

FRIDAY HARBOR PORT DISTRICT
Port Commission Meeting
Wednesday March 24, 2021 at 12 pm
Minutes

The public was prohibited from attending in person due to COVID-19 restrictions but could dial into the meeting via the Zoom. Comments were e-mailed to the Port or addressed to the commission during the public comment section.

Commissioners Present: Graham Black
 Barbara Marrett
 Greg Hertel

Staff Present: Todd Nicholson, Executive Director
 Phyllis Johnson, Port Auditor
 Tami Hayes, Harbor Master
 Randy Everitt, Executive Secretary

Discussion Items:

- A. **Kelly Balcomb-Bartok** presented information via power point to the Commission on the Sea Scouts requesting the donation of 2 slips that they now have at the Port. The Commission was not able to grant forgiveness of moorage fees for the 2 slips and offered suggestions on how the Sea Scouts might earn money to offset the cost of their moorage. The Executive Director said that there were some internal options available such as deferments that might help put the Sea Scouts in a position where they can resume normal fund-raising activities.

- B. **The Executive Director** informed the Commission of new cost estimates for the Marine Technical Center. The costs appeared to be on track at the 30% design level and had escalated more than expected at the 60% level. Now the estimated cost of the project is nearer to 5.5 million dollars and has become untenable for the Port. The business incubation space rental would not support that level of increase.

Chris Patano from Patano Studios informed the Commission that he believed in the vision and that this conversation should be part of the process so there would be no surprises on bid day. He said that he believed the cost estimates are accurate and this was a horrible time to build projects like this. Mr. Patano said that material costs have gone through the roof and the cost of wood is about 3 times more than this time last year and steel had doubled. The other factor is Covid uncertainty and premiums are being added by every sub-contractor. He said that about 18% was added to the costs due to the uncertainty surrounding the pandemic and another 8% added to the construction costs for covid mitigation and another 12% for building on the island.

Chris Patano said we have about 18 months to get the waterfront and shoreline permitting process completed so the Port has time to mitigate some of these costs with alternative actions. He said there are state and federal funding options. He suggested that the Port reach out to state legislators as well as Cares packages. He said they have had great success with acquiring funding for shovel ready projects (projects that are ready to go).

Chris Patano suggested that we stick with the original plan acquire more money and add the brewery also. He recommended that the Port keep its “asks” comprehensive and Patano would be willing to provide the necessary documentation to assist the Port in acquiring additional funding.

Chris Patano said the Executive Director suggested that Patano lower the price so that the Port could afford it. He said there were ways to reduce the price by re-addressing the concrete retainer wall and there are other areas that could be reduced. He asked that the Port not overreact and further stated that this was the worst time for construction. He said that there are two options available. One (1) was to continue with the current design and seek more money or, two (2) reduce the scope of the plan by half and re-design the building.

The Executive Director said the initial thoughts are that the existing building design is fantastic. However, if the Port were not able to acquire funding then the Port would not have enough reserve capacity or borrowing authority to complete the project. If there was not enough funding located to finish the project then the current 2 million dollars already obtained would go away. The Port would then have to start the project again and he was not willing to roll the dice. The other drawback to the Cares funding is that it is administered through state and federal programs such as the EDC and the Department of Commerce in Washington. Those programs require the creation of jobs as an integral part of the grant.

The Executive Director recommended to do one of two things. (1) Take the 60% design and do a small amount of work on it and get the permits for the projects we currently have and submit for funding. That could take 18 months to complete. Concurrently do the redesign for the lower cost option that we can afford even if we don’t get the additional funding. That way the Port runs two permit processes concurrently and selects the one that makes sense once all funding is known. If the Cares funding is approved the Port could opt for the lower cost design and eliminate the debt with the Cares grant.

The Executive Director thinks we can bring the building costs down dramatically. The Port doesn’t need that expensive of a building for the type of program the Port is trying to deliver. There are different retaining and foundation methods that can bring the cost down. There are several different options for roof design and electrical service, and different deck flooring and made several other recommendations as well.

The Executive Director asked for two weeks to work with Chris Patano and Erik Barr to come up a concept to reduce costs and circle back with the Commission to decide on which path to go down or to execute the dual options.

Commissioner Black provided a recap of the options presented by Patano and the Executive Director. Commissioner Black said that he would like the Commission to consider an option C, keeping the footprint and design at the 60% level but scaling back on the roof top deck, and leaving internal construction undone which can be part of the tenant improvements. He also said that the electrical panel could be metered for each tenant. He said he was in support of Option B which is a dual permitting strategy and the Port should seriously consider making the building smaller and leaving some of the construction undone and allow for new tenants to complete to their specifications.

Chris Patano said that he could “nibble around the edges” to reduce some of the overall costs but in the end that would not be significant enough to make a lot of difference. He said he did support the Executive Directors dual approach to permitting.

Patano further said that the best way to reduce cost was to reduce footage and program.

Commissioner Hertel asked about the permitting process and if it was possible to move one of the buildings and hold the permitting process until we can afford it?

The Executive Director said that if you stay at a \$400.00 per square ft. building and reduce size in-half then it becomes a \$500.00 a square ft. building with all the site costs. There is no scenario where business incubation can cover the cost of the building.

Commissioner Hertel commented “it’s a shipyard, we don’t need to put a state-of-the-art building there”. We don’t need expensive panels or electrical. So, lets build it with the least expensive materials and get it done.

Chris Patano said that mechanical and electrical systems are a great target for cost reductions and would look at other options for reducing costs.

Commissioner Hertel said that he did not want state of the art but wanted functional.

The Executive Director discussed several options regarding the roof structure, and he believed that area could be targeted for cost reductions.

Commissioner Marrett said that the Commission should consider paring down some of the items that we really want such as the covered plaza and patio area until more funds are available. She said it made sense to her to get permits for the areas that we want and then as staff has time and money becomes available those projects get completed.

Commissioner Black said we should consider moving the building East and eliminating the driveway and the six or seven parking spots at the bottom of the hill. He said that because we are so early in the design and buildout process that we could limit the traffic to then work bay area.

