% on term leases less than 5 years 	Fee not to exceed 5% of the net annual base rent not to exceed five years.	½ commission within 30 days of fully executed lease. Remaining ½ within 30 days of date of occupancy.
Bellingham (Commercial/Industrial)	yes	<ul style="list-style-type: none"> • 5% first 5 years 	Not to exceed 5% and not to exceed 5 years.	½ of the brokerage fee within 30 days after executed lease and contingency periods have expired that allow the tenant to terminate the lease. Remaining ½ with 30 days after occupancy.
Sunnyside (Commercial/Industrial)	Yes	<ul style="list-style-type: none"> • 3% over 5 years 	Not to exceed 3% and not to exceed 5 years.	Annual payments commencing at occupancy.
NW Seaport Alliance	yes	<ul style="list-style-type: none"> • Generally market commission fees 	Master Policy states limits for broker commissions and each transaction's broker fee is negotiated within these limits.	