



Port of Port Townsend  
Regular Commission Meeting Agenda  
Wednesday, April 8, 2020, 1:00 p.m.

Via Zoom – Link provided online, or call (253) 215 8782, use Webinar ID: 684 518 081

*This meeting will only be accessible remotely, as per Governor's Proclamation 20-28.*

- I. Call to Order / Pledge of Allegiance
- II. Approval of Agenda
- III. Public Comments
- IV. Consent Agenda
  - A. Approval of Regular Business Meeting Minutes – March 25, 2020<sup>(1)</sup> ..... 1-6
  - B. Approval of Warrants<sup>(1)(2)</sup>
  - C. JeffCo PUD Easement at JCIA<sup>(1)</sup> ..... 7-10
  - D. Termination of lease agreement with JeffCo Solar Array<sup>(1)</sup> ..... 11-12
- V. Second Reading -- *none*
- VI. First Reading -- *none*
- VII. Regular Business
  - A. Revisit extending Work Yard seasonal rate through May<sup>(1)</sup> ..... 13
  - B. Covid-19 Update ..... 14-32
    - Request for Ratification of Emergency Orders 2020-03, -04, -05 & -06<sup>(2)</sup>; and
    - Draft Resolution 720-20 Granting Additional Administrative Authority to the Executive Director.
- VIII. Staff Comments
- IX. Commissioner Comments
- X. Next Public Regular Business Meeting:  
Wednesday, April 22, 2020. Meeting at 5:30 PM, Via Zoom
- XI. Executive Session - *none*
- XII. Adjournment

Please note: Governor's Proclamation 20-28 re Open Public Meetings Act states, "Subject to the conditions for conducting any meeting as required above, agencies are further prohibited from taking "action," as defined in RCW 42.30.020, unless those matters are necessary and routine matters or are matters necessary to respond to the COVID-19 outbreak and the current public health emergency, until such time as regular public participation under the Open Public Meetings Act is possible."

Agenda items are marked with numbers to show which of these criteria they meet: (1) necessary & routine matters (2) matters necessary to respond to the COVID-19 outbreak and the current public health emergency

## PORT COMMISSION REGULAR BUSINESS MEETING – Wednesday, March 25, 2020

The Port of Port Townsend Commission met for a regular business session via Zoom online.

Present via Zoom online video: Commissioners Hanke, Petranek and Putney  
Executive Director Berg  
Deputy Director Toews  
Former Executive Director Pivarnik  
Finance Director & Port Auditor Berg  
Port Recorder Erickson  
Port Attorney Reardanz

### I. CALL TO ORDER

Commissioner Hanke called the meeting to order at 5:32 PM.

### II. APPROVAL OF AGENDA (00:01:07)

With Cynthia Weeds, Bond Counsel of K&L Gates, on the phone and ready to present, Executive Director Berg asked that the agenda be changed to allow her to go first. Commissioner Hanke moved to amend the agenda to move item VII B to the top of the agenda. **Commissioner Putney moved to approve the Agenda as modified.**  
**Commissioner Petranek seconded the motion.**  
**Motion carried by unanimous vote.**

### VII. B. Authorization to engage bank and K&L Gates for Line of Credit (LOC) (00:01:14)

Finance Director Berg presented the staff memo comparing three proposals received for a LOC. Staff recommended going with Cashmere Valley Bank because it offered the lowest fixed rate, with no loan fee. It will cost the Port \$10,000 to have K&L Gates work through the necessary documentation.

Bond Counsel Weeds explained the way this type of transaction works: You can only do a draw for an authorized expenditure. In other words, first the Port is billed for services, then staff get Commission approval for payment of said bill, then the amount is drawn down from the LOC to pay the bill. Once FAA grant funds are received, the LOC is paid back.

Port Attorney Reardanz stated for the record that this agenda item is “necessary and routine” and therefore allowed under Governor’s Proclamation 20-28 re OPMA.

**Commissioner Putney moved to approve Resolution 20-718.**

**Commissioner Petranek seconded the motion. Motion carried by unanimous vote.**

### III. PUBLIC COMMENTS (00:10:50)

Former Commissioner Steve Tucker checked in to see if this virtual format would allow public comments, and was pleased that it worked.

Brian Kuh, EDC Director, referred to an email sent earlier about what the EDC is doing during the Covid-19 crisis, and offered any type of help that the commission saw fit for their collective interest. Commissioner Hanke asked about the stimulus package, and how it may assist small businesses on Port property. Mr. Kuh said he was aware of small business micro grants to be administered through the EDC.

Former Executive Director George Yount said he loved the flexibility of this online meeting, wished the Port luck and gave much appreciation for the work the Port does.

Public Comments submitted in advance for this regular business meeting were read aloud:

Kat Murphy updated the Commission on her moorage situation and compared the commercial docks in Port Townsend to Squalicum Harbor in Bellingham Bay.