Chris Patano said that moving the building East could bring into play some larger savings and said the site was very challenging and that we were asking a lot from that piece of property.

Commissioner Hertel advised the Executive Director that he was in favor of the dual permitting process and added that moving the Building East may bring in other issues such as storm drainage.

The Executive Director said that there were other obstacles that could come into play, but they were not insurmountable. Asking less of the site and the building is a realistic course of action.

Commissioner Marrett, the Executive Director and Commissioner Black discussed the arrangement of the patio area and where the staircase could be moved or eliminated to further increase the savings. Such a move could cause the design team to look for parking spaces in another location. The Executive Director said that he would need to work with the County to find additional parking. He said that these changes would be challenging for parking, but it was not insurmountable. He said that we may have to eliminate the lower parking to a drop off area only.

Commissioner Marrett asked about trucks with trailers, permeable pavement, and the ability of cars to drop things off at the workspaces.

The Executive Director said that the access would not be better but probably not worse.

Erik Barr commented that the access would be better from the West side due to the terrain but sliding the building to the East could save some significant costs.

The Executive Director and **Erik Barr** commented that there could be considerable savings, but it would come from many different areas and not just one item that would make the difference.

The Executive Director provided a recap to the Commission that he understood that it is their desire that he not launch permitting off of the existing 60% design and the Port take the next couple of weeks to make a concept sketch that holds mostly to the existing configuration within the building and to also make a sketch that keeps the flavor of the building but simplify' s the structure losing membrane decks.

Action Items:

- A. The Commission approved the Executive Directors Performance Review and authorized a 2% increase in addition to the standard Cost of Living Allowance (COLA) with a 3-0 vote.
- B. The Commission approved Resolution #21-004, Airport Coronavirus Response Grant Program (ACRGP) with a 3-0 vote.

Regular Business:

- A. The Commission approved the Minutes from March 10, 2021 Commission meeting with a 3-0 vote.
- B. The Commission approved the payroll and vouchers with a 3-0 vote.

Staff Reports:

The Executive Director said that the Port has received all of its emergency authorizations for the Jensen Marina collapse. The demolition is complete, and all the docks and pilings are removed. Tomorrow they start driving the new pilings which will be completed by the end of next week. There will also be between 7 to 10 docks completed and as soon as the demolition crew has left the Port and staff will start assembling docks. All options are still open for covered and uncovered moorage.

The Executive Director said the Port has developed a way to construct covered moorage at a greatly reduced cost but will leave the walkway uncovered. The Port will use a poly carbonate covering which will reduce the mitigation costs significantly. The Executive Director said that the difference between covered and uncovered moorage has come down significantly to about 500k to 700K. He said the big unknown is still insurance and we will be talking to insurance representatives this Friday.

The Executive Director further stated that a considerable amount of the insurance coverage is dedicated to the reconstruction of the covered moorage and will not be available to us if it is not used for that purpose.

Commissioner Marrett said that the Port should reach out to the "Friends" and also reach out to the Tribes explaining that what is taking place at Jensen's and Shipyard is much more environmentally friendly.

The Executive Director advised that Commission that he would like to have a special meeting on April 14 to have a Public Hearing to go over the Rule and Regulations and fee structure for the self-work area at Shipyard Cove.

Port Commissioner and Committee Reports: None

Commissioner Marrett asked about reservations at the Port. The Harbor Master said that the phone was ringing off the hook. Commissioner Hertel said that his tour business was picking up significantly which was unusual for this time of year.

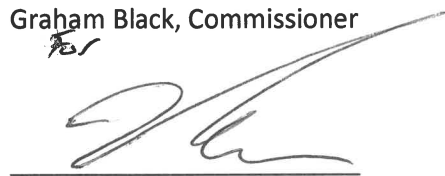
Citizen comments/requests: Citizens can make a brief comment or may ask the Commission to schedule a topic for further discussion at a future meeting. None

Adjourn:



Graham Black, Commissioner

For



Barbara Marrett, Commissioner

For



Greg Hertel, Commissioner

For

FRIDAY HARBOR PORT DISTRICT
Port Commission Meeting
(Call in Information Below)
Wednesday February 24, 2021 at 12 pm
Meeting Agenda

The public is prohibited from attending in person due to COVID-19 restrictions but may dial into the meeting via the link listed below. Comments can be e-mailed to the Port or addressed to the commission during the public comment section.

Join Zoom Meeting
<https://zoom.us/j/3796847063?pwd=d3NoTW05aXNqaWUzL1g0UVhsN1RoQT09>

Meeting ID: 379 684 7063
Password: 7063

Citizen comments/requests: Citizens can make a brief comment or may ask the Commission to schedule a topic for further discussion at a future meeting.

If you choose to comment please identify advise the Commission of your first and last name for the record before you begin your comments.

Discussion Items:

- A. Jensen's Marina update
 - a. Overview of Port actions to date – see staff report
 - b. Moorage considerations – see staff report and recommendations
 - c. Status of Carlson Construction work
 - d. Status of Ellisport Engineering work
 - e. Status of emergency permitting
 - f. Preliminary plan of reconstruction pending permits

Action Items:

- A. The Commission will consider ratifying an emergency contract approval with John Carlson construction; Phase 1 and Options.
- B. The Commission will consider ratifying an emergency Contract with Ellisport Engineering (Structural – piling and replacement floats).

Regular Business:

- A. Approve Minutes from February 10, 2021.
- B. Approve payroll and vouchers.

Staff Reports:

Port Commissioner and Committee Reports:

Citizen comments/requests: Citizens can make a brief comment or may ask the Commission to schedule a topic for further discussion at a future meeting.

