

Port of Anacortes
Regular Commission Meeting
February 4, 2010

The Port Commission of the Port of Anacortes held its regular business meeting at 7:00 P.M. on the evening of February 4, 2010. This was a regularly scheduled Commission Meeting held in the Commission Meeting Room of the Port Main Warehouse Building, 1st & Commercial Avenue, Anacortes, Washington.

In Attendance: Commission President Rubin, Commission Vice-President Mooney, Commission Secretary Niver, Commissioner Hopley and Commissioner Short.

Also in attendance: Executive Director Hyde, Director of Finance & Administration Johnson, Director of Operations & Facilities Hachey, Director of Engineering Elsner, Marina Manager Fowler, Tenant & Special Projects Administrator Pittis, Project Manager Darden, Project Manager Estvold, and Executive Assistant Lindsey.

Others in attendance included Port legal counsel Frank Chmelik.

Due to technical difficulties, this meeting was not recorded.

CALL TO ORDER

At 7:08 P.M. Commission President Rubin called the regular meeting of February 4, 2010, to order and welcomed all in attendance. Commissioner Rubin noted that following the second public comment period the Commission would enter into Executive Session to consider the lease, sale or purchase of real property, and to discuss litigation matters with legal counsel. The Executive Session was anticipated to last for one and one half hours, and action might or might not be taken.

PUBLIC COMMENT PERIOD

Commissioner Rubin opened the floor for public comment pertaining to items on the regular agenda.

1. *Mr. Mike Trafton, 4534 Sharpe Road, Anacortes, addressed the Commission. Mr. Trafton noted he was attending this evening as Acting President of the Anacortes Chamber of Commerce and wished to comment on agenda item #4 – funding of the Anacortes Futures Project. He encouraged the Commission to vote in favor of the item, noting that a “yes” vote would be a long lasting, positive vote for Anacortes and would provide an opportunity to maintain and create economic stability. Mr. Trafton explained that nearly three years had already been spent on the project, which had come out of an earlier study and was then picked up by the Chamber of Commerce. He further explained that the Chamber was the sole entity to direct the project up until now, and that support and input was needed from the City, the Port, the school district, the tribes, and others. Mr. Trafton noted that the Futures Project Committee had presented the project to the Commission before and had been encouraged by the Commission to continue. He described the project as being at a crossroads and hoped the Commission would find they had enough information to move forward in support of the project. Mr. Trafton stated that leadership in Anacortes needed to take responsibility for the community’s future and that the community would be better served by their leaders being proactive and taking control of the future before it controlled all of us. He believed a “yes” vote would give the project the opportunity to address issues and move forward.*

2. *Mr. Brian Geer, 4605 Glasgow Way, Anacortes, addressed the Commission. A member of the Anacortes City Council, Mr. Geer stated he was speaking tonight as a father and a life-long resident of Anacortes. He noted that Anacortes had the opportunity to implement and move forward with a futures study in 1980, but it was not implemented. Mr. Geer explained that it seemed that a push for planning for the future had come up once in a generation and he urged the Commission to take a leadership role and support the Futures Project.*

3. *Mr. Guy Davidson, 4191 Island Way, Anacortes, addressed the Commission. Mr. Davidson stated he was speaking as the owner of the Majestic Inn & Spa, a tourist oriented business. While he welcomed growth, Mr. Davidson noted that with growth there can come problems, such as lack of parking, and so on. He believed that rather than just respond to problems, Anacortes needed to be proactive and be prepared with solutions before problems arise. Mr. Davidson described Anacortes as a vibrant, coastal town, with economic opportunities. He encouraged the Commission to support the Futures Project and the need to chase our future rather than be overrun by it.*

4. *Mrs. Pam Allen, 14533 Jura Place, Anacortes, addressed the Commission. Mrs. Allen stated she was speaking as co-owner of the Anaco Bay Inn, as past president of the Chamber of Commerce, and as one of the core members of the Futures Project. She urged the Commission to support what she termed a spark plug project, created to build on the Port and City comprehensive plans. Mrs. Allen expressed that with collaborative planning, the Anacortes community can achieve greater goals and a long-term strategic plan. She noted that change is inevitable, but progress is not, and thanked the Commission and Port for their support for the Futures Project.*

