PORT OF PORT TOWNSEND

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Port of Port Townsend
2nd Monthly Special Meeting Agenda & Public Hearing
Wednesday, August 24, 2016, 5:30 PM
Timberhouse Restaurant Meeting Room
295534 US Hwy 101, Quilcene, WA

I. Call to Order / Pledge of Allegiance

II. Approval of Agenda

III. Consent Agenda
- A. Approval of Public Workshop Minutes –August 10, 2016.....1-4
  Approval of Meeting Minutes – August 10, 2016.....5-6
- B. Write-off Register.....7
- C. Approval of Warrants

IV. Public Comments (not related to Agenda)

V. Public Hearing: Port Policies & Procedures to Implement the State Environmental Policy Act (SEPA), Chapter 43.21C RCW

VI. Second Reading (action items)
- A. Public Hearing Deliberations & Potential Adoption – Resolution Establishing Port SEPA Policies, Procedures & Implementing Rules.....8-19
- B. Acceptance of the Port Townsend Boat Haven Ramp Expansion Project Work.....20

VII. First Reading (discussion only)

VIII. Potential Immediate Action Items (unanimous Commission approval required)

IX. Other Business

X. Staff Comments

XI. Public Comments

XII. Commissioner Comments

XIII. **Next Public Workshop/ Meeting: Date: Wednesday, September 14, 2016 – workshop at 9:30 AM, meeting at 1:00 PM, Port Commission Building, 333 Benedict Street, Port Townsend, WA.**

XIV. Executive Session:
- A. Litigation
- B. Potential Litigation

XV. Adjournment

PORT COMMISSION PUBLIC WORKSHOP – August 10, 2016

The Port of Port Townsend Commission met for the Public Workshop session in the Commission Building, 333 Benedict Street, Port Townsend, WA.

Present:	Commissioners Tucker, Clinefelter and Hanke Executive Director – Gibboney Auditor – Berg Director of Planning, Properties & Environmental - Toews Minutes – Nelson Attorney - O'Malley
Speaker:	Cynthia Weed of K&L Gates

I. CALL TO ORDER:

The Workshop was called to order at 9:30a.m.

II. AGENDA:

Refer to attached workshop agenda for items discussed.

IV. ADJOURNMENT:

The Workshop reconvened and adjourned at 11:12 a.m.

ATTEST:

Peter W. Hanke, President

Brad A. Clinefelter, Secretary

Stephen R. Tucker, Vice President

Port of Port Townsend
Public Workshop
Wednesday, August 10, 2016, 9:30 a.m.
Commission Building
333 Benedict Street
Port Townsend, WA

AGENDA

1. Bond Counsel IDD presentation by Cynthia Weed of K&L Gates.
2. Budget Goals, Objectives & Assumptions.

Note: This is a Public Port Commission Workshop. Workshops are for information sharing only and no decisions will be made during the session. Public input may be taken at the Commissions' discretion.

PORT COMMISSION REGULAR MEETING– August 10, 2016

The Port of Port Townsend Commission met in regular session at the Commission Building, 333 Benedict Street, Port Townsend, WA

Present: Commissioners – Tucker, Clinefelter and Hanke
Executive Director – Gibboney
Auditor – Berg
Director of Planning, Properties & Environmental – Toews
Attorney – O'Malley
Minutes – Nelson

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:
Commissioner Hanke called the meeting to order at 1:00 PM.

II. APPROVAL OF AGENDA:
Commissioner Tucker added to Item VII. Potential Immediate Action - Letter of Support for Agricultural Matter.
Commissioner Hanke proposed to move Item VI. First Reading – Proposed Changes to Organizational Chart – to Item VII. Potential Immediate Action.
Mr. Toews added an Executive Session to discuss Litigation, no action, duration of ten minutes.
Commissioner Tucker moved to approve the Agenda as amended.
Commissioner Hanke seconded the motion.
Motion carried by unanimous vote.

III. CONSENT AGENDA (2:23):
A. Approval of Public Workshop Minutes – July 27, 2016
Approval of Meeting Minutes – July 27, 2016
B. Operations Reports – July 2016
C. Approval of Warrants
Warrant #056448 through #056460 in the amount of $57,656.96 for Payroll & Benefits
Electronic Payment in the amount of $80,959.49 for Payroll & Benefits
Warrant #056461 through #056518 in the amount of $211,131.65 for Accounts Payable
Commissioner Clinefelter moved to approve the Consent Agenda as presented.
Commissioner Tucker seconded the motion.
Motion carried by unanimous vote.

IV. PUBLIC COMMENTS (Not related to agenda) (2:35):
Ron Hayes referred to the 2016 – 2021 Capital Repair & Replacement Plan, the critical and additional projects and asked, "Can we afford this?" He provided a copy of his comments to the commission.
George Yount commented on the Reserve Fund and its intended use.

Port of Port Angeles Commissioner Connie Beauvais and Executive Director Karen Goschen presented Resolution No. 16-1137 to the Port of Port Townsend Commission (and the City of Forks) giving gratitude to the Port of Port Townsend for the transfer of unused FAA airport funds ($150K) to the Port of Port Angeles. These funds were applied towards the apron expansion project at the William Fairchild International Airport. Commissioner Beauvais and Director Goschen briefed on Port of Port Angeles successes and projects.