Jeff Kelety suggested the Port provide latitude on moorage payments during the coronavirus pandemic.

Jennifer Takaki, owner of the Marina Café, commented that that all nonessential business should close for the time period designated by the governor, and that businesses requesting an exemption should be required to specify the essential service they provide, in hopes that we can cut down on the risk of exposure to the virus.

Jake Beatie, NW Maritime Center, asked that Port policies to mitigate the effects of this downturn include the non-profit sector.

Bertram Levy commented that the coronavirus pandemic would create an economic downturn, and hopes there is a preemptive discussion regarding adjusting rates at some workshop in the near future.

Mark Stout of Scow Bay Boats commented on a potential lease rate adjustment for those that own their own structures. He asked the Port to consider a reasonable and affordable rate for those small businesses, and while an 18¢ per square foot seems fair, it would double his current rate. He also suggested that the Port continue the seasonal discounted yard rate through May to encourage haul outs.

Commissioner Petranek added that she had met with Jennifer Takaki about her statement and clarified for the record that Ms. Takaki was speaking of neighboring businesses that could do a better job (she has since seen improvement and is satisfied). Ms. Takaki emphasized that she is happy about what the Port is doing in this crisis.

#### IV. CONSENT AGENDA (00:28:51)

- A. Approval of Regular Business Meeting Minutes – March 11, 2020
- B. Approval of Warrants
  - Warrant #061811 through #061819 in the amount of \$14,294.41 and Electronic Payment in the amount of \$65,498.88 for Payroll & Benefits.
  - Warrant #061820 through #061856 in the amount of \$96,131.92 for Accounts Payable.
  - Electronic Debit in the amount of \$5,650.05 for Washington State Department of Revenue Combined Excise Tax Return.
- C. Resolution 717-20, Signature Authority for Executive Director Eron Berg

**Commissioner Putney moved to accept the Consent Agenda as submitted.**

**Commissioner Petranek seconded the motion. Motion carried by unanimous vote.**

#### V. SECOND READING (00:29:20)

- A. Recommendation for intermediate rates for yard lease tenants

Deputy Director Toews stated that the Port was looking for direction on (1) the establishment of an intermediate category of leasehold at Boat Haven: active marine-related trades not making improvements to Port property, nor working out of established Port-owned buildings; and (2) a rate established by the Commission for all tenants in this classification. Port staff suggested 18¢/ft<sup>2</sup>; but is more concerned with

establishing an intermediate designation. Staff proposed that the rate become effective October 1, 2020. However, any tenants currently paying above the new rate be immediately adjusted accordingly.

Commissioner Hanke suggested the rate be set at 16¢/ft<sup>2</sup> which seemed fair and in keeping with tenants' public comments.

Commissioner Putney asked when rates were usually adjusted. Deputy Director Toews clarified that, based on the anniversary of the agreement with a tenant, a CPI or base-rate adjustment would be applied annually.

Commissioner Petranek asked if, based on comments submitted from Mark Stout, the Port could mitigate the rate increase for him by a gradual increase instead of an automatic jump, to give him time to adjust. Deputy Director Toews stated that the Port typically works with tenants to make such accommodations so as not to create hardship for them. He clarified that we currently have 4 tenants in this proposed category: two who are paying less than the proposed 18¢, one who is paying about that rate, and one who is paying a higher amount. He then stated for the record that this agenda item is "necessary and routine" and therefore allowed under Governor's Proclamation 20-28 re OPMA.

**Commissioner Hanke moved to adopt a rate of 16¢ and establish the new interim lease rate class. Commissioner Putney seconded, and the motion carried by unanimous vote.**

#### VI. FIRST READING (00:40:36)

##### A. Rate-setting for Fall 2020/21 Work Yard Discount

Former Executive Director Pivarnik explained this 2<sup>nd</sup> year of a seasonal work yard rate has worked well for the Port, and explained that setting this discounted rate now gives the Port & Marine Trades time to advertise for this autumn. He proposed an increase of one (1) cent over the 2019-2020 rate to 37¢.

Executive Director Berg stated for the record that this agenda item is "necessary and routine", is related to our Covid-19 response, and therefore allowed under Governor's Proclamation 20-28 re OPMA. He understood this policy to have been a huge success, and encouraged the Commission to take action on it tonight, and dispense with a 2<sup>nd</sup> reading so the Port can assist the marine trades and they can plan for business this fall.

**Commissioner Hanke moved to dispense with any further reading and enact this policy today. Commissioner Putney seconded and the motion passed unanimously.**

**Commissioner Petranek moved to accept these rates for 2020-21. Commissioner Putney seconded, and the motion carried by unanimous vote.**

Commissioner Petranek asked if there could be a discussion regarding extending the 2019-20 seasonal work yard rate in addition to this proposed 2020-21 seasonal rate.