5. *Mr. Kevin Moss, 1934 S. Wall Street, Mount Vernon, addressed the Commission. Mr. Moss stated he was speaking in regards to agenda item #6 – Authorizing the Port's participation in Puget Sound Energy's Green Energy Program. Mr. Moss introduced himself as the co-founder of the Farm Power Northwest digester, supplying approximately 2% of the power sold to Puget Sound Energy for their volunteer green energy program. He noted that Puget Sound Energy is a good partner and described the volunteer program in which participants can pay a little bit more to use green energy. Mr. Moss explained that at the Farm Power Northwest digester, they make power from cow manure, and that as long as there were dairy cows, they would be able to supply power. He explained that the program does not make a profit and was not driven by profit. He encouraged the Commission to support and encourage the program by voting yes on the agenda item.*

6. *Mr. Mark Bunzel, 14004 Biz Point Road, Anacortes, addressed the Commission. Mr. Bunzel stated he was speaking as Vice-President and incoming President of the Chamber of Commerce. He noted that when he had presented an update on the Futures Project at a recent Commission meeting, that members of the Commission had questioned whether the project was a City project, a Chamber project, or a Port project, and that it was a three-way project. Mr. Bunzel explained that the City was involved in the project, but had not yet taken a vote on the level of that support. He reported receiving a strong feeling of support from the City Council at a presentation of the project and also noted that the MJB Corporation, a major stakeholder in the industrial park area, had offered to write a check towards funding the study in the amount of \$12,500. Mr. Bunzel agreed that the Futures Project was a once in a generation opportunity to begin to shape the future of Anacortes. He noted the many marine related businesses in areas owned by the City and cited a resulting need for cooperation with the Port. Mr. Bunzel encouraged the Commissions' support and vote in favor of funding the advancement of the project in order to deal with identified issues such as housing, retail, and growth.*

Commissioner Rubin thanked all speakers for their comments. Hearing no others with a desire to address the Commission, the floor was closed.

CONSENT AGENDA

Commissioner Rubin read the consent agenda items: Approval of Minutes of the Regular Meeting/Executive Session of January 7, 2010, Special Meeting/Commission Retreat of January 19, 2010, Special Meeting "Meet Your Port Commissioners" of January 20,

2010, and Regular Meeting Work/Study Session and Executive Session of January 21, 2010; Approval of Vouchers No. 1-1 through 1-169 totaling (\$2,864,307.88); Approval of the December 2009 Treasurer's Report totaling \$10,852,228.66; and an action items for: Executive Director Salary for 2010, Authorization of Commissioner per diem for Official Port Business, and Project Acceptance of Construction Contract for Warehouse 4 Improvements – accepting as complete the construction contract with Colacurcio Brothers Construction Inc. for the residing and reroofing of Warehouse #4. Commissioner Rubin called for any objections to the consent agenda. Commissioner Mooney noted that he would like to speak to Action Item #2. Commissioner Rubin stated that the item – Authorization of Commissioner per diem for official Port business would be removed from the consent agenda and considered after item #7 on the regular agenda. Hearing no other changes or objections to the consent agenda, Commissioner Rubin called for a motion for approval. Commissioner Mooney moved to approve the consent agenda. Commissioner Short seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

REGULAR AGENDA

ACTION ITEMS

Executive Director Authorization to Amend the 2010 Service Contract with the Anacortes Chamber of Commerce -

Executive Director Hyde briefed the Commission on this item which requested authorization for the Executive Director to amend the 2010 service contract with the Anacortes Chamber of Commerce to include the routing of funding for the Anacortes Futures Project, not to exceed the 2010 budgeted amount of \$25,000. He noted the Commission had been briefed a number of times regarding both the Chamber contract and the Anacortes Futures Project. Before the Commission this evening was an amendment to that contract to include funding for the Futures Project. The City of Anacortes is considering similar funding for the Project. Executive Director Hyde called for any questions from the Commission.