V. SECOND READING (Action Items):
A. Port Townsend Boat Haven Renovation Reserve (49:29):
Ms. Gibboney stated this was a continuation of direction from the commissioners to cease funding of the Boat Haven Reserve Fund at the end of 2016 and to begin funding in 2017 for a Port-wide Reserve Fund. Ms. Gibboney explained the reason for the change, adding the fund would provide greater flexibility for grant fund matches organization-wide. She discussed the projected costs of future capital projects and added some projects have yet to be identified.
Commissioner Tucker asked, so why not start this change now?
Commissioner Clinefelter stated this is the first commission to have the benefit and burden of long-term planning for repair and replacement of capital projects. He suggests going with Commissioner Tucker's recommendation and wants to cease funding of the Boat Haven Reserve account immediately.

Commissioner Clinefelter moved to stop funding the Boat Haven Reserve immediately and to being funding the new Port-wide Reserve Fund.
Commissioner Tucker seconded the motion.
Motion carried by unanimous vote.

VI. FIRST READING (Discussion Only):

A. Proposed Changes to Organizational Chart (54:57):

Ms. Gibboney stated that as we move forward with budget and organizational planning and with the transition with the new Executive Director and the departure of the Deputy Director, she has had a few months to assess what needs to take place to meet current and future needs. She recommends adding the new position of a Deputy Director of Operations and Business Development. Ms. Gibboney explained she is looking for someone to deal with day-to-day operations and optimizing efficiencies, and building business and seeking additional revenue sources. She would like this person to have a strong background in business development, a background in growing revenues, analysis and tenant marketing.

Commissioner Tucker asked if we could afford this position.

Ms. Gibboney replied she has reviewed year-to-dates and there is enough cash in this year's budget. She added the position would have a six-month probationary period, with benchmarks and business development goals. She recommends moving forward. She added this position should pay for itself in the coming years.

Commissioner Clinefelter asked about Mr. Toews involvement with leases. Ms. Gibboney explained Mr. Toews would continue writing and reviewing leases and terms, and assuring that the Port is a good steward of public assets. She and the Deputy Director would negotiate the leases.

The commissioners discussed the reason for titling the position "Deputy" Director. They agreed to name the position, "Director of Operations and Business Development". Discussion ensued on staffing and ways to make operations run more efficiently. Ms. Gibboney is seeking more productivity from staff and is empowering them in improving problem solving skills. Her goal is to increase staffs' effectiveness.

Commissioner Tucker move to place this item for Immediate Action.
Commissioner Clinefelter seconded the motion.
Motion carried by unanimous vote.

VII. POTENTIAL IMMEDIATE ACTION ITEMS):

A. Proposed Changes to Organizational Chart:

Commissioner Hanke moved to approve the Organizational Chart as presented, with the new position title of Director of Operations and Business Development.
Commissioner Clinefelter seconded the motion.
Motion carried by unanimous vote.

B. Letter of Support for Agricultural Matter:

Commissioner Tucker explained he and Ms. Gibboney received a request from WSU Extension for a Letter to USDA in support of a grant application for funding to help our agricultural community.

Commissioner Tucker moved to authorize the Executive Director to sign a Letter of Support to USDA on WSU Extension's behalf.
Commissioner Clinefelter seconded the motion.
Motion carried by unanimous vote.

VIII. OTHER BUSINESS:

A. Topics for Meeting with Rep. Derek Kilmer (1:22:26):

Ms. Gibboney reminded the commission she is meeting with Representative Kilmer on August 12 and that she previously requested topics for discussion from them. One item on her agenda is to establish a staff contact at the US Army Corps to learn the history of our breakwaters and learn of possible funding ideas.

Commissioner Tucker would like her to discuss possible Federal funding for a vessel demolition pad. In addition to that, he would like to learn if there is any FEMA aid available to get some of the airport projects off the ground and funding for security cameras.

Commissioner Hanke would like to learn of any funding sources available to help Quilcene and Point Hudson.

Commissioner Clinefelter requested she discuss sea level rise expenses, such as heavy haulout armoring.

B. Projects Tour (1:29:54):

Ms. Gibboney reviewed the Projects Tour on August 17, 2016 from 10 a.m. to noon. She stated it has been presented as an Open House and is not a commission meeting. RSVPs are required to attend.