Adjourn:

Jensen response to date:

--Sunday 2/14, Port staff respond to calls that the outer Jensen's covered moorage structure had collapsed

--Sunday 2/14, Port staff put up orange cones and caution tape on the pier to prohibit access to the marina same day

--Sunday 2/14, Vessel Assist/Boat US and IOSA responded to the site for initial assessment and protection

--Sunday 2/14, Port staff call vessel owners who are moored under collapsed roof to alert them of the situation

--Tuesday 2/16, Port staff called on local Vessel Assist/Boat US to start moving vessels out of the Jensen marina that are in the first covered moorage structure and began giving rides to individuals who have vessels outside of covered moorage to move their own vessels into Shipyard Cove or the Main marina.

-- Tuesday 2/16, Port insurance engaged

--Friday 2/19, Emergency permits have been applied for, inspections scheduled, customers under collapsed structure are emailed claims form and information to date on removing collapsed roofs.

-- as of Monday 2/22:

- Emergency demolition and recovery permits acquired

- Emergency contract in place with Carlson Construction for demolition and boat recovery

- Initial Port Insurance adjuster and structural engineer site visit complete

-- Tuesday 2/23, Carlson Construction begins mobilization

Planned:

Wednesday 2/24, Carlson Construction begins roof removal and boat recovery

Moorage Considerations/Recommendations:

--Tuesday 2/16 Port Insurance suggests turning off moorage charges for customers under collapsed roof and issuing credits from Sunday 2/14.

--All other customer impacted vessels have moorage in other Port facilities.

For vessels under collapsed structure: Recommend that moorage fees not be assessed for the period of time between the collapse and the boats' repair and return to Port moorage.

For vessels relocated from Jensen's Marina: Recommend offering moorage at the lessor of the previous Jensen Moorage rate or the rate where they are now located.

Other considerations:

*The rebuilt facility will likely have some minor differences in the number and size of slips. During the emergency reconstruction it is highly unlikely that we will have permits that allow the replacement of any covered moorage.

Recommend that all displaced Jensen customers supersede all existing waiting and transfer lists for Shipyard Cove, until Jensen Marina can be reoccupied.

Recommend that if the Port is able and willing to reestablish some form of covered moorage, whether Port owned or privately owned, that displaced covered moorage tenants receive first opportunity to occupy any replacement covered moorage.

PROJECT NAME: JENSEN MARINA BOATHOUSE COLLAPSE

**PORT OF FRIDAY HARBOR
EMERGENCY PUBLIC WORKS
CONTRACT # 21-003**

This Contract is made and entered into this 18th day of February 2021, by and between the **PORT OF FRIDAY HARBOR**, P.O. Box 889, Friday Harbor, Washington, 98250, a municipal corporation (the "Port"), and Carlson Construction, Inc. (the "Contractor").

1. Project

Contractor shall furnish all the material and perform all of the work and labor for the Project, which is an emergency public work, located in San Juan County, Washington in accordance with this Contract and the "General Conditions – Emergency Public Works Contracts" attached hereto:

2. Work

The Contractor will perform the following work:

Jensen Marina Emergency Scope: See sketch

In accordance with the description of work contained in the FEB 17, 2021 "Port of Friday Harbor, Jensen's Shipyard Emergency Authorization" letter:

5. Mobilization

1. Remove High dock.
2. Relocate 80' boathouse.
3. Remove collapsed boathouse complex including floats.
4. Remove damaged boathouse complex including floats.
5. Remove 50' boathouse. (Actually 60')

Subtotal \$287,946.00 Tax 8.5% \$24,475.41 Total \$312,421.41

Potential add-on scope:

1. Remove 6 damaged piling.
2. Replace up to 29 damaged piling.

Subtotal \$159,579.00 Tax 8.5% 13,564.22. Total \$173,143.22

Disposal of all removed materials at an approved upland disposal area is the sole responsibility of the contractor.

3. Payment

The Port will pay the Contractor **Above** amount plus applicable Washington State Sales tax for the work listed above:

4. Schedule

Contractor has begun or shall begin the work on February 23, 2021 and completed by April 1, 2021.

Exclusions:

Permitting, insurance over what we carry, any and all monitoring, surveying, diving, engineering, testing, locating and relocating of utilities, and anything not specifically included.

5. Performance and Payment Bond

The contractor shall execute and deliver to the Port the bond or other surety for the anticipated total cost of the contract in compliance with RCW 39.08.010 within **three (3) business days** of the execution of the contract – N/A

6. Prevailing Wage Law.

The rate of wages to be paid to all workmen, laborers or mechanics employed in the performance of any part of this contract shall be in accordance with the provisions of Chapter 39.12 R.C.W., as amended, and the rules and regulations of the Department of Labor and Industries. Inasmuch as the contractor will be held responsible for paying the prevailing wage, it is imperative that all contractors familiarize themselves with the current wage rates before submitting on these specifications.

7. WAIVER OF WORKERS COMPENSATION INDEMNITY

The Contractor expressly waives, as respects the Port only, all immunity and limitation on liability under any industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim. By initialing below the owner and contractor certify the waiver of immunity specified by this provision was mutually negotiated.



Contractor

CARLSON CONSTRUCTION, INC



Verified by PDFfiller
02/19/2021


Port of Friday Harbor

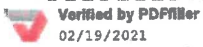
8. Exclusive and sole jurisdiction and venue for all claims concerning or arising out of this Contract shall be in the Superior Court for San Juan County, Washington. Both parties hereby waive the right to a jury trial in any such dispute.
9. This Contract shall be binding upon all heirs, executors, administrators, successors, and assigns. The representations and warranties contained herein shall survive the termination of this Contract.
10. This Contract, the exhibits attached hereto and the General Conditions – Emergency Public Works Contracts” represent the entire agreement between the Port and the Contractor. No other promises, representations or warranties shall be valid and binding unless they are reduced to writing and signed by the parties hereto. No amendment to this Contract shall be valid unless reduced to writing and signed by the parties hereto.

THE UNDERSIGNED REPRESENTS AND WARRANTS AS FOLLOWS:

- A. *The undersigned has read and understands this Contract, the exhibits and the General Conditions – Emergency Public Works Contracts”.*
- B. *The undersigned is authorized to execute this Contract on behalf of the Contractor.*
- C. *This Contract contains indemnifications and a waiver of protection under the Industrial Insurance Act.*

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT in duplicate the day and year first above written.

