PORT OF CENTRALIA
Established 1986

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Minutes
Regular Meeting of the
PORT OF CENTRALIA
February 1, 2023
Port of Centralia Administrative Office & Via Teleconference
3:00 PM

Attendees: Commissioners: Kyle Markstrom, Peter Lahmann, and Julie Shaffley
Executive Director: Kyle Heaton
Port Counsel: Ray Liaw, Van Ness Feldman, LLP
Press: Owen Sexton, The Chronicle
Public: Scott Tinney; Bob Jackins; Joe Gaylor, Sheetmetal Workers Local 66; Justin Bourgalt, Sheetmetal Workers Local 66; Brian Dow; Rick Schnatterly; Jan Banevich; Robert Reichardt; Dawn Merchant; Paul Crowner; Cynthia Mudge, Centralia-Chehalis Chamber of Commerce; and Jared Sturdevant
Teleconference: Five unknown callers

1) **Call Meeting to Order/Introductions:** Commissioner Markstrom called the meeting to order at 3:00 p.m.

2) **Approval of Agenda:** Commissioner Shaffley made a motion to approve the February 1, 2023, agenda as submitted. Commissioner Lahmann seconded the motion. The motion carried.

3) **Good of the Order/Public Comment:** Commissioner Markstrom stated that this time during the Port Commission's meetings is for the public to provide their comments. The Port Commission welcomes and encourages their comments and participation. He said that the public is welcome to comment on items on the agenda or items not on the agenda; however, this is not time for the Commission to answer questions. He said that if the public asks a question and would like a follow-up, to please provide contact information and the Port will do its best to follow up at a later time. He said that those attending remotely via teleconference or others who are unable to attend can submit written comments to agraber@portofcentralia.com before 2:00 p.m. the day of the meetings. Those written comments will be attached to the meeting minutes. He added that everyone is lucky to live in a great community where they are all passionate about making the community a great place to live. While everyone might not always agree on how to achieve that, it is important that everyone recognizes that they can all be passionate about their ideas while also respecting each other. He reminded everyone that they have three minutes for their comments and if the time limit is reached, he will ask them to wrap up their comments.

Brian Dow, of Centralia, encouraged the Commissioners to vote against the resolution packet because he feels that public comment can be done at a different time on the agenda. He said that it could be or should be done after motions are made so the public can speak on them or after the Commissioners give their reports. He said that it was great that it was at the beginning of the meeting and asked for leeway later in the meeting to allow comment on things that come up during the meeting. He said that the meetings never go that long so he does not understand the difficulty of that. He said that the proposed resolution has public comment where it is now and he would like to see it dispersed or brought down a little lower in the agenda or opened up a

couple of times. The City of Centralia and the Port of Chehalis allow comments throughout to meeting; not disruptive comments, but on subjects that come up.

Jan Banevich, of Centralia, said that she wanted to talk a little bit on the same order as Brian Dow. She challenged the constitutionality of Article 6(b) and others. She said that according to the Constitution and ACLU, the Port cannot control the time, place, or manner of speech or expression. She said the public comment amendment seems to be designed to stifle or prohibit free speech as it relates to a person's viewpoint or opinion. She said that it should not be left to the discretion of the Port's president. She said that the Port has the right to disagree with the person but does not have the right to control their viewpoint. She suggested the Port have someone with knowledge of the Constitution, specifically the First Amendment, review the resolution prior to voting because she did not think it was well thought out. She added that on another note at the previous meeting Kyle Heaton said the Port is paying for a property owner's fence to be removed from the road right-of-way but not for another person's fence because they did not get a permit. She believed that reason was invalid because the first property owner also had not gotten a permit and therefor it appeared to be a gift of public funds.

Robert Reichardt, of Centralia, said that he had attended two meetings and at both meetings he has heard citizens express their concerns about where public comment is interjected. He said that he was well-versed in Robert's Rules of Conduct and he has always known that the time for comment is after the discussions have been taken, not beforehand. He said the public should not be the ones that set or are set to raise conversation points when the Port District already has an agenda that the public is not allowed to comment on. He asked the Port Commissioners to look at where public comment is located and exercise the public's request to have it placed at the end where it is more equitable.