IX. STAFF COMMENTS (1:35:10):

Ms. Gibboney discussed a marketing meeting she had with Keven Elliff, on short-term marketing and how he has already cut marketing expenses back with near the same amount of advertising from the previous year. He is analyzing the Port's marketing goals. The Port will hold a roundtable meeting with Port tenants in the near future to find out how the Port can market to help their businesses. She also will look for feedback from them on the Port's participation at the Pacific Marine Expo and the Seattle Boat Show.
Bill Putney requested adding the airport to the marketing program.
Ms. Gibboney reported on a recent Department of Ecology inspection on Quilcene fueling operations and the franchise operations at the Boat Haven fuel dock. Deficiencies were found at the Quilcene operation. Ms. Gibboney tasked Mr. Cairns to compile a report on DOE's assessment and to provide his recommendations on a path forward. Ms. Gibboney explained the fuel operations at Quilcene need addressing and she recommends the Port get out of the fuel business there. She discussed Penn Cove's interest in the fuel operations. She would like commission affirmation and direction to move ahead.
Commissioner Hanke expressed his concern for Dabob Bay residents who use the fuel there.
Ms. Gibboney reported she has reached out to one firm on the Boat Haven breakwater engineering assessment, and will reach out to another as well. She expects to receive proposals next week.
Ms. Gibboney reported she is searching on the MRSC roster for consultants to work on Capital Improvement planning. They will help to seek funding sources to "flush out" the 6-year projects on the Capital Repair & Replacement Plan (CRPP).
She informed the commission of a meeting she had with City Manager David Timmons. They discussed support of the Point Hudson breakwater project and a future meeting with City Council and the Port Commission.
Ms. Gibboney and one commissioner have been invited to speak to the Jefferson County Library Board. The library has compiled an assessment of community needs and is seeking Port participation.
She reported on a conference call with WPPA's Gerry O'Keefe and the Port of Ilwaco's director on a vessel demolition pad. She got the impression from them that DNR is not interested but she will research further. Commissioner Clinefelter suggested staff perform an analysis. He believes there should be a significant rate increase for the derelict vessels they bring here.
Ms. Gibboney reported on some "unruly trespassers" and safety issues Port staff has dealt with the past few weeks. She and Mr. Toews are streamlining the process for Port staff to follow in initiating a trespass on an individual.
She announced she attended Commissioner Hanke's forum in Quilcene
Ms. Gibboney reported staff would conduct a meeting on the engineering process with Mott McDonald on the Point Hudson Jetty this fall. They will seek to determine if this will be a fully spec'd project or a design-build.
Lastly, Ms. Gibboney reported she met with a representative of the Dog Park at JCIA. She explained the Port is focusing on our organization and its core businesses and cannot provide Port staff time.
Mr. Toews provided clarification on the trespass policy and procedures, and stated it would faithfully implement the Port's Rules & Regulations.
He discussed the need to have a detailed leasing policy to guide staff in the development and negotiation of leases.
Mr. Toews provided an update on the Quilcene Wastewater Feasibility study and adding thatthe first phase of public involvement was completed, with a good number of the public meeting in Quilcene with the consultant. He discussed the site studies and reported we are on time and on budget under the contract. He expects to have a draft engineering report for submission to Ecology late this fall.
Ms. Berg explained the approval of extra help to complete journal entries for the year to date financials was very helpful. She is working on narrative assessments to include cash flow (year-to-date), which will be available at the next meeting.
She is working on June and July financial reports and will have the Annual Report completed by the end of August.

Attorney O'Malley said he thought Cynthia Weed's presentation at the workshop earlier this morning was a positive experience. He also is encouraged to see outreach to other Ports (referring to the Port of Port Angeles presentation).

X. PUBLIC COMMENTS (2:00:00):

Bill Putney discussed installing the fourth web camera at the airport.

XI. COMMISSIONER COMMENTS (2:03:28):

Commissioner Tucker discussed the WPPA Commission Conference he attended last week in Union and some of the topics presented.

Commissioner Clinefelter asked for an update on the abandoned vessel, the John Cobb. He talked about a photo he took earlier in the day of a worker sitting with his back against the wheel of the heavy haulout, *sleeping*, while his crewmates washed down the vessel. (Not a good decision.) He had the crew wake the worker up to tell him to move.

Commissioner Hanke discussed the District 3 public meeting he held in Quilcene and how only one person showed up, with another couple joining in later.

He would like staff to move forward with a cost benefit analysis of metering at the washdown, and boat ramp parking.

Discussion ensued on Port patrons filling up their personal water tanks and washing their cars at the boat ramp washdown, getting free water. Ms. Gibboney reported she has also fielded many complaints about sanitary conditions in the Port's public restrooms and the need for a hygiene center in the community, which maybe the Port could collaborate with the City and County.

XII. NEXT PUBLIC WORKSHOP/SPECIAL MEETING:

Wednesday, August 24, 2016: workshop at 3:00 PM, meeting at 5:30 p.m. at the Timberhouse Restaurant meeting room, 295534 US Hwy 101, Quilcene, WA.

XIII. EXECUTIVE SESSION:

The regular session recessed at 3:22 and began the Executive Session at 3:22 PM to discuss Litigation, pursuant to RCW 42.30.110 (i), duration of ten minutes with no action.

XIV. RECONVENING AND ADJOURNMENT OF REGULAR MEETING:

The meeting reconvened and adjourned at 3:37 p.m. there being no further business to come before the Commission.

