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**Port of Port Townsend  
Special Meeting Agenda  
Wednesday, January 22, 2020, 1:00 p.m.  
Port Commission Building  
333 Benedict Street  
Port Townsend, WA**

- I. Call to Order / Pledge of Allegiance
- II. Approval of Agenda
- III. Public Comments
- IV. Consent Agenda
  - A. Approval of Public Workshop Minutes – January 8, 2020 .....1
  - Approval of Regular Business Meeting Minutes – January 8, 2020..... 2-5
  - B. Approval of Warrants
  - C. Resolution 715-20: Sale of Abandoned Vessels .....6
- V. Second Reading
  - A. Resolution 714-20 Commission Meeting Procedures ..... 7-13
- VI. First Reading - *none*
- VII. Regular Business
  - A. Port Townsend Furniture Clinic Lease ..... 14-30
  - B. Development MOU: Port Townsend Aero Museum..... 31-47
  - C. Quarter 4 Preliminary Financials for the Port..... 48-54
- VIII. Staff Comments
- IX. Commissioner Comments
- X. Next Public Workshop / Regular Business Meeting:  
Wednesday, February 12, 2020. Workshop at 9:30 AM, Meeting at 1:00 PM  
Port Commission Building, 333 Benedict Street, Port Townsend, WA
- XI. Executive Session – Executive Director Selection  
Evaluating the Qualifications of Applicants for Public Employment RCW 42.30.110 (1)(G)
- XII. Reconvene with possible decisions from Executive Session
- XIII. Adjournment

## **PORT COMMISSION PUBLIC WORKSHOP – January 8, 2020**

The Port of Port Townsend Commission met for a Public Workshop in the Port Commission Building: 333 Benedict Street, Port Townsend, WA 98368

Present: Commissioners Hanke, Petranek & Putney  
Executive Director Pivarnik  
Finance Director & Port Auditor Berg  
Recorder Erickson  
Deputy Director Toews

### **I. CALL TO ORDER:**

Commissioner Hanke called the Workshop to order at 9:30 AM

### **II. AGENDA:**

- Introduction of the Draft Comprehensive Scheme of Harbor Improvements Update

### **III. ADJOURNMENT:**

The Workshop adjourned at 11:10 AM.

ATTEST:

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Pamela A. Petranek, Secretary

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William W. Putney III, President

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Peter W. Hanke, Vice President

## PORT COMMISSION SPECIAL BUSINESS MEETING – Wednesday, January 8, 2020

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

Present: Commissioners Hanke, Putney & Petranek  
Executive Director Pivarnik  
Deputy Director Toews  
Finance Director & Port Auditor Berg  
Port Recorder Erickson

Port Attorney Chmelik (attending via Zoom online video)

### I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Commissioner Putney called the meeting to order at 1:00.

### II. CITY MANAGER, JOHN MAURO

Executive Director Pivarnik introduced Mr. Mauro, who began his work as city manager 2 months ago. Mr. Mauro said he came in the spirit of partnership, and spoke about all that the City and Port have done and continue to do together. Five big strategic areas for the City are: quality of life of our community, affordable housing, working with others to solve problems, infrastructure assets, and economic development. Commissioners generally agreed that there were many issues that warranted working together for mutual benefit. Mr. Mauro mentioned that he plans to have coffee with constituents

### III. APPROVAL OF AGENDA (09:24):

**Commissioner Putney moved to approve the Agenda as presented.**  
**Commissioner Petranek seconded the motion.**  
**Motion carried by unanimous vote.**

### IV. PUBLIC COMMENTS (09:48):

Pam thanked the Executive Director for the quick response and resolution to moorage charges.

Patti Hoyercki a moorage tenant, gave a handout and remarked on the surprise of new moorage changes of rates to C / D docks, thanked the Executive Director for his quick response, and asked about future plans for rates. Executive Director Pivarnik explained that any increases in rates are the decision of the Commission, and promised that there would be adequate notice and discussion before moving to any new charges.

Ms. Hoyercki suggested that the commission not automatically use 3% annual increase each year for moorage rates, gave a few statistics about inflation, and mentioned she felt there was an overlapping relationship with moorage rates and the expected funds of the voter-approved tax levy. Port Auditor Berg explained that the projection that included annual 3% increases was estimated based on an 8-year historical average for planning purposes only. Direction from the commission on the budget, including rates, is reviewed and approved each year, and future rates are not implemented automatically based on those projections. Commissioner Hanke mentioned that the schedule for the budget is laid out annually in late summer, and suggested that folks watch the website for this schedule to see when the deliberations will be, so that they can attend and be a part of the deliberations. Commissioner Putney stated that the number we use is based on consumer price index for this region, not the national average, to help roughly estimate the cost of operating the Port.

V. CONSENT AGENDA (19:32):

A. Approval of Special Business Meeting Minutes – January 2, 2020

B. Approval of Warrants

Warrant #061519 through #061532 in the amount of \$40,993.19 for Payroll & Benefits and Electronic Payment in the amount of \$127,310.25 for Payroll & Benefits.

Warrant #061533 through #061566 in the amount of \$23,689.16 for Accounts Payable.

**Commissioner Putney moved to approve the Consent Agenda.**

**Commissioner Petranek seconded the motion.**

**Motion carried by unanimous vote.**

VI. Recess to a Meeting of the Industrial Development Corporation of the Port of Port Townsend (19:59)

Reconvened Port Commission Regular Business Meeting at 1:45 PM

VII. SECOND READING – NoneVIII. FIRST READING (25:45):

A. Resolution 713-20 Delegation of Management Authority to the Executive Director

After a short discussion regarding its contents (no changes since 2019), Commissioner Putney asked about the need for a second reading on this resolution.

**Commissioner Hanke moved that through unanimous consent vote to move this through without a second reading.**

**Commissioner Petranek seconded the motion.**

**Motion carried by unanimous vote.**

B. Resolution 714-20 Commission Meeting Procedures (29:27)

Commissioner Putney noted that item 1 on page 21 should be changed to include the Pledge of Allegiance. A discussion about the dates of the documents attached to the resolution ensued.

Commissioner Hanke asked the Port Attorney if such a resolution was required. Port Attorney Chmelik noted that it was not an annual requirement, except for the time and dates of the meetings; he added that it was not bad idea to review these procedures each year.

Commissioner Hanke suggested that on point 4 on page 22 of the packet, "organization of regular business meetings" to switch a. and b. and word a. "a Call to Order will begin with a Pledge of Allegiance". It was generally agreed that this would be accepted and approved at the next meeting with this change.

Commissioner Petranek brought up a change she would like to see in the way the meetings are organized to include a second public comment period. She felt that after hearing the commission discuss certain agenda items, constituents might have a different view to put forward, and a second comment period at the end of the meeting would provide them with a time to do that. She noted that on page 24 of the packet, 5. E. i. might be a place to allow a second comment period. Commissioner Putney stated that public comments later in the meeting did not give the commission a chance to change their decision on a topic, since the comment would occur after a decision was made. He felt it is best to allow comments before a decision is made, so that these comments are on something that is actionable. Commissioner Hanke mentioned that the agenda is available a few days before the meeting, which allows everyone time to study the agenda and be prepared to give comments at the beginning of the meeting. He noted that a good example is the way Ms. Hoyecki presented her ideas today. It was generally agreed to leave the one comment period at the beginning of the meeting.

IX. REGULAR BUSINESS (06:19)A. November Financials (44:04)

Director of Finance Berg presented the financials and stated that we're doing better this year than last year at this time. Executive Director Pivarnik presented the November Operations Report and pointed out that our haul-out record was doing better than last year.

B. Pete's Marine Metal – New Lease Agreement (47:44)

Deputy Director Toews introduced a proposed new three-year lease agreement with two one-year options with Peter Chaffee doing business as Pete's Marine Metal, AKA Peter's Marine Services, located at 315 10<sup>th</sup> Street. He is a long-term tenant in good standing.

**Commissioner Putney moved to direct staff to proceed with this lease.**

**Commissioner Petranek seconded the motion.**

**Motion carried by unanimous vote.**

C. Northwest Maritime Center (Marine Thrift Store) – New Lease (50:40)

Deputy Director Toews presented this new lease agreement with NW Maritime Center, located at 315b Haines Place as a Marine Thrift Store – 2-year lease with 3 one-year options. This is a bit different than most of our lease space because it is for retail use.

**Commissioner Hanke moved to accept the lease as written.**

**Commissioner Petranek seconded the motion.**

**Motion carried by unanimous vote.**

D. Revised Organizational Chart (51:48)

Executive Director Pivarnik described how the Port has been working its way to a more lean organization with some staff changes. One example is the opportunity, with our Harbormaster leaving, for the Port to rethink operations. Port staff don't need a lot of management oversight because we have a lot of staff who are very capable. With the idea that operations be done in the field with less management, Port is proposing a promotion of Terry Khile who has been manager of yard operations to manager of operations overall, putting him in charge of both the moorage and the yard. This reduces our staff by one full FTE, and Executive Director Pivarnik recommends this change to the Org Chart.

There was a short discussion and about the names of the people on the org chart, and a few clarifications about reporting lines.

**Commissioner Petranek moved to approve this organizational chart.**

**Commissioner Putney seconded the motion.**

**Motion carried by unanimous vote.**

X. STAFF COMMENTS (58:00):

Executive Director Pivarnik expressed excitement about the Executive Session and moving ahead in the process of getting a new executive director.

Reporter Erickson asked the commission when discussing the Commission Meeting Procedures at the next meeting that they think about having commission meetings in other places, like Quilcene and Chimacum, since this was discussed earlier. A discussion ensued about how meetings in these locals

work better as workshops and need a long lead time when scheduling, to give residents fair notice so they can plan to attend.

XI. COMMISSIONER COMMENTS (1:00:03):

Commissioner Petranek stated that on Monday evening she and the Executive Director had attended a citizen's advisory group meeting, where many positive ideas about the Port's future were shared. She attended the MRC meeting Tuesday where 20 scientists from the community with expertise in different areas are willing to lend a hand in all kinds of situations. She also noted that there will be two memorials for two different shipwrights: NW Maritime Center this Saturday for Jim Blakelock MRTA founder; and another for Erik Durfey, MRTA member in March.

Executive Director Pivarnik gave an update on the Executive Director search, with details of the schedule of candidate interviews on January 14 and 15, involving invited stakeholders, staff, and the public.

Commissioner Hanke gave a few more details about the search, stating that there was time built into the schedule for deliberation, and he encouraged folks to give their feedback on candidates to the commission. He made it clear that although there may be a preferred candidate chosen by the executive session on January 15, the commission is moving slowly and deliberately and would probably wait until the meeting on January 22 before a final decision was made.

XII. NEXT PUBLIC WORKSHOP / REGULAR BUSINESS MEETING:

Wednesday, January 22, 2020: Meeting at 5:30 p.m.

Port Commission Building, 333 Benedict Street, Port Townsend, WA

XIII. Executive Session

Evaluating the Qualifications of Applicants for Public Employment RCW 42.30.110 (1)(G)

XIV. Reconvened without decisions from Executive Session

XV. ADJOURNMENT:

The meeting adjourned at 2:09 p.m., there being no further business to come before the Commission.

ATTEST:

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Peter W. Hanke, President

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Pamela A. Petranek, Secretary

\_\_\_\_\_  
William W. Putney III, Vice President

**RESOLUTION NO. 715-20**

**A Resolution of the Commission of the Port of Port Townsend**

**RESOLUTION AUTHORIZING THE SALE OF ABANDONED VESSELS**

**WHEREAS:** The Port of Port Townsend has in its possession two (2) boats described as follows:

<u>VESSEL</u>	<u>OWNER</u>	<u>ACCOUNT #</u>
ALDEN 36	Bruce Alexander	1308826
73 foot Hull/Mold	Stephen Scherer	27678

**WHEREAS:** Efforts have been made to locate the true owner of each said vessel, and proper notices have been sent to the person believed to be the true owner, or to anyone who might claim an ownership interest in the boat and no person or persons or entity has responded claiming ownership and willingness to pay the charges owing for storage, and ninety (90) days have elapsed since the sending of such notices,

**NOW, THEREFORE BE IT RESOLVED:**

1. That the above-designated vessels are declared to be abandoned; and
2. The Port Executive Director is directed to sell the said boats at public sale to the highest and best bidder for cash pursuant to the procedures set forth in RCW 53.08.320 (5); and
3. That the date of public auction shall be February 7, 2020 at 10:00 AM
4. Auction to be held at the Port of Port Townsend Work Yard located at 2790 Washington Street, Port Townsend, Washington.