Commissioner Niver noted that he had asked at the January 21, 2010 meeting for a briefing as to how the Futures Project applies to the Port. He expressed appreciation for the project's analytical approach and agreed with audience member Pam Allen's statement that unilateral planning is a good thing to do; noting that the Port had sometimes been at odds with the City in the past and observing the Port would still need to research its own projects. Commissioner Niver was of the opinion that the Anacortes Futures Project was a City project and stated the City must take the lead. He noted that both he and Commissioner Short had requested that the Commission hold the scheduled joint meeting with the City and the Chamber prior to making a decision on funding.

Commissioner Short explained that the thinking behind holding the joint meeting first was to have more of an idea of what the City is planning to do in terms of funding. Commissioner Rubin noted the action item this evening was to delegate that authority to Executive Director Hyde. Commissioner Mooney asked for clarification as to whether a decision in favor of the action item this evening would commit the Port to \$25,000. Commissioner Rubin reiterated that approval of the item would authorize the Executive Director to pay up to that amount. Commissioner Hopley asked for clarification of where funds were in the 2010 budget. Executive Director Hyde believed that the funds would come from budgeted miscellaneous contractual or outside services.

Commissioner Rubin requested a motion before continuing with discussion. Commissioner Niver stated he would make a motion in order to continue, and moved to authorize the Executive Director to execute an amendment to the Anacortes Chamber of Commerce 2010 Service Contract to include the routing of funding for the Anacortes Futures Project, not to exceed the 2010 budgeted amount of \$25,000. Commissioner Mooney seconded the motion. Commissioner Rubin requested additional discussion.

Commissioner Hopley noted that he also recalled that the Commission had discussed not taking action on this item until after the City had done so, finding it important to respect the City's process and not attempt to influence it. He expressed support for the project and found the participation by the MJB Corporation to be significant. Commissioner Hopley believed the project was worth the proposed expenditure, but preferred to see the City act first. Commissioners Short and Niver concurred. Commissioner Niver believed the Commission's vote, when taken, should be unanimous. He was also of the opinion that the City should indicate how they would like the Port to be involved and recommended a vote be postponed.

Commissioner Mooney expressed that his initial impression of the Futures Project was unenthusiastic, but in consideration of public support and the hundreds of hours already spent on the project, he favored approval of the action item. Commissioner Rubin observed that both he and Commissioner Mooney had attended the Anacortes City Council meeting at which the Futures Project was presented and based on the City Council's discussion, and favored moving ahead with a vote, but polled the Commission as to whether they were prepared to vote.

Commissioner Niver moved to table the action item for the time being. Commissioner Short seconded the motion to table. Commissioner Rubin called for a vote on the motion to table, which carried 4-1 with Commissioner Mooney opposed.

Adopting Resolution No. 1214 – Establishing a Port Policy in support of Green Energy Initiatives -

This item sought Commission adoption of proposed Resolution No. 1214 – establishing a Port policy in support of green energy initiatives and directing the Executive Director to seek ways to foster development of renewable and alternative energy generation and other anthropogenic greenhouse gas (GHG) reduction strategies. Executive Director Hyde noted that Commissioner Hopley had drafted this resolution and would brief the Commission.

Commissioner Hopley explained that about one month ago he had proposed the Commission authorize the Executive Director to enroll the Port in Puget Sound Energy's (PSE) green energy program. Doing so would put a surcharge on the Port's PSE bill, which would support green energy in the region. At that meeting, Commissioner Rubin had requested that Commissioner Hopley draft a resolution. Commissioner Hopley presented the resolution, noting it took into consideration as pragmatic an approach as possible to determine the magnitude, probability, and exposure to GHG emissions and climate change. Also considered was mitigation and reduction of GHG's as well as economic impacts in regards to job creation, such as the business Mr. Moss had explained during public comment. Commissioner Hopley observed the resolution also supported the Commission taking an active leadership role in the community by demonstrating to national leadership that increased green energy costs from renewable and alternative energy sources could be both anticipated and justified by the increased benefits resulting in the reduction of GHG. He wished to see actions such as this send a signal to our senators and representatives in Washington D.C. whom, he observed, appear paralyzed on this issue.

