

**Port of Anacortes**  
**Regular Commission Meeting**  
**May 5, 2011**

The Port Commission of the Port of Anacortes held its regular business meeting at 7:00 P.M. on the evening of May 5, 2011. This was a regularly scheduled Commission Meeting held in the Commission Meeting Room of the Port Main Warehouse Building, 1<sup>st</sup> & Commercial Avenue, Anacortes, Washington.

In Attendance: Commission President Rubin, Commission Vice-President Mooney, Commission Secretary Niver, Commissioner Hopley and Commissioner Short.

Also in attendance: Executive Director Hyde, Director of Finance & Administration Johnson, Director of Operations & Facilities Hachey, Marina Manager Fowler, and Executive Assistant Lindsey.

Others in attendance included Port legal counsel, Frank Chmelik.

CALL TO ORDER

At 7:00 P.M. Commission President Rubin called the regular meeting of May 5, 2011, to order and welcomed all in attendance.

PUBLIC COMMENT PERIOD

Commissioner Rubin opened the floor for public comment pertaining to items on the regular agenda. Noting there could be a number of people wishing to address the Commission, he asked that those speaking please limit their remarks to three minutes.

*1. Mr. Hal Rooks, 1219 10<sup>th</sup> Street, Anacortes, addressed the Commission. Mr. Rooks read from a prepared statement and congratulated the Commission on their open discussions, patience and attentive listening regarding development of a parking policy. Mr. Rooks noted his greatest concern was for nearby residents of any parking leased on Port property to others. He questioned what authority the Executive Director would have in reference to the "parking leased to others" category. He noted the Executive Director currently has authority to sign leases of up to one year without Commission approval. Mr. Rooks inquired whether the Executive Director could continue temporary leases without sequential Commission approval, noting sequential leases would no longer be temporary. He was of the opinion that the full Commission should formally review and vote on any leases covered under the "parking leased to others" category prior to approval. A copy of Mr. Rooks' comments will be attached to the approved version of these minutes.*

*2. Mr. Edward Bradley, 1403 7<sup>th</sup> Street, Anacortes, addressed the Commission. Mr. Bradley noted he had spoken to the Commission at their April 7<sup>th</sup> meeting regarding parking leased to others and his referral to the Anacortes Municipal code. Mr. Bradley recalled that Libby Grace of the City had attended the meeting as well and had explained that certain restrictions, such as parking being within 1,000 of the business it serves applying in certain zones. He noted that his testimony on April 7<sup>th</sup> referred to the Commercial Marine 1 (CM1) and Commercial Marine 2 (CM2) zones as applies to parking, and public, private, and commercial uses. A copy of Mr. Bradley's statement will be attached to the approved version of these minutes.*

### EXECUTIVE SESSION ANNOUNCEMENT

Commissioner Rubin announced that following the second public comment period, the Commission would take a short recess and then move into Executive Session for the purpose of discussing litigation or potential litigation with legal counsel and to consider lease, sale or purchase of real property. The Executive Session was anticipated to last for one hour and action might or might not be taken.

### CONSENT AGENDA

Commissioner Rubin read the consent agenda items: Approval of Minutes of the Regular Meeting of April 7, 2011, and Regular Meeting Work/Study Session of April 21, 2011; Approval of Vouchers No. 5-1 through 5-133 totaling (\$1,527,121.33); and Approval of the March 2011 Treasurer's Report totaling \$15,588,598.84; Action Items: Contract Acceptance for "T" Avenue Improvements Project and Resolution No. 1233 – Increases to Port Petty Cash Funds. Commissioner Rubin called for any objections to the consent agenda. There were no objections. Commissioner Rubin asked whether Regular Agenda Item #4, Executive Director Authorization to Surplus and Sell Personal Property, could be moved to the Consent Agenda. Commissioner Mooney stated that he wished to speak in regards to Item #4. Commissioner Rubin noted the Consent Agenda would remain unchanged. He called for a motion for approval. Commissioner Short moved to approve the consent agenda. Commissioner Mooney seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

### REGULAR AGENDA

Commissioner Rubin noted that there were members of the public in the audience who had come to speak about and hear the Commission discuss a Port parking policy draft, and polled the Commission on moving that Discussion Item up in the agenda. Hearing no objections, the item was moved to the top of the Regular Agenda.

