

Item No.: 5c

Date of Meeting: April 13, 2010

Commissioners

Bill Bryant
Chair and President
John Creighton
Patricia Davis
Lloyd Hara
Gael Tarleton



Tay Yoshitani
Chief Executive Officer

P.O. Box 1209
Seattle, Washington 98111
www.portseattle.org
206.787.3000

An audio of the meeting proceedings and meeting materials are available on the Port of Seattle web site -

<http://www.portseattle.org/about/organization/commission/commission.shtml>

(The approximate point in the audio recording for the specific item is identified by minutes and seconds; example: 01:30.)

***PROPOSED AMENDED MINUTES
COMMISSION REGULAR MEETING SEPTEMBER 1, 2009
(Revision to motion for Item 6b)***

The Port of Seattle Commission met in a regular meeting at 1:00 p.m., Tuesday, September 1, 2009 in the Commission Chambers at Pier 69, 2711 Alaskan Way, Seattle, WA. Commissioners Creighton, Davis, Hara and Tarleton were present. Commissioner Bryant was absent.

1. CALL TO ORDER

The regular meeting was called to order at 1:05 p.m. by Gael Tarleton, Vice-Chair and Vice-President.

2. EXECUTIVE SESSION pursuant to RCW 42.30.110

None.

PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES

(00:01:07) Motion for approval of the minutes of the July 28 regular meeting - Creighton

Second – Hara

In Favor: Creighton, Davis, Hara, Tarleton (4)

Commissioner Bryant was absent for the vote

4. SPECIAL ORDER OF BUSINESS

None.

5. UNANIMOUS CONSENT CALENDAR

It was noted that Item 5a would be removed from the unanimous consent calendar for discussion and a separate vote.

b. (00:01:46) Authorization for the Chief Executive Officer to execute a contract for the Real Estate Division to enter into a solicitation process to hire a third-party manager for the World Trade Center West Building.

Request document: Commission agenda [memorandum](#) dated August 14, 2009 from Melinda Miller, Director, Real Estate Portfolio and Pat Spangler, Real Estate Manager

Motion for approval of Item 5b – Davis

Second – Creighton

Motion carried by the following vote:

In Favor: Creighton, Davis, Hara, Tarleton (4)

Commissioner Bryant was absent for the vote

a. (00:03:06) Authorization for the Chief Executive Officer to enter into an Indefinite Delivery, Indefinite Quantity (IDIQ) Professional Service Agreement for hydrologic and hydraulic services to be used to support Aviation, Seaport, Real Estate and Capital Development Divisions' Service Directives. The IDIQ contract term will be for three years and will not exceed \$750,000.

Request document: Commission agenda [memorandum](#) dated July 28, 2009 from Elizabeth Leavitt, Director, Aviation Environmental Programs

Available for questions: Bob Duffner, Environmental Program Supervisor, Aviation

Commissioner Hara asked whether the proposed IDIQ contract could be divided up into smaller contracts and also whether the Office of Social Responsibility had been contacted in this regard.

Mr. Duffner responded that small business opportunities had been identified and analyzed, and it was decided that there were some small business opportunities available

within the contract. However, because it is an IDIQ contract, it was determined that it would be best to put small business opportunities into the contract as a goal for the contractor, and that within the procurement, the contractor identify a minimum of two small businesses to be subcontracted for the final contract with a certain amount of work as a goal to be completed by those businesses.

Commissioner Hara stated his appreciation for the goal noted by Mr. Duffner, but commented on his concern of not having more assurance that it would in fact happen. Mr. Duffner agreed that staff would talk further with CPO and OSR to see how that might be implemented.

Ralph Graves, Managing Director, Capital Development Division, clarified that there was nothing within the contract advertisement which precluded a small business from bidding on it. He also addressed the issue of having a goal versus a firm requirement, stating that it was due to the indefinite nature of the work.

