

March 7, 2006

PORT OF KLICKITAT BOARD OF COMMISSIONERS MEETING MINUTES March 7, 2006 REGULAR SESSION		
TOPIC	DISCUSSION/ASSESSMENT/FINDINGS	ACTION/FOLLOW UP
<u>ATTENDANCE:</u>	<p>Commissioners/Staff Present: Port Commissioners (PCs) Norm Deo, Rodger Ford & Wayne Vinyard; Port Counsel Teunis J. Wyers; Executive Director (Exec.D) Dianne Sherwood and Administrative Assistant/Auditor (AAA) Vickie Drew.</p> <p>PC/Staff Absent:</p> <p>Guests Present: Don McDermott (Dallesport/Murdock Councilman), Tim Hearn (City of Bingen Councilman), Matt Riley (Rapid Readymix), Tony & Jim Riley (Riley Bros. Concrete)</p>	
<u>PUBLIC COMMENT</u>	<p>Chair Deo opened the public meeting at 4:33.</p> <p>Don McDermott introduced himself. He lives in Murdock, is a real estate agent, farmer and a member of the Dallesport/Murdock town council.</p> <p>There was no other public comment.</p>	
<u>COUNSEL'S REPORT</u>	<p>Counsel reported that there is some fine tuning to be done to the Rinker agreement with respect to the alignment of the conveyor and defining legal descriptions.</p> <ul style="list-style-type: none"> • Discussions are ongoing with Ross Island Sand & Gravel regarding a proposed haul road. • Legalities regarding the Williams Pipeline easement and alignment has begun. Exec.D Sherwood has a meeting with Williams Pipeline and NW Natural Gas on March 15. They agree with moving the pipeline; it's just a question of where and when. It is not in their budget for this year, but could be included for next year. • The I.C.E. security issue has been resolved, however there is a new issue regarding use of chemicals in an unventilated area in Bldg 1A. A letter was received from ICE's attorney stating that they are not doing that. • The status of the Rivermile 172 agreement was discussed. Exec.D Sherwood stated that the document is still unsigned. • Counsel asked if there was an issue with the Amerigas lease. Exec.D Sherwood stated that after the gas "event" she wrote a letter to them asking what kind of policy changes they had made to insure that there would not be another "event". She did not receive any kind of response. A letter from Counsel was requested. PC Ford asked if anything had been done about the railroad ties that were damaged. Exec.D Sherwood stated that an inquiry regarding the repair/replacement of the ties had been included in her letter. 	
<u>PUBLIC HEARING - Surplus Property @ DIP</u>	<p>Exec.D Sherwood reported that she had requested plans of how the property would be put to use from the intended purchaser of the property. The plans have not been received as of today. She recommended that the hearing be tabled to a date certain: March 21, the next PC meeting.</p>	<i>Motion Vinyard/Ford to table the Public Hearing to March 21 at 4:30. Motion carried.</i>
<u>ADMINISTRATIVE MATTERS Consent Agenda</u>	<p>Items approved:</p> <ul style="list-style-type: none"> • Minutes of February 21, 2006 • Vouchers #20355-20369; \$11,030.12 • Vouchers #20370-20399; \$109,362.18 	<i>Motion Vinyard/Ford to approve the Consent Agenda as presented. Motion carried.</i>