**ADOPTED** this 22<sup>nd</sup> of January 2020 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:**

\_\_\_\_\_  
Pamela A. Petranek, Secretary

\_\_\_\_\_  
Peter W. Hanke, President

\_\_\_\_\_  
William W. Putney, III, Vice President

APPROVED AS TO FORM:

\_\_\_\_\_  
Port Attorney

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	January 22, 2020
<b>AGENDA ITEM</b>	<input type="checkbox"/> First Reading <input checked="" type="checkbox"/> Second Reading <input type="checkbox"/> Regular Business
<b>AGENDA TITLE</b>	V. A. Resolution 714-20 Commission Meeting Procedures
<b>STAFF LEAD</b>	Karen Erickson, Executive Assistant
<b>REQUESTED</b>	<input type="checkbox"/> Information <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Resolution No. 714-20 B. Meeting Procedures with changes noted from 1/8/2020 meeting



**RESOLUTION NO. 714-20**

**A Resolution of the Commission of the Port of Port Townsend  
READOPTING COMMISSION MEETING PROCEDURES**

**WHEREAS**, The Port of Port Townsend did establish and approve, in public session, "Commission Meeting Procedures" by Resolution No. 42-87 dated November 18, 1987, and;

**WHEREAS**, The Port of Port Townsend did rescind Resolution No.42-87, and adopted new Commission Meeting Procedures which were more efficient and beneficial for both the Commission and participating public, by Resolution No. 326-00 on July 26, 2000, and which was subsequently amended by Resolution No 344-01 on March 14, 2001, by Resolution No. 363-02 on February 27, 2002, by Resolution No. 367-02 on March 27, 2002, by Resolution No. 390-03 on January 22, 2003, Resolution No. 392-03 on April 9, 2003, by Resolution No. 471-06 on July 26, 2006, by Resolution No. 487-07 on April 25, 2007, by Resolution No. 532-10 on January 27, 2010, by Resolution No. 553-11 on January 12, 2011, by Resolution No. 558-11 on March 23, 2011, by Resolution No. 561-11 on June 8, 2011, by Resolution No. 594-13 on May 8, 2013, Resolution No. 604-14 on January 22, 2014, by Resolution 624-15 on January 14, 2015, Resolution No. 639-16 on January 27, 2016, by Resolution No. 654-17 on January 11, 2017, Resolution No. 674-18 on January 24, 2018, and by Resolution No. 675-18 on February 28, 2018, and by Resolution No. 695-19 on January 24, 2019; and

**WHEREAS**, the Port Commission wishes to modify the meeting procedures as noted in Appendix A, established on January 24, 2019 via Resolution No. 695-19.

**NOW, THEREFORE BE IT HEREBY RESOLVED** by the Port Commission of the Port of Port Townsend, that Resolution No. 695-19 shall be rescinded, and the Commission Meeting Procedures, as shown in the attached "Appendix A", shall be adopted in their place.

**ADOPTED** this 22nd day of January 2020, 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:**

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Pamela A. Petranek, Secretary

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Peter W. Hanke, President

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William W. Putney, III, Vice President

APPROVED AS TO FORM:

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Port Attorney

**APPENDIX A to Resolution 714-20**  
**Port of Port Townsend Commission Meeting Procedures**

The ~~Policy and Procedures on pages 1-4~~ Commission Meeting Procedures have been adopted by Resolution ~~694-19~~ 714-20, amending Resolutions 326-00, 344-01, 363-02, 367-02, 390-03, 392-03, 471-06, 487-07, 532-10, 553-11, 558-11, 561-11, 594-13, 604-14, 624-15, 639-16, 654-17, 674-18, and 675-18, and 694-19. Any changes or deletions will require an amendment to the Resolution.

**COMMISSION MEETINGS**

**TIME AND LOCATION OF MEETINGS**

1. Effective ~~January 24, 2019~~ January 22, 2020, with the exception of the December schedule outlined in paragraph 2 immediately below, regular business meetings of the Port of Port Townsend will occur twice a month - on the second Wednesday of each month at 1:00 p.m. and on the fourth Wednesday of each month at 5:30 p.m. in the Port Commission Building, 333 Benedict Street, Port Townsend, Washington, unless otherwise indicated. Public Workshops will occur on the second Wednesday of each month at 9:30 a.m. Meeting and workshop schedules and locations are subject to change with a minimum 24-hour notice to the local newspaper and the Port's website.
2. To accommodate the December holiday schedule, only one regular business meeting will be held in December on the second Wednesday of the month, ~~December 11, 2019~~ December 9, 2020 at 1:00 p.m.

**RULES OF TRANSACTION OF BUSINESS**

1. Order of Business shall be as follows:
  - I. Call to Order
  - II. Approval of Agenda
  - III. Public Comments Related to/not related to the agenda (limited to total of thirty (30) minutes; three (3) minutes per person)
  - IV. Consent Agenda
  - V. Second Reading (Action Items)
  - VI. First Reading (Discussion Only)
  - VII. Regular Business
  - VIII. Staff Comments
  - IX. Commissioner Comments
  - X. Next Meeting
  - XI. Executive Session, (If called)
  - XII. Adjournment

2. All matters which, in the judgment of the Commission, are of a legislative character and shall be embodied in the form of Resolutions. Resolutions shall be numbered consecutively, and the original copy shall be signed by the President and Vice President and attested by the Secretary in open session. Resolutions shall be filed by the Executive Assistant and shall be recorded in a book or books kept for such purpose, which shall be public records.
3. Organization of Workshops:
  - a. Shall have an agenda at the beginning of the workshop.
  - b. Will have minutes recording topics discussed either in written and/or audio format.
  - c. Will be used for discussion only, with no binding decisions made by the Commissioners.
  - d. Rules governing written and spoken input from members of the public for business meetings will not apply to workshops.
4. Organization of Regular Business Meetings:
  - ~~b~~ a. A Call to Order will begin with the Pledge of Allegiance.
  - a b. Shall have an agenda approved at the beginning of the meeting.
  - c. Will have minutes recording topics discussed and actions taken either in written and/or audio format.
  - d. Will make any information to be presented before the Commission for consideration to the public in advance of the meeting. This information will be part of the agenda and meeting packet posted on the Port's website pursuant to RCW 42.30.077.
  - e. Will allow presentations by each member of the public indicating a desire to address the Commission, of no more than three (3) minutes, (maximum of thirty minutes per meeting) for Public Comment period on any appropriate topic. Each speaker must state their name and the subject of their comment before beginning. Written comments are encouraged.
  - f. When, in the opinion of the Commission's presiding officer, significant information has been presented to the Commission which was not made available to the public in advance, the presiding officer may allow additional public comment at a time and limited in a fashion the presiding officer will make clear.
  - g. No public comment will be entertained once a motion for action has been called and the Commission's deliberation has begun.
  - h. Public comments and presentations shall adhere to common norms of civility and may be cut off by the presiding officer if in his or her judgment these norms of civility are violated. Disruptions of Port Commission meetings are prohibited. Disruptions include, but are not limited to the following:

- i. Failure of a speaker to comply with the allotted time established for the individual speaker's comment;
- ii. Addressing the audience, rather than the commission, by a member of the public who has been recognized by the presiding officer for public comment;
- iii. Outbursts (e.g., clapping, shouting, cheering) from members of the public who have not been recognized by the presiding officer for public comment;
- iv. Holding or placing a banner or sign in the Commission Room in a way that endangers others or obstructs the free flow of meeting attendees or the view of others attending the meeting; or
- v. Behavior that intentionally disrupts or otherwise impedes the orderly conduct of Commission business.

5. Conduct of Regular Business Meetings:

- a. The Port Commission, as a governing body, is charged with making decisions that advances the mission of the Port and which are based on sound information and analysis, respect for views of the public, and each Commissioner's best disinterested judgment.
- b. With only 3 elected Commissioners, the Commission can operate with a high degree of informality and need not be bound to all the provisions spelled out in standard codes of parliamentary procedure. However, some formal procedures need to be followed to respect the rights of all 3 Commissioners to participate equally and fully in all Commission business.
- c. Some fundamental principles for conducting Commission meetings include (taken from The Standard Code of Parliamentary Procedure, by Alice Sturgis):
  - i. All Commissioners have equal rights, privileges, and obligations.
  - ii. The majority vote decides.
  - iii. The rights of the minority must be protected.
  - iv. Full and free discussion of every proposition presented for decision is an established right of the members.
  - v. Every member has the right to know the meaning of the question before the Commission and what its effect will be.
  - vi. All meetings must be characterized by fairness and by good faith.
- d. Routine and ordinary business may be approved and/or rejected by the Commission by placing it on either the Consent Agenda, or as an item of "Regular Business". Examples of items typically placed on the consent agenda are approval of warrants and meeting minutes.

Examples of items considered as "Regular Business" include lease agreements, contracts, and grant agreements. Matters of routine and ordinary business may be

voted on at the same meeting at which they are introduced. Any one Commissioner may delay the vote on a specific item and request additional information before completing its consideration.

- e. To facilitate sufficient time for reflective consideration of proposals by Commissioners and members of the public and staff, all proposals for policies\* which impact members of the public shall be voted on no sooner than the immediate next regular business meeting following introduction of the proposal in the form of a motion moved by a Commissioner. The introduction of a proposal is the "first reading" and the vote is the "second reading". This requirement may be waived by a unanimous vote of the Commission.
  - i. A policy proposal, once moved as a motion, may be discussed at subsequent Commission meetings without a vote required and may be amended at subsequent meetings.
  - ii. At any subsequent Commission meeting, and Commissioner may move "To vote immediately" on the policy proposal. This motion is not debatable and requires a two-thirds affirmative vote.
  - iii. The chair may call for a vote on the policy proposal at any subsequent Commission meeting and may proceed with a vote in the absence of any objections by other Commissioners.

\*Examples of policy actions include adoption of the budget, adoption of strategic and/or comprehensive plans.

- f. All motions require a second. In the absence of a second, the motion is declared dead.
  - g. Minor amendments to a motion may be accepted as a "friendly amendment" by the maker of the original motion without a vote on the amendment.
  - h. The presiding officer of the Commission meeting shall have the right to participate fully in the discussion and shall cast a vote on all motions.
  - i. The standard priorities and requirements for main, subsidiary, and privileged motions shall be used.
- 6. The draft agenda may be available by Friday of the week previous.
  - 7. The Executive Director or his designee would be responsible for keeping track of each issue.
  - 8. All public comments and questions should be directed to the Commissioners. If the Commissioners so desire, they may refer the question to the Executive Director, Port Attorney, and/or other Port Staff in attendance.

**SMOKING**

Smoking is prohibited during the Commission meetings.

**MINUTES**

1. Additions and or corrections to the Minutes will be recorded and become a part of the revised and approved consent agenda. Minutes are to be available to the Commissioners prior to the meetings.
2. Minutes are recorded according to RCW 42.32.030

**VOUCHER APPROVAL**

It shall be the policy of the Port of Port Townsend Commissioners to approve vouchers for payment and authorize the issuance of warrants by signing a list which will indicate the voucher number, to whom paid, amount and purpose of the payment. Voucher approval is incorporated under "Consent Agenda".

**COMMISSIONER'S COMPENSATION**

Each Commissioner shall be reimbursed or compensated for actual attendance at general meetings and for performance of other services in behalf of the Commission up to the maximum rate allowed in accordance with RCW 53.12.260.

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	January 22, 2020
<b>AGENDA ITEM</b>	<input type="checkbox"/> First Reading <input type="checkbox"/> Second Reading <input checked="" type="checkbox"/> Regular Business
<b>AGENDA TITLE</b>	VII. A. Port Townsend Furniture Clinic Lease
<b>STAFF LEAD</b>	Eric Toews, Deputy Director
<b>REQUESTED</b>	<input type="checkbox"/> Information <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Action <input type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Informational Memo B. Summary of Key Terms C. Boat Haven Building Lease for Port Townsend Furniture Clinic

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 1/22/2020  
**TO:** Port Commission  
**FROM:** Sue Nelson, Lease & Contracts Administrator  
**SUBJECT:** Port Townsend Furniture Clinic – Proposed Lease Agreement

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**BACKGROUND:** Mr. Powell has been a tenant in good standing, renting space from the Port since January 2007. He is known for his quality furniture restoration work.

**DISCUSSION:** The space occupied by the Port Townsend Furniture Clinic includes 1,000 square feet of manufacturing space.

Lease term is a two (2)-year with three one (1)-year options.

In the event the Port Townsend Furniture Clinic were to become a “holdover” tenant at the end of the lease term, the rent would increase to 125% of that paid in the month preceding lease termination.

The proposed security deposit is equal to three (3) months’ rent.

Port staff is pleased to enter into a lease agreement with Mr. Powell.

**RECOMMENDATION:** Authorize the Executive Director to execute the attached lease with Tom Powell d/b/a Port Townsend Furniture Clinic, a Washington Sole Proprietorship.