ATTEST:

_____
Peter W. Hanke, President

_____
Brad A. Clinefelter, Secretary

_____
Stephen R. Tucker, Vice President

ACCOUNTS RECEIVABLE
WRITE-OFF/COLLECTION REGISTER
August 24, 2016

The staff of the Port of Port Townsend recommends that the following accounts be written off and turned in for collection as applicable.

Account Number	Account Name	TYPE	BALANCE	
236	PTMarine Enterprises dba Gold Star Marine	PTBH Moorage	Unpaid moorage fees and late fees incurred prior to closing the business on 10/02/2015. Recommend doing a write off of account balance and sending to collections.	$436.97
29384	Biggs	RV	Self registration at Point Hudson. Payment was not in envelope and no address or phone number on the envelope. The RV stay was April 2016 and no further information on the customer can be found. Recommend doing a write off of account balance.	$110.00
19464	Chase, Frank	PTBH Moorage	September 2014 fuel spill on the fuel dock. He was making payments on the account however the payments ceased April 2015. He has not responded to calls or letters. Recommend doing a write off of account balance and sending to collections.	$680.80
35798	Hansen, Steve	PTBH Moorage	Was moored on the linear dock in March 2015. He has not responded to statements, phone calls and letters. Recommend doing a write off of account balance and sending to collections.	$610.00

S. Abigail Berg
Director of Finance & Admin.

Port Attorney

Sam Gibboney
Executive Director

Peter W. Hanke
President

Stephend R. Tucker
Vice - President

Brad A. Clinefelter
Secretary

DATE:_____

PORT OF PORT TOWNSEND

MEETING OF: **August 24, 2016**

AGENDA ITEM: **VI. Second Reading**
A. Public Hearing, Deliberations & Potential Adoption - Resolution 649-16, Establishing Port SEPA Policies, Procedures & Implementing Rules

BACKGROUND:

SEPA is the abbreviation or acronym for the State Environmental Policy Act, Chapter 43.21C RCW. Enacted in 1971, it provides the framework for agencies, including Ports, to consider the environmental consequences of a proposal before taking action. It also gives agencies the ability to condition or deny a proposal due to identified likely significant adverse impacts. The Act is implemented through the SEPA Rules, Chapter 197-11 WAC, and also through policies and procedures adopted by local government agencies like the Port of Port Townsend.

Environmental review is required for any proposal which involves a government "action," as defined in the SEPA Rules (WAC 197-11-704), that is not categorically exempt (WAC 197-11-800 through 890). **Project actions** involve an agency decision on a specific project, such as a construction project (e.g., boat ramp). **Non-project actions** involve decisions on policies, plans, or programs (e.g., adoption of the Port's Comprehensive Plan of Harbor Improvements or Capital Repair and Replacement Plan).

Under SEPA, one agency is identified as the "lead agency" and is responsible for conducting the environmental review for a proposal and documenting that review in the appropriate SEPA documents (determination of non-significance (DNS), determination of significance (DS), Environmental Impact Statement (EIS), etc.). In order for a local government, including the Port of Port Townsend, to assume "lead agency" status and conduct its own SEPA review of proposals, it must adopt its own SEPA implementing policies and procedures.

The City of Port Townsend and Jefferson County typically assume "lead agency" status and conduct SEPA review of most project-related Port proposals. However, in certain limited circumstances (e.g., non-project actions like the Port's Capital Repair & Replacement Plan), it would more efficient and appropriate for the Port to conduct its own SEPA review and threshold determination.

The proposed Resolution now before the Commission would, if approved, establish new Port of Port Townsend Policies, Procedures and Implementing

Rules, in conformance with the recently revised State Environmental Policy Act (SEPA) rules (WAC 197-11). The proposed new policies, procedures and rules address changes in the state rules, and are based largely on similar resolutions adopted by other Washington Ports, including the Ports of Olympia and Kennewick. The proposed rules adopt and incorporate by reference many provisions of the Department of Ecology's Rules set forth in Chapter 197-11 WAC. They also detail the procedures to be employed by the Port in handling any potential future appeals of Port environmental decisions.

Executive Director's Recommendation:

Following receipt of public testimony on the proposed Resolution and attached Appendix (i.e., containing the proposed policies, procedures and implementing rules), it is recommended that the Commission deliberate upon the testimony received, direct changes (if any) to be undertaken, and adopt Port Resolution No. 649-16.

RESOLUTION NO. 649-16
A Resolution of the Commission of the Port of Port Townsend

A RESOLUTION ADOPTING PORT POLICIES, PROCEDURES & IMPLEMENTING RULES IN COMPLIANCE WITH THE PROVISIONS AND REQUIREMENTS OF THE STATE ENVIRONMENTAL POLICY ACT, RCW 43.21C.

A RESOLUTION of the Port Commission of the Port of Port Townsend, Jefferson County, Washington, adopting the Port's policies and procedures under the State Environmental Policy Act and implementing rules, Chapter 43.21C RCW and Chapter 197-11 WAC.