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<p><u>Financial Report December 2005</u></p>	<p>AAA Drew discussed the cash balances memo noting total liquid funds of \$546,219.05. The balance sheet shows the excess cash receipts over expenditures at \$177,040.16. Revenue and expense account percentages (actual vs. budget) were included on the income statement. The target percentage for December is 100%. Total revenues are at 78%. Total expenditures are at 61% leaving a net income of \$177,040.16. All year end adjustments have been recorded and she will begin work on the annual report soon. A trend report was included thru the year end. AAA Drew will prepare an analysis of what has caused the difference between the actual vs. budgeted net income for discussion at the next meeting.</p>	
<p><u>EXECUTIVE DIRECTOR'S REPORT *Bingen Point* Bldg 1E Update:</u></p>	<p>Exec.D Sherwood reported that the pre-load for Building 1E has been completed and the spoils pile has been sloped. Payment #2 was included in tonight's vouchers, as a letter from the geo-tech was included in the packet which states that Lindberg did comply with all the specifications of the contract, it was compacted properly and they deemed the project substantially complete. Exec.D Sherwood sent a letter to Lindberg indicating substantial completion. The geo-tech will be monitoring the elevations for settlement on March 3, 17, 31 and April 14. They will be able to then tell if the soils have reached maximum compaction and construction can begin. A Joint Aquatic Resource Protection Application (JARPA) has been submitted to KC and a public hearing will be held on April 18. Once the JARPA is approved, a building permit can be issued. Exec.D Sherwood has been working on a personal services contract with Randy Salisbury (DSP Architecture) for design of the building. She would like the PC to authorize her to negotiate and execute a personal services contract with DSP for architectural, civil, mechanical and electrical services associated with Building 1E. The state standard for these services is 6-8% of the building project cost. DSP's proposed fee of \$140,198.99 is below that percentage amount, which might be negotiated to a lesser amount.</p>	<p><i>Motion Vinyard/Ford to authorize Exec.D Sherwood to negotiate and execute a Personal Services Contract with DSP Architecture for architectural, civil, mechanical and electrical services associated with Building 1E. Motion carried.</i></p>
<p><u>*Dallesport Industrial Park* (DIP) Williams Pipeline</u></p>	<p>As stated earlier, Exec.D Sherwood will be meeting with representatives from Williams Pipeline and NW Natural Gas on March 15. She asked how aggressive the PC wanted her to be as to the line being moved out of the aggregate mining area, as a possible location for the line is in the Hwy 197 Right-of-Way (ROW). PC Deo suggested an additional easement along the Bonneville Power Administration (BPA) ROW, however, the Rinker conveyor easement is on the east side and a future railroad easement is on the west side of the BPA ROW. Discussion followed regarding possible locations for the pipeline. The PC would prefer that the line be in the Hwy 197 ROW if possible. If not, 10 feet inside the port's boundary would be acceptable.</p>	
<p><u>Manufacturing Plant Inquiry</u></p>	<p>Exec.D Sherwood reported that she has spent the entire day with the Cameron group. PC Deo asked if they had made a decision yet. Exec.D Sherwood stated that they had not as questions remain unanswered. She will be meeting with them tomorrow along with the Dept. of Revenue, KC Assessor & KC PUD. She displayed a site map showing the proposed location. They expect 500-800 rail cars a year per furnace; a second furnace would be added in a couple of years. The building layout was flipped so that the furnaces are on the north end and the offices would be in a separate building. The Kalama site is not filled either and they have de-watering issues. Discussion followed regarding the railroad issue. Late in the day, it was</p>	

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<p><u>Manufacturing Plant Inquiry, cont.</u></p>	<p>suggested that the building might be a better fit on the lots on the east side of Alpine Drive. Discussion followed. Tenneson Engineering estimates that the cost of either location would be equal. Tenneson estimates the cost (not including blasting) at \$900,000 to \$1.1MM. If a grant and a small loan is obtained from CTED, the sale of the property and a rail car fee could be used to pay the debt. Exec.D Sherwood asked for direction. PC Deo stated that a revenue stream must be there and we must know the costs. Jim Riley suggested selling the property for \$1 and let them make the improvements. Counsel responded that state law prohibits doing that. An advantage over Kalama is that we will sell the property. PC Ford stated that the tax benefit to KC needs to be figured in to the equation. The tax benefit is \$10.65 per thousand on a \$10MM project; \$106,500. PC Vinyard stated that this seems to be one of the best fitted proposals in his time at the port. PC Vinyard stated there is not much he wouldn't agree to, to get this project. PC Ford stated that the PUD and other utility costs would be less if the plant is moved to the east side of Alpine. He considers this project a win/win situation. PC Deo favors making it happen with financial security in mind. PC Vinyard suggested pushing the project toward siting on the lots to the east side of Alpine and getting a commitment from the railroad.</p>	
<p><u>Riley Bros. Operating Agreement</u></p>	<p>Exec.D Sherwood brought PC Vinyard and Counsel up to speed on the discussion at the last meeting regarding a verbal request from the Riley's to negotiate an extension of their operator's agreement, even though the current agreement doesn't expire until March of next year. Jim would like to continue with a 20-30 year agreement on the 50 acres they now occupy and he guaranteed that he would double his production (to 30,000 tons). He said he couldn't compete with the larger companies but he would guarantee \$1.00 per ton. Exec.D Sherwood had suggested to Jim that they could just submit a proposal when the port does a Request for Proposals (RFP) for mining since there has been so much interest from other rock producers. She had explained to Jim that she would prefer to see the aggregate area mined out, get a revenue stream substantial enough to develop the flat, shovel ready property. PC Vinyard was not present at the last meeting and the other two PC had stated they would prefer all three were present for this discussion, so this item was carried forward from the prior meeting.</p> <p>PC Deo requested that Jim explain his proposal further. Jim discussed his failed attempts to negotiate deals over the last 20 years with people down the river that would benefit the Riley's and the port. He would like to reach an agreement ahead of time so they don't find themselves out at the last minute. His interest is in supplying material to the residents of KC. Tony Riley stated that there is a lot more aggregate at DIP than the 50 acre piece. They want to iron out an agreement that would be in both entities' best interest. He added more history and information regarding their proposal. They would relinquish the non-compete clause which is in the current agreement, and the port could put the remaining area out to bid to other companies. They are adding additional equipment that will enable them to increase their production. Tony asked Counsel if there was any ethical, logistical or legal reason not to consider this request. Counsel agreed to answer the legality of making an agreement. He stated that if the PC wanted to "sell the property to the next door neighbor without even looking at the market, they could certainly do that". Exec.D Sherwood stated then the next question would be, if it was prudent. Counsel responded that it "would be one of the most stupid things you ever did". Counsel went on to say that there is no written proposal; not even a letter. He couldn't imagine the PC would consider extending the agreement without..... PC Deo interrupted, stating that he would damn sure consider it. The Riley's have been good tenants for a long time and are an asset</p>	