Commissioner requested discussion from the Commission on first the value of green and renewable energy. Commissioner Short believed the Port should address this issue on a case by case basis due to the costs involved, voicing concern that broad measures could discourage certain manufacturers from locating on Port property. Commissioner Niver didn't see the resolution as a broad approach, noting it directed the Executive Director to seek avenues to see if the Port could do things in a more green fashion and to be aware of circumstances where green energy alternatives could apply. Commissioner Mooney voiced concern with what he termed vague language in the proposed resolution and opposed adoption citing the unknown costs involved in complying with the resolution. He further noted that the Port was already close to budget capacity in terms of development and cleanup programs underway.

Commissioner Niver moved to adopt Resolution No. 1214, establishing a Port Policy in support of Green Energy initiatives and directing the Executive Director to seek ways to foster development of renewable and alternate energy generation and other anthropogenic greenhouse gas (GHG) reduction strategies. Commissioner Hopley seconded the motion.

Discussion continued with Commissioner Short expressing that although he favored going green, he believed it should be done on a basis of cost comparison, taking into consideration how it would affect Port tenants, and giving for example kilowatt hours used by tenants, as well as purchase of electric cars versus non-electric cars with economical mileage. Commissioner Hopley noted that the Commission had talked a great deal about setting policy in order to provide a basis for subsequent decisions. The resolution did not list specific courses of action other than to direct the Executive Director to make tactical decisions within the context of the policy, and as such, did not commit the Port to any specific costs or investment. Commissioner Niver concurred. Commissioner Rubin expressed his support for process driven decisions and asked whether the Commission valued renewable, green energy and reduction in GHG, noting if this were the case, then the Commission should use that as a framework to build a policy upon.

Following additional discussion, Commissioner Short voiced concern with the language of the fourth "Whereas" paragraph, which stated that "measures, such as renewable energy generation, must be taken to reduce anthropogenic GHG emissions", objecting to the word "must". He noted he would prefer it to be reworded. Commissioner Hopley explained he had written that statement in a global sense, but did not object to a language change. After a brief discussion, Commissioner Short proposed the word "must" be changed to "may". Commissioner Hopley had no objections to the change and read that paragraph aloud, including the change in wording. Commissioner Rubin re-stated the motion and called for a vote on the motion, which carried 3-2 with Commissioners Rubin and Mooney opposed.

Authorization to Participate in Puget Sound Energy's Green Energy Program –

This item sought Commission authorization to participate in Puget Sound Energy's (PSE) Green Energy Program.

Executive Director Hyde briefed the item for the Commission, noting that the Commission had requested a report of the Port's energy usage and costs. The Port's 2009 total electrical expenses were \$242,000, approximately \$200,000 or 83% of which is passed through to Port tenants with \$42,000 paid solely by the Port. 34% of the pass-through charges are incurred by tenants at the Marine Terminal, 27% by Airport tenants and 39% by tenants at the Boat Haven. The Port used 2.2 million kilowatt hours at the Boat Haven in 2009. Executive Director Hyde explained that under the program, the Port could opt to pay 23% percent of electrical

surcharges – equaling \$59,000, or elect to pay a flat rate depending on the level of participation. PSE offers two levels of participation: The Partnership Level that can be by operating area or a port-wide cost of \$1,200 per year, or a Leadership Level with a port-wide fee of \$6,000 per year.

Commissioner Hopley noted he did not advocate signing up port tenants who have pass-through costs in the green energy program without their consent. He observed that at \$1,200 per year the Port could participate at a partnership level for our own use and in doing so support green energy. Commissioner Niver noted that the suggested motion did not clarify a level of participation. Commissioner Rubin suggested it be included, but called for a motion prior to additional discussion.