### **ATTACHMENTS**

- Summary of Key Terms



**PORT OF PORT TOWNSEND:**  
**Summary of Key Terms – Port Townsend Furniture Clinic**  
**(January 22, 2020)**

1. **TENANT:** Thomas Brent Powell, Sole Proprietor, d/b/a Port Townsend Furniture Clinic.
2. **PREMISES:** Approximately 1,000 square feet of manufacturing space, located at 308-A 10<sup>th</sup> Street, Port Townsend, WA, in the Port's Boat Haven facility.
3. **TERM:** Two (2)-year, beginning on February 1, 2020 and ending on January 31, 2022. Option to extend the lease term by three (3) one (1)-year terms. Notification to extend the Lease will be done in writing ninety (90) days prior to the end of the lease or any extended term.
4. **RENT:** \$580.00 per month (calculated at 58¢ per square foot) for 1,000 sf of shop space. Rent adjusted per CPI-U beginning year 2; base rent may be adjusted beginning in year three (i.e., based on market rate study).
5. **HOLDING OVER:** In the event Lessee allows the lease to expire without negotiating a new agreement with the Port, the tenancy will roll over into a month-to month basis, with all other provisions of the lease agreement remaining in effect, except that the rent will increase to 125% of the rent due in the month preceding the holdover (e.g., if the rent were \$580.00 + LHT, the rent in holdover status would be + 25%, or \$725.00 + LHT).
6. **USE OF PREMISES:** Manufacturing space for the purpose of furniture repair and finishing and associated office space.
7. **SECURITY:** Three (3) months' security + LHT (\$1,963.42). Lessee currently has a deposit of \$485.21 on file with the Port, leaving a deposit balance of \$1,478.21.
8. **UTILITIES:** All utilities are the responsibility of the Lessee.
9. **MAINTENANCE & REPAIR:** All maintenance and repairs are the Lessee's responsibility.
10. **INSURANCE:** Per Port policy. Commercial General Liability of \$1,000,000 combined single limit; Workers Compensation Insurance of not less than \$1,000,000 per occurrence; insurance certificates naming the Port as an additional insured; proof of insurance must be provided prior to occupancy.
11. **ASSIGNMENT/SUBLEASE:** Permitted only by prior written consent of the Port.
12. **DEFAULTS/TERMINATION:** Time is of the essence. Failure to pay rent, or to abide by the covenants/agreements contained in the lease, may serve as a basis for termination. Lessee will be provided with fifteen (15) days' written notice to cure defaults. Port may also terminate upon one-hundred and twenty (120) days' written notice, at its sole discretion, for public or private use in connection with the operation of the business of the Port.

**PORT OF PORT TOWNSEND  
BOAT HAVEN BUILDING LEASE**

**THIS LEASE AGREEMENT** made this \_\_\_\_ day of January 2020, by and between the PORT OF PORT TOWNSEND, a municipal corporation organized and existing under the laws of the State of Washington, Lessor, hereinafter referred to as "the Port," and THOMAS BRENT POWELL, dba PORT TOWNSEND FURNITURE CLINIC, a Washington sole proprietorship, hereinafter referred to as "Lessee,"

**WITNESSETH:**

That the parties hereto do mutually agree as follows:

1. **LEASED PREMISES:** The Port hereby leases to Lessee, and Lessee hereby hires and leases from the Port, the following described premises situated in Jefferson County, State of Washington:

Approximately 1,000 square feet of manufacturing building space in the Port's building located at 308-A 10<sup>th</sup> Street, Port Townsend, WA

hereinafter referred to as "the premises." The premises are depicted on Exhibit "A" which is attached hereto and which by this reference is incorporated herein as if fully set forth herein.

2. **TERM:** The term of this Lease is two (2) years, beginning February 1, 2020, and ending at midnight, January 31, 2022 unless extended or sooner terminated as provided in this Lease. The Lessee shall also have an option to extend the lease term by three (3) additional one (1)-year terms. Notification to extend the Lease will be done in writing 90 days prior to end of the initial or any extended lease term.
3. **RENT:** Lessee agrees to pay as rental for the leased premises the sum of **Five Hundred and Eighty Dollars (\$580.00)**<sup>1</sup> per month, plus all applicable taxes. The rent for each month shall be paid to the Port in advance on or before the first day of each and every month of the lease term and shall be payable at such place as the Port may hereinafter designate. Beginning in year three (3) and every three (3) years thereafter, the rental rate may be adjusted to the fair market rental rate then prevailing for comparable commercial and/or industrial property in the Western Washington area, bearing in mind all allowable uses of the property and all services and amenities available to the property by virtue of its location. The rental rate beginning in year two and annually throughout

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<sup>1</sup> Calculated as follows: Building @ 58¢ per s.f. x 1,000 s.f. = \$580.00 rent, plus Leasehold Excise Tax (LHT) @ 12.84% x \$580.00 = \$74.47; \$580.00 + \$74.47 = \$654.47

the term of the lease will be adjusted by an amount equal to the accumulative amount found on the Consumer Price Index for all urban consumers (CPI-U) for Seattle-Tacoma-Bellevue, which is compiled by the Department of Labor, Bureau of Statistics. In no event shall any rent adjustment result in a reduction in rent from the rate paid in the prior year.

4. **LATE CHARGE:** In the event that any installment of rent remains unpaid more than twenty (20) days after it is due, then Lessee shall also be obliged to pay a "late charge" as per the Port of Port Townsend Rate Schedule then in effect.
5. **DEPOSIT:** Upon the execution of this Lease, Lessee shall pay three months' security deposit to the Port in the amount of **One Thousand Nine Hundred Sixty-Three Dollars & Forty-One Cents (\$1,963.42)**<sup>2</sup> in order to guarantee performance under this Lease. However, Lessee has an existing deposit of **Four Hundred Eighty-Five Dollars & Twenty-One Cents (\$485.21)** currently on file with the Port. Accordingly, Lessee shall deposit an additional **One Thousand Four Hundred Seventy-Eight Dollars and Twenty One Cents (\$1,478.21)**. This Lease shall not be effective until the initially required deposit of **One Thousand Nine Hundred Sixty-Three Dollars and Forty-Two Cents (\$1,963.42)** is made with the Port. The deposit shall be held by the Port as security for Lessee's faithful performance of all its obligations under this Lease. Any interest earned on amounts deposited shall be retained by the Port. The deposit shall be returned to Lessee upon termination of this Lease, less any charges owing to the Port or expenses incurred by the Port in repairing damage caused by Lessee or restoring the leased premises to the condition required upon termination of this Lease.
6. **USE OF PREMISES:** Lessee shall use the premises for the purpose of furniture repair and finishing and associated office space and shall not use them for any other purpose without the prior written consent of the Port. Lessee shall use the entire premises for the conduct of said business in a first-class manner continuously during the entire term of this Lease, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or redecorating or for reasons beyond Lessee's reasonable control. Lessee agrees that it will not disturb the Port or any other tenant of the Port's by making or permitting any disturbance or any unusual noise, vibration or other condition on or in the premises.
7. **UTILITIES:** Lessee shall be liable for, and shall pay throughout the term of this Lease, all utility services furnished to the premises, including, but not limited to, light, heat, electricity, gas, water, sewerage, garbage disposal, and communications. WiFi and/or fiber services are not included in the rent.

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<sup>2</sup> Required security for all Port leases is three (3) months (minimum + LHT, calculated as follows: \$580.00 per month x 3 = \$1,740.00; \$1,740.00 x 12.84% LHT = \$223.42; = \$1,740.00 + \$223.42 = \$1,963.42

8. **ACCEPTANCE OF PREMISES:** Lessee has examined the leased premises and accepts them in their present condition "as is" and without further maintenance liability on the part of the Port. The Port makes no representations or warranties with respect to the condition, suitability, zoning restrictions, or usability, except the Port's right to grant a lease of the premises. Lessee acknowledges that Lessee has fully inspected the premises and is not relying on any statement or representation made by the Port or the Port's agents with respect to the condition of the premises, and Lessee assumes the responsibility and risks of the same, including any defects or conditions that cannot be observed by casual inspection.
9. **MAINTENANCE AND REPAIR:** Maintenance and repair of the premises and all improvements thereon is the sole responsibility of Lessee. Accordingly, at the expiration or sooner termination of this Lease, Lessee shall return the premises to the Port in the same condition in which received (or, if altered by Lessee with the Port's consent, then the premises shall be returned in such altered condition), reasonable wear and tear and damage by fire or unavoidable casualty excepted. Lessee's obligation to make repairs shall not extend to any repairs to the roof (structure or covering), to the foundations of the building or structure and exterior walls, of which the leased premises are a part, unless such repairs are necessitated by Lessee's negligence or failure to maintain the interior. Lessee shall, at its' own expense, and at all times:
- a. Keep the premises, and the adjoining roadways and sidewalks, neat, clean and in a safe and sanitary condition;
  - b. Maintain and keep the leased premises in a good state of repair; and
  - c. Not commit waste of any kind.
10. **ALTERATIONS AND IMPROVEMENTS:** Lessee shall make no alterations or improvements to or upon the premises or install any fixtures (other than trade fixtures which can be removed without injury to the premises) without first obtaining written approval from the Executive Director of the Port. Such written approval shall also include agreement for disposition of the improvements upon termination of this Lease.
11. **INSPECTION - "FOR RENT" SIGNS:** The Port reserves the right to inspect the leased premises at any and all reasonable times throughout the term of this Lease, PROVIDED, that it shall not interfere unduly with Lessee's operations. The right of inspection reserved to the Port hereunder shall impose no obligation on the Port to make inspections to ascertain the condition of the premises and shall impose no liability upon the Port for failure to make such inspections. The Port shall have the right to place and maintain "For Rent" signs in conspicuous places on the premises for thirty (30) days prior to the expiration or sooner termination of this Lease.
12. **POSSESSION:** If the Port shall be unable for any reason to deliver possession of the premises, or any portion thereof, at the time of the commencement of the term of this Lease, the Port shall not be liable for any damage caused thereby to Lessee, nor shall this

Lease thereby become void or voidable, nor shall the term specified herein be in any way extended, but in such event Lessee shall not be liable for any rent until such time as the Port can deliver possession, PROVIDED, that if Lessee shall, in the interim, take possession of any portion of the premises, it shall pay as rental the full rental specified herein reduced pro rata for the portion of the premises not available for possession by Lessee, AND PROVIDED FURTHER, that if the Port shall be unable to deliver possession of the premises at the commencement of the term of this Lease, Lessee shall have the option to terminate this Lease by at least thirty (30) days written notice, unless the Port shall deliver possession of the premises prior to the effective date of termination specified in such notice. If Lessee shall, with the Port's consent, take possession of all or any part of the premises prior to the commencement of the term of this Lease, all of the terms and conditions of this Lease shall immediately become applicable.

**13. DAMAGE OR DESTRUCTION:**

- a. Should the premises or the buildings or structures of which the premises are a part be damaged by fire or other casualty, and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefore to be done during regular working hours on regular work days), the premises shall be repaired with due diligence by the Port, and in the meantime the monthly minimum rental shall be abated in the same proportion that the untenable portion of the premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs.
- b. Should the premises or any buildings or structures of which the premises are a part be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this Lease on thirty (30) days' notice, effective as of any date not more than sixty (60) days' after the occurrence. In the event that this paragraph shall become applicable, the Port shall advise Lessee within thirty (30) days after the happening of any such damage whether the Port has elected to continue the lease in effect or to terminate it. If the Port shall elect to continue this Lease in effect, it shall commence and prosecute with due diligence any work necessary to restore or repair the premises. If the Port shall fail to notify Lessee of its election within said thirty (30) day period, the Port shall be deemed to have elected to terminate this Lease, and the lease shall automatically terminate sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the premises to the date of completion of the repairs to the premises (or to the date of termination of the lease if the Port shall elect not to restore the premises), the monthly minimum rental shall be abated in the same proportion as the untenable portion of the premises bears to the whole thereof.

**14. INDEMNIFICATION AND HOLD HARMLESS:** The Port, its employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property,

regardless of how such injury or damage be caused, sustained, or alleged to have been sustained by the Lessee or by others as a result of any condition (including existing or future defects in the premises) or occurrence whatsoever related in any way to the premises and the areas adjacent thereto or related in any way to Lessee's use or occupancy of the premises and of the areas adjacent thereto. Lessee agrees to defend and to hold and save the Port harmless from all liability or expense of litigation) in connection with any such items of actual or alleged injury or damage.