WHEREAS, the State Environmental Policy Act (SEPA) sets forth an environmental policy for Washington State and requires that the environmental impacts of proposals be analyzed and, where appropriate, mitigated; and

WHEREAS, SEPA applies to state agencies, counties, and municipal and public corporations, including port districts; and

WHEREAS, SEPA has been amended to require the State Department of Ecology to issue updated uniform statewide rules for carrying out SEPA; and

WHEREAS, the Port is required to adopt SEPA policies and procedures that are consistent with the new rules adopted by the Department of Ecology (WAC 197-11) and may adopt by reference any or all of these rules; and

WHEREAS, the Port has provided public notice and opportunity for public hearing on this resolution;

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Port Commission of the Port of Port Townsend, Jefferson County, Washington, that the Port SEPA Environmental Administrative Rules and Procedures, as shown in the attached "Appendix A" shall be adopted and incorporated herein by this reference.

ADOPTED this 24th day of August 2016, by the Commission of the Port of Port Townsend and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.

ATTEST:

Peter W. Hanke, President

Stephen R. Tucker, Vice President

Brad A. Clinefelter, Secretary

APPROVED AS TO FORM:

Carolyn A. Lake, Goodstein Law Group, PLLC
Port Attorney

APPENDIX A

The Port SEPA Environmental Administrative Rules and Procedures set forth on pages 1-8 of this Appendix "A" have been adopted by Resolution __-16. Any changes or deletions will require an amendment to the Resolution.

Sections:

1. Adoption of SEPA rules.
2. Authority.
3. Purpose, applicability, and intent.
4. Environmental policy.
5. Additional definitions.
6. Timing of the SEPA process.
7. Public Notice.
8. Comments.
9. Appeals of SEPA threshold determination and adequacy of final environmental Impact statement.
10. Flexible thresholds for categorical exemptions.
11. Emergencies.
12. Responsibility of the Port's SEPA public information center (SEPA PIC).
13. Critical areas.
14. Lead agency – Responsibilities.
15. Severability.
16. Repealer.
17. Effective Date.

Section 1. Adoption of SEPA rules.

The Port of Port Townsend hereby adopts by reference the following sections or subsections of Chapter 197-11 of the Washington Administrative Code ("WAC" or SEPA Rules): WAC 197-11-010 through 197-11-990, except as specifically provided herein. Where conflict exists between a permissive, optional or guidance section of the WAC adopted by reference herein and the specific local agency SEPA procedures adopted in this Resolution, the language of this Resolution shall apply. The decision on whether to apply an optional SEPA provision rests with the Responsible Official.

Section 2. Authority.

The following regulations concerning environmental policies and procedures are hereby established and adopted pursuant to Washington State law, Chapter 109, Laws of 1971, Extraordinary Session (Chapter 43.21C RCW) as amended, entitled the "State Environmental Policy Act of 1971," (SEPA), and Washington State Administrative Code regulations, Chapter 197-11, entitled "SEPA Rules."

Section 3. Purpose, applicability, and intent.

3.1 The purpose of this Resolution is to provide Port policies and regulations implementing Chapter 43.21C RCW, the State Environmental Policy Act of 1971 (SEPA), which are consistent with the SEPA rules.

3.2 This Resolution is applicable to all Port of Port Townsend departments/divisions, committees, and to the Port Commission.

3.3 The intent of this Resolution is to govern compliance by all Port departments/ divisions, committees, and the Port Commission with the procedural and substantive requirements of Chapter 43.21C RCW, the State Environmental Policy Act of 1971.

3.4 This Resolution is not intended to govern compliance by the Port with respect to the National Environmental Policy Act of 1969 (NEPA). In those situations in which the Port is required by Federal law or regulations to perform some element of compliance with NEPA, such compliance will be governed by the applicable Federal statute and regulations and not by this Resolution.

Section 4. Environmental policies adopted.

The environmental policies of the Port of Port Townsend are the policies set forth in the following documents and statutes: the Port's Comprehensive Scheme of Improvements, as it is now identified and as it may be re-named and/or amended in the future, including all of its elements; the Port's Strategic Plan as it is now identified and as it may be re-named and/or amended in the future; the Port's Rules, Regulations and Procedures as they are now identified and as they may be renamed and/or amended in the future; and Chapter 43.21C RCW.

Section 5. Additional definitions.

In addition to those definitions contained within WAC 197-11-700, the following terms shall have the following meanings, unless the context indicates otherwise:

5.1 "Department" means any division, or organizational unit of the Port.

5.2 "SEPA Rules" means WAC Chapter 197-11 adopted by the Department of Ecology, as it now exists and may be hereafter amended.

5.3 "Responsible Official" means the Port's Executive Director or his/her designee. The Responsible Official's duties may be delegated to appropriate staff persons, but the Responsible Official shall approve and is responsible for the Determination of Environmental Significance (i.e., "threshold determination") and determining the adequacy of an Environmental Impact Statement.

5.4 "SEPA Public Information Center" means the Port's Public Records Officer.

Section 6. Timing of the SEPA process.

6.1 The SEPA process shall be integrated with Port activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential environmental issues.

6.2 The Responsible Official shall prepare the threshold determination and or environmental impact statement (EIS), if required, as soon as possible after the principal features of a proposal and its environmental impacts can be reasonably identified.