Commissioner Hopley moved to authorize participation in the Puget Sound Energy Green Energy Program. Commissioner Niver seconded the motion. Commissioner Rubin called for any additional discussion.

Director of Operations & Facilities Hachey explained that PSE's partnership levels start at a minimum and go as high as 25% of usage fees with the participant setting their own level. He suggested the Commission enter the Port at the \$1,200 per year level and then decide if an increased amount is warranted. Commissioner Rubin called for a motion to amend the motion on the floor. Commissioner Short moved to amend the motion to state a partnership level of \$1,200 per year. Commissioner Hopley seconded the motion, but suggested the addition of language to sunset this in two years. Commissioner Short concurred and restated the motion, which Commissioner Hopley still supported with a second. Commissioner Rubin restated the motion with the amendment, to authorize participation in the Puget Sound Energy Green Energy Program at the Partnership Level, not to exceed \$1,200 per year with sunset in two years. He called for a vote on the amendment, which carried 4-1 with Commissioner Mooney opposed. Commissioner Mooney expressed similar concerns to those he had voiced regarding the adoption of Resolution No. 1214, believing there were not specific enough guidelines for what this action meant for the Port. Hearing no further discussion, Commissioner Rubin called for a vote on the motion as amended, which carried 4-1 with Commissioner Mooney opposed.

UPDATE

Seafarers' Memorial Park Building Options –

Executive Director Hyde provided the Commission with an update regarding options for the Seafarers' Memorial Park Building which was temporarily relocated until completion of the former Scott Site environmental cleanup project. He reviewed a report from Carletti Architects, created at the request of the Commission, outlining three options:

1. Return the building to its original location – cost is estimated at \$149,677
2. Return the building to its original location and add a larger first floor, making the present building the second floor – cost is estimated at \$502,053
3. Relocate the building to the North end of the Boat Haven as a small boat center and add a first floor – cost is estimated at \$1,150,204 mostly due to additional site and utility work

As a result of excavation at the original site of the building, a more extensive foundation may be required as opposed to the former slab foundation.

The Commission discussed the options presented and asked for clarification regarding the costs of each option, with Commissioner Hopley observing that returning the building to a slab

foundation at its original location was a responsibility of the project and would reduce the overall cost to the Port, however, the added costs for other updates, such as a new first floor would be borne by the Port. He requested a report taking the costs that would be borne by the project into account in the figures presented. Commissioner Short favored use of the lower floor for small boaters with the upper floor available for rent and for meetings. Bathrooms would be needed on the upper floor. Commissioner Mooney and Executive Director Hyde noted that the Soroptimist International of Anacortes club donated \$50,000 towards the original building. Commissioner Niver questioned whether option number 3, the Port might be required to place another building at the original site. Executive Director Hyde will speak to the City and small boat groups regarding this discussion and will bring back additional information to the Commission.

ACTION ITEM

Authorization of Commissioner per diem for Official Port Business –

Commissioner Rubin reviewed the item, which was removed from the consent agenda earlier in the meeting. The item requested per diem for Commissioner Rubin for the time he spent in planning the Commission's January 19th special meeting/retreat with Executive Director Hyde and Port legal counsel. Commissioner Niver moved to approve per diem compensation to Commissioner Rubin for time spent in planning the January 19, 2010 Commission retreat. Commissioner Hopley seconded the motion. Commissioner Rubin called for any discussion. Commissioner Short voiced concern for setting precedence for compensating the Commission President for retreat planning. Commissioner Niver believed that anytime staff requests a Commissioner to come into the office to discuss items or planning, that per diem compensation was appropriate. Commissioner Mooney believed it was the job of the Commission President to plan retreats and that such planning fell under a Commissioner's monthly wage, noting no offense to Commissioner Rubin and appreciating all of his work on the retreat, but seeing the potential for misuse. Commissioner Hopley noted that when the Commission tightened up their policy on per diem last year they discussed there could be additional time needed from the Commission President and that he should be allowed compensation. With discussion concluded, Commissioner Rubin called for a vote on the motion, which carried 3-2 with Commissioners Mooney and Short opposed.