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Riley Bros. Operating Agreement, cont.

to the community. Tony clarified that they are not interested in extending the present agreement; they want to create a new agreement.

PC Deo stated that he has a problem with the contention coming from Counsel and Exec.D Sherwood concerning the Riley's. He wants the final decision kept amongst the PC and only wants a legal opinion from Counsel; not a personal opinion.

PC Deo stated that the rapport with the Riley's has been rocky as hell over the years and any negotiations would have to be on port terms, if it's even considered. Negotiations in the past have been difficult in trying to get issues solved.

Exec.D Sherwood asked Jim if he found her difficult to work with. Jim responded that he did not, but that her recommendations are a little difficult. He stated that when she says that she recommends putting the aggregate mining out for bid, "it's quite obvious that we can't compete with Ross Island Sand & Gravel or we can't compete with Rinker." Exec.D Sherwood reminded Jim that she discussed with him the intangible things that the Riley's bring; benefit to the community, providing a service and supplying rock to the local market. She stated that she felt there was no reason that the Riley's couldn't submit a proposal for the 50 acres to be considered along with other proposals that may be received as a result of a RFP. Jim stated he doesn't want to wait until then and if an agreement could be reached, they would relinquish the non-compete clause now.

Tony asked if they should write up a proposal, if the Riley's and the port should work one out together or if the port wants Counsel to write up a document. Exec.D Sherwood suggested getting a consensus of whether the PC would even consider this before determining who writes the document. • PC Ford stated that he supports small businesses that provide a benefit to the community and the Riley's have filled that need. The Riley's are looking at survival of their family business depending on having this pit available over the next few years. He is in favor of a term shorter than 20 years. He wants to see how the production goes on the Dennis' pit. He asked if the port's permit allows more than one operator on the property. Exec.D Sherwood will investigate that question. PC Ford favors more than one operation going at the same time if the permit allows. • PC Deo stated that he has little confidence in some of the big corporations. They paint a big picture, but the port's experience has been that it doesn't really happen. He is not excited about a big company coming in and depleting the resources and leaving the community without resources for building and development. He is very interested in moving the material and if the exclusive clause can be dropped now, then the property can be broken out for various other companies to submit a proposal immediately. Exec.D Sherwood reminded the PC that the current agreement is up March 20, 2007; one year away. An RFP could be issued during that period. PC Deo stated that another issue for him is that he has an allegiance to existing tenants and he is going to support the Riley's for that reason. He apologized for his comments to Counsel, but said he didn't appreciate being called stupid for considering this issue. Exec.D Sherwood asked how many pits the Riley's operate in addition to the port's. Their Goldendale pit is not a concrete aggregate source, Dallesport is the only one.

PC Ford would like to check into the permit process to determine if more than one operator is allowed under the current permit. Jim offered that the port's property is zoned General Industrial and mining and processing material is an outright permitted use.