Dawn Merchant, of Centralia, echoed the same sentiments that have been said by the public. She said she the other public meetings that she has been to have had comments at the beginning of the meeting that might not necessarily be in reference to an agenda item, but then during the meeting after each agenda item the public has a chance to speak or ask questions or comment about what is happening during the meeting. She felt like that is something the taxpayers essentially have a right to at the Port as well. She highly recommended that the Commissioners vote against the proposed resolution and reconsider how public comments are handled at Port meetings.

Paul Crowner, of Centralia, commended Commissioner Markstrom on his presentation at the Chamber Forum. He thought it was well done. He said that it was clear from the questions that were asked from the audience that there were quite a few people who did not have a very good understanding of what was going on with WinCo and Centralia Station. He proposed that the Port be more proactive in getting that sort of information out to the public.

Cynthia Mudge, executive director of the Centralia-Chehalis Chamber of Commerce, thanked Commissioner Markstrom for speaking at the Chamber Forum. She said that people are very curious about WinCo and anxious to see it happen, so it was good to be able to share that. That was the Chamber's first morning forum and next regular Chamber Forum will be on February 9, 2023, featuring LC Renal Alliance. She announced that the new Chamber Directory is out and provided a copy along with a list of all of the things the Chamber is doing in 2023. She added that the Chamber Board has four new members, one of whom is Tom Jaurequi with UNFI.

4) **Approval of Minutes:** Commissioner Lahmann made a motion to approve the January 25, 2023 regular meeting minutes. Commissioner Shaffley seconded the motion. The motion carried.

5) **Approval of Warrants:** Commissioner Shaffley made a motion to approve warrants 22906 through 22921 with an aggregate amount of $474,236.35. Commissioner Lahmann seconded the motion. The motion carried.

6) **Old Business:**

a) **Resolution No. 2023-01: To Amend Resolution 2015-04, Amending Rules Governing the Transaction of Port Commission Business to Address Public Comment at Meetings and Restating the Rules in Their Entirety:** Ray Liaw, of Van Ness Feldman, LLP, stated that what the Commissioners had before them as promised was substantively the same but with some better formatting to help everyone keep on track as they have opportunity to discuss it. She said, as mentioned at the previous meeting, this resolution would propose three key changes to the existing Port Commission rules around meeting. The first being the clarification about adjournment of regular meetings and special meetings. The second being a revision in the order of events that happen at regular meetings. She said that the existing language talks about this as being the ordinary course of the meeting agenda and it can certainly change. She said that the rules do not lock it in. The third key change is not substantively different but it does look different. She said that she decided it would probably clear for everyone if she put the entire new section that is being added to the guideline for public comment meetings into the body of the resolution itself so that it is all there and the Commissioners can all see what is new right in front of them. She added that at the end, as before, there is the restated entirety of the rules that were discussed. She thought the Commissioners were pretty comfortable with the concept of adopting them in full so the Port does not have to reference multiple resolutions with respect to the most recent resolution, so it will be nice.

Commissioner Markstrom made a motion to approve Resolution No. 2023-01: To Amend Resolution 2015-04, Amending Rules Governing the Transaction of Port Commission Business to Address Public Comment at Meetings and Restating the Rules in Their Entirety. Commissioner Shaffley seconded the motion.

Commissioner Lahmann said that he sent an email to the Port's attorney with a list of ideas after he had had a chance to review the resolution and she had squared him away on most of it. One thing was the order of public comment. He said that this goes back to the notes page that was given to the Commissioners. He said the Port had apparently in the current resolution there public comment under new business and the Port has gone to public comments toward the front of the agenda. He was hoping the mayor would be at the meeting so she could explain how the City does it, but they have public comments on non-agenda items at the first part and then when they get into the new business, they give their presentation and they open it up for public comment and then they do the vote. He is hoping that the Port could mirror what the City Council does for that. He said that the change page shows it under item number seven new businesses public comment. He suggested that it is left it there. He said that does not mean that there has to be public comment on everything, but there will be public comment on some things. He said his other thing is he was looking at review of resolution on the memo.