6.2.1 A proposal exists when the Responsible Official is presented with a project or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated. The fact that proposals may require future Port or other permitting approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

6.2.2 The environmental process shall commence upon receipt by the Responsible Official of an environmental document. The Responsible Official may also organize environmental review in phases as specified in WAC 197-11- 060(5).

6.2.3 Appropriate consideration of environmental information shall be completed before the Responsible Official commits to a particular course of action (WAC 197-11-070).

Section 7. Public notice.

7.1 Reasonable Means. When notice is required pursuant to this Resolution, Chapter 197-11 WAC, and or Chapter 43.21C.RCW, the Responsible Official must use reasonable methods to inform the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held.

7.2 Notice Requirements.

7.2.1 Notice of the SEPA threshold environmental determination shall be published in a newspaper of general circulation within the area in which the project is located and sent via electronic mail or regular mail to the Port of Port Townsend's SEPA mailing list. The electronic or regular mailed notice shall include a copy of the determination and a copy of the SEPA checklist. The Port shall post all technical appendixes to the SEPA Checklist on the Port's website. All forms of notice described herein shall also inform recipients where the agency SEPA records are located and available.

7.2.2 If an administrative appeal is filed pursuant to Section 9 of this Resolution, notification of Commission action on the appeal and or the appeal hearing shall be mailed to the Appellants and to all parties who commented in writing to the Port's Public Records Officer on the Port's environmental determination for the proposed action.

7.2.3 Notice of determination of significance, scoping, and availability of draft and final EISs shall be published in a newspaper of general circulation within the area in which the project is located and sent to the Port of Port Townsend's SEPA mailing list. Parties who comment on a specific project's environmental determination shall receive notice of the draft and final EISs.

Section 8. Comments.

The Port's Responsible Official will respond in writing to all written comments received on a specific SEPA environmental review or determination within ten (10) calendar days after the close of the comment period. The Port's comment response may be in the form of individual responses, or responses to all or a portion of the comments addressed cumulatively. Public

comments, Port comment responses, and any resulting subsequent amendments or addendums will be part of the Port's SEPA administrative record. The Port's written Response to Comments shall be an addendum pursuant to WAC 197-11-706. An "addendum" means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document." WAC 197-11-706. The Port shall ensure that its Response to Comments Addendum is publicly available, by posting the Addendum on the Port's website, and by mailing a copy to each person who submitted written comments to the Port for that specific SEPA determination. The Port's issuance of the Response to Comments Addendum will not re-start the administrative comment or appeal period(s) pursuant to WAC 197-11-706.

Section 9. Appeals of SEPA threshold determination and adequacy of FEIS.

9.1 Appeals. Any challenge to a SEPA threshold determination and or adequacy of final environmental impact statement (FEIS) shall be initiated by filing an Appeal and paying the appropriate fee with the Responsible Official no later than close of business twenty-one (21) calendar days following the end of the comment period for the SEPA determination. The administrative requirements for an appeal (including but not limited to format, copies required, agenda cover page, etc.) shall be administered by Staff and as set forth in the Port's SEPA Guidelines, posted on the Port's web site.

9.2 Commission, Hearing Examiner Appeal. If an appeal is filed, the Commission, at its discretion, may:

9.2.1 Elect to hear the appeal, and after a public hearing, issue a Final Decision;

9.2.2 Forward the appeal to a contract Hearing Examiner, who would hold a public hearing and issue a Final Decision; or

9.2.3 Decline to hold an administrative appeal hearing. In this case, the Decision of the Responsible Official becomes the Port's Final Decision.

The procedural decision by the Commission referred to in this Section 9.2 shall take place at a regularly scheduled Port Commission meeting, or special Commission meeting called for that purpose. The Port shall provide Appellant(s) written notice of the meeting at which the Commission will consider the appeal procedural decision. The Commission may elect to ask Appellant(s) of their preferred procedural forum for the appeal (options Section 9.2.1-9.2.3). The Commission may consider but is not bound by Appellant(s)' expressed procedural option. That portion of the Commission meeting at which the procedural appeal option is considered by the Commission shall be a part of the Port's administrative appeal record. No substantive information may be presented or considered by the Commission at this time. The Commission's consideration of this procedural option is not an appeal hearing.

9.3 Administrative Appeal Procedures.

9.3.1 Administrative Appeal Procedure/Fee. To initiate an appeal, an Appellant must timely file a notice of appeal, fill out a SEPA Appeal form, and pay the required filing fee as set forth in the Port of Port Townsend's Fee Resolution to the Public Information Officer. The Public Information Officer shall process the appeal in accordance with the procedures set forth in this Resolution.

9.3.2 Appeal Deadlines/Standing.

i. Time Requirement. An appeal shall be filed no later than close of business twenty-one (21) calendar days following the end of the comment period for the SEPA determination. If the last day for filing an appeal falls on a weekend day or holiday, the last day for filing shall be the next Port working day.

ii. Standing. Only parties who submitted written comments on the Port's environmental determination have standing to file an administrative appeal.