CARLSON CONSTRUCTION, INC.



By: Terri Carlson

Terri Carlson Vice President
Print name and Title

Telephone No. 360 445-5000

Date signed: 2-19-21

PORT OF FRIDAYHARBOR

By: Todd Nicholson

Todd Nicholson
Print Name and Title

Telephone No. 360-749-0664

Date signed: 2/19/21



8047 Burke Ave N. • Seattle, WA 98103 • 206.948.5366

February 17, 2021

U.S. Army Corps of Engineers – Seattle District
Regulatory Branch
ATTN: Matt Bennett, Kylie Webb, Randel Perry, and/or Corps Project Manager
NWS-PermitApp@usace.army.mil

Re: Port of Friday Harbor
Jensen's Shipyard Emergency Authorization

Dear Mr. Bennett, Ms Webb, Mr. Perry, and/or additional Corps Project Manager:

As follow up to the completed Notice of Need for Emergency Work form and supporting site photos and plan view figure, we are submitted supplemental documentation of expedited actions the Port is executing in response to emergency conditions at the Jensen's Shipyard Marina.

SUMMARY

Critical marina infrastructure experienced unexpectedly-severe damage caused by the winter storm that first arrived in the Puget Sound region the evening of February 12, 2021. This storm damage is forcing the Port to abandon its planned long-term maintenance schedule and move expeditiously to emergency repairs and replacement of storm damaged marina facilities.

The Port has restricted all access to the affected facilities and is evaluating the full extent of storm damage, but it is evident that the central system of boat houses has collapsed due to storm forces and the weight of recent snowfall. They are currently held afloat by trapped vessels and floats. The southern (landward) system of boathouses is distressed and appear to be in a state of imminent failure. These existing boathouses and floats must be removed and replaced in order to address the immediate risk to both human safety and the environment, the significant loss of property, and immediate, unforeseen, and significant economic hardships to the Port, local residents, and businesses that depend upon the damage facilities.

The Port plans to initiate emergency demolition and repairs as soon as possible, and no later than the beginning of next week. It is currently working to control debris and maintain a safe perimeter around site hazards.

EMERGENCY DETERMINATION

CFR 325.2(e)(4) provides conditions for the Corps to establish whether a situation can be elevated to emergency status, and establishes special processing procedures that Corps' Division engineers are authorized to take in these situations.

CFR 325.2(e)(4) Emergency procedures. Division engineers are authorized to approve special processing procedures in emergency situations. An "emergency" is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. In emergency situations, the district engineer will explain the circumstances and recommend special procedures to the division engineer who will instruct the district engineer as to further processing of the application.

Even in an emergency situation, reasonable efforts will be made to receive comments from interested Federal, state, and local agencies and the affected public. Also, notice of any special procedures authorized and their rationale is to be appropriately published as soon as practicable.

As shown in photos provided previously, the recent storm damage has caused conditions that pose an unacceptable hazard to life and significant loss of property. A substantial percentage of marina tenants have been displaced by this emergency situation, and the Port does not have sufficient capacity elsewhere to provide offsite moorage. These marina tenants, as well as the local residents and businesses that rely on the marina will experience significant economic hardship that will be exacerbated unnecessarily if the emergency is not remedied quickly. Additionally, the Port reports that at least eight (8) vessels trapped beneath the collapsed boathouses are at imminent risk of sinking, which would result in a potential release of boat fuel and other deleterious substances. Action is required as soon as qualified contractors can mobilize staff and equipment to this remote site.

ACTIONS

As soon as possible, but no later than early next week, the Port intends to initiate emergency demolition and repairs. Action is required as soon as possible; however, given its remote location, the Port anticipates some delays before a qualified contractor can mobilize on site. The Port is currently working to control debris and to maintain a safe perimeter around site hazards, but is not equipped to perform major infrastructure removal.

Immediately upon learning of the storm damage, the Port restricted access to these facilities to minimize risks to human safety; however, environmental and economic impacts are likely without immediate action. After securing the damaged facilities, the Port initiated a claim with its insurance provider and is in the process of hiring a qualified contractor that can mobilize to Friday Harbor immediately. The Port anticipates that a contractor can arrive on site by the end of this week or early next week to commence removal and salvage operations, followed by replacement of damaged pilings.

Port staff had been in the process of fabricating the new floats authorized under NWS-2020-630; however, they will re-purpose the timber and materials that are currently on site to build float replacements for the affected floats and pier. Port maintenance staff have been re-prioritized to address emergency conditions. The anticipated sequence of the Port's planned emergency actions is described below:

Site Preparation: Emergency work to address the recent winter storm damage requires temporary relocation and removal of the existing system of floats, piers, and single intact boathouse that are located waterward of the distressed boathouses. These structures obstruct access to the damaged marina facilities and must be temporarily relocated/removed to create the space needed to position the two (2) barges (estimated at 40'x80' each) required to operate equipment and transport boathouse and float materials offsite for disposal at an approved upland location. Starting with the most waterward obstructions, temporary relocation and removal work is expected to include:

1. Decouple existing floats and relocate to temporary moorage, where they will not ground out or obstruct shallow water habitat.
2. Remove the existing, creosote-treated, solid decking pier and dispose materials at an approved upland location.
3. Decouple the existing, intact boathouse and relocate to temporary moorage, where it will not ground out or obstruct shallow water habitat.
4. All structures that must be temporarily removed to provide access to storm damaged marina facilities will be replaced in their original location after marina repairs are complete.



Work Staging and Site Protection: Once the existing floats, pier, and intact boathouse have been temporarily relocated/removed, the Port's contractor is expected to position two (2) barges (estimated at 40'x80' each) adjacent to the storm damaged boathouse systems. BMPs (booms) will be installed to prevent offsite migration of boathouse debris.

Boathouse Removal: Once site protection is installed, the Port's contractor is expected to remove the storm damaged boathouse facilities, taking care to minimize debris. Boathouse materials will be placed in a disposal barge for transport to an approved upland transloading and disposal facility.