Commissioner Rubin noted that the current draft of the parking policy had been posted on the Port's website and opened the floor for Commission discussion.

Commissioner Niver suggested removing the sixth "whereas" statement sentence. In regards to the term "temporary" Commissioner Hopley noted no term was stated or implied and he would like to see that defined. Commissioner Niver agreed, believing temporary should be defined as one year or less. Commissioner Hopley observed that of the temporary parking uses noted, only "parking leased to others" involved a lease. He further observed that a parking policy was ultimately needed in support of the Port's Comprehensive Plan, and for some period of time, the Port would have some parking capacity in excess of those needs outlined in the Plan. He wished to see wording in the policy that would ensure that no leases that would limit the Executive Director's ability to meet higher priority needs be allowed.

Commissioner Mooney requested a further explanation of what was considered festival activities other than Port events. These were noted as public festivals in Anacortes with the Anacortes Arts Festival and the Oyster Run given as examples. Commissioner Mooney expressed concern that if the Port were to lease property to others for parking, it would limit the Port's ability to provide parking for occurrences such as the current parking on Parcel 1 while the Guemes Ferry dock was being upgraded. He was of the opinion that no private business should be allowed to lease Port property, and especially not in areas in and around the Cap

Sante Boat Haven. Commissioner Rubin believed that position would be contrary to the Port's mission.

Commissioner Niver noted that a definition of temporary as one year would aid the Port in leasing parking. He gave as examples, Dakota Creek Industries, Aeronautical Services, United Parcel Service, all of whom lease temporary parking from the Port and all of which could be moved readily. He preferred that the Port leave its options open, and specify temporary as one year or less only.

Commissioner Short noted the Port did lease temporary parking and suggested such an agreement of longer than thirty days could be subject to review by the Commission. He noted the Port property is rated as commercial, not residential and should be leased for commercial parking purposes within the downtown area. Commissioner Short observed the lowest "all other parking" category would include those parking at the Boat Haven who then take transit out to the ferry for the San Juan Islands to avoid paying parking fees at the state ferry terminal. He noted he would not want to see casual visitors to the Boat Haven restricted.

Commissioner Rubin noted the Commission should add back in public access had been included in a prior version as included in the Comprehensive Plan required uses.

Commissioner Hopley observed that the Port might consider having only a certain amount of non-permanent parking space leased out at any one time.

Commissioner Mooney noted that an entity had approached the Port about possible off-sight parking for a business they were looking to locate in and adjacent to a residential neighborhood. Commissioner Short was in favor of the City's code that required parking to be within 1,000 feet of the business it supports.

Commissioner Rubin observed that the draft resolution stated the Port would be consistent with Federal, State, and local laws and codes pertaining to parking. Executive Director Hyde noted that the Commercial Marine 1 and 2 parking did not carry the 1,000 foot requirement.

Commissioner Mooney wished to exclude leases to businesses located outside of Port properties. Commissioner Hopley observed that the purpose of developing a policy was to treat every case in more or less the same manner.

Commissioner Short asked Mr. Bradley to read the City's code aloud at the podium. Mr. Bradley noted the CM, CM1, and CM2 Anacortes Municipal Code chapters did not include parking of any kind as conditional uses. He read permitted uses in Chapter 17 as follows:

*Private parking – means parking owned or leased by a private entity and intended for use by that entity's employees and patrons. The private entity may charge fees and establish regulations as determined necessary to effectively control the parking. Private parking is a permitted use in all zones when it is co-located with the facility it is intended to serve. Private parking is also a permitted use in all zones except R1, R2, R3, R4 and P where it is a conditional use provided that it is located within one thousand feet of the facility.*

*Public parking – means parking intended for use by the general public. Fees for parking may be charged and parking may be regulated as determined necessary by the public entity providing the parking by such means as designating the duration a vehicle may park, the hours the parking lot is open, which spaces are designated for public parking and which require permits, etc. Public parking is a permitted use in any zone in connection with the facility it is intended to serve, providing that parking is co-located with the facility.*