- 15. LIMITED WAIVER OF IMMUNITY UNDER WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW AND OTHER SIMILAR INDUSTRIAL INSURANCE SCHEMES:** For purposes of the indemnification provision set forth in Paragraph 14, above, and only to the extent of claims against Lessee by the Port under such indemnification provision, Lessee specifically waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW, The United States Longshore and Harbor Workers Compensation Act, 33 USC §901-950, or any other similar workers' compensation schemes. The indemnification obligation under this lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The foregoing provision was specifically negotiated and agreed upon by the parties hereto.
- 16. INSURANCE:** Lessee agrees to maintain during the lease term liability insurance as set forth below, at Lessee's sole expense. All such insurance shall name the Port of Port Townsend as an additional insured and shall be with insurance companies acceptable to the Port.
- a. Comprehensive General Liability Insurance against claims for injury or death to persons or damage to property with minimum limits of liability of \$1,000,000.00 combined single limit for each occurrence. Such insurance shall include but not be limited to bodily injury liability, personal injury liability, property damage liability, broad form property damage liability, contractual liability, and products/completed operations liability.
  - b. Comprehensive Business Automobile Liability Insurance against claims for injury or death to persons or damage to property with minimum limits of liability of \$1,000,000.00 combined single limit for each occurrence. Such insurance shall include but not be limited to bodily injury liability, property damage liability, hired car liability, and non-owned auto liability.
  - c. Workers Compensation Insurance as will protect tenant's employees from claims under Washington Workers Compensation Act as well as all Federal Acts applicable to the tenant's operations at the site such as but not limited to U.S. Longshoremen and Harborworkers Act, Jones Act, and Federal Employers Liability section of the Washington Workers Compensation Policy and all Federal Acts Insurance shall not be less than \$1,000,000.00 for each occurrence.

The Lessee agrees to supply the Port with appropriate evidence to establish that its insurance obligations have been met, and that the insurance policy or policies are not subject to cancellation without at least thirty (30) days advance written notice to the Port. The conditions set forth in subparagraphs a, b and c of this Paragraph 16 shall be met prior to inception of this Lease Agreement.

17. **WAIVER OF SUBROGATION:** The Port and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance contracts, including any extended coverage endorsements thereto, PROVIDED, that this Paragraph 17 shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of the Port or Lessee.
18. **INCREASE IN COST OF INSURANCE:** Lessee shall not use the demised premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the leased premises are a part, and to the extent allocable to the term of this Lease, may be added to the amount of rental hereinabove specified and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.
19. **HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT:** Lessee has examined the Hazardous Substance Warranty and Agreement, consisting of six (6) pages, which is attached as Exhibit "B" hereto and which by this reference is incorporated herein as fully set forth herein, and acknowledges full understanding of its obligations under said Hazardous Substances Warranty and Agreement.
20. **TAXES:** Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the premises, and all taxes on property of Lessee on the leased premises and any taxes on the leased premises or leasehold interest created by this Lease Agreement.
21. **COMPLIANCE WITH PORT REGULATIONS AND WITH ALL LAWS:** Lessee agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee also agrees to comply with all applicable federal, state, and municipal laws, ordinances, and regulations. Lessee further agrees that all buildings, structures or other improvements, approved by the Port, will be properly permitted by Jefferson County. Any fees for any inspection of the premises during or for the lease term by any federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.

- 22. ASSIGNMENT OR SUBLEASE:** Lessee shall not assign or transfer this Lease or any interest therein nor sublet the whole or any part of the premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, otherwise, without the written consent of the Port first had and obtained. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this Lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this Lease or to members of their immediate families, such change in the ownership of the stock of the Lessee shall be deemed an assignment of this Lease within the meaning of this paragraph. If the Port shall give its consent to any assignment or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the Port's consent. The Port's consent will not unreasonably be withheld.
- 23. DEFAULTS:** Time is of the essence of this Lease Agreement, and in the event of the failure of Lessee to pay the rentals or other charges at the time and in the manner herein specified, or to keep any of the covenants or agreements herein set forth to be kept and performed, the Port may elect to terminate this Lease and reenter and take possession of the premises with or without process of law, PROVIDED, however, that Lessee shall be given fifteen (15) days' notice in writing stating the nature of the default in order to permit such default to be remedied by Lessee within said fifteen (15) day period. If upon such reentry there remains any personal property of Lessee or of any other person upon the leased premises, the Port may, but without the obligation so to do, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Lessee shall reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Lessee to the Port, and the balance, if any, shall be paid to Lessee. Notwithstanding any such reentry, the liability of Lessee for the full rental provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee shall make good to the Port any deficiency arising from a re-letting of the leased premises at a lesser rental than that hereinbefore agreed upon. Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Port. Any failure by the owners, officers, or principals of Lessee to pay rentals, storage fees, moorage or any other charges owed to the Port under separate contract shall constitute default under provisions of this Lease Agreement.
- 24. TERMINATION BY PORT:** In the event that the Port, at its sole discretion, shall require the use of the premises for any purpose for public or private use in connection with the



operation of the business of the Port, then this Lease may be terminated by the Port by written notice delivered or mailed by the Port to the Lessee **sixty (60)** or more days before the termination date specified in the notice. The Lessee and the Port's Executive Director will agree to appropriate compensation to be provided Lessee for loss of use, cost of relocation, and/or cost of improvements. In the event that the parties are unable to reach agreement on the compensation to Lessee, the amount shall be determined by arbitration before a single arbitrator who shall be jointly selected by the parties or by the Jefferson County Court if the parties cannot agree.

- 25. TERMINATION FOR GOVERNMENT USE:** In the event that the United States Government or any agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the premises or any part thereof, the Port may, at its option, terminate this Lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this Lease on said date, any rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
- 26. TERMINATION BECAUSE OF COURT DECREE:** In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this Lease on the effective date of such termination, any rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
- 27. SIGNS:** No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted or within the leased premises, including the windows and doors thereof, without the approval of the Executive Director of the Port first had and obtained. At the termination or sooner expiration of this Lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Lessee shall be removed by Lessee at its own expense, and Lessee shall repair any damage or injury to the premises, and correct any unsightly condition, caused by the maintenance and removal of said signs, etc.
- 28. INSOLVENCY:** If Lessee shall file a petition in bankruptcy, or if Lessee shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of Lessee shall be appointed in any proceeding brought by or against Lessee, or if Lessee shall make an assignment for the benefit of creditors, or if any proceedings shall be commenced to foreclose any mortgage or any other lien on Lessee's interest in the premises or on any personal property kept or maintained on the premises by Lessee, the Port may at its option, terminate this Lease.

29. **WAIVER:** The acceptance of rental by the Port for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Lessee in writing. No waiver by the Port of any default hereunder by Lessee shall be construed to be or act as a waiver of any subsequent default by Lessee. After any default shall have been cured by Lessee, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of Paragraph 23 hereof.
30. **PROMOTION OF PORT COMMERCE:** Lessee agrees that throughout the term of this Lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.
31. **SURRENDER OF PREMISES - ATTORNEYS' FEES:** At the expiration or sooner termination of this Lease, Lessee shall promptly remove building from leased property or re-negotiate a lease at the same or different site at the Port. In the event that the Port shall be required to bring any action to enforce any of the provisions of this Lease, or shall be required to defend any action brought by Lessee with respect to this Lease, and if the Port shall be successful in such action, Lessee shall, in addition to all other payments required herein, pay all of the Port's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.
32. **HOLDING OVER:** Any holding over by the Lessee after the expiration of this Lease shall be construed as a tenancy at sufferance (unless such occupancy is with the written consent of the Port) in which event the Lessee will be a tenant from month to month, upon the same terms and conditions of this Lease, except at a rent for such holdover period of 125% of the rental rate in effect for the month preceding such holdover. Acceptance by the Port of rent after such termination shall not constitute a renewal.
33. **ADVANCES BY PORT FOR LESSEE:** If Lessee shall fail to do anything required to be done by it under the terms of this Lease, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Port, Lessee shall promptly pay the Port the amount of that cost.
34. **LIENS AND ENCUMBRANCES:** Lessee shall keep the leased premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the said premises by Lessee. At the Port's request, Lessee shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the leased premises if not paid.

35. **NOTICES:** All notices hereunder may be delivered or mailed. If mailed, they shall be sent by certified or registered mail to the following respective addresses:

To Lessor:

THE PORT OF PORT TOWNSEND  
P.O. Box 1180  
Port Townsend, Washington 98368

To Lessee:

PORT TOWNSEND FURNITURE CLINIC  
Tom Powell, Owner  
308-A 10<sup>th</sup> Street  
Port Townsend, WA 98368  
Phone: (360) 385-6585

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices sent by mail shall be deemed to have been given when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

36. **JOINT AND SEVERAL LIABILITY:** Each and every party who signs this Lease, other than in a representative capacity, as Lessee, shall be jointly and severally liable hereunder.
37. **"LESSEE" INCLUDES LESSEE, ETC.:** It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessee under this Lease Agreement.
38. **CAPTIONS:** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
39. **SEVERABILITY:** If any term or provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.
40. **NON-DISCRIMINATION SERVICES:** The Lessee agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, sex, sexual orientation, or national origin in furnishing, or by refusing to furnish, to such person,

or persons, the use of the facility herein provided, including any and all services, privileges, accommodations, and activities provided thereby.

It is agreed that the Lessee's noncompliance with the provisions of this clause shall constitute a material breach of this Lease. In the event of such noncompliance, the Port may take appropriate action to enforce compliance, may terminate this Lease, or may pursue such other remedies as may be provided by law.

- 41. NON-DISCRIMINATION EMPLOYMENT:** The Lessee covenants and agrees that in all matters pertaining to the performance of this Lease, Lessee shall at all times conduct its business in a manner which assures fair, equal and non-discriminatory treatment of all persons without respect to race, creed or national origin and, in particular:
- a. Lessee will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities, and
  - b. Lessee will comply strictly with all requirements of applicable federal, state or local laws or regulations issued pursuant thereto relating to the establishment of non-discriminatory requirements in hiring and employment practices and assuring the service of all patrons or customers without discrimination as to any person's race, creed, color, sex, sexual orientation, or national origin.
- 42. EASEMENTS:** The Parties recognize that the Port facilities are continuously being modified to improve the utilities and services used and provided by the Port. The Port or its agents shall have the right to enter the demised premises of the Lessee, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, and the electrical service, and all other services required by the Port for its use. The Port is hereby granted a continuous easement or easements that the Port believes is necessary within the lease premises of the Lessee, without any additional cost to the Port for the purposes expressed hereinabove; PROVIDED however, that the Port by virtue of such use does not permanently deprive the Lessee from its beneficial use or occupancy of its leased area.

In the event that the Port does permanently deprive the Lessee from such beneficial use or occupancy, then an equitable adjustment in rent or in the cost required to modify its premises to allow the Lessee to operate its business, will be negotiated and paid by the Port to the Lessee. In the event that such entry by the Port is temporary in nature, then the Port shall reimburse the Lessee for the cost required to modify its premises for the temporary period that the Lessee is inconvenienced by such Port entry. The Port will not be responsible to the Lessee for any reduced efficiency, or loss of business occasioned by such entry.

Lease Agreement dated this \_\_\_\_\_ day of January 2020 as approved by the Port of Port Townsend Port Commission, on the 22<sup>nd</sup> day of January, 2020 and effective upon the receipt of a deposit and liability insurance documentation from the Lessee.

THIS AGREEMENT HAS BEEN NEGOTIATED BETWEEN THE PARTIES AND CONTAINS A LIMITED WAIVER OF IMMUNITY UNDER TITLE 51 RCW, AN INDEMNIFICATION AND A RELEASE.

**LESSEE**

\_\_\_\_\_  
Tom Powell, Owner, Port Townsend Furniture Clinic

**ATTEST:**

**PORT OF PORT TOWNSEND**

**APPROVED AS TO FORM**

\_\_\_\_\_  
Jim Pivarnik, Executive Director

\_\_\_\_\_  
Port Attorney

**STATE OF WASHINGTON  
COUNTY OF JEFFERSON**

I certify that I know or have satisfactory evidence that Thomas Brent Powell signed this instrument and that he is authorized to execute the instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Signature of  
Notary Public: \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

**STATE OF WASHINGTON  
COUNTY OF JEFFERSON**

I certify that I know or have satisfactory evidence that Jim Pivarnik signed this instrument and that he is authorized to execute the instrument as Interim Executive Director of the Port of Port Townsend and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Signature of  
Notary Public: \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	January 22, 2020
<b>AGENDA ITEM</b>	<input type="checkbox"/> First Reading <input type="checkbox"/> Second Reading <input checked="" type="checkbox"/> Regular Business
<b>AGENDA TITLE</b>	VII. B. Port Townsend Aero Museum MOU
<b>STAFF LEAD</b>	Jim Pivarnik, Executive Director
<b>REQUESTED</b>	<input type="checkbox"/> Information <input type="checkbox"/> Motion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Informational Memo B. Proposal from Aero Museum C. Proposed MOU (to be distributed Tuesday)



# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 1/22/2020  
**TO:** Commission  
**FROM:** Jim Pivarnik, Executive Director  
**SUBJECT:** Memorandum of Understanding Port Townsend Aero Museum

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### **BACKGROUND**

Staff has been working with the Port Townsend Aero Museum on a potential expansion to their leasehold. Over the last month staff has met with the museum staff and toured the area. This also allowed us to review potential areas of concern.

