PORT OF CENTRALIA
Established 1986

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Minutes
Regular Meeting of the
PORT OF CENTRALIA
January 25, 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
Public: Coralee Taylor, Chad Taylor, Franklin Taylor, Kyle McKerricker, Joyce Hoerling; Elizabeth Stuart; Phoebe Slusher; Robert Reicherd; Gene Sonnenberg, Economic Alliance of Lewis County; Randall Friesen, Washington State Building and Construction Trades Council; Dianne Trotter; Elizabeth Cameron; Jan Banevich; Brian Dow; Bob Jackins; Sally Kloosterman; and Lindy Waring
Teleconference: Adam Davis, United Association Local 26; and ten unknown callers

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

Approval of Agenda: Commissioner Markstrom noted that the agenda has been amended to add item 5(c) Lease Agreement – 3717 Galvin Road.

Commissioner Lahmann made a motion to approve the January 25, 2023, agenda as submitted. Commissioner Shaffley seconded the motion. The motion carried.

2) **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.

Jan Banevich, of Centralia, said that she thought some people have lost sight as to why they were there and said that she would like to remind them. She stated that the voters approved the formation of the Port, pay taxes supporting the Port, and elected the Commissioners to serve them as their representatives. She said that the Commissioners, in turn, have done everything in

their power to exclude the voters, the citizen owners, from participating in the people's business. She said that they have denied the citizens the opportunity to comment on agenda items and have put in a comment time at the start of the meeting before they even know what will be discussed. She said that they have asked multiple times to move the comment time back to the end of the meeting but that falls on deaf ears. She said that there is not any way to utilize Zoom or an equivalent for people who are unable to attend meetings in person and Commissioner Markstrom made that decision on his own, not in an open public meeting, and without a vote of the Commission. She said that the Commissioners have even gone so far as to unconstitutionally censor a constituent's comment because one of them did not like the content. She said that these are just a few of the citizens' concerns. She quoted the Legislature as saying, "People participating in our government, especially through public comments, is an essential part of developing public policy." She asked if they were not allowed to share their views, how are they able to provide constructive criticism and make suggestions in order to participate in a free democracy. She stated that she wanted a response to her comments and provided a copy of it.

Brian Dow, of Centralia, said that he would like to comment along the same lines for the Commissioners to allow the citizens to be able to speak at a later time in the meeting. He said that he does not know why that is such an issue, especially in a meeting like this one when the Commissioners are going to be discussing public comment. He said that the public has no opportunity to speak on what the Commissioners are going to speak on by sticking the public comments at the front of the meeting. He said that he does not know how that can be a problem. He said that there are people who maybe would try to do a Zoom situation where they can call in and participate in that way. He said that he does not know if there is a monetary issue with that and asked why it is so difficult to make what seems to him to be pretty minor changes in the format in how things are done. He said that they are just striving for transparency in allowing people to speak that has some relevance in the meeting that takes place and at the very beginning it is very hard to do that.

Randall Friesen, Washington State Building and Construction Trades Council, said that they recently heard that there were some comments about apprenticeship utilization at the previous meeting. He said that he wanted to come and talk about apprenticeship utilization and what state-registered apprenticeship means for their trades. He said that they represent about 80,000 construction workers throughout Washington State, including this area, and that apprenticeship utilization will help bring more pathways to the communities and help better training and better pathways to a full-time career and a family wage job. He said that he was there for any questions anyone might have. He said that their affiliates have done a lot of work in outreach and apprenticeship programs and they support apprenticeship utilization wherever they can. He said that they launched a website called ConstructiveCareer.org that goes into a lot of detail of what apprenticeship programs look like in the building and construction trades, what the wages and benefits are, and how to get into a program and what it looks like when they are accepted. He said that his organization is there as a resource and if there are any questions about apprenticeship, they can help with that discussion.

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

4) **Approval of Warrants:** Commissioner Shaffley made a motion to approve warrants 22872 through 22905 with an aggregate amount of $972,956.46. Commissioner Lahmann seconded the motion. The motion carried.

Commissioner Lahmann asked, in regards to Warrant 22903 in the amount of $6,275.60 to Tauscher Appraisal Services, why the Port is removing a fence and paying for this. He said there is a $6,275.60 bill for removing a fence.