He suggested an expiration date on resolutions, such as five years or a different date if that works. He said the reason he said that is so that every so often the Commissioners review to see if the resolution is still relevant or if it needs to be updated. He said that on this particular one it will have updated twice within a couple of months. He said the Port probably has resolutions that are on the books that have been there for years and are not really looked at. He asked what they are, if they are still pertinent or relevant, if they could be updated, or if they could be deleted. I don't know. He said he was looking at the public comment and have the first part like is proposed and then have public comments under new business and then a possible statement about an expiration date of a resolution.

Commissioner Lahmann made a motion to amend the proposed resolution update with the maintaining of public comment on item number seven under the regular meeting format and the, if the Port's attorney deem it appropriate, add an expiration date or review date.

Ray Liaw said that if the Commissioners were to amend the resolution to add an expiration date it would mean that the Port would have no rules in five years so it would be incumbent on this Commission to re-up those rules in five years. She said that would be the legal impact of that. She has not seen an agency have an expiration date for meeting-type protocols or any protocols along these lines. She has seen a work plan that agency board of directors often will look at what Commissioner Lahmann described of refreshing rules or resolutions. She said that oftentimes it has been city jurisdictions, like development codes with classic zoning regulations where they put on a work plan that state they are going to look at whether those are still pertinent and valid. She said that is usually not written into the rule itself, as opposed to work plan items. She said it is something that can be done but it does put the Port in a tough spot in five years if the Commissioners forget that it is there and then all of a sudden the Port does not have any rules. She recommended that the Commissioners consider it as a work plan item as opposed to having all of the Port's resolutions die after five years, unless there's good reason.

Commissioner Marksrom said he would be uncomfortable with that. He said it is the responsibility of the Commissioners to know and understand these resolutions and if they think a resolution needs to be updated, they bring it before the Commission such as is being done today. He thought the process that is in place is achieving the intended outcome.

Commissioner Shaffley noticed at the City public comment at the very beginning is for non-agenda items and then the comments after that. She said the mayor has been very lenient and she thinks each mayor then does basically what they feel is proper. She thought that the Lewis County Board of County Commissioners also have public comments on resolutions, not on every business item, just on that resolution, and at the beginning on non-agenda items.

Commissioner Lahmann said that they are saying the same thing just in different ways. He said that he appreciated what the Port's attorney has done. He would just like to see it open for public comment on new business items.

Commissioner Shaffley asked Commissioner Lahmann if he meant new business or new resolutions that are before the Commission. Commissioner Lahmann replied that he would have to go back to see what the County does because he thinks they are pretty flexible. Commissioner Shaffley asked if the County allows public comment on non-resolutions

because most of their business has resolutions but they do not allow comments on their managers reports, for example. Commissioner Lahmann said that he is not talking about opening it all up, just new business items. He said that the County does open it up for public comment after their staff presentations, basically the same way the City does it. He said that he appreciates their openness.

Commissioner Markstrom thought that if the Commissioners wanted to have that discussion further, they should probably nail down exactly what they want to ask for. He thought there maybe was a difference in understanding of how the other bodies maybe do handle that and if the Commissioners are to adopt or consider something, then they should make sure that they all have a good understanding of what they are asking for. He said the Commissioners should approve the amendment they have in front of them and if they need to revisit it at a later date and make a decision otherwise, that the Commission does that.

Commissioner Shaffley asked if the Commissioners could make a resolution to change the rules at any time. Ray Liaw replied that was correct.

Ray Liaw reminded the Commissioners that there is a motion on the table to amend it in two ways, both with public comment and on that five years. She said the Commissioners always have the opportunity to come back and change these rules. There is no limitation on that. She said there is a provision that says these rules may be amended by the Commission. She emphasized that the language is, "That the regular meeting will ordinarily follow the format below." She said that just gives direction to staff that every time there is a regular meeting, that this is the order of presentation that they will prepare the agenda with the Commission president. She said there may be reason to change that on a case-by-case basis. This does not lock the Port in and motions can be made when adopting the agenda to amend it to add public comment on a particular topic as can be done now. She said if the Commissioners do not take any action today, it still remains that it ordinarily follows without these underlying constructors, but as it has been evident in the last at least many months as she has been working with the Port that public comment has been occurring at different times at the discretion of the Commission president.