Float and Piling Removal: Once the boathouse materials are removed, the Port's contractor will perform a condition assessment of the existing floats and piling that were beneath the boathouses. Given the extent of storm damage currently evident, the Port anticipates that floats and piling must also be replaced. The contractor is expected to decouple damaged floats from existing creosote-treated piling. Damaged floats will be placed in a disposal barge for transport to an approved upland transloading and disposal facility. After floats are removed, the contractor will attempt vibratory removal of damaged creosote-treated piling. All piling will be placed in a disposal barge for transport to an approved upland transloading and disposal facility. All creosote-treated piling will be disposed – none will be re-used in either an in-water or upland location.

Site Cleanup: After initial demolition and temporary removal work is complete, the Port's contractor will investigate subtidal habitat for boathouse, float, and piling debris that may have sunk. The contractor will remove demolition debris from the bottom and place it in a disposal barge for transport to an approved upland transloading and disposal facility.

Reconstruction: The Port and its marina tenants and customers rely on the storm damaged marina infrastructure, and there is insufficient capacity offsite for long-term relocation. To minimize the significant economic hardship caused by this unforeseen event, the Port must immediately replace the moorage facilities and associated infrastructure that were removed. Once the contractor completes demolition and site cleanup, they will initiate restoration of affected facilities. Beginning with the landward-most infrastructure, the Port's contractor is expected to replace damaged infrastructure with new facilities. Once damaged infrastructure is replaced, the contractor will relocate the intact floats and boathouse from their temporary moorage back to their original location.

- **Piling:** As soon as storm damaged boathouses are floats are removed, the contractor will begin replacing storm damaged, creosote-treated piling with up to 12" steel piles in the same footprint.
- **Pier and Floats:** Damaged floats built with solid, treated-wood decking will be replaced with fully-grated floats in the same footprint. The existing pier, which must be removed to provide workspace and access to demolish and remove the damaged boathouses, serves as the only point-of-access to the roughly 25% of marina facilities located north (waterward) of the storm damaged facilities. Once the access pier has been removed, it cannot be re-used and must be replaced to maintain access to the northern quarter of the marina. Rather than installing a new pier, the Port proposes to replace the existing pier with a fully-grated float located in an identical footprint. As describe above, the Port intends to re-purpose the equipment and materials that are already on site to build these replacements, and re-prioritize the Port maintenance staff required on an emergency basis. Under these emergency conditions, the Port plans to have replacement floats ready to be deployed in as little as two (2) weeks.

The Port intends to replace the existing boathouses with equivalent structures in an identical footprint as current marina infrastructure to ensure no impact to the environment. The replacement structures will require more



time to design and construct in order to meet current safety and environmental requirements; however, the removal of existing boathouses is a temporary measure and the Port preserves all rights to maintain these existing structures in their current location.

SUMMARY

The recent winter storm caused substantial, unanticipated damage to critical marina facilities. This has created conditions that meet the criteria established in CFR 325.2(e)(4). Specifically, storm damaged boathouses and associated infrastructure pose an unacceptable hazard to life and significant loss of property. The Port, its tenants, and the businesses that rely on these marina facilities are experiencing an immediate, unforeseen, and significant economic hardship, which will be exacerbated if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

The Port is currently in the process of hiring a qualified contractor available to mobilize on site as quickly as possible, and they plan to initiate major demolition and repair activities by no later than early next week. We are notifying the Corps of these actions, and requesting an emergency permit and/or NWP3 on an expedited basis to complete this emergency work

Please don't hesitate to contact me at 206.948.5366 or peter@leon-environmental.com if I can answer any questions or provide additional information.

You may also contact the Port of Friday Harbor's Executive Director, Todd Nicholson, at 360.749.0664 or toddn@portfridayharbor.org with any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter Leon", is written over a light blue horizontal line.

Peter Leon
Principal Scientist



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, SEATTLE DISTRICT
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

February 18, 2021

Port of Friday Harbor
Mr. Todd Nicholson
Post Office Box 889
Friday Harbor, Washington 98250

Reference: NWS-2021-172
Friday Harbor, Port of
(Boathouse Emergency)

Dear Mr. Nicholson:

We have received your request for a Department of the Army (DA) emergency authorization to temporarily relocate an existing float and undamaged boathouse to allow access and removal of damaged boathouses and associated debris at Friday Harbor, San Juan County, Washington, as depicted on the enclosed drawings dated February 16, 2021. We have reviewed the information you provided to us pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (RHA). We have determined that no action by the U.S. Army Corps of Engineers (Corps) is required for the proposed debris removal work described in your emergency authorization request and the accompanying drawings.

Please note, at this time we are not authorizing installation of any replacement structures. Once the debris has been cleared from the site and you have had an opportunity to evaluate the remaining structures, you may provide detailed information on the nature of any replacement work, including drawings, for Corps review. At that time, we will evaluate the suitability of an emergency authorization to conduct the work.

Under Section 10 of the RHA, a Section 10 DA permit is normally required for work or structures in or affecting navigable waters of the U.S. Shipyard Cove (Jensen Marina) is a navigable water under Section 10 jurisdiction. However, based on our review of the impacts associated with this project, we have determined that an action by the Corps under Section 10 of the RHA is not required for the debris removal portion.

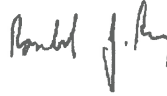
Removal of the structures and associated debris must be accomplished in accordance with the provisions found in the document (letter) titled, "*Port of Friday Harbor, Jensen's Shipyard Emergency Authorization*," dated February 17, 2021 and the drawings dated February 16, 2021. If additional work, including excavation, dredging, filling, backfilling, or stockpiling material is

required to remove a structure, a DA permit may be required and must be obtained before the activity can commence. See the enclosed *Clean Water Act and Rivers and Harbors Act Extracts and Definitions* for further information.

While a DA permit is not required for the debris removal work, local, State, and other Federal requirements may still apply. For assistance in determining other permit requirements for the proposed project, we recommend you contact the Washington State Office of Regulatory Assistance via the internet at www.ora.wa.gov.