Kyle Heaton replied that is to relocate the fence out of the right-of-way as the Port goes through cleaning Alder Street and there will be more payments coming through. One will be for relocating some rhododendrons for a landowner and there was a message that day from the Port's engineer that three trees will need to be removed out of the right-of-way as they will not be able to be relocated. He said that there would have been an additional fence but the landowner did not get a permit for it so the Port is not responsible for paying for it. That landowner took the fence down and is relocating it to the new right-of-way line.

Commissioner Lahmann said that in his experience that if a property owner has built or planted something in the right-of-way, it is at their peril and is their responsibility to deal with it. He wondered why the Port is paying for it. He understood being a good neighbor, but thought $6,000 is a lot of good neighbor.

Kyle Heaton replied that he has reviewed the scope of work provided by the contractor, who the Port has used before, and the price is in line with work that they have previously done.

Commissioner Lahmann said that he was wondering why.

5) **New 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 she was asked to take a look at the existing rules governing Port Commission meetings, particularly the most significant issue of providing guidelines for public comment at meetings, which are addressed in Article 6 of the document.

Commissioner Lahmann asked if copies were provided to the public. Commissioner Markstrom replied that they were out front by the agendas.

Ray Liaw said that Article 6 is entirely new and it outlines guidelines for participating in public comments at Port Commission meetings. She said that she would provide a brief overview and said that a lot of it are practices that are already in place at the Port and the intent is just to memorialize them so there is clarity as the Port Commission President runs the meetings so there is less confusion about why certain practices and procedures are in place. She said that there are specifications on sign-in procedures, the type of comments that the Port Commission will hear or will not hear during the meeting, general rules of conduct in terms of courtesy, and limiting public comment to basic politeness and not speaking out of turn. She said there is a little more specificity in subsection B with regard to the total amount of time that is allowed for public comment, which is already in practice, and what can be done in the

situation of public comments running over the meeting. There are also specifications that are already in the Port's agenda with respect to written comments when one is received. She said that oral public comment is required under State law and that can happen via telephone, but it is not a part of these rules to provide that via telephone or other means that are provided by the Commission. She said that while these rules are specifically tailored to the practices that the Port Commission has in place, they are similar to what other port commissions have in their roles and are pretty standard in terms of scope and content of the rules.

Ray Liaw said that there were two other changes to the existing rules that are being proposed. In Article 4(e) that is in connection with adjournment or continuation of meetings, which has been discussed in the past. She said that per staff recommendation, it clarifies that if a regular meeting is adjourned to a future date, that future date meeting is still a regular meeting and if a special meeting is adjourned to a future date, that meeting would still be a special meeting. She said that the other change is to Article 5(a), which she would call a minor change. She said that the new items that should have been underlined are 2. Approval of Agenda and 3. Good of the Order/Public Comment. She said that those are new to what is already existing in the rules. The strikethrough items under what is now 7. New Business, there used to be a sub-bullet A. Public Comment. She said that would be stricken through with Good of the Order/Public Comment at the top. She said that the way this was phrased would ordinarily be the order of the Commission, but it does not set the only order. It is only reflected to keep in line with the current pattern of the Port Commission, who at any time could change things in a different order on a case-by-case basis.

Commissioner Lahmann could not locate the part of the document that Ray Liaw was discussing and she clarified it for him and stated that it would be a new change. She said that the changes would be two items added to the top and one item stricken from under Item 7, which was not showing due to an error due to a problem with the Track Changes showing while editing the document, and it will need to be corrected.

Commissioner Lahmann made a motion to table Resolution No. 2023-01 until the corrections are made and to give the public a chance to see it before it comes in the meeting for a vote so the public can comment on it. Commissioner Shaffley seconded the motion. The resolution was tabled until a future date.

Commissioner Lahmann said that the Port's attorney had the corrections in mind, but he would like to see the corrected copy. He said that he would also like to publish the resolution as a proposed change so the public can read it and they can come in under public comment and if they have a problem with it. He said the he basically likes what it is, but he does not feel comfortable approving it until he sees the final agenda.