### **DISCUSSION**

Port staff agrees that an expansion would be beneficial to the airport. This will allow for more efficient operations and allow the museum the ability to attract more visitors to our community. After consulting with the FAA there are various steps that need to be taken to get this expansion approved. Since the Aero Museum has already completed a wetland analysis and delineation, the next step will be an overall update of the ALP (Airport Layout Plan). This will need FAA input, further analysis and approval.

### **RECOMMENDATION**

Although no lease amendment has been prepared as of yet, staff would like to present the proposal to the Commission and have general agreement as to how to proceed. The attached proposal and draft MOU outline the next steps so that the Museum can apply for a preliminary meeting with the County permitting staff.

### **ATTACHMENTS**

Proposal from Aero Museum  
Proposed MOU (to be distributed Tuesday)

**For Discussion and Direction**

11/22/2019

**Port Townsend Aero Museum  
Expansion Project 2019-2020**



**Dear Port Commissioners,**

The Port Townsend Aero Museum, located at the Jefferson County International Airport, is formally requesting a new lease on a small 90' by 60' piece of unoccupied ground owned by the Port that is adjoining and directly south of our current museum display building (see attachments for details). The Port Townsend Aero Museum is a publicly owned, non-profit 501 (c) 3, aviation flying museum with a youth education program that is located at the Jefferson County Airport. The museum was founded in 2001 and in the last eighteen years it has grown from an idea into a community asset with a current net worth of over 6.5 million dollars. With our success has come the need to expand our current building.

The Port Townsend Aero Museum would be adding an additional 5400 sq ft of museum display area to our existing 16,200 sq ft museum display building that has been in continuous operation since 2008. The new expansion will extend the south east wing of the museum display building by 90' to the south, while maintaining the same 60' width and contoured roofline. There will be a new west facing large hangar door installed in the new addition to match the existing west facing hangar door. The new south facing wall will incorporate glazing to match the glazing currently located on our north side upper windows. The new glazing on the south wall will not only allow additional light into the building and there by reduce energy dependence; it will add a finished look to the museum campus as viewed from Highway 19. The improved appearance will only help to bring new people and business onto the Jefferson County Airport property in the years to come.

To date, the Port Townsend Aero Museum has invested over \$11,000 towards the south expansion project. We have completed a Wetlands Delineation including a Habitat Management Plan through Marine Surveys & Assessments, a local company. In addition, we have contracted with Mark Grant of Grant Steel Buildings, and Zenovic & Associates for our building and engineering needs, both of which are local businesses. At this point we need to agree to a lease agreement with the Port of Jefferson County for the 5,400 square foot lot next to our existing building. Once we have agreed to a lease, we can then schedule a Pre-Application Conference with the Jefferson County Department of Community Development as the next step in this expansion process.

Please review the included documents and call me at 360 670 9297, or email me at [ptam@olympen.com](mailto:ptam@olympen.com), to let me when we can meet in person or at a community forum to discuss the lease.

Thank you most sincerely,

A handwritten signature in dark ink, appearing to read "Michael Payne", is written over a horizontal line.

Michael Payne  
Director  
Port Townsend Aero Museum

# **Port of Port Townsend Aero Museum Wetland Delineation & Habitat Management Plan**

**May 24<sup>th</sup>, 2019**

**Prepared for:**

Port of Port Townsend  
Mike Payne

105 Airport Road  
Port Townsend, WA 98368

**Regarding:**

Port of Port Townsend Aero Museum  
Parcels 001331002 and 001284006



**MARINE SURVEYS & ASSESSMENTS**

**380 Jefferson Street**

**Port Townsend WA 98368**

**360-385-4073**

**[msa@marinesurveysandassessments.com](mailto:msa@marinesurveysandassessments.com)**

## Table of Contents

I. Introduction .....	4
II. Project Site .....	4
1.0 Project Description.....	5
III. Supporting Information Queries .....	5
1.0 National Wetlands Inventory .....	5
2.0 Natural Resources Conservation Services .....	6
IV. Wetland Assessment Methods .....	7
V. Wetland Delineation .....	8
1.0 Vegetation .....	8
2.0 Soils.....	10
3.0 Hydrology .....	12
VI. Wetland Rating .....	12
VII. Habitat and Species Information .....	14
1.0 Action Area .....	14
2.0 Habitat .....	14
3.0 Species.....	15
3.2 Federal.....	15
VIII. Analysis of Effects .....	17
1.0 Direct Effects .....	17
2.0 Indirect Effects .....	18
IX. Conservation and Protection Measures .....	18
X. Summary .....	19
XI. References.....	20

## Table of Tables

<b>Table 1.</b> Soil Map Unit.....	6
<b>Table 2.</b> Wetland A – Sample Plot VSH-1: Vegetation.....	9
<b>Table 3.</b> Upland – Sample Plot VSH-2: Vegetation.....	9
<b>Table 4.</b> Upland – Sample Plot VSH-3: Vegetation.....	10
<b>Table 5.</b> Upland – Sample Plot VSH-4: Vegetation.....	10
<b>Table 6.</b> Upland – Sample Plot VSH-5: Vegetation.....	10
<b>Table 7.</b> Wetland A – Sample Plot VSH-1.....	11
<b>Table 8.</b> Upland – Sample Plot VSH-2 .....	11
<b>Table 9.</b> Upland – Sample Plot VSH-3 .....	11
<b>Table 10.</b> Upland – Sample Plot VSH-4 .....	11
<b>Table 11.</b> Upland – Sample Plot VSH-5 .....	12
<b>Table 12.</b> Federal Regional Critical Habitat (USFWS, NMFS) .....	15

## Table of Figures

<b>Figure 1.</b> Vicinity Map
<b>Figure 2.</b> Site Plan
<b>Figure 3.</b> Wetland Delineation - Results Map
<b>Figure 4.</b> National Wetland Inventory Map
<b>Figure 5.</b> NRCS Soils Query Map
<b>Figure 6.</b> Jefferson County Critical Areas Map
<b>Figure 7.</b> Jefferson County Critical Areas Map – FEMA

### **Table of Figures (Continued)**

- Figure 8.** Jefferson County Critical Areas Map – Critical Aquifer Recharge and Seismic Hazard Areas
- Figure 9.** Jefferson County Critical Areas Map – Nitrogen BMP
- Figure 10.** Impacted Wetland Buffer Area – Results Map
- Figure 11.** Action Area
- Figure 12A.** Water Quality Atlas – Assessed Sediments/Waters
- Figure 12B.** Water Quality Atlas – TMDls in WRIA 17
- Figure 13.** WDFW PHS Habitats and Species Report
- Figure 14.** Wetlands of High Conservation Value

### **Table of Appendices and Attachments**

- Appendix A.** Wetland Determination Forms
- Appendix B.** Wetland Rating Form
  - Attachment 1.** Cowardin Plant Classes
  - Attachment 2.** Hydroperiods
  - Attachment 3.** 1 km Polygon Buffer
- Appendix C.** Fish and Wildlife Service Threatened and Endangered Species List
- Appendix D.** Photo Documentation
- Appendix E.** Compensatory Mitigation Planting Plan
  - Attachment 5A.** Mitigation Planting Plan - Overall
  - Attachment 5B.** Mitigation Planting Plan – Area A
  - Attachment 5C.** Mitigation Planting Plan – Area B
  - Attachment 5D.** Mitigation Planting Plan – Area C

## I. Introduction

Marine Surveys & Assessments (MSA) was contracted by Mike Payne, Director of the Port Townsend Aero Museum, to complete a wetland delineation at Jefferson County parcels 001331002 and 001284006 in Port Townsend, Washington (Figure 1). The proposed construction project includes a 90' x 60' (5,400 ft<sup>2</sup>) extension of the existing Port Townsend Aero Museum (Figure 2). The wetland delineation followed a preliminary site visit that was completed on March 1<sup>st</sup>, 2019 by MSA, to determine the presence or absence of a wetland at the project site. The presence of a slope wetland was confirmed, delineated, and mapped by MSA. The wetland (Wetland A) lies within Jefferson County, and as such was rated, assigned a buffer as specified by Jefferson Counties Municipal Code (JCMC), and delineated to the extent that it crosses onto the parcels in question. Wetland A was rated a Category III slope wetland, with high impact land use, and given a 150 foot buffer according to specifications in Table 18.22.330(3). A building setback line of five feet was applied from the edge of the buffer area (18.22.270(5)(ii)) (Figure 3). An additional wetland (Wetland B) was originally delineated and mapped; however, an on-site review by Donna Frostholm, Wetland Scientist with Jefferson County Community Development (DCD), confirmed the area as non-wetland. Impacts to the Wetland A buffer are 853.7 ft<sup>2</sup> of the northeast portion of the proposed project area (Figure 10). According to JCMC 18.22.265, "... when the applicant proposes to alter, decrease or average the standard buffer, a habitat management plan (HMP) shall be required, consistent with the requirements of JCC 18.22.440." [Ord. 3-08 § 1]. This report serves as a Habitat Management Plan (following criteria required in JCMC 18.22.440), Wetland Delineation Report (JCMC 18.22.450), and as a Compensatory Mitigation Plan.

Field work for the wetland delineation was completed on March 20<sup>th</sup> and April 17<sup>th</sup>, 2019, with GIS mapping and subsequent report writing completed between May and June 2019. Conditions at the project site varied between cloudy/overcast (~50° F) and sunny (~60° F). The project site is located at 105 Airport Road, Port Townsend, Washington 98368 in the northeast 1/4 of Section 33, Township 30N, Range 1W.

## II. Project Site

Address: 105 Airport Road, Port Townsend, WA

County: Jefferson

Tax Parcels: #001331002 and 001284006

Property Description: EPF-A-Essential Public Facility – Airport

NE 1/4 Quarter Section: 33, Township: 33N, Range: 1W

Latitude, Longitude: 48°03' 22.80" N, -122°48' 28.24" W

Water resource inventory area (WRIA): WRIA 17 South (Quilcene-Snow)

Water bodies in which work will occur: None

This project site includes the current Port Townsend Aero Museum and parking lot, a regularly maintained field, and disturbed forested area adjacent to Airport Road and State Road 19. Two Cowardin plant classes were represented in Wetland A, which included shrub-scrub and emergent vegetation. Dense, woody plants accounted for 50-90% of the total wetland area (Attachment 1). Elevation of the project site is between 140 to 125 feet above sea level and decreases southeast to 115 feet above sea level (Figure 1). Wetland A is ~130 feet above sea level, along a hillslope between 5% grade. Wetland A is adjacent (east) to the existing Port Townsend Aero Museum. Areas that were seasonally flooded, occasionally flooded, and saturated only were observed at the

time of the site visit. Wetland A receives stormwater runoff from Airport Road and State Road 19. The Port Townsend Airport may also be a contributing source of pollutants to the wetland (Attachment 2). A former hydrologic connection northwest of the current wetland boundary may also be disturbed, which was indicated by surface water on Aero Museum parking lot (Appendix D). The area within a 1 kilometer polygon of the project site consists predominantly of moderate to low intensity land uses (89.6%), with high intensity (10.4%) land uses making up the remaining area (Attachment 3). A Category 5 – 303(d) listed water (Chimacum Creek) was recorded within the same basin as Wetland A, which also includes a Total Maximum Daily Load (TMDLs) project (Figures 12A and 12B). No Washington Department of Fish and Wildlife (WDFW) Priority Species or Wetlands of High Conservation Value (WHCV) were reported near the project site (Figures 13 and 14). These criteria are associated with the HGM Classification of Wetlands in Western Washington. Wetland A was considered a Slope wetland (Wetland Rating Form - Appendix B). Field indicators included hydrophytic vegetation consisting of Softrush (*Juncus effuses*; FACW), and Nootka rose (*Rosa nutkana*; FAC). Said hydrophytic vegetation, coupled with hydrologic indicators, and the presence of hydric soils suggested that a wetland was present.

## 1.0 Project Description

The proposed project includes an extension of the existing Port Townsend Aero Museum (Figure 2).

The Port Townsend Aero Museum existing footprint is approximately 14,400 ft<sup>2</sup>.

Proposed construction of the 90' x 60' (5,400 ft<sup>2</sup>) Aero Museum south extension will take place to the south of the existing south-southeast museum area (Figure 2). The proposed project area will be accessed along the western border of the museum via the north parking lot.

Impacts to the Wetland A buffer are expected to include 853.7 ft<sup>2</sup> of the northeast portion of the proposed project area (Figure 10).