Commissioner Lahmann withdrew his suggestion for an expiration date and stated that the public comment needs more work. Commissioner Markstrom asked Commissioner Lahmann to restate his motion for clarity.

Kyle Heaton stated that for clarity Commissioner Lahmann was amending Commissioner Markstrom's motion.

Commissioner Lahmann made a motion to amend that the Commissioners maintain the motion as presented with the maintaining of public comment under new business. The motion was not seconded.

Commissioner Markstrom stated that there was still a motion on the table to approve the resolution as presented. He thought that leaving public comments in item seven makes it a little bit messy and as Port Counsel said he has the discretion as president to take public comment on agenda items as necessary. He said that knowing that moving forward he would be comfortable with voting on this resolution.

Commissioner Shaffley agreed and said that she thought she would have no problem with public comment on resolutions that are being presented. I feel that yes, it would be at Commissioner Markstrom's discretion.

Commissioener Shaffley made a motion to amend the motion that the Commissioners reconsider public comments and do more research on it, whether it be after or after resolutions or at any time during the meeting. She felt that the Commissioners needed to have a little more research on this before they decide on when and why the public comment will be. Commissioner Markstrom asked Commissioner Shaffley if she was motioning to table the item. Commissioner Lahmann said that she had an amendment to look further into public comment, but it is an amendment to Commissioner Markstrom's motion to pass the whole.

Ray Liaw said that she needed specific language that they want put in if the Commissioners wanted to amend the language of this resolution. She said if the Commissioners want more time to consider this issue of where public comment should go or how frequently it should appear, then that iss a motion to table so that we can come back again.

Commissioner Markstrom said that there is a motion with a second waiting to be voted on. Ray Liaw said that was correct.

Commissioner Shaffley asked if the Commissioners vote to approve this there will not be a problem with them making resolutions in the future that would include public comment in the event that we want to. Ray Liaw said that was correct.

Ray Liaw gave the example that they could take a vote on the motion on the table today and they could give direction to Port staff to come back with research on best practices at the next meeting and direct legal counsel to prepare a resolution to further amend what they have approved today. Those are all directions to staff and counsel to prepare for a future meeting, as opposed to changing this document itself that they planned to vote on.

Commissioner Markstrom stated that he would prefer to approve the resolution as written and any additional additions that the Commissioners wanted to add they could be added at a later time. He thought that was the cleaned way to handle the matter.

Commissioner Markstrom opened the meeting to public comment. He stated that each person would have three minutes to make their comments.

Brian Dow, of Centralia, suggested that, besides Port staff doing their research and input, the Commissioners the public to comment in the future when the issue gets discussed like how Commissioner Lahmann brought up how the City Council or the County government does. He said that is what they are looking for, an area later at the meeting to comment on these issues. He said the public could email suggestions or something before the Commissioners go to discuss it with Port staff and they would have some input from the public to entertain that they are headed in the right direction.

Scott Tinney said he was opposed to this resolution because he saw it as something that is more restrictive than beneficial to the Commission and asked why do they needed the resolution.

Robert Reichardt asked why the Port is not better prepared if this type of stuff has been brought up. He said that this is not an issue that the Commissioners should be hobbled by or squabbling over. He said that all of this information should have been gathered prior the meeting. He suggested that the Port start gathering some concrete information on how this is done in order to provide access for the general public to provide information and comments on all the information that this Port Commissioner can be dealing with.

Jan Banevich, of Centralia, said that everybody at the meeting are citizen owners of the Port. She does not understand why it has such a big problem with allowing public to comment and to have two comment periods, one at the beginning for non-agenda items and one at the end so to talk about things that have been discussed. She asked why the Commissioners are wanting to eliminate the owners of the Port.

Commissioner Markstrom called for a vote for the motion on the floor to accept the resolution as presented. Commissioner Markstrom and Commissioner Shaffley voted in favor of the motion. Commissioner Lahmann was opposed to the motion. The motion carried two to one.