*Public parking is also a permitted use in all zones except R1, R2, R3, R4 and P where it is a conditional use provided that it is located within one thousand feet of the facility it is intended to serve.*

*Commercial parking – means parking operated as a business with fees charged and regulations established by the owner of the parking facility. Commercial parking is a permitted use in all zones except R1, R2, R3, R4 and P.*

Commissioner Rubin thanked Mr. Bradley for reading the code. He noted that it appeared parking must be co-located next to or near the business it serves. Commissioner Rubin reviewed the Commission's suggested updates to the policy resolution as follows:

Reinsert "Public Access" as a Comprehensive Plan required use on page one.

Add that "Parking leased to others" be on a space available basis, with such leases no longer than one year, with any renewal subject to Commission approval.

Remove the "Whereas" sentence that noted the Port had parking capacity in excess of the current Comprehensive Plan requirements.

Commissioner Rubin noted he would review these changes with the Executive Director and bring the draft item back to the Commission. He called for a short break to allow those members of the public who wished to leave the opportunity to do so.

#### ACTION ITEMS

#### Resolution No. 1234 – Cap Sante Boat Haven Moorage Rates: 2% Adjustment, effective July 1, 2011 -

Executive Director Hyde introduced Director of Operations & Facilities Hachey who reviewed the item for the Commission. The item requested an increase in permanent moorage rates of 2% for Cap Sante Boat Haven, effective July 1, 2011. Director Hachey explained that the Port's adopted 2011 Operating Budget and Capital Improvement Plan included a 2% adjustment in rates and that, in deference to the economic downturn, rates had not been increased since 2008. Although the Port had not increased rates, costs associated with maintaining the Boat Haven have continued to increase. Expenses have increased by 8.2% in 2010 with the margins for fuel prices alone increasing by 5.8% since 2009. Market comparisons to other marinas in the Pacific Northwest show that the Boat Haven is below market in most moorage rate categories. The greatest demand at present is for 40-57' slip lengths.

In response to questions from the Commission, Director Hachey noted that the 8.2% increase in expenses overall includes the cost of fuel, with additional increases seen in the cost of electricity. As of this meeting, the Boat Haven has 110 vacant slips, most in the 30' and under range, representing those boats most easily trailered. Commissioner Short observed that many of those slips would be replaced during the reconstruction of E & F Docks this fall. Executive Director Hyde further responded that there would be an increase in transient fees from \$1.05 to \$1.10 per square foot. Commissioner Niver noted that moorage tenants have also been given the option of the Port's 12 for 11 program, paying moorage for 11 months up front and receiving the 12<sup>th</sup> month at no charge. Executive Director Hyde observed that 30 moorage tenants have taken advantage of that program, providing them with a cost savings of approximately 8.2%.

Commissioner Rubin called for a motion prior to continuing discussion. Commissioner Short moved to adopt Resolution No. 1234, authorizing the Executive Director to increase Cap Sante Boat Haven Moorage rates for permanent tenants. Commissioner Niver seconded the motion. Commissioner Rubin requested any additional discussion. Commissioner Hopley observed that

prior to his arrival on the Commission seven years ago; prior Commissions had spent a lot of time to create a rate model for use in determining moorage rates. He found that having such a model was a valuable tool for rate setting for the following reasons:

1. Fair, predictable, and transparent
2. Considered the delicate balance between the needs of local residents and visiting boaters
3. Prevented the potential for the appearance of any conflict of interest

Commissioner Hopley believed the prior Commissions that had set the rate model in place recognized the need for systematic examination of the rates in order to maintain the Boat Haven. Although the Commission in recent years had set the rate model aside due to the state of the economy, he encouraged the Commission to re-institute a rate model in the future, and consider using replacement value in systematically setting rates.

Commissioner Short noted that vacancy rates were an indicator to be considered in setting rates for moorage. The availability of dry storage and other lower cost options, such as removing small trailerable boats, were also factors in determining rates. He noted that although he owed two boats, moored at the Boat Haven, he had never voted against an increase.