## III. Supporting Information Queries

### 1.0 National Wetlands Inventory

The United States Fish and Wildlife National Wetlands Inventory map shows one mapped wetland types within ~0.1 miles from the project site: Riverine (**R4SBC**) (Figure 4). According to the United States Fish and Wildlife Service (USFWS) – Classification of Wetlands and Deepwater Habitats of the United States, National Wetland Inventory code interpretations are as follows:

- **R: System RIVERINE:** The Riverine System includes all wetlands and deepwater habitats contained within a channel, with two exceptions: (1) wetlands dominated by trees, shrubs, persistent emergents, emergent mosses, or lichens, and (2) habitats with water containing ocean-derived salts of 0.5 ppt or greater. A channel is “an open conduit either naturally or artificially created which periodically or continuously contains moving water, or which forms a connecting link between two bodies of standing water” (Langbein and Iseri 1960:5).
- **4: Class INTERMITTENT:** This Subsystem includes channels that contain flowing water only part of the year. When the water is not flowing, it may remain in isolated pools or surface water may be absent

- **SB:** Subclass **STREAMBED:** The Class Streambed includes all wetlands contained within the Intermittent Subsystem of the Riverine System and all channels of the Estuarine System or of the Tidal Subsystem of the Riverine System that are completely dewatered at low tide. Water Regimes are restricted to Irregularly Exposed, Regularly Flooded, Irregularly Flooded, Seasonally Flooded, Temporarily Flooded, Intermittently Flooded, and Regularly Flooded-Tidal Fresh. Not all Water Regimes apply to all subclasses.
- **C:** Modifier **SEASONALLY FLOODED:** Surface water is present for extended periods (generally for more than a month) during the growing season but is absent by the end of the season in most years. When surface water is absent, the depth to substrate saturation may vary considerably among sites and among years.

The NWI map documents were prepared primarily by stereoscopic analysis of high altitude aerial photographs taken in 1980 and 1981. Wetlands were identified on the photographs based on vegetation, visible hydrology, and geography. The aerial photographs typically reflected conditions during a specific year and season when they were taken. Some small wetlands and those obscured by dense forest cover may not be included on the map. In addition, there is a margin of error inherent in the use of aerial photographs. The NWI map did not record wetlands within the Wetland A delineated area and a riverine wetland was not observed south of the project site (Figure 4).

## 2.0 Natural Resources Conservation Services

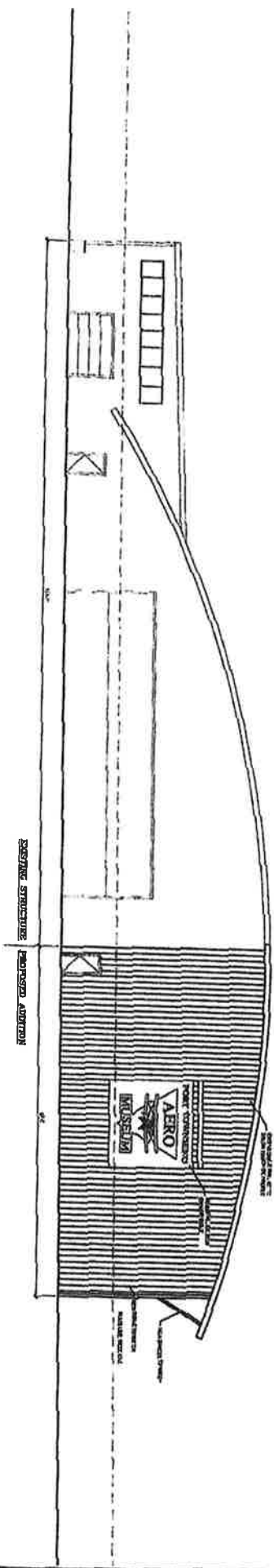
**Table 1.** Soil Map Unit

Soil Map Code	Soil Name	Percent
AgB	Agnew silt loam, 0 to 8 percent slopes	1.1
CfC	Cassolary sandy loam, 0 to 15 percent slopes	0.2
CmC	Clallam gravelly sandy loam, 0 to 15 percent slopes	2.2
HuC	Hoypus gravelly loamy sand, 0 to 15 percent slopes	19.7
HuD	Hoypus gravelly loamy sand, 15 to 30 percent slopes	4.7
HvC	Hoypus gravelly sandy loam, 0 to 15 percent slopes	0.9
SaB	San Juan gravelly sandy loam, 0 to 8 percent slopes	16.0
StB*	Swantown gravelly sandy loam, 0 to 8 percent slopes	45.6
SuB*	Swantown gravelly loam, 0 to 8 percent slopes	9.8

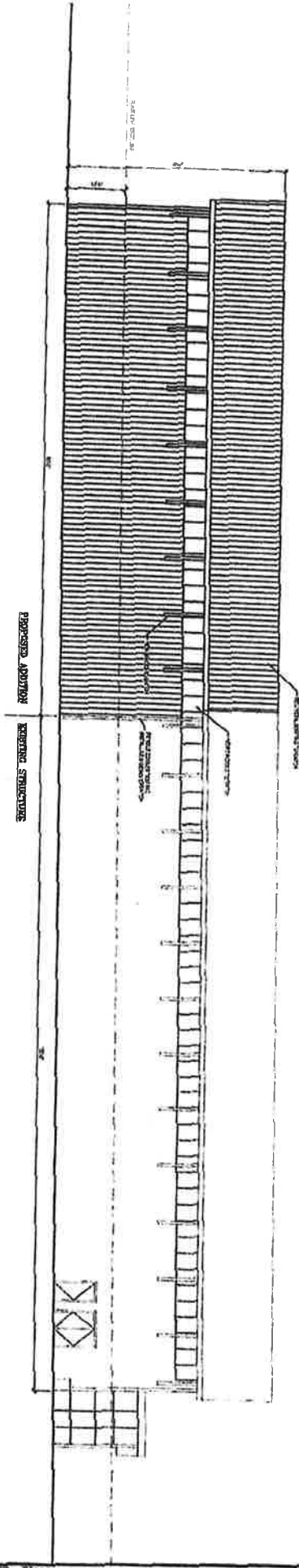
\*Soil Map Units sampled at the project site

Swantown gravelly sandy loam soil occurs on till (0 to 690 feet elevation) with 18 to 35 inches of mean annual precipitation and 50° F annual air temperature. The typical profile for this soil is gravelly sandy loam between 0 to 5 inches (H1), very gravelly loam between 5 to 13 inches (H2) and very gravelly sandy loam between 13 to 60 inches (H3 and H4). The soil unit is somewhat poorly drained with depth to the most restrictive layer between 20 to 30 inches of densic material, very low to moderately low (0.00 to 0.06 in/hr) capacity to the most limiting layer to transmit water (*Ksat*), and a depth of water table between 6 to 12 inches. No frequency of flooding or ponding is recorded. The soil is not rated as hydric (Figure 5).



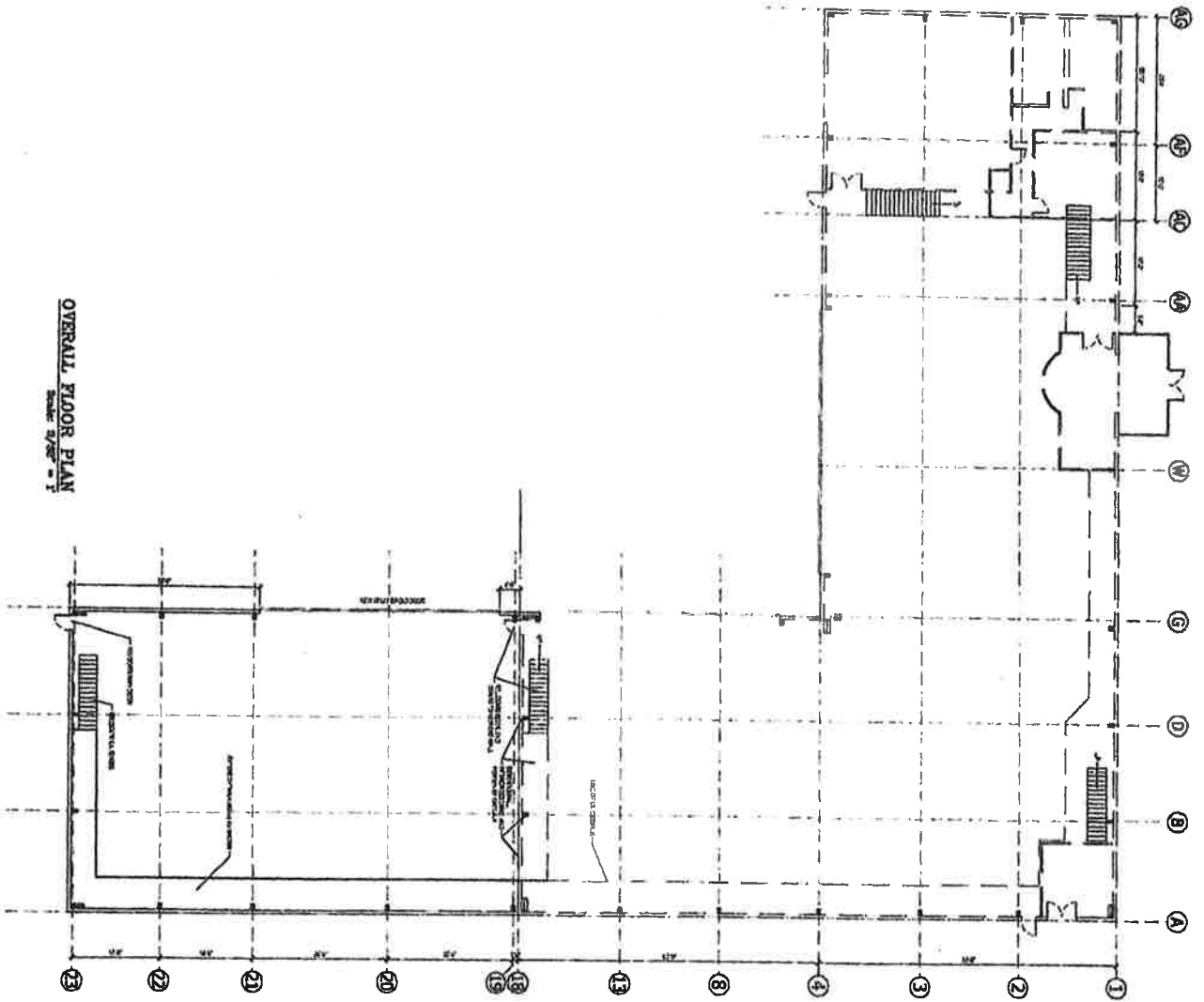



**SOUTH ELEVATION**  
Scale 1/8" = 1'



**EAST ELEVATION**  
Scale 1/8" = 1'

	<b>BUILDING ELEVATIONS</b>		<b>ZENOVIC &amp; ASSOCIATES</b> INCORPORATED 201 E. 10TH STREET, SUITE 1 PORT TOWNSEND, WA 98368 PHONE: (206) 398-1188 FAX: (206) 398-1189	<b>REVISIONS</b>	
	CLIENT: PORT TOWNSEND AERO MUSEUM 201 AIRPORT ROAD PORT TOWNSEND, WA 98368			DATE: _____ MARK: _____ NOTE: _____	



	<b>A2</b>	<b>OVERALL FLOOR PLAN</b> 41	<b>ZENOVIC &amp; ASSOCIATES</b> INCORPORATED 2016 8TH STREET, SUITE 1 PORT TOWNSEND, WA 98143 PHONE (206) 473-0811 FAX (206) 473-0812 EMAIL: ZENOVIC@PTA.WA.NET	<b>REVISIONS:</b>		
				<b>DATE</b> 	<b>MARK</b> 	<b>NOTE</b> 



# PRELIMINARY DRAFT

## LETTER OF INTENT (LOI):

### **Between the Port of Port Townsend & the Port Townsend Aero Museum For Development & Lease of an Area Adjacent to the Current Museum Premises at the Jefferson County International Airport (JCIA)**

January 22, 2020

1. The Port of Port Townsend ("Port") is a Washington port district, municipal corporation, and owner of the Jefferson County International Airport (JCIA).
2. The Port Townsend Aero Museum is a Washington nonprofit organization dedicated to the restoration and display of historic aircraft and community youth education and mentorship programs. The Port Townsend Aero Museum currently occupies a leasehold at the northeast corner of the JCIA property, immediately south of Airport Road.
3. The Port Townsend Aero Museum desires to develop and lease an additional area immediately adjacent and to the south of its current Museum Display Building for additional aircraft display, as well as for its programs and activities. A drawing of the specific areas subject to this Letter of Intent (LOI) is contained in Exhibit "A" attached hereto (the "Property").
4. This "LOI" is intended to outline the general terms of the understanding between the parties regarding the future development and long-term lease of the Property (the "Project"). The general terms of the understanding are stated as follows:
  - a. The Port agrees in principle to the development and long-term lease of the Property by the Port Townsend Aero Museum.
  - b. The Port Townsend Aero Museum intends to conduct a due diligence inquiry regarding the development of the Property and may elect to terminate this LOI at any time.
  - c. The Port Townsend Aero Museum will raise all funds necessary to develop the Property, including but not necessarily limited to site investigations, amendment(s) to the Airport Layout Plan (ALP), planning, design, permitting, and construction.
  - d. The Port Townsend Aero Museum expressly understands that the Project requires an amendment to Airport Layout Plan approved by the Federal Aviation Administration (FAA) in order for the project to proceed.