COMMISSION DISCUSSION

Commissioner Rubin called for any discussion by members of the Commission. He reported that he and Executive Director Hyde attended the Washington Public Ports Association Port Day in Olympia on February 1, 2010 where they met with Senator Kevin Ranker, Senator Mary Margaret Haugen, Representative Dave Quall and Representative Jeff Morris. Commissioner Rubin described the meetings as short but productive with items discussed including the Model Toxics Control Act fund and a proposal to increase taxes, and a proposed bill that could affect the competitive advantage of businesses in Skagit County and would require payment of prevailing wage on any job on Port property, even if it was not a Port project.

Commissioner Short reported he had attended a Washington Ports 100 year centennial committee meeting. The committee has decided to publish a book and produce a DVD using History Link via the State of Washington. He noted that Commissioner Greg Hertel of Friday harbor is created an outline for a series of lesson plans about Washington Ports for use by school children throughout the state.

Commissioner Rubin reported that he had been working with Executive Director Hyde on the Commission's February 16, 2010 special meeting as a 2040 Vision Session. Topics will include looking ahead 30 years at transportation and utilities, industry and the workforce, and housing and demographics. This first portion of the meeting is expected to last for two hours, followed by the ribbon cutting ceremony for the recently completed "O" Avenue/Railroad Avenue beach redevelopment project. Commissioner Niver noted that he would like the February 16th meeting to include discussion of current problems, which he believed were the result of not having strategic policy governance, and solutions for them. Commissioner Rubin observed that having a discussion of future planning had been suggested during the Commission's retreat.

COMMUNICATIONS

Executive Director Hyde reported on the following:

The next Project Community Tour is scheduled for February 8th at 4:00 p.m. and will meet at the Dakota Creek office at 4th & Q Avenue and will then proceed to the Scott site project area.

A question was raised during the January 20th "Meet Your Port Commissioners" special meeting sponsored by the Anacortes Chamber of Commerce concerning the Transit Shed and whether having tables and chairs available for rental only in that Port facility was competing with private business. Executive Director Hyde reviewed that Members of the Commission had questioned when the topic had been discussed and decided. He reported that the Commission had discussed the expanded use of the Transit Shed and the quality, purchase and rental of tables and chairs at their June 5, 2008 study session. He provided the Commission with the minutes of that meeting as well as a subsequent action item approved by the Commission including a copy of the facility rental agreement and the purchase costs for the tables and chairs in the approved 2009 budget.

Commissioner Short noted that at the Commission's January 19th retreat they had discussed setting a standard and a brand for the Port. He recalled the occasion that led to the discussion and request for purchase of a higher standard of tables and chairs was the failure of two rented chairs during a Transit Shed event in which an individual was injured. Commissioner Short did not view the Port as being in competition, noting that renters of the Transit Shed could obtain chairs and tables from any source they chose. He cited as an example a rental by the Anacortes High School who brought in their own tables and chairs from the school cafeteria, and other groups using the warehouse who had rented different styles of chairs for their events.

Commissioner Hopley observed that what came out of the Chamber sponsored meeting was that an aspect of the decision for the Port to purchase and rent tables and chairs for use in the Transit Shed facility was not discussed, and that aspect was that doing so could place the Port in competition with other businesses. He believed that use of the tables and chairs for Port sponsored events was appropriate, but believed allowing others to rent them constituted competition.

Commissioner Short observed that the tables and chairs owned by the Port could not leave the Transit Shed facility. He noted that the Port had not cut others out of rental business, citing large events such as Trawlerfest and the Salmon Derby which rent thousands of chairs from local rental companies for use down at the Boat Haven.

Commissioner Niver noted that the Port's mission statement contained a tenet for operating in a manner that avoids displacement of private business activity.