An air quality permit and a reclamation plan would be required for any operation over 3 acres. PC Ford

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<p><u>Riley Bros. Operating Agreement, cont.</u></p>	<p>favors both supporting Riley's business and opening up other lands for another operator.</p> <p>PC Vinyard stated that he didn't know enough about rock to make an informed decision. He feels the port needs to issue a RFP, and at the very least suggested hiring a consultant to give advice on how to manage the aggregate resource. He supports the Riley's but we have to get an equitable price for the product. "How do we know what that is without a RFP?" He stated the need to know what the port wants to see; a rate of mining, the need for cash flow, site ready lots, how quick do we want that to happen? He is not opposed to the Riley's proposal, but thinks we need to take a better look at it as it is such a major decision.</p> <p>PC Deo was worried that waiting would put the Riley's in a difficult position. PC Deo recalled a conversation with the Riley's during the Pac Rock conveyer negotiations wherein it was stated by the port that if they (Riley's) would cooperate and work with the port (in this easement matter), this cooperation would help them in re-negotiating their operating agreement. He was concerned about the consequences to the Riley's once a RFP is issued. They would not be able to compete with Ross Island or Rinker; they would be put in a real predicament when it comes to competing and serving the local area. The "big boys" are going to serve the Portland market, and the Riley's serving the local area. He is in favor of letting the Riley's have their piece and then the rest goes to the big boys. Exec.D Sherwood asked if the Riley's needed a certain amount of acreage. PC Deo felt that was up to the port. If he was going to do this, he would put Riley's in an area that would not impact the port's ability to move the rest of the material. He stated that this is an opportunity for the port to lay it all out in a way that best benefits the port. Discussion followed regarding the port's expectations and how a consultant could help answer those issues.</p> <p>PC Deo stated that the areas that the port wants site ready do not need the kind of mining the Riley's are doing; those areas need hard rock (basalt) mining. PC Ford doesn't want to see a local business, and what he feels they have done for this community, go away. He thought the opportunity they have offered in allowing the port to open up the rest of the property immediately is huge. Riley's aggregate mining on one area and hard rock mining occurring on other areas seems like the best of both world's. PC Ford stated that the Riley's are operating now and promise to increase their production. At the end of next year, after a RFP, it is possible that we could end up with a corporation that comes in and ties up the property for 5 years, and even with commitments, we may have nothing happening out there.</p> <p>Jim said he didn't care what the dollar per ton rate was and he would pay a minimum royalty of \$30,000 a year. Any increase in the per ton rate just gets passed on to the consumer.</p> <p>Discussion followed regarding how to proceed. PC Deo suggested a two-pronged approach: that the Riley's research the local market and present a written proposal, and suggested searching for a consultant. He would like to at least see what the Riley's have to offer and if that doesn't work out, wait until the current agreement is over and then issue a RFP. He doesn't want to close the door on them.</p> <p>Exec.D Sherwood stated she would hate to see the PC wait until the agreement is up before moving forward with a RFP. She felt this was such an important opportunity that the port would want companies to have several months in which to respond, and also time for the port to develop a comprehensive set of criteria to include in the RFP. PC Deo stated that if an RFP is issued without consideration to the Riley's existing operator's agreement, he would look very closely at the RFP because he will recommend favoritism to an existing tenant over a new tenant. Riley's should include in their proposal the following items: research of local market with prices, suggestions for other possible locations, maps showing location of aggregate resources, how the property would be managed, average production, cash flow, how fast will the</p>	
<p><u>Riley Bros. Operating Agreement, cont.</u></p>	<p>acres be processed, how quickly will the acres be site ready, comment on how your location would affect the port's ability to issue a RFP to other operators. Exec.D Sherwood will try to find a consultant.</p>	

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<u>MISCELLANEOUS</u> <u>Port of The Dalles</u>	The proposed dates for a joint meeting don't work for the Port of The Dalles commission. Andrea said that Friday's are a good day for them; especially for a lunch meeting. PC Ford is available March 31 or April 7. PC Deo is available March 31. PC Vinyard is unsure of his schedule. Exec.D Sherwood will try to set up a meeting for March 31.	
<u>Committee Updates</u>	<u>AIRPORT</u> : PC Deo had no report. <u>MCEDD</u> : PC Ford had no report. <u>KC EDA</u> : PC Vinyard had no report.	
<u>Legal Opinion Request</u>	Jim Riley asked if it was ok for him to talk with Wayne Wooster and go through the EDA board and have him get an opinion from Steve DeJulio (KC Counsel) regarding if there is a way the port could make a deal for selling property. PC Deo suggested waiting until after tomorrow's meeting and see what happens.	
<u>Wayne Vinyard</u>	PC Vinyard stated that he values Counsel's comments and observations and doesn't mind hearing them. Any decision is up to the PC, but he values his opinion as an attorney. PC Deo prefers that Counsel limit his comments to legal opinions only.	
<u>PUBLIC COMMENT</u>	There was no public comment.	
<u>ADJOURNMENT</u>		<i>Chair Deo adjourned the public meeting at 7:25.</i>

Approved on: _____
(Date)

Respectfully submitted _____
Vickie L. Drew, Administrative Assistant

Dianne Sherwood, Executive Director

Norm Deo, Chairman