e. The development plans and specifications for the Property, and all material changes thereto, will be subject to Port Commission review and approval as consistent with Port's development guidelines and policies with respect to the Property, prior to the Port Townsend Aero Museum seeking permits or entitlements from Jefferson County or the FAA, and before any building materials have been ordered by, or delivered to, the Port Townsend Aero Museum or under the Museum's authority.

f. Prior to seeking an amendment to the ALP to allow the project to proceed, the Port Townsend Aero Museum will furnish to the Port, for the Port's review and approval, a detailed site drawing depicting the proposed changes to the ALP that will serve as the basis for the Port's request for ALP modification to the FAA. It is expressly understood that the Port, as the owner of the Property, will be "the applicant" for the ALP amendment, but that all fees and costs associated with this change will be borne by the Port Townsend Aero Museum.

g. Following approval (if granted) of the ALP amendment by the FAA, but prior to submitting development applications, the Port Townsend Aero Museum will deliver to the Port for the Port's review and approval two (2) sets of preliminary construction plans and specifications prepared by an architect or engineer licensed to practice as such in the State of Washington, including the following:

- i. Preliminary grading and drainage plan;
- ii. Stormwater management plan;
- iii. Engineered site plan with survey;
- iv. Utilities locations and power upgrade plan (if needed);
- v. Proposed wastewater disposal and water service connections (if any);
- vi. Proposed locations of ingress and egress to and from public thoroughfares (if any);
- vii. Proposed exterior lighting design;
- viii. Proposed locations for staff/visitor parking; and
- ix. Proposed building design.

The preliminary construction plans and specifications should be of sufficient detail to enable potential contractors and subcontractors to make reasonably accurate bid estimates and to enable the Port to make an informed judgment about the design and quality of construction.

h. The Port Townsend Aero Museum agrees that its development plans and specifications will reflect that those portions of the Property to be used in future for staff/visitor parking. The Port Townsend Aero Museum further agrees that its development plans and specifications will reflect that the approximately 5,400 square foot area immediately south of the "Aero Museum Display Building" at the JCIA will serve as the location for its proposed new (expanded) facility.

i. The Port reserves the right, in its sole discretion, to approve or disapprove the preliminary plans and specifications. The Port will not unreasonably withhold approval of preliminary plans and specifications but will have the right to withhold approval if it finds that the improvements are not consistent with the highest and best use of the Property or that the improvements are not harmonious with the improvements constructed in the immediate vicinity.

j. The Port Townsend Aero Museum understands and agrees that it must procure and deliver to the Port, prior to the commencement of construction, evidence of compliance with all then applicable codes, ordinances, regulations and requirements for permits and approvals, including, but not limited to: a grading permit; building permits; zoning and land use approvals, including critical areas permits; environmental (e.g., and State Environmental Policy Act, RCW 43.21C) determinations, and approvals from various governmental agencies and bodies having jurisdiction over the Property.

k. After procuring and delivering to the Port all required permit approvals, but prior to commencing construction activities, the Port will grant an amendment to the Port Townsend Aero Museum's existing ground lease to redefine the premises, required rent, and associated security deposit. The parties agree that the Port Townsend Aero Museum will own all improvements it constructs on the Property through the expiration or sooner termination of such long-term ground lease, and that the Port will retain a reversionary interest in the improvements.

l. The Port Townsend Aero Museum agrees that it will maintain and operate the facilities constructed on the Property continuously and in a first-class manner through the term of its ground lease with the Port.

5. This LOI does not contain all essential terms of the agreement to be entered into by the parties regarding the Property (e.g. the future amendment to the existing Ground Lease between the Port Townsend Aero Museum and the Port). The parties shall not be bound to any development agreement or other agreement, nor to any particular terms of any such agreements, and the parties will have no liability to one another with respect to such agreements or any particular terms thereof, unless and until final definitive written agreements containing all essential terms of the transaction are negotiated and approved by the parties' respective governing bodies, and signed by the parties.

6. For the duration of this LOI (as defined in paragraph 7, below) the parties will engage in exclusive negotiations with one another regarding the development of the Property; PROVIDED, that the parties are permitted to also have discussions with governmental and other regulatory agencies and lending institutions regarding the development of the Property. The parties will work diligently to fulfill the general terms of the understanding outlined herein, and to complete the negotiation of a long-term Lease Agreement for the Property by December 31, 2020.

7. The duration of this LOI shall begin on the date signed by both parties, and shall end on the earliest of the following:

- a. The date that the Port and the Port Townsend Aero Museum enter into final long-term Lease Agreement for the Property; or
- b. The date either party withdraws; or
- c. December 31, 2020.

The duration of this LOI may be extended for additional periods by written agreement of the parties.

8. During the time that the parties are negotiating a final long-term Lease Agreement and supporting documents, the Port Townsend Aero Museum will commit substantial resources to evaluate, design and plan the construction project, including but not limited to engineering and architectural design, and environmental and geotechnical review. The Port will also be committing resources to the project, including, but not limited to, review and approval of the proposed amendment to the FAA mandated ALP, conceptual designs and specifications and other materials provided by the Port Townsend Aero Museum, negotiation with the Port Townsend Aero Museum regarding necessary amendments to the existing Ground Lease Agreement between the parties, and support of the Project. If this LOI terminates and the Port Townsend Aero Museum does not develop the Property, then the Port Townsend Aero Museum will convey and assign to the Port all of its ownership interest in, and all other right, title, and interest of the Museum in and to, all reports, studies, designs, plans, permits, and other documents resulting from those efforts, and all other documents and information related to the investigation and development of the Property; PROVIDED, HOWEVER, that the Port Townsend Aero Museum shall not be required to provide or convey or assign to the Port any document or information to the extent protected by attorney work product or attorney/client privilege; and PROVIDED FURTHER, that such assignment shall not preclude the Port Townsend Aero Museum's use of any part or all of such documents or information.

9. This LOI contains the entire understanding of the Parties with respect to its subject matter and supersedes any and all other written or oral understandings. No amendment, change, or modification of this LOI shall be valid, unless in writing and signed by the parties hereto.

10. The Parties agree that no failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. No waiver of any provision of this LOI shall be valid unless in writing and signed by the party charged with the waiver.

11. If any provision of this LOI is found to violate any statute, regulation, rule, order or decree of any governmental authority, court, agency or exchange, such invalidity shall not be deemed to affect any other provision hereof or the validity of the

remainder of this LOI, and such invalid provision shall be deemed deleted herefrom to the minimum extent necessary to cure such violation.

12. This LOI shall be construed and interpreted in accordance with and shall be governed and enforced in all respects according to the laws of the State of Washington, without regard to conflict of law principles, and venue of any action or proceeding regarding this LOI shall be in Jefferson County, Washington.

13. This Amended LOI does not confer any rights or benefits on any person or entity other than the undersigned Parties and may not be assigned.

LOI dated this \_\_\_\_\_<sup>th</sup> day of February 2020, and effective upon the signature of the parties.

**PORT TOWNSEND AERO MUSEUM**  
**A Washington State Non-Profit Corporation**

BY:

AND BY:

\_\_\_\_\_  
Michael Payne  
Executive Director

\_\_\_\_\_  
Terry O'Brien  
Board Member

**PORT OF PORT TOWNSEND**  
**A Washington State Municipal Corporation**

\_\_\_\_\_  
Jim Pivarnik, Executive Director

**APPROVED AS TO FORM**

\_\_\_\_\_  
Port Attorney



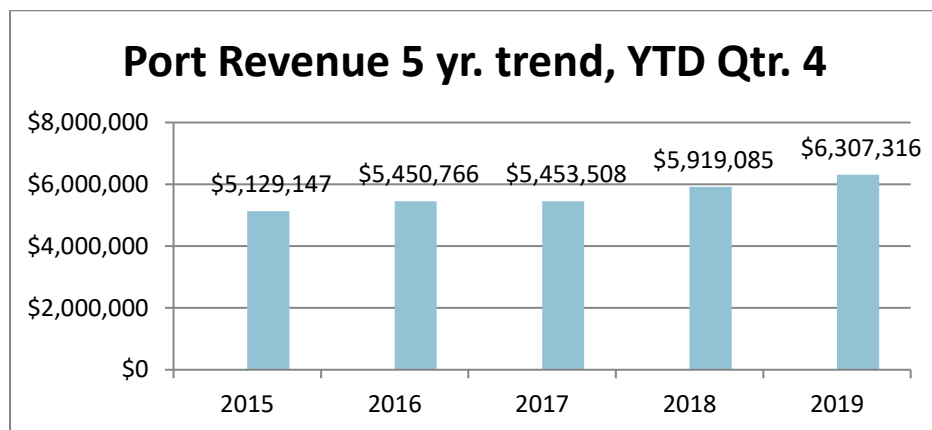
# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	January 22, 2020
<b>AGENDA ITEM</b>	<input type="checkbox"/> First Reading <input type="checkbox"/> Second Reading <input checked="" type="checkbox"/> Regular Business
<b>AGENDA TITLE</b>	VII. C. Quarter 4 Preliminary Financials for the Port
<b>STAFF LEAD</b>	Abigail Berg, Director of Finance
<b>REQUESTED</b>	<input type="checkbox"/> Information <input type="checkbox"/> Motion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Financials provided on Tuesday 1/21/2020

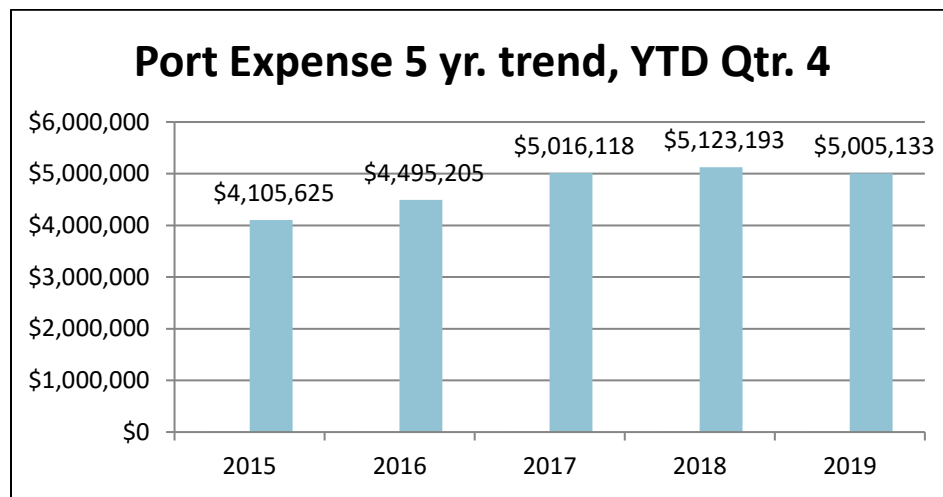
**DATE:** January 18, 2020  
**TO:** Commissioners and Directors  
**FROM:** Abigail Berg, Director of Finance & Administration  
**SUBJECT:** Port Financial Results as of Quarter 4, 2019 – P R E L I M I N A R Y

---



**Revenue Highlights:**

- ✓ The Port exceeded 2018 Operating Revenues by \$388,231.
- ✓ Total Operating Revenues are more than 2019 Budget by \$111,992.
- ✓ Moorage revenue is the sector lead in total revenues at \$1,900,981, but only slightly more than the Yard which totaled \$1,859,895 (~\$41,000 variance).
- ✓ All sectors exceeded both the 2018 revenues as well as the 2019 budget; none have under-performed.
- ✓ 70/75 Ton Hoist revenues exceeded both 2018 and budget (\$31,259 and \$7,366, respectively), and Work Yard revenue also exceeded both 2018 and budget (\$152,128 and \$64,208, respectively). This is likely due to the deep discount of lay-day rates for vessels in the Work Yard for more than one month which appears to have led to increased haul-outs and higher occupancy.
- ✓ Conversely, the 300 Ton Hoist revenues under-performed when compared to both 2018 and the budget (\$39,838 and \$18,562, respectively). Ship Yard revenues were higher than 2018 by \$28,474, but less than anticipated in the budget (by \$17,658).
- ✓ Boat Haven Property revenue exceeded both 2018 and the budget (\$27,581 and \$51,818, respectively). Some of these increases are due to CPI and some are likely related to the new staffing position of Leasing & Contracts Administrator who is facilitating the execution of new leases and renewals.
- ✓ Point Hudson (marina, rv & property) exceeded 2018 by \$50,089 and slightly ahead of budget by \$1,913.
- ✓ Quilcene revenues exceeded both 2018 and budget (\$9,919 and \$6,902, respectively). This is likely due to having regular full-time staff on-site during season and part-time off season.
- ✓ Ramp revenues exceeded both 2018 and budget (\$7,455 and \$3,966, respectively). These increases are primarily related to Ramp Fee sales (\$5,614 more than in 2018, and \$2,726 more than budget). *Of note is that only 12 passes (that total \$960), of the pass sales in December were pre-purchased for 2020 at the Qtr. 1 discounted rate.*
- ✓ JCIA revenues exceeded both 2018 and budget (\$15,914 and \$11,677, respectively).