Executive Director Hyde observed that the Port had created a lot of economic development activity by opening up the Transit Shed facility for rental. Events held in the Transit Shed are huge, as it is one of few facilities that can hold 350 or more people. These events benefit local rental companies, caterers, and so on, as well as community groups. He further observed that most facilities that are used as large assembly areas own their own tables and chairs. He noted the Port can examine the fees and consider charging more for rental of the tables and chairs.

UPCOMING MEETINGS

Executive Director Hyde reviewed the Commission's upcoming meeting schedule.

The next Commission Meeting will be a Special Meeting/Strategic Discussion and Planning Session at the Commission Meeting Room on February 16, 2010, followed by the Special Meeting/Attendance at the Economic Development Association of Skagit County Economic Forecast Dinner on February 18, 2010. The Regular Meeting Work/Study Session for February 18, 2010 is cancelled. The Commission will also hold a Special Meeting February 22, 2010. This will be a joint meeting with the Anacortes City Council and the Anacortes Chamber of Commerce to discuss the Anacortes Futures Project. The meeting will be held at the Anacortes City Hall Council Chambers.

PUBLIC COMMENT PERIOD

Commissioner Rubin opened the public comment period for items not on the regular agenda.

7. Mr. Bill Langjahr, 1004 Commercial Avenue, Anacortes, addressed the Commission. He thanked the Commission for allowing time for public comment in order to present information regarding prilled sulfur. Mr. Langjahr read from a prepared statement that he had submitted in comment to the Port's SEPA. Mr. Langjahr objected to the Port's proposed intent to load prilled sulfur at Pier 2 and advised the Port that if they did move ahead, he thought it prudent for the Port to have the refinery that produces the product be a party to any contract the Port has with Marsulex in case of a catastrophic event. Mr. Langjahr noted that the Port's SEPA report called for permits for yearly shipping totals of 300,000 tons of sulfur, which he believed was more than twice the amount mentioned in the Port's community briefing last year. In discussing this with Port Environmental Administrator Thoman, he noted that she explained the Port estimates to begin shipping 100-125,000 which is the current limit on the Sulex plant capacity. He believed permitting for a higher level indicated expansion and believed the Port had not been candid about the scope of the project or presented all hazards associated with it.

Commissioner Rubin thanked Mr. Langjahr for his comments. Hearing no others with a desire to address the Commission, the public comment period was closed.

EXECUTIVE SESSION

Commissioner Rubin announced that the Commission would take a brief recess before moving into Executive Session to consider lease, sale or purchase of real property, and to discuss litigation matters with legal counsel. The Executive Session was expected to last for one and one half hours and that action might or might not be taken following its conclusion. The Commission recessed at 9:24 P.M. and moved into Executive Session at 9:34 P.M. At 10:23 P.M. the Commission came out of Executive Session. Commissioner Rubin called for a motion or motions regarding the matters considered and discussed. Commissioner Niver moved to authorize the Executive Director to execute a settlement agreement with the Washington State Department of Natural Resources and Chicago Title Insurance Company to resolve back rent, title insurance, and ownership issues relating to the vacated Railroad Avenue. Commissioner

Short seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously. Commissioner Niver moved to authorize the Executive Director to execute a settlement agreement with Pacific Pile & Marine, L.P. in the amount of \$320,329.76, including Washington State sales tax, in settlement of the claim for extra work submitted by Pacific Pile & Marine, L.P. relating to increased cost for the open water disposal phase of the Former Scott Paper Mill Cleanup Project – Phase 2 Project # ENV-01B. Commissioner Hopley seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

ADJOURNMENT

With no further business to come before the Commission, Commissioner Mooney moved to adjourn, which was seconded by Commissioner Niver. Commissioner Rubin called for the vote on the motion, which carried unanimously and at 10:25 P.M. the meeting adjourned.

Attest:

Keith Rubin, President

Pat D. Mooney, Vice-President

Ray Niver, Secretary

Steve Hopley, Commissioner

William L. Short, Commissioner

Julie Johnson Lindsey, Executive Assistant
February 4, 2010