A copy of this letter will be furnished to Mr. Peter Leon of Leon Environmental, LLC at peter@leon-environmental.com. If you have any questions, please contact Ms. Kylie Webb at Kylie.M.Webb@usace.army.mil or (206) 764-5531.

Sincerely,



for Matthew Bennett, Section Chief
Regulatory Branch

Enclosures



Vicinity Map

Reference: NWS-2021-172

Applicant: Port of Friday Harbor

Location: 1293 Turn Point Rd
Friday Harbor, WA 98250

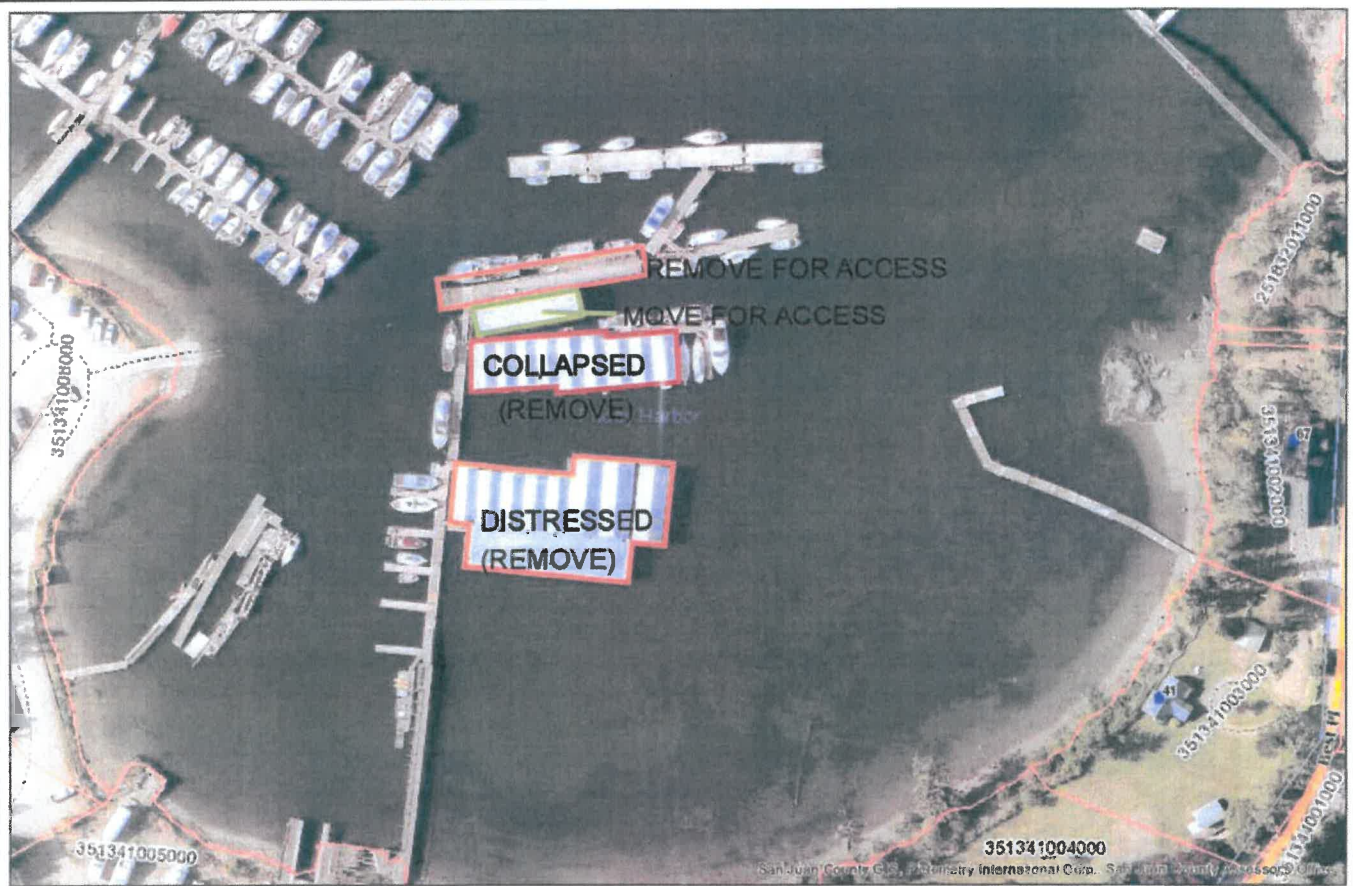
Lat/Lon: 48.52533 N / -122.99924 W

Page 1 of 2

Date: 2/16/2021

Jensen's Marina Emergency Repairs

In: Shipyard Cove
Near: Friday Harbor
County: San Juan
State: WA



This map is derived from San Juan County's Geographic Information System (GIS). It is intended for reference only and is not guaranteed to survey accuracy. The information represented on this map is subject to change without notice.

1 in = 100 feet

0 0.01 0.02 mi



San Juan County - Polaris

NWS-2021-172

2/16/2021

Sheet 2 of 2



Clean Water Act And Rivers and Harbors Act Extracts and Definitions

EXTRACTS from the Clean Water Act:

1. SECTION 301 (33 U.S.C. 1311)

The discharge of any pollutant by any person shall be unlawful except as in compliance with various sections of the Clean Water Act, including Section 404.

2. SECTION 309 (33 U.S.C. 1319)

This section provides that any person who negligently violates the provisions of the Clean Water Act may be punished by a criminal penalty of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. Any person who knowingly violates this Act may be punished by a criminal penalty of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. This section also provides that any person who violates the provision of this Act may be subject to a civil penalty up to \$53,484 per day for each violation.

3. SECTION 404 (33 U.S.C. 1344)

(a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the navigable waters at specified disposal sites.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator of the Environmental Protection Agency (Administrator), in conjunction with the Secretary of the Army, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impacts of the site on navigation and anchorage.