Commissioner Tarleton concurred with Commissioner Hara's sentiment that there should be equal access and awareness of the opportunities to bid on these various components of contracts.

Mr. Graves reiterated that each contractor that bids on this contract will need to provide within its proposed team at least two small businesses.

Motion for approval of Item 5a, with the caveat that staff return to report on the final outcome of the bids that are received – Creighton

Second: Davis

Motion carried by the following vote:

In Favor: Creighton, Davis, Tarleton (3)

Opposed: Hara (1)

Commissioner Bryant was absent for the vote.

Item 7a was advanced on the agenda as follows:

7. STAFF BRIEFINGS

a. (00:04:51) Organized Labor Briefing

Presentation documents: Commission agenda [memorandum](#) dated August 18, 2009, [attachment](#), and computer slide [presentation](#) from Gary Schmitt, Labor Relations Director

Presenter: Mr. Schmitt

Mr. Schmitt provided a brief historical overview of some of the labor unions at the Port of Seattle, including the Longshoremen, which originated in the late 19th century and Teamsters Local 174, who is celebrating their centennial this month. He noted the importance of recognizing the length of time the Port has been in partnership with Labor.

Mr. Schmitt stated that roughly 50% of the employees at the Port are unionized and are represented by sixteen labor unions, and commented that job classifications with the highest union representation are the maintenance departments at both the Airport and Seaport as well as Police personnel. The largest unions at the Port include the International Brotherhood of Teamsters, The International Longshoremen Workers Union, and the International Brotherhood of Electrical Workers.

Mr. Schmitt also noted the fact that Port tenants and customers have unionized workforces at both the Seaport and Airport. At the Airport these jobs are primarily airline, concession and construction positions while at the Seaport they are primarily transportation jobs, such as dock workers and rail workers. Some of the projects employing union workers include the Consolidated Rental Car Facility, Runway 16L Reconstruction, Third Runway Construction, and the Terminal 91 Cruise Ship Terminal.

Commissioner Davis commented on the importance of partnership with Labor, especially since there is currently such an intensely competitive environment among the west coast ports.

Commissioner Tarleton commented on the important relationship of the item and its relationship to Labor Day.

6. DIVISION, CORPORATE AND COMMISSION ACTION ITEMS

a. (00:29:29) Request for Port Commission to adopt a motion honoring Labor Day.

Request documents: Commission agenda [memorandum](#) dated August 18, 2009 from Mary Gin Kennedy, Director, Commission Services and proposed [motion](#)

Presenter: Ms. Kennedy

Ms. Kennedy provided information on the motion honoring Labor Day, and honoring the hard work of men and women who are at the Port and in Port-related industries, both unionized and non-represented. She acknowledged the belt-tightening that everyone who works at the Port had done in response to the economic situation, and recognized the sacrifice of doing so.

Commissioner Hara read into the record the motion as follows:

“The Port Commission of the Port of Seattle hereby acknowledges the essential role of working men and women employed at the Port or in Port-related industries and

congratulates them on the occasion of Labor Day 2009. It is through their hard work that the Port of Seattle has grown and thrived. It will be the workers at the Port and at all of our Port partners who will help our region and State through this recession and into economic recovery.”

Commissioner acknowledged members of unions in attendance and expressed his appreciation for them coming to the meeting.

Second - Creighton

Motion carried by the following vote:

In Favor: Creighton, Davis, Hara, Tarleton (4)

Commissioner Bryant was absent for the vote.

b. (00:36:29) Request for the Port Commission to adopt a motion re-affirming commitment to non-discrimination and equal opportunity.

Request documents: Commission agenda [memorandum](#) dated August 21, 2009 from Mary Gin Kennedy, Director, Commission Services and proposed [motion](#)

Presenter: Ms. Kennedy

Ms. Kennedy commented on the Port’s commitment to the fundamental principles of non-discrimination and equal opportunity, noting that the policies apply to the Port’s employees, customers, consultants, contractors and vendors. She stated that since it has been some time since the policies were reviewed, it seemed appropriate at this time to request that these policies be refreshed and looked at in the scope of applicable state and federal laws.