9.3.3 Content of the Appeal. The Appeal shall contain the following:

i. The name and mailing address of the Appellant(s) and the name and address of his/her/their representative, if any;

ii. The Appellant(s)' legal residence or principal place of business;

iii. A copy of the decision, which is appealed;

iv. The grounds upon which the Appellant(s) relies;

v. A concise statement of the factual and legal reasons for the appeal;

vi. The specific nature and intent of the relief sought;

vii. A statement that the Appellant(s) has/have read the appeal and believes the contents to be true followed by his/her/their signature and the signature of his/her/their representative, if any. If any Appealing party is unavailable to sign, it may be signed by his/her representative;

viii. The appropriate fee; and

ix. If parties intend to file a combined appeal, all parties to be included in the appeal shall be specifically identified and all information related to the combined appeal shall be filed at one time. In all other cases, a separate appeal fee shall be required for each appeal filing.

9.3.4 Effect of the Appeal. The filing of a valid appeal of a threshold determination or adequacy of a final environmental impact statement (FEIS) shall stay the effect of such determination or adequacy of the FEIS and no major action in regard to a proposal may be taken during the pendency of an administrative appeal until a Final Decision is issued on the administrative appeal. A decision to reverse the determination of the Responsible Official shall further stay any decision, proceedings, or actions in regard to the proposal.

9.3.5. Appeal Withdrawal. An appeal may be withdrawn, only by the appellant(s), by written statement filed with the Port's Public Records Officer. The Port's Public Records Officer shall inform the Responsible Official of the withdrawal request. If the withdrawal is requested before any action by the Commission on the appeal, the appeal shall be dismissed with prejudice by the Port Commission, and the filing fee shall be refunded.

9.4 Public Administrative Appeal Hearing.

9.4.1 Scheduling. The public hearing on an appeal presided over by either the Port Commission or Hearing Examiner, of the Responsible Official's Final Decision, shall be expeditiously scheduled upon receipt of a valid appeal. The public hearing shall be conducted in accordance with the procedures described herein.

9.4.2 Appellant Materials. Any written materials or exhibits an Appellant wishes to be considered at the public hearing shall be delivered to the Port offices during normal working hours not less than ten (10) calendar days prior to the public hearing. These Appellant materials shall be part of the Port's administrative appeal record.

9.4.3 Port Materials. The Port's written materials or exhibits and response to an appeal must be provided to presiding entity (either the Hearing Examiner or the Port Commission), and Appellant, not less than five (5) calendar days prior to the public hearing. These Port materials shall be part of the Port's administrative appeal record.

9.4.4. Testimony at Appeal Hearing. Testimony shall be limited to Appellants' and the Port's Representative and their respective witnesses only.

9.4.5 Standard of Review. The Commission or Hearing Examiner may affirm the decision of the Responsible Official or the adequacy of the environmental impact statement, or remand the case for further information; or may reverse the decision. Reversal of the decision shall be based on a Hearing Examiner or Commission determination that the administrative findings, inferences, conclusions, or decisions are:

i. In violation of constitutional provisions as applied; or

ii. The decision is outside the statutory authority or jurisdiction of the Port; or

iii. The Responsible Official has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure; or

iv. In regard to challenges to the appropriateness of the issuance of a determination of non-significance (DNS), clearly erroneous in view of the public policy of the Act (SEPA); or

v. In regard to challenges to the adequacy of an EIS shown to be inadequate employing the "rule of reason."

9.4.6 Evidence – Burden of Proof. On appeal, the Appellant shall have the burden of proof, and the determination of the Responsible Official shall be presumed prima facie correct and shall be afforded substantial weight. Appeals shall be limited to the record before the Responsible Official, except as specifically provided herein.

9.4.7 Continuation of Hearing.

i. Cause. A hearing may be continued by the presiding entity (either the Port Commission or the Hearing Examiner), for the purpose of obtaining specific pertinent information relating to the project which was previously unavailable at the time of the original hearing.

ii. Notification. The presiding entity (either the Port Commission or the Hearing Examiner), shall announce the time and place of a continued hearing at the time of the initial hearing or by written notice to all parties of record.

9.4.8 Conduct of proceedings. All hearings shall be conducted in an orderly manner. The presiding entity (either the Port Commission or Hearing Examiner) shall have the authority to rule on all procedural matters, objections and motions, and power of subpoena.

9.4.9 Independent Legal Counsel. In the event the Commission elects to preside over the administrative appeal hearing, the Commission shall retain separate

independent legal counsel for purpose of access to legal counsel throughout the appeal hearing process.

9.5 Port's Final Decision.

9.5.1 Written Decision of Final Appeal. At the conclusion of the administrative appeal proceeding, if any is held pursuant, the presiding entity (either the Commission or the Hearing Examiner), shall issue a written Decision.

9.5.2 Notice of Decision Where Appeal Hearing Not Held. If the Commission elects not to hold an administrative appeal hearing pursuant to 9.3.3 herein, the Responsible Official shall provide written Notice of the Commission to the Appellant(s). The date of the Notice of the Commission's decision to not hold an appeal shall be considered the date of the Port's Final Decision for purpose of Section 9.3.3.