There was a discussion about the impacts of a two-week shutdown, with some trades having closed for safety, and how it makes sense to extend the current seasonal rate into April or May. Commission agreed that they could decide later if it should be extended into May, with the format the same (pre-pay), giving the Port time to consult with Operations Manager Khile regarding ramifications.

**Commissioner Hanke moved that we extend the 2019-20 seasonal yard rates through April, and revisit this at the first meeting in April.**

**Commissioner Petranek seconded, and the motion carried by unanimous vote.**

VII. REGULAR BUSINESS (00:53:18)

A. Response to the Covid-19 Pandemic

Executive Director Berg presented the staff memo explaining all the actions taken from March 16<sup>th</sup> through the 20<sup>th</sup>, and alerted Commission to two additional Emergency Orders sent since the memo was written. He explained that Resolution 719-20 would ratify the Emergency Proclamation and the Emergency Orders through Friday, and address the delegation of authority over leases, comply with public health guidelines, keep staff and community safe and ensure the essential operations of the Port. He highlighted actions like closing the RV Park at Point Hudson, doubling sanitation of facilities, requiring staff distancing, and closing Port ramps to non-essential use. He also spoke of putting the brakes on expenditures to give us time to re-evaluate:

- Quilcene dredging – on hold at this time. The intent was to work on the design, engineering and permitting. Staff will continue to work on scoping at this time;
- Airport terminal building (RV park model) – purchase cancelled with some of the non-refundable payment returned and the rest held for a deposit on a purchase within the next 12 months. Staff will continue to work on project design and evaluation at this time; and
- Hydraulic, self-propelled boat handler – put on hold for now; staff is working with others on an implementation plan for boat storage and traffic in the yard as well as a business plan for the new equipment.

Executive Director Berg asked for direction from Commission on the IDD capital funds for 2020, with the recommendation to look at that revenue, which is approximately \$800,000, identify \$500,000 of that as funds we want in cash at the end of the year for the big IDD projects, and commit the remaining \$300,000 to the completion of the airport terminal building, bid and permitting phase for Boat Haven electrical services improvements, and C & D dock repair and maintenance using our own crew. He explained that the resolution, if ratified, permits additional authority to defer rents for those who are directly affected by this pandemic - a deferral program to provide cash-flow support to tenants, and it is needed today. He also asked for Commission's general thoughts on how the Port is handling the Covid-19 pandemic.

Commissioner Hanke thanked Executive Director Berg for his hard work, and stated that Commission agreed with the budgetary aspects of this resolution, especially the leveraging the IDD funds. He asked if rent deferral for tenants included moorage tenants.

Executive Director Berg stated that moorage was not yet included; however the Port has waved late fees for moorage customers.

Deputy Director Toews stated that the Port was focused on the delegation of authority of this resolution, in relation to its decisions on lease agreements.

Commissioner Petranek suggested we consider commercial moorage tenants at our next meeting on April 8, giving the Commission time to talk to constituents about different ways to approach this; Commission agreed.

**Commissioner Putney moved to adopt Resolution 719-20. Commissioner Petranek seconded, and the motion carried by unanimous vote.**

## VIII. STAFF COMMENTS (01:19:22)

Executive Director Berg wanted to publicly acknowledge Port staff, saying all employees were fully onboard and willing to do what needs to be done -- a great team to work shoulder-to-shoulder with during this pandemic.

Recorder Erickson thanked Executive Director Berg and commended him for catching on so quickly. She stated that documents approved tonight would be at her desk, ready for signatures when Commission could stop by to sign.

Finance Director Berg commented that she was working on an electronic signature format for approving Warrants and Resolutions in the future. She asked if there were any questions or comments regarding the February financials, which were distributed and posted to the Port website, but not added to the agenda or packet. Also, Finance Director Berg stated she is glad to have Eron Berg on board as Executive Director. Commissioner Hanke stated that he had read through the financial report and that they were exceptional, and pretty close to budget, which was great.

Deputy Director Toews commented that he was very glad to have Eron on board, and how it had been good working with him on really challenging issues in such a brief period of time.

Former Executive Director Pivarnik thanked all the staff for working so well together, especially the executive team.

## IX. COMMISSIONER COMMENTS (01:23:26)

Commissioner Putney welcomed aboard Executive Director Berg, and commented on how great he was doing, especially during this crisis; he felt that the Port was lucky to have him. He remarked to those present they should heed the Governor's shelter in place order, and to follow guidelines on how not to get sick.

Commissioner Petranek commented that she had met with Jeff Randall, PUD Commissioner, and discussed how other jurisdictions run agendas and conduct their meetings, and how public comments can be more inclusive. She welcomed the new Executive Director, gave an update on some of the trades in the Port and expressed gratitude for the strength that