Commissioner Creighton noted that the motion to be proposed came out of a request from a member of the local Muslim community regarding training in the Port Police Department. He emphasized his belief that the new Police Chief has really brought focus and an orientation toward the community back to the Police Department. He stated that the department’s training course had been reviewed, and alternative training had been found.

Motion for approval of Item 6b – Davis

The motion was read into the record by Commissioner Davis as follows:

The Port Commission endorses the Port’s long-standing policies of non-discrimination and equal opportunity. The rights guaranteed by these policies shall be afforded to our workforce, customers, consultants, contractors and vendors. The Port shall strive for the ideal of being a workplace free of discrimination, bias and

hate; respectful of different beliefs, cultures and points of view; and based on the principle of equal opportunity. The Port Commission hereby directs the Chief Executive Officer to review the current non-discrimination and equal opportunity policies to determine if they are up-to-date and to recommend any appropriate changes to the Port Commission in compliance with all applicable federal and state equal opportunity laws and regulations.

Second: Commissioner Hara offered a second to the motion as well as a friendly amendment to the language, which was accepted by Commissioner Davis

Amended language proposed by Commissioner Hara and accepted by Commissioner Davis resulted in the following final proposed motion (amended language in parentheses):

The Port Commission endorses the Port's long-standing policies of non-discrimination and equal opportunity. The rights guaranteed by these policies shall be afforded to our workforce, customers, consultants, contractors and vendors. The Port shall strive for the ideal of being a workplace free of discrimination, bias and hate; respectful of different beliefs, cultures and points of view; and based on the principle of equal opportunity, *not to exclude rights and protections to ensure religious, ethnicity, gender, sexual orientation, and other protected rights and liberties.* The Port Commission hereby directs the Chief Executive Officer to review the current non-discrimination and equal opportunity policies to determine if they are up-to-date and to recommend any appropriate changes to the Port Commission in compliance with all applicable federal and state equal opportunity laws and regulations *within 60 days of the date of passage of this motion.*

Vote to amend the motion carried by the following vote:

In Favor: Creighton, Davis, Hara, Tarleton (4)

Commissioner Bryant was absent for the vote

Vote on motion, as amended carried by the following vote:

In Favor: Creighton, Davis, Hara, Tarleton (4)

Commissioner Bryant was absent for the vote

- c. (00:44:07) Authorization for the Chief Executive Officer to approve the use of Port crews for the major modification of the South Central Terminal Grease Duct System where the estimated cost is \$325,000. No additional funding is requested. The project budget of \$511,000 will not change.**

Request documents: Commission agenda [memorandum](#) dated August 25, 2009 from Ralph Graves, Director, Capital Development Division; Dwight Rives, General Manager,

Port Construction Services; and Bob Riley, Director, Aviation Capital Improvement Program

Presenter: Mr. Riley

Mr. Riley stated that this request is to change the method by which repairs to the grease duct system would be made, and reiterated that there would be no change to the budget. It noted that it was a request for Port Construction Services to perform the repair work.

Motion for approval of Item 6c – Davis

Second – Hara

Motion carried by the following vote:

In Favor: Creighton, Davis, Hara, Tarleton (4)

Commissioner Bryant was absent for the vote

7. STAFF BRIEFINGS

b. (00:49:01) Briefing on the Annual Review and Proposed Changes to Resolution No. 3605, as amended.

Presentation documents: Commission agenda [memorandum](#) dated August 20, 2009, computer slide [presentation](#) from Tom Barnard, Research and Policy Analyst and Ralph Graves, Managing Director, Capital Development Division. Also provided was a copy of [Resolution No. 3605, as amended](#).

Presenters: Mr. Barnard and Mr. Graves

Mr. Graves noted that at the adoption of Resolution 3605, staff agreed to return to Commission within 12-18 months with a review of the Resolution. He noted that the briefing today would be to begin a discussion of possible revisions to the Resolution, and hoped to have any revisions incorporated by sometime in October.