Commissioner Mooney believed the economy was not sufficiently recovered to support an increase in moorage rates and noted he would vote against doing so.

Commissioner Niver agreed with Commissioner Hopley that the Commission should consider a return to the rate model in the future and not set rates in accordance to market rates, or follow the poor management of others.

Commissioner Rubin agreed with Commissioner Short that the rates were driven by both the market demand and the economy. He noted the Boat Haven would have been fairly empty if the Commission had followed the rate model due to the high increases it would have purported. After three years he believed an increase was needed.

Commissioner Hopley observed the Commission had agreed to not have increases during the economic downturn, and not strictly follow market rates. He advocated a systematic and non-market rate approach for the future.

With discussion concluded, Commissioner Rubin called for a vote on the motion, which carried 4-1 with Commissioner Mooney opposed.

#### Authorization to Surplus and Sell Personal Property – Miscellaneous Items no Longer Needed for Port Purposes –

Executive Director Hyde explained that the Port had a variety of logs of non-determined ages that were removed from underground during the remedial action and cleanup of the former Scott Paper Mill site. The logs range in size from six feet to ten feet in length and from 12-26 inches in diameter. The Port will use some of the logs, but the majority of them are not needed for Port operations. The saleable value of the logs is unknown at this time. Staff's intent is to sell the logs in a competitive bid or auction. In the event the value exceeds the Executive Director's authority, staff is requesting authorization to surplus the logs.

Commissioner Niver inquired whether the logs were the Port's property since the cleanup was performed with funding partners Kimberly-Clark and the Dept. of Ecology.

Port legal counsel Chmelik clarified that all materials on the site were the property of the Port. Kimberly-Clark was involved in the environmental cleanup because that corporation was the former owner of the Scott Paper site. The Dept. of Ecology helps in this and other cleanups as they receive a tax to use in this manner. The logs were not considered hazardous materials and are the Port's property.

Commissioner Mooney hoped the logs would be of good value. Director of Finance & Administration Johnson noted that due to their high salt water content, from a milling standpoint, the logs might not be as valuable.

Hearing no further discussion, Commissioner Rubin called for a motion. Commissioner Short moved to authorize the Executive Director to surplus and sell or otherwise dispose of the logs from the former Scott Paper Mill site that are no longer needed for Port purposes. Commissioner Mooney seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

Resolution No. 1235, Authorizing the Executive Director to Sign On-call Consulting Contracts for up to 3 Years in Length –

Executive Director Hyde explained that the Commission adopted Resolution No. 1220 in May of 2010, in it establishing limitations on contracting and the administrative authority of the Executive Director. Since 2007, the Port has issued "on-call" requirement-type contracts for engineering and architectural services, usually with a framework agreement for a three year period. This type of contract affords a great way to increase efficiency and reduces staff time in advertising for and reviewing statements of qualifications. Addressing these contracts was left off when the Commission updated the Executive Director's authority via Resolution No. 1220. Staff is requesting approval of Resolution No. 1235, adding Executive Directory authority for on-call contracts not to exceed three years, superseding Resolution No. 1220.

Commissioner Rubin called for a motion. Commissioner Short moved to adopt Resolution No. 1235, adopting Commission overarching policies, including a Master Policy Directive for the Administrative and Contracting Authority of the Executive Director, superseding Resolution No. 1220 and all previous editions. Commissioner Mooney seconded the motion. Following a brief discussion, Commissioner Rubin called for a vote on the motion, which carried unanimously.

STUDY SESSION

Capital Improvement Projects Scoring Review –

Commissioner Rubin observed the Commission had adopted a scoring sheet a few years ago to aid them in determining priority for Capital Improvement Projects. During recent discussions, the Commission had noted a need for changes in the scoring. Commissioner Niver noted that the Commission had spent time considering the scoring process, with the move to go ahead with the P/Q Small Craft Hoist being the first occurrence where a project scored low but was approved by the Commission any way.