(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary of the Army. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

EXTRACTS from the Rivers and Harbors Act of March 3, 1899:

1. SECTION 10

The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is hereby prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of the Army; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port roadstead, haven, harbor, canal, lake, harbor of refuge, or enclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army prior to beginning the same. (30 Stat. 1151; 33 U.S.C. 403)

2. SECTION 12

This section states that every person and every corporation that shall violate any of the provisions of Sections 9, 10, and 11 of this Act, or any rule or regulations made by the Secretary of the Army in pursuance of the provisions of Section 11, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$2,500 nor less than \$500, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court. And further, the removal of any structures or parts of structures erected in violation of the provisions of the said sections may be enforced by the injunction of any district court exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States. (30 Stat. 1151; 33 U.S.C. 406)

The Alternative Fine Statute (18 U.S.C. 3571) increased the amount of fines the government may impose for criminal violations of Section 10. An individual who has been found guilty of a Class A misdemeanor that does not result in death may be fined up to \$100,000 (18 U.S.C. 3571(b)(5)), and an organization that has been found guilty of a Class A misdemeanor that does not result in death may be fined up to \$200,000 (18 U.S.C. 3571(c)(5)).

DEFINITIONS from the U.S. Army Corps of Engineers Regulatory Program:

The term **"wetlands"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (33 C.F.R. 328.3)

The term **"adjacent"** means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by manmade dikes or barriers, natural river berms, beach dunes, and the like are **"adjacent wetlands."** (33 C.F.R. 328.3)

The term **"ordinary high water mark"** means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area. (33 C.F.R. 328.3)

The term **"high tide line"** means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm. (33 C.F.R. 328.3)

The term **"mean high water"** in coastal areas means the average high water of the tides. Where precise determination of the actual location of the line becomes necessary, it must be established by survey with reference to the available tidal datum, preferably averaged over a period of 18.6 years. Less precise methods, such as observation of the **"apparent shoreline"** which is determined by reference to physical markings, lines of vegetation, or changes in type of vegetation, may be used only where an estimate is needed of the line reached by the mean high water. (33 C.F.R. 329.12)

The term **"navigable waters of the United States"** means those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. (33 C.F.R. 329.4)

The term **"discharge of dredged material"** means any addition of dredged material into, including redeposit or dredged material other than incidental fallback within, the waters of the United States. The term includes, runoff from a contained land or water disposal area, and any addition, including redeposit, of dredged or excavated material. The term dredged material means material that is excavated or dredged from waters of the United States. (33 C.F.R. 323.2)

The term **"discharge of fill material"** means the addition of fill material into waters of the United States. The term generally includes placement of fill necessary for the construction of any structure or infrastructure requiring rock, sand, dirt, or other materials for its construction. Fill material is material placed in waters of the United States where the material has the effect of replacing any portion of the waters with dry land or changing the bottom elevation of any portion of the waters. (33 C.F.R. 323.2)

The term **"structure"** means, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other obstacle or obstruction. (33 C.F.R. 322.2)

The term **"work"** means, without limitation, any dredging or disposal of dredged material, excavation, filling, or other modification of a navigable water of the United States. (33 C.F.R. 322.2)

PROJECT NAME: JENSEN MARINA BOATHOUSE COLLAPSE (Engineering)

**PORT OF FRIDAY HARBOR
EMERGENCY PUBLIC WORKS
CONTRACT # 21-004**

This Contract is made and entered into this 24th day of February 2021, by and between the **PORT OF FRIDAY HARBOR**, P.O. Box 889, Friday Harbor, Washington, 98250, a municipal corporation (the "Port"), and Ellisport Engineering (the "Contractor").

1. Project

Contractor shall furnish all the material and perform all of the work and labor for the Project, which is an emergency structural engineering assessment, located in San Juan County, Washington in accordance with this Contract and the "General Conditions attached hereto:

2. Work

The Contractor will perform the following work:

Jensen Marina Emergency Scope: See sketch

In accordance with the description of work contained in the FEB 17, 2021 "Port of Friday Harbor, Jensen's Shipyard Emergency Authorization" letter:

- 1. Mobilize to the site.*
- 2. Evaluate the safety and structural integrity of existing boathouse structures, walkways and fingers, and piling.*
- 3. Make recommendations/report as to the suitability and safety of reconstruction using any of the remaining boathouse infrastructure or piling.*

3. Payment

The Port will pay the Contractor the following amount plus applicable Washington State Sales tax for the work listed above:

\$ _____ plus, sales tax \$ _____ for a total of \$ _____.

4. Schedule

Contractor has begun or shall begin the work on February 25, 2021 and be completed by April 1, 2021.

5. Performance and Payment Bond

Not applicable.

6. Prevailing Wage Law.

Not applicable.

7. **WAIVER OF WORKERS COMPENSATION INDEMNITY**

The Contractor expressly waives, as respects the Port only, all immunity and limitation on liability under any industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim. By initialing below the owner and contractor certify the waiver of immunity specified by this provision was mutually negotiated.

Contractor

Port of Friday Harbor

8. Exclusive and sole jurisdiction and venue for all claims concerning or arising out of this Contract shall be in the Superior Court for San Juan County, Washington. Both parties hereby waive the right to a jury trial in any such dispute.
9. This Contract shall be binding upon all heirs, executors, administrators, successors, and assigns. The representations and warranties contained herein shall survive the termination of this Contract.
10. This Contract, the exhibits attached hereto and the General Conditions – Emergency Public Works Contracts” represent the entire agreement between the Port and the Contractor. No other promises, representations or warranties shall be valid and binding unless they are reduced to writing and signed by the parties hereto. No amendment to this Contract shall be valid unless reduced to writing and signed by the parties hereto.

THE UNDERSIGNED REPRESENTS AND WARRANTS AS FOLLOWS:

- A. The undersigned has read and understands this Contract, the exhibits, and the General Conditions – Emergency Public Works Contracts”.**
- B. The undersigned is authorized to execute this Contract on behalf of the Contractor.**
- C. This Contract contains indemnifications and a waiver of protection under the Industrial Insurance Act.**

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT in duplicate the day and year first above written.