Mr. Barnard provided background on Resolution 3605, noting that it provides improved oversight of the Port's capital construction programs and also clarifies when and how staff must gain Commission approval of Port projects. In order to ensure the Resolution was understood and implemented, he commented on training provided to departmental working groups, the formation of a group who could answer questions involving implementation, and the creation of a web page on the Port's Compass page which included "Frequently Asked Questions" (FAQ).

Mr. Graves reviewed several areas within the Resolution which staff anticipates revising following further discussion and input from the Commission. Mr. Barnard mentioned areas in which language only might be changed in order to provide further clarifications.

Sections of the Resolution proposed to have revisions included the amount of authority given to the CEO to procure 'Goods and Services,' approval of maintenance work, and approval of Small Works Construction contracts.

Commissioner Creighton raised the thought that clarification as to what constitutes an 'engineer's estimate' be incorporated into the revisions. Staff agreed with Commissioner Creighton's suggestion.

Commissioner Davis suggested that it might be helpful for Lindsay Pulsifer (General Manager, Seaport Maintenance) to attend the meeting for First Reading of the Resolution in order to answer any questions regarding possible impacts to the Maintenance Department.

Mr. Barnard stated that staff would hope to receive feedback on proposed revisions to Resolution 3605 from Commission, staff and the Executive team after which final edits would be made. At time, staff would return to Commission (anticipated date of September 17, 2009) for First Reading and introduction of any final edits. Staff would then return to Commission sometime in October for Second Reading and Final Passage.

Commissioner Davis requested that if there are suggested revisions prior to First Reading they be circulated to the Commission so they have a chance for review in advance.

Mr. Barnard confirmed that the Resolution would be posted for public comment for a period of at least 30 days between First and Second Readings.

On a separate issue, Commissioner Hara stressed the need for timeliness of payments to Port contractors. Staff responded that this issue was being addressed; that it can be related to final completion of documentation of work done, and that good progress is being made.

Commissioner Tarleton commented on the importance of the current Commission completing the revisions to the Resolution for next year as it would be difficult for any amount of familiarity with the issues to be taken on by a new Commission.

c. (01:51:07) Capital Improvement Projects Report for the Second Quarter 2009

Presentation documents: Commission agenda [memorandum](#) dated August 24, 2009; computer slide [presentation](#); and [report](#) from Ralph Graves, Managing Director, Capital Development Division.

Presenter: Mr. Graves

Mr. Graves noted that the Second Quarter Report had been provided to the Commission and the public and was also posted on the website. He stated that there are 85 total projects in the report, 42 of which are within or ahead of target schedule and budget, 41 of which have either their target schedule or budget off, and 2 projects that have both schedule and budget off. He reviewed the overall status of the Aviation division projects as well as reported on projects with variances. He then reported on project status and variances for the Seaport, Real Estate and Corporate divisions.

8. NEW BUSINESS

(02:05:12) Commissioner Tarleton stated that the New Business portion of the agenda would be to allow public comment from Nickelsville residents. Prior to public comment, Mike Merritt, Manager, Local Government Relations, provided background information of Nickelsville and their recent move to and encampment on Port property at Terminal 107. He acknowledged the unfortunate death of one of the Nickelsville residents over the past weekend, noting that the cause of death was unknown at this time, but that an investigation was being conducted.

Mr. Merritt stated that after discussions between the Port and State legislator as well as city and county official regarding use of Port's property for homeless individuals, CEO Yoshitani made the decision to order a notice of trespass, effective September 30, 2009.