Commissioner Rubin noted that certain maintenance projects have to be done regardless of score. Commissioner Mooney believed halting facility degradation should be higher. Commissioner Hopley believed the Commission should consider a change to the weighting of items as shown on the current score sheet. He suggested the Commission limit their scoring sheets to discretionary projects, keeping necessary maintenance projects separate.

Commissioner Niver agreed and also suggested eliminating the category for cost-effectiveness as he reasoned that should be inherent in the other categories. The Commission also suggested that legal compliance be removed for the same reason.

These changes met with the consensus of the Commission. Commissioner Niver noted it would be helpful to know how much funding the Commission had for discretionary projects. Commissioner Hopley noted the Commission would also like to be informed whether maintenance projects must be done now, or could be done within the next ten years. Commissioner Rubin will put a discussion of revised scoring sheets on the agenda for the Commission's June 2<sup>nd</sup> meeting.

### COMMISSION DISCUSSION

#### Airport Master Plan –

Commissioner Niver explained that the current Airport Master Plan was completed in 1994 and conceived as a twenty-year plan, whose time would soon be up, however, he didn't think updating the Plan should be based on dates but rather on need. He believed the Port should begin the process by defining the objective or problem and any need for action. Commissioner Niver foresaw creation of a new Plan as involving a lot of public input and well as involvement from the Federal Aviation Administration (FAA).

Commissioner Mooney observed that the current Plan was dated and needed replacing.

Commissioner Hopley was concerned that if a Master Plan had an expiration date, some might think it expires if it were not replaced. He did not think updating the Master Plan had to be a huge process and was basically a renewal of important fundamental points in the existing Plan. Commissioner Rubin agreed.

Commissioner Short noted the Commission needed to discuss certain areas of the Airport for future growth of hangars and planning for aircraft related industries. He noted that planes have changed since the 1994 Plan was adopted. Planes today are lighter and travel faster.

Commissioner Niver observed the existing 1994 Plan was inconsistent with what is in place at the Airport, noting the Port has an agreement with the City of Anacortes which should be incorporated into a new Plan as well as including a layout plan.

Commissioner Hopley noted that people do read and rely on planning documents and the Airport Master Plan should be updated to redo projections, update operational information and consider planned development.

Director of Operations & Facilities Hachey noted the Anacortes Airport is at the lowest funding level of commercial services airports for the FAA and could expect limited resources from that entity in updating the Plan, which would require an outside consultant.

### COMMUNICATIONS

Redistricting - Executive Director Hyde reported that the Port may have an opportunity to partner with the City on an outside consultant to perform an analysis for the Port. The Port, like other public agencies, is required to examine its districts every ten years to determine whether they are still equally represented for population.

Groundbreaking for Puget Sound Rope office building – The Port held a ground breaking ceremony on April 29<sup>th</sup> for the new Puget Sound Rope building adjacent to the warehouses currently leased from the Port. Local architects Underwood and Associates have designed the building were present along with the contractor and representatives of Puget Sound Rope.

Opening Day of Boating Season – Executive Director Hyde noted that the Port would hold its second annual opening day celebration on the 7<sup>th</sup> of May on the Central Pier at Cap Sante Boat Haven. Commissioner Short invited boats wishing to join in the parade past the central pier to meet at E Dock by 11:30 a.m.

Community Tour – The next tour of Port projects will be held May 9<sup>th</sup>, starting at 4 p.m. at the Cannery Building office for a sneak peak at the former Scott Paper Mill Site and Seafarers' Memorial Park area.

Passagemaker Magazine Trawlerfest will be in its 4<sup>th</sup> year here May 9-14<sup>th</sup>. Organizers are expecting 80 boats and between 500 and 1,000 attendees.

The grand re-opening of the Seafarers' Memorial Park after a two year environmental cleanup action will take place on May 20<sup>th</sup> beginning at 11:30 a.m. A Ribbon Cutting ceremony and community barbeque are among the events planned to showcase this great success story.

The Port will honor Port Partners during the annual Waterfront festival Kick-off Dinner, also on the 20<sup>th</sup> beginning at 6 p.m. in the Transit Shed. The Waterfront Festival is May 21-22<sup>nd</sup> at the Boat Haven.