9.5.3 Refund Where Appellant(s) Substantially Prevail. If the presiding entity (Hearing Examiner or Commission) determines in the Final Decision that Appellant(s) substantially prevailed on appeal, the appeal fee paid shall be refunded to the Appellant(s).

9.6 Appeal of Port's Final Administrative Decision.

9.6.1 Judicial Appeal. The Port's Final SEPA Decision shall be appealable to the Jefferson County Superior Court. Any court action to set aside, enjoin, review or otherwise challenge the decision of the Port shall be filed with Superior Court and served on the Port within twenty-one (21) calendar days of the date of the Port's written Final Decision pursuant to Section 9.6 unless otherwise provided by statute.

9.6.2 Standing for Judicial Appeal. Only the parties to the Port's administrative appeal may appeal to Court.

9.6.3 Costs of Preparing Administrative Record on Appeal. The costs of preparing the Port's Administrative Record for any judicial appeal shall be borne equally by the Port and Appellant(s). Appellant(s)' portion of the costs shall be paid to the Port at or prior to the date set by the Court for filing the record, and shall be a condition precedent to perfecting the appeal. At the conclusion of the judicial appeal, if the Superior Court determines that Appellant(s) substantially prevailed on appeal, the costs paid by Appellant(s) shall be refunded to the Appellant(s).

Section 10. Flexible thresholds for categorical exemptions.

The Port of Port Townsend adopts the respective exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c), as established by the City of Port Townsend and Jefferson County wherein the Port activity is located, as they now exist and or as amended hereafter except when undertaken wholly or partly on lands covered by water or in critical areas.

Section 11. Emergencies.

Actions which must be undertaken immediately, or within a time too short to allow full compliance with this Resolution, to avoid an imminent threat to public health and safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this

Resolution. The Responsible Official shall determine on a case-by-case basis emergency actions, which satisfy the general requirements of this section.

Section 12. Responsibility of the Port's SEPA Public Information Center (SEPA PIC).

12.1 The SEPA PIC shall maintain a DNS register.

12.2 The SEPA PIC shall maintain an EIS register including for each proposal the location, a brief description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained.

12.3 The documents are required to be maintained at the information center for seven years, and shall be available for public inspection, and copies thereof shall be provided upon request. The Port may charge for copies in the manner provided by Chapter 42.17 RCW (Public Disclosure and Public Records Law) and for the cost of mailing, consistent with adopted Port fees for such service. It shall be the responsibility of the Responsible Official for responding to requests received from other local, regional, State, or Federal agencies requesting consultation and comment from a specific Port department/division.

12.4 The SEPA Public Information Center shall maintain a listing of recommended Federal, State, regional, local and private agencies/organizations and their addresses for use by the Port's Responsible Official in making scoping requests and circulating draft EISs.

Section 13. Critical areas.

The Port adopts the respective designation of areas which are environmentally sensitive pursuant to WAC 197-11-908 as established by the City of Port Townsend and Jefferson County within which the Port activity is located, as those designations now exist and/or as amended hereafter.

Section 14. Lead agency – Responsibilities.

The Port when acting in the capacity of the lead agency shall be the only agency responsible for complying with the threshold determination procedures of WAC 197-11-300 through 197-11-390 as adopted by reference and the Responsible Official of the Port shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 197-11-400 through 197-11-455 as adopted by reference, including the circulation of such statements and the conduct of any public hearings required by this Resolution. The Responsible Official shall also prepare or supervise preparation of any required final EIS pursuant to WAC 197-11-360 through 197-11-640 as adopted by reference.

Section 15. Severability.

If any provision of this Resolution or its application to any person or circumstance is held invalid, the remainder of this Resolution or the application of the provision to other persons or circumstances shall not be affected.

Section 16. Repealer.

All prior Port Resolutions dealing with compliance to the State Environmental Policy Act and particularly WAC 197-11 are hereby repealed by the adoption of this Resolution.

Section 17. Effective Date.

This Resolution shall be effective for all SEPA checklists filed with the Port after Commission adoption of this Resolution.

PORT OF PORT TOWNSEND

MEETING OF: **August 24, 2016**

AGENDA ITEM: **VI. Second Reading**
B. Acceptance of the Port Townsend Boat Haven Ramp Expansion Project Work

BACKGROUND:

In accordance with RCW 60.28.051 – Duties of disbursing officer upon completion of contract, I have notified the Department of Revenue, Employment Security Department and the Department of Labor and Industries that this project has been completed and requested a release from those state agencies which will allow me to disburse the contract retainage to the general contractor, Neptune Marine, LLC.

Further, in accordance with RCW 39.08.030 – Conditions of Bond – Notice of Claim – Action on Bond – Attorney's fees, the governing body, Port Commission, is required to officially accept the project completion.

Additional information, including a revision of this agenda bill will be presented at the meeting.

Executive Director's Recommendation:

We are requesting the Commission officials accept the completed work of the Port Townsend Boat Haven Ramp Expansion project.