Public comment was then received from the following individuals:

- Leslie Peterson, resident of Highland Park. Ms. Peterson stated that she is a Nickelsville supporter and would like to see them accomplish their goals. Ms. Peterson asked that Commissioners visit Nickelsville and also continue to work with Nickelsville toward meeting their goals.
- Beatrice Friber, one of the founders of Nickelsville and former resident of Tent City #3. Ms. Friber commented on the need for more safe housing for the homeless of King County. She asked for further practice of compassion, justice and common sense and asked that the Port keep working with Nickelsville to find a solution.
- John Christenson. Mr. Christensen stated that he had moved to Seattle from Montana, feels safe at Nickelsville, and is disappointed in the Commission's response.
- Richard Blake. Mr. Blake noted his support of Nickelsville and commented that the goal was to find a permanent location for the group.
- Steven LaForge stated his belief that Nickelsville is an innovation in trying to handle poverty and homelessness, and that a location is being sought for possibly 1,000 people to live in. He also invited the Commissioners to visit Nickelsville.
- Cat Glasspoole, Nickelsville resident. Ms. Glasspoole commented that she feels it is a safe place for her and needs time to find a stable place.
- Brigid Hagan, Nickelsville supporter, who commented on the need for people to stay until they can find their own permanent housing.

- Estela Ortega, Executive Director, El Centro de la Reza, who commented that tent cities and Nickelsvilles are changing people's lives and noted that she would like to see an additional 2 months for the Nickelsville encampment to remain.
- Sylvia Rubio, Lead Case Manager of Homeless Assistance Program at El Centro de la Reza, who asked that the Commission keep an open mind about Nickelsville and allow them to stay beyond the current September 30 deadline.
- Enrique Gonzales, El Centro de la Reza. Mr. Gonzales asked for a brief moment of silence in honor of the Nickelsville resident who died there over the past weekend. Mr. Gonzales asked that the Port look at this as an opportunity to partner with an organization and with the community to help these people make the best of their lives.
- George L. Storm, friend of Nickelsville. Mr. Storm stated that he would like to find a way to figure out a 2-year solution to the Nickelsville situation, and spoke about discrimination which occurs at an economic level.
- Janice Connelly, member of WHEEL and Women in Black, a group who stands for people who die outside or by violence. She stated that Nickelsville offers safety, structure and stability and asked that the Port extend the period for Nickelsville to remain on Port property.
- Julian Matty, resident at Nickelsville who stated that Nickelsville is a safe place and there is nowhere else to go.
- A letter to the Commissioners dated September 1, 2009 signed by residents/supporters of Nickelsville was provided. [A](#) copy of the letter is, by reference, made a part of these minutes, is marked Exhibit 'A,' and is on file in Port offices.
- Written comments from the following individuals were received: Angelina Bailey; Terry Bailey; Crystal Cheairs; Marisa Laufer; Pamela Kliment; Dave McCracken; Douglas Risedorf; and Karen Morris. Copies of the written comments are, by reference made a part of these minutes; are collectively marked Exhibit '[B](#),' and are on file in Port offices.

Commissioner Davis expressed her appreciation on the respectful way in which those who presented gave their comments. She stated that the Commission has also previously heard comments from people who had serious concerns about Nickelsville. She noted that the Port has to obey the law no matter what and she reiterated that Mr. Yoshitani's decision to allow 30 additional days for the encampment stay would remain as a final decision, but she hoped that a more permanent solution would be found. She noted 4 laws that she finds herself unable to wish the Commission to break, those being the Shoreline Management Act; statues which disallow the 'Nickelsville' type of use on public property; the city ordinance which doesn't allow housing on particular properties in Seattle; and the State Audit Office's finding prohibiting the Port from giving any kind of charity or public funds for things outside of trade and economic development.

Commissioner Tarleton noted her agreement that we do need more creativity and innovation to help solve these very difficult problems.

Commissioner Creighton agreed on the importance of working to find a more permanent solution.

Commissioner Hara stated that it is important that the Port Commission work actively with those who have the legal authority to proceed with the homeless issue.

9. POLICY ROUNDTABLE

None.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 4:00 p.m.

(A digital recording of the meeting is available on the Port's website.)