Commissioner Shaffley asked if there would be any other corrections that would be in there. Ray Liaw replied that there would not be. She said that all of the content is there so what is missing is the signals so that the Commissioners can clearly see what is new and removed. She said that she understands the request.

Commissioner Shaffley said that the resolution is basically putting all of the documents or all of the procedures into one document. Ray Liaw replied that was correct. She said that if the Commissioners remembered at a recent meeting the rules were amended to address abstention

but the rules were not adopted, so it was like the rules existed in two parts on paper. She said that given the whole new section on guidelines for public comment was so lengthy, that in adopting this new section and these modifications to the existing section, that you adopt an amended and restated full set of rules so that the Port and the public have it all in one place.

Commissioner Lahmann asked how the request came about and asked if it came from the Commissioners. Ray Liaw replied that she was asked to prepare the resolution by Commissioner Markstrom.

Commissioner Shaffley said that she noticed abstention is in Article 4. Ray Liaw replied that it had already been adopted and are Article 6(E) and Article 7(C) in the current rules. In the amended and restated version they are 7(E) and 8(C). She said that those were changed that the Port approved by resolution a few weeks ago and are not listed because those changes have already been made and are included in the package already having been adopted.

Commissioner Shaffley said that basically the only difference between this resolution and previous bits and pieces of resolutions is this puts it all in one. Ray Liaw replied that was correct.

Commissioner Shaffley asked if the only difference is the two articles on abstention. Commissioner Markstrom said that the articles on abstention already existed in a separate document and the only thing new is the section on public comment. Ray Liaw said that the long list of recitals give the bases for the changes, and then the actual changes that are being adopted are Article 4(E), Article 5(A), and the brand-new Article 6. She said that what follows is the full set of rules as amended all in one place, so those are actually the action items. Everything that follows is everything all at once.

Commissioner Markstrom said that there had been a motion and a second, but he thought there was some difference in clarity.

Commissioner Lahmann said that the motion had been to table the resolution for possibly one meeting so the Commissioners can see the final, slicked up version and to allow the public to see it so they can comment on it during public comment. He said that he received the resolution the previous night at 5:30 p.m. and there is a lot of material to go over on the little screen and to page back and forth to figure out what is going on.

Commissioner Lahmann made a motion to table the resolution until the next regular scheduled Commission meeting. Commissioner Shaffley seconded the motion. The motion carried.

Ray Liaw also stated that she would add page numbers to the document.

b) **Lease Agreement – 1708 Midway Court:** Commissioner Shaffley made a motion to approve the three-year lease with Mountain Drive Train LLC for the building located at 1708 Midway Court. Commissioner Lahmann seconded the motion. The motion carried.

Kyle Heaton stated that Mountain Drive Train LLC manufactures and services drive lines for the marine and mining industries.

c) **Lease Agreement – 3717 Galvin Road:** Commissioner Lahmann made a motion to approve the five-year lease with Ultrasonic Cutting for the building located at 3717 Galvin Road. Commissioner Shaffley seconded the motion. The motion carried.

Kyle Heaton said that Ultrasonic Cutting will be relocating from the Kent area and they cut and ship custom stencils.

Commissioner Markstrom asked where the Port was at in terms of vacancies. Kyle Heaton replied that the Port does not have any further vacancies.

d) **I-5/Mellen Street Connector Stage 1 – Pay Estimate #2:** Kyle Heaton reported that Pay Estimate #2 from Midway Underground was in the amount of $407,175.33. It had been reviewed by the Port's engineer and he recommended it for Commission approval. He said that the majority of the work and expense over the previous three weeks has been in stormwater pipe and ballast. He said that they are slowly crawling up Alder Street installing storm lines and working their way through a large set of utilities, some of which are known and some of which are not, and mapping that with utility providers as they go through. He said that the Port is also working on getting the stormwater catchbasins and keeping them within the right-of-way and managing a downhill flow. He said that Steve Hatton, the Port's engineer, is working extra hard and that he appreciates Midway Underground who has been very, very helpful on this.