**Expense Highlights:**

- ✓ Total 2019 Operating Expenses are less than both 2018 and budget (\$118,606 and \$33,136, respectively).
- ✓ Salaries & Wages are \$111,944 less than 2018, and less than budget by \$67,336. These variances are related to changes (some that include reductions, such as in Administration) and timing in staffing.
- ✓ The variances in Employee Benefits (when compared to 2018 and budget) are related to the changes in staffing noted in the prior bullet.
- ✓ Many of the budget variances in Operating Expenses are largely related to timing, which aren't always predictable (such as Contract Services, Consulting Services, Facility & Operations, etc.). The most significant are noted in the notes to the financial report.
- ✓ The year to year and budget variances in Facilities & Operations expenses is primarily as the result of the write-off of Bad Debt.
- ✓ Utilities costs exceeded both 2018 and budget (\$23,833 and \$20,420, respectively). While some of this is related to increased rates not known when the 2019 budget was adopted in late 2018, some is related to increased use. More analysis will be brought to Commission at the January 22<sup>nd</sup> meeting.
- ✓ Marketing costs were less than in 2018 by \$17,102, yet more than budget by \$9,722.

YTD Net Operating Income is \$1,302,183 and when including Non-Operating Revenues and Expenses, there is a Net Profit of \$2,817,001. The increase related to the Net Non-Operating is reduced by both Capital Expenses and Debt Service principle which are listed in the Cash Flow report.

**Non-Operating Revenues:**

- ✓ Capital Contributions / Grants revenue exceeded 2018 due to the JCIA Runway Rehab Phase II Engineering and the Organize the File Room projects. 2019 actual is less than budget because the JCIA Runway Rehab project construction was moved to 2020.
- ✓ Interest income is higher in 2019 than 2018 by \$8,113 and ahead of budget by \$21,959.
- ✓ Property and other taxes are slightly more in 2019 than 2018 (\$5,569), and significantly more than budget (\$30,376). The latter is related to variances in State Forest Revenues and State Timber Excise tax which are both subject to vary year to year based on harvests.

**Non-Operating Expenses:**

- ✓ In accordance with the amortization of current debt, the Port's bond interest is less in 2019 when compared to 2018. In addition, the Port extinguished the 2013 Revenue Bond debt in late 2018.
- ✓ Election costs in 2019 reflect the Port's cost of the District 1 Commissioner race.

**Capital Projects:**

During 2019, the Port expended \$665,064 in WIP (capital project "Work in Progress"). Other capital improvements to the Port that did not go through a WIP accounting totaled \$103,553. These improvements

were performed by outside vendors contracted out for single projects that didn't require staff time or additional materials.

**Capital Purchases:**

During 2019, a total of \$129,125 was expended on various vehicle and equipment purchases for the Port (as noted in the Cashflow report).

Total Capital expenses for 2019, both in projects and purchases, came to \$897,742. A complete listing of all capital projects and purchases in 2019 will be provided by the 1<sup>st</sup> Commission meeting in February.

**Debt Service Obligations:**

During 2019, the following debt service payments were made:

- ✓ January - \$51,375 for interest on the 2015 LTGO Bond
- ✓ June - \$98,919 for interest on the 2010 LTGO Bond
- ✓ July - \$501,375 for principal and interest on the 2015 LTGO Bond
- ✓ December - \$363,919 for principal and interest on the 2010 LTGO Bond

Total Principle paid in 2019 was \$715,000.

Total Interest paid in 2019 was \$300,587.

**Cash & Investment balances:**

At the end of the year, the cash and investment balances totaled \$3,226,735. Of that total, year-end Reserve Cash & Investment balances were \$1,233,195 and Unreserved Cash & Investments totaled \$1,993,540.

**Port of Port Townsend**  
**Summary of Operating & Non-Operating Revenues & Expenses**  
**2019 Activity with Comparison to Prior Year and Budget**

**PRELIMINARY**

	YTD Dec 2018	YTD Dec 2019	Variance to prior year - 2018 v 2019	notes	YTD Budget 2019	Variance to Budget YTD
<b>REVENUES</b>						
Boat Haven Moorage	1,815,141	1,900,981	85,840		1,894,872	6,109
Yard Operations	1,668,462	1,859,895	191,433		1,830,288	29,607
Boat Haven Properties	668,897	696,478	27,581		644,660	51,818
Pt. Hudson Marina, RV & Prop	1,432,198	1,482,287	50,089		1,480,374	1,913
Quilcene	156,455	166,374	9,919		159,472	6,902
Ramps	43,211	50,666	7,455		46,700	3,966
JCIA	134,721	150,635	15,914		138,958	11,677
<b>Total Operating Revenues</b>	<b>5,919,085</b>	<b>6,307,316</b>	<b>388,231</b>		<b>6,195,324</b>	<b>111,992</b>
<b>OPERATING EXPENSES</b>						
Salaries & Wages	2,163,134	2,051,190	(111,944)	a	2,118,526	(67,336)
Payroll Taxes	218,246	223,337	5,091		231,824	(8,487)
Employee Benefits	745,646	777,463	31,818	b	771,238	6,225
Uniform Expense	6,853	8,500	1,647		8,426	74
Contract Services	313,540	281,743	(31,798)		281,185	558
Consulting Services	59,756	49,769	(9,987)		136,000	(86,231)
Legal & Auditing	204,731	125,673	(79,058)	c	100,000	25,673
Insurance	237,198	276,190	38,992	d	236,867	39,323
Facilities & Operations	469,533	522,295	52,762	e	472,037	50,258
Utilities	549,970	573,803	23,833	f	553,383	20,420
Marketing	80,630	63,527	(17,102)	g	53,805	9,722
Economic Development	30,000	-	(30,000)	h	30,000	(30,000)
Travel & Training	28,844	34,648	5,805		34,013	635
Cost of Goods - Fuel	15,112	16,255	1,143	i	10,965	5,290
Community Relations	-	740	740		-	740
<b>Total Operating Expenses</b>	<b>5,123,193</b>	<b>5,005,133</b>	<b>(118,060)</b>		<b>5,038,269</b>	<b>(33,136)</b>
<b>Income from Operations w/o Depr</b>	<b>795,892</b>	<b>1,302,183</b>	<b>506,291</b>		<b>1,157,055</b>	<b>145,128</b>
<b>Non-Operating Revenue</b>						
Capital Contributions/Grants	113,113	360,959	247,845	j	4,368,028	(4,007,069)
Interest	56,046	64,159	8,113	k	42,200	21,959
Property & other taxes	1,089,297	1,094,866	5,569		1,064,490	30,376
Misc Non-Operating Revenue	61,639	255,568	193,928	l	35,000	220,568
<b>Total Non-Operating Revenues</b>	<b>1,320,096</b>	<b>1,775,551</b>	<b>455,456</b>		<b>5,509,718</b>	<b>(3,734,167)</b>
<b>Non-Operating Expenses</b>						
Bond Interest	290,990	249,213	(41,778)		293,838	(44,626)
Bond Mgmt, Issuance & Misc Exp	1,558	1,500	(58)		1,500	-
Election Expense	-	10,021	10,021		9,500	521
<b>Total Non-Operating Expenses</b>	<b>292,548</b>	<b>260,733</b>	<b>(31,815)</b>		<b>304,838</b>	<b>(44,105)</b>
<b>Net Non-Operating Income (Expense)</b>	<b>1,027,548</b>	<b>1,514,818</b>	<b>487,270</b>		<b>5,204,880</b>	<b>(3,690,062)</b>
<b>Net Income (Loss)</b>	<b>1,823,439</b>	<b>2,817,001</b>	<b>993,561</b>		<b>6,361,935</b>	<b>(3,544,934)</b>

**Notes:**

- (a) *There have been several changes in staffing since 2018 that contribute to the year to year variance, both in Salaries/Wages and Benefits. Such changes have been noted and discussed throughout the year at Commission meetings. Also, part of the Salary/Wages variance includes ~\$50,000 in sick and vacation payouts at termination in 2018.*
- (b) *The 2019 budget to actual variance for Benefits is partly due to changes and timing of those changes in staffing. The result is actual is slightly more than budgeted.*
- (c) *Whereas this is below 2018, it is higher than budget due to invoices for legal services related to Seattle Maritime Academy litigation regarding the John Cobb derelict vessel. A settlement payment was received in July that offset the YTD SMA legal fees (~\$47,000).*
- (d) *There were unexpected increases in Insurance costs from 2018 to 2019 in the amount of \$38,992. This affected all insured pool-wide with the largest (66%) of the increase in replacement property estimates. An insurance representative is being scheduled to attend a Commission meeting soon to provide more information.*
- (e) *The primary reason for the variance to prior year is due to the ~\$52,000 increase in Bad Debt write-offs.*
- (f) *Utilities are up from 2018 by approximately \$24,000 and over budget by approximately \$20,000. This will be reviewed for further detail and presented at the Commission meeting.*
- (g) *Marketing costs less than in 2018 by approximately \$17,000, and ahead of budget by approximately \$10,000.*
- (h) *No contract was executed with the Economic Development Council (EDC) for 2019.*
- (i) *2018 and 2019 are on par with each other, while being over budget by approximately \$5,000. The increase over budget is directly related to increased Fuel sales in 2019 due to having a Facilities Attendant in Quilcene.*
- (j) *YTD Capital Contributions/Grants are less than budget because it was anticipated the Port would complete construction of the JCIA Runway Rehab project in 2019.*
- (k) *Interest income is higher than budgeted because more cash has been retained since the JCIA Runway Rehab construction hasn't commenced.*
- (l) *Increases to Miscellaneous Non-Operating Revenue for the \$100,000 paid for the purchase of a surplus building by New Day Fisheries; these monies have been placed in the Port Wide Capital Reserve. In addition, there was an increase of approximately \$132,000 for the portion of the SMA legal settlement (totaling \$212,000) that wasn't used to pay down the outstanding accounts receivable for the Cobb vessel.*

# Port of Port Townsend

## YTD Cashflow report

	YTD December 2019
	notes
<b>Net Income</b>	<b>2,817,001</b>
<b>Net Change in Accruals from Balance Sheet*</b>	<b>390,165</b>
<b>Less: Capital Expenses:</b>	
Point Hudson South Jetty project	-
WorkYard Resurfacing 2018	-
JCIA Runway Replacement project	(391,700)
PTBH Water Meters project	-
PTBH Restroom Remodel 2019	(36,056)
BH Breakwater Repair 2019	(9,912)
PH Moorage Office Exterior Paint 2019	(9,328)
WorkYard Resurfacing 2019	(44,653)
PH South Jetty 2019-2020	(45,245)
PH 375 Hudson St. - Air Quality Imprvmnts 2019	(77,542)
BH Net Float Reconstruction	-
BH Prop - 810 Haines Street	-
BH Prop - 2900 WA Bldg Repair 2019	-
Land	-
Buildings	-
Improvements	(154,181)
Equipment replacement	(129,125)
<b>Total Capital Expenses</b>	<b>(897,742)</b>
<b>Less: Principal Payments on Debt:</b>	
PTBH Marina - 2010 LTGO Bond	(265,000)
Point Hudson - 2015 LTGO Refunding Bond	(450,000)
<b>Total Principal Payments</b>	<b>(715,000)</b>
<b>Increase (Decrease) in Cash Y-T-D</b>	<b>1,594,424</b>
<b>Beginning Cash at 1/1/2019</b>	<b>1,632,311</b>
<b>Ending Cash at 12/31/2019</b>	<b>3,226,735</b>

\*These are current assets and current liabilities.

### **Notes:**

- (a) Purchase of the following equipment & vehicles:
- Vactor truck from City of Port Townsend (\$10,431)
  - Maintenance trucks (\$24,161 & \$2,500)
  - BH Restroom Fob Locking system (\$16,193)
  - (2) replacement tires for 300 ton Travelift (\$23,762)
  - BH Ramp Pay Station Kiosk & install (\$14,050)
  - Genie lift (\$21,000)
  - Blocking (\$10,851)
  - SkyTalk Phone System (\$6,177)