7) **New Business:**

a) **I-5/Mellen Street Connector Stage 1 – Change Order No. 1:** Kyle Heaton said that Change Order No. 1 with Midway Underground covers five items: over excavation of roadway subgrade at Alder Street to suitable soil and replace, to remove backfill of existing structures at stations 23 to 24, remove backfill of existing structures adjacent to Brotherson Road, over excavation of sewer trench near mh for suitable soil to replace, and shift the 40" diameter pond outfall pipe 15 feet westerly. He said that the Commissioners have been briefed on four out of the five items already and the fifth item came up this week but was not substantial. He said that the Port had originally hoped to run the conveyance pipe between Pond #1 and Pond #2 down what is now Western Washington Rail rail line, but that became acquiring that easement. While they are amenable to that it is very difficult to do working with the railroad, he said it takes a couple of years to get that and then the Port would pay an annual fee for that utility. He said the Port was able to negotiate an easement, which the Commissioners approved, with the neighboring landowner. He said that moving off of the railroad onto there, there were a few trees that are in the way and this change order covers those as well. The other issue the Port ran into out there was that the side sewer within Long Road Mobile Home Estates was not where it was marked on the as-built. He said encountered it, cut it, and relocated it with new pipe, and had it inspected by the City. The Port is providing as-builts to the property owner and to the City.

Commissioner Lahmann made a motion to approve Change Order No. 1 for the Mellen Street Connector Stage One with Midway Underground for the increase of $43,573. Commissioner Shaffley seconded the motion. The motion carried.

b) **Executive Director Report:** Kyle Heaton reported that the abatement of the Brotherson Road Apartments will be completed at the end of the week. He reiterated that there has been severe theft and vandalism. The Port has pleaded with the Centralia Police Department but they can only be so many places at once and once those apartments are down it is going to help. He said that the Port has awarded contract to KD&S Environmental to begin demolition and they will be issued a Notice to Proceed on Friday so the Port expects them to be onsite hopefully

sometime in the next week. The Port is continuing to crawl its way down along Alder Street. There are a number of utilities, predominantly the gas line, that has not been where it has been marked. Because the contractor continues to run into it, the Port is investigating with the City engineer and looking at potentially shifting one of the storm lines to the south would. It would require the Port to grant an easement to the City of Centralia onto Port property for an underground line, so a decision will be made on that sometime here this week. He said that otherwise Midway is making good time.

Commissioner Lahmann said that usually they lay tracer wire with gas lines. Kyle Heaton replied that they had not.

c) **Commissioner Reports:** Commissioner Markstrom said that he saw that the Officer of the Chehalis Basin recently published the results of the land committee meetings. They put four options on the table and are looking for public input, so if people are interested in flood mitigation and the things that the Chehalis Basin is working on, he encouraged them to go on their website. He added that the Centralia Downtown Association is starting their fundraising efforts for the flower baskets downtown. He said that he enjoys the beauty of downtown Centralia, especially in the summertime with all the great flower baskets that they put out. He encouraged people to make a donation to cover the cost of a basket. He said that his family did in memory of a loved one and he thought it was a great way to do that. He also thanked the Chamber for hosting him at the Forum that morning.

8) **Adjourn:** Commissioner Shaffley made a motion to adjourn the meeting at 3:38 p.m. Commissioner Lahmann seconded the motion. The motion carried.

COMMISSIONER **COMMISSIONER**

Amy Graber

From: Mark Wells <mark@ua26.org>
Sent: Wednesday, January 25, 2023 2:34 PM
To: Amy Graber
Cc: Greg Bowers
Subject: Apprentice Utilization

I hope I am not too late to have my comment accepted as I just received the info concerning tonight's meeting. Apprentice utilization is of the utmost importance not only for UA Local 26 but for workers that participate in honorable toil. It also helps the community and all local contractors not to mention the Apprentices themselves.
I ask that you consider maintaining guidelines for the highest percentage of Apprentice utilization possible.
Sincerely,
In Solidarity,

Mark Wells
•Business Agent - Lacey•
•UA Local 26•
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