Commissioner Lahmann made a motion to approve the I-5/Mellen Street Connector Stage 1 – Pay Estimate #2 to Midway Underground in the amount of $407,175.33. Commissioner Shaffley seconded the motion. The motion carried.

e) **Executive Director Report:** Kyle Heaton reported that the Port continues to work on the abatement on the Brotherson Road Apartments. He said that it has been expensive and the Port has been unable to install power into the building because it will be stolen overnight. The contractor is having to run generators during the day and they have to remove the equipment from the building or it will be stolen or vandalized. He said that they have notified the police on several occasions about it. He said that the contractor hoped to be done within the next week and once they are done, the demolition permit will become active. The demolition was bid through the small works roster and the low bidder was KD&S Environmental for $55,995.66. He said that they were significantly lower than the other bidders, so the Port reached out to verify the amount. KD&S Environmental stood by their bid and the project was awarded to them. They will move forward as soon as 3 Kings Environmental is done with the abatement.

Kyle Heaton reminded the Commissioners that the question about apprenticeship utilization requirements was asked at the previous meeting, if Midway Underground was required to use 15% of labor hours because the public works project is over $1 million. He said that Amy Graber, the Port's Auditor, has done a tremendous amount of work on this. She reached out to the Washington State Department of Industries as well as others. He said that the requirement is predominantly limited to school districts, four-year institutions of higher education, and certain state agencies, one of those agencies being the Washington State Department of Transportation. However, if WSDOT were to grant money to a municipality, those requirements do not come with the money unless specified be WSDOT. He said that was

verified by L&I. He said there is no requirement on this project, the contract was issued months ago, and the project continues to move forward. Midway Underground is in full compliance, also verified with L&I, and that was how the Port was able to issue their first pay estimate. He said that he thinks the question has been answered.

Commissioner Lahmann thanked Kyle Heaton for looking into it and said that he concurred with it. He also reached out to the same person that Amy Graber spoke with and he educated Commissioner Lahmann on the issue as well. He said that he is used to working on WSDOT projects where it is a requirement and is not used to having WSDOT money where it is not a requirement. He added that the Port will have to watch when it does the offramp because it is a little more direct with WSDOT and it may be a requirement. He said that he has not seen the final contract but maybe that language was overlooked. Kyle Heaton told Commissioner Lahmann he would not likely see the contract until after the bid.

f) **Commissioner Reports:** Commissioner Shaffley reported that she attended the Southwest Washington Regional Planning Organization on January 18, 2023. She said that they were going over different projects and there was not a lot of participation despite pleas for more. She said that she also attended the Centralia-Chehalis Chamber of Commerce Banquet and wanted to congratulate ToledoTel for being awarded Business of the Year. She said that they are doing an amazing job and are an asset to the community. She also congratulated Dianne Dorey, who was awarded the Evergreen Award. She reminded the Commissioners that the Economic Alliance of Lewis County's banquet is on February 3, 2023. She said that it is the 40th anniversary and she is looking forward to that.

Commissioner Lahmann reported that he attended the quarterly Washington State Apprenticeship Council meeting in Tumwater. He said that meeting is where anybody that has an apprenticeship program is there.

Commissioner Markstrom reported that he attended the Mayor's meeting on January 6, 2023.

6) **Adjourn:** Commissioner Shaffley made a motion to adjourn the meeting at 3:57 p.m. Commissioner Lahmann seconded the motion. The motion carried.

COMMISSIONER

COMMISSIONER

Amy Graber

From: Derek Patches <derek@local86.org>
Sent: Wednesday, January 25, 2023 1:57 PM
To: Amy Graber
Subject: Public Comment

Greetings Commisioners,

It has come to my attention that there is interest at todays meeting in eliminating conversations involving apprenticeship utilization goals on Port jobs. Apprenticeship utilization is the law of the land on Public Works/Prevailing Wage projects projects, and has been a success in many municipalities. I would like to know why any of you would think that it shouldn't be encouraged on Port projects?

The only ones that are affected are the apprentices and members that are in programs and live in Lewis County who don't have an opportunity to work on projects they help fund in their own back yards. I don't know what the most valuable goods are that you import, but the most valuable thing that you export is your workforce, when they have to leave their county to search for economic opportunity elsewhere.

You have the chance to consider apprenticeship utilization, and I encourage you to do so.