Ellisport Engineering

PORT OF FRIDAYHARBOR

By: _____

By: _____

Print name and Title

Print Name and Title

Telephone No. _____

Date signed: _____

Telephone No. _____

Date signed: _____

A hand-drawn diagram of a stepped shaft on graph paper. The shaft has a total length of 200 units, divided into four segments of 40, 50, 50, and 50 units. The diameters of the segments are 34, 36, 38, and 40 units, respectively. The segments are labeled with their diameters and lengths. The total length is labeled as 200.



FRIDAY HARBOR PORT DISTRICT
Port Commission Meeting
(Call in Information Below)
Wednesday February 10, 2021 at 12pm
Minutes

The public is prohibited from attending in person due to COVID-19 restrictions but may dial into the meeting via the link listed below. Comments can be e-mailed to the Port or addressed to the commission during the public comment section.

Join Zoom Meeting
<https://zoom.us/j/3796847063?pwd=d3NoTW05aXNqaWUzL1g0UVhsN1RoQT09>

Meeting ID: 379 684 7063
Password: 7063

Citizen comments/requests: Citizens can make a brief comment or may ask the Commission to schedule a topic for further discussion at a future meeting. None

Discussion Items:

- A. The Executive Director discussed the Port 's participation and rationale in corporate/private development of the Airport.** The Executive Director stated the more easily developed prime location Land parcels were offered as an incentive if a contactor developed the more difficult parcels first. If, however a contractor wanted to develop a parcel that was significantly less difficult, then the Port could require an additional development at a site such as the Jet-A fuel station that would benefit the general public as well as the developer.

The Executive Director said that the Port has very limited space for hangar development and many interested parties are interested in developing the remaining parcels. The Executive Director said that there were approximately nine individuals interested in leasing some of the available property, but none were willing to develop the more difficult parcels with the exception of M.E.M on the South end of the Airport. A separate Jet-A fuel/North end hangar developer who is interested in building a hangar in the area near Ernie's Restaurant is an example of that process. The Executive Director saw those two development sites as an opportunity for the developers with an positive outcome for the Port and the general public.

The Executive Director also provided the Commission with an overview of pending and future development at the Airport. The Executive Director stated that ground-breaking on the south airport development area should begin in April 2021. The Executive Director discussed the potential revenue stream from these developed areas and the Ports general involvement.

The Commission asked many questions regarding the north airport projects, taxiways, box hangars, the potential use of Ernie's restaurant and the addition of a space on the main terminal.

- B. The Commission received an update for the permitting and the configuration of the Marine Technical Center.** The Executive Director stated that the 60% design for the Technical Center will arrive at the end of this month which will reflect the Commissions preferences. The Executive Director also said that the Port and the design team were hiring Orcas Sewage Design as a consultant to determine the sewage volume for the new building and to make certain that there is a plan in place to build the community septic system for that area. The Executive Director said that he should have the date from the consultant which will then allow him to re-contact the Home Trust to do a cooperative sewage project.

The Executive Director said that he has completed pre-application meetings with the County and had extensive conversations with Patano Design and anticipates the Port will be applying for the land use permits by the end of February. In the beginning of March, the Port will receive the first cost estimate which the Executive Director will bring to the Commission for review and align the estimate with the current budget. The Executive Director was confident that a considerable amount of work normally included in the cost estimate could be performed by Port staff resulting in an actual reduction of the overall cost.

- C. The Commission received an update on new employee requirements (IT/maintenance and mechanic/carpenter) and a corresponding economic analysis for those positions.** The Executive Director desires to hire an Information Technology (IT) /maintenance employee to work on the Ports (IT) requirements. He would also like to hire a mechanic /Carpenter to assist with the on-going projects at all the Ports locations. The Executive Director stated that the labor-to-revenue cost was under 40% which is within the Ports budget projections. The Commission approved the additional positions but asked that those positions be advertised for an open/competitive hiring process.

- D. The Commission received an update on the airport restaurant configuration. The FAA has advised the Port that a combination restaurant/hangar will violate FAA airspace due to the height of the hangar doors.** The Executive Director asked the Commission, "if a self-funded restaurateur is willing to build an addition to the airport terminal for the purpose of operating a restaurant with no financial assistance from the Port, would the Commission approve such an undertaking"?

The Commissioners asked several questions regarding the financial structure and the potential for relocating the terminal at a later time under the B-2 Master plan. The Commission recommended that the Executive Director require a construction bond as protection for the Port in case the project is abandoned by the restaurateur. The Commissioners approved the project moving forward under the protection of a construction bond.

Action Items:

- A. The Commission approved Resolution #21-002 (Jensen Pile Replacement #1 Project) with a 3-0 vote.
- B. The Commission approved Resolution #21-003 (Fuel Pier Piping Project) with a 3-0 vote.

Regular Business:

- A. The Commission approved the Minutes from January 27, 2021 with a 3-0 vote.
- B. The Commission approved the payroll and vouchers #01558-01605 for \$401,266.92. with a 3-0 vote.

Staff Reports:

The Executive Director said that the concrete work at Shipyard Cove for the self-work area would be completed next week and tools and additional materials are on order and that project should be ready for the public in about one month.

The Executive Director also said that staff had recommended that one of the self-work bays be configured in order to allow sailboats to be brought in without having to remove the mast. The Executive Director said that it was possible to configure the roof in such a way as to allow that and he work with staff to see if a design was possible.

The Executive Director also provided information on Phase 2 of the Jensen's rebuild. The Executive Director said that a phase 2 pre application meeting for the rebuild of Jensen's is scheduled for the end of the month with the Corps of Engineers. The Port will determine if the Corps requires the Port to do a maintenance project like the walkway fingers already under construction. Final conversations will determine how the new structures are built and where those locations are.

Port Commissioner and Committee Reports:

Commissioner Hertel traveled to Tacoma Yacht Club and viewed the covered moorage and boat house area.

Citizen comments/requests: Citizens can make a brief comment or may ask the Commission to schedule a topic for further discussion at a future meeting.

Executive Session:**Adjourn:**