The Port's popular free summer concert series is returning this summer and will be located at the Seafarers' Memorial Park. Jesse Colin Young will be appearing August 6<sup>th</sup> at the Seafarers' Memorial Park. This paid concert is separate from the free Friday night concerts with tickets available at [brownpapertickets.com](http://brownpapertickets.com) or by calling the Snohomish Artists Guild. Also returning to the Boat Haven this summer are the Central Pier performances, two hour entertainments each Saturday and Sunday in July and August. Those interested in performing may contact Executive Assistant Lindsey at the Port's main office for more information,

### UPCOMING MEETINGS

Executive Director Hyde reviewed the Commission's upcoming meeting schedule. The second regular meeting in May will be cancelled as members of the Commission and staff are attending the Washington Public Ports Association spring meeting in Blaine. The Commission will notice a special meeting for the Grand Re-opening of the Seafarers' Memorial Park on May 20<sup>th</sup>. The first regular meeting in June is scheduled for June 2<sup>nd</sup> at 7:00 p.m. Commissioner Rubin noted on the agenda for that meeting was a discussion of long-range tax planning, the evaluation of the Executive Director, a report from staff on telecommunications equipment, and CIP scoring.

### PUBLIC COMMENT PERIOD

Commissioner Rubin opened the public comment period for items not on the regular agenda.

1. *Mr. Tom Glade, 210 Mansfield Court, Anacortes, addressed the Commission. He noted Commissioner Short's comments regarding the Anacortes Airport and observed that the Anacortes Airport was the heaviest impacted airport in the United States. Any expansion of the runway would move it closer to homes and not be appropriate. He explained the energy of any moving object as mass times velocity squared and summarized that today's newer, faster planes were inherently more dangerous and nosier.*

Hearing no one else with a desire to address the Commission, the public comment period was closed. Commissioner Rubin announced the Commission would take a short recess before entering into Executive Session to discuss litigation or potential litigation with legal counsel and to consider lease, sale or purchase of real property. The Executive Session was anticipated to last for one hour and action might or might not be taken. The meeting recessed at 8:57 P.M.

### EXECUTIVE SESSION

At 9:07 P.M. the Commission continued and entered into Executive Session. At 10:17 P.M. the Commission came out of Executive Session and resumed the Regular Meeting. Commissioner Rubin called for a motion or motions regarding the items discussed.

Commissioner Niver moved to authorize the Executive Director to negotiate and execute a purchase and sale agreement for parcel P32883 between “Q” and “R” Avenues at 9<sup>th</sup> Street, adjacent to the Cap Sante Boat Haven, at a price not to exceed assessed value plus associated normal and customary taxes and transaction fees. Commissioner Mooney seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

Commissioner Niver moved to authorize the Executive Director to negotiate and execute a purchase and sale agreement for parcel P56521, 502 3<sup>rd</sup> Street adjacent to Wyman’s Marina, at a price not to exceed assessed value plus associated normal and customary taxes and transaction fees. Commissioner Mooney seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

Commissioner Niver moved to authorize staff to proceed with the remedial investigation, sampling, analysis, and data reporting associated with the Former Shell Oil Tank Farm site cleanup project, Project #ENV-02, for a total cost not to exceed \$250,000, to be spent out of the Environmental Fund as available and the remainder from the General Fund. Commissioner Short seconded the motion. Commissioner Rubin called for a vote on the motion, which carried unanimously.

### ADJOURNMENT

With no further business to come before the Commission, Commissioner Mooney moved to adjourn, which was seconded by Commissioner Short. Commissioner Rubin called for the vote on the motion, which carried unanimously and at 10:20 P.M. the meeting adjourned.

**Attest:**

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Keith Rubin, President

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Pat D. Mooney, Vice-President

\_\_\_\_\_  
Ray Niver, Secretary

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Steve Hopley, Commissioner

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William L. Short, Commissioner

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Julie Johnson Lindsey, Executive Assistant  
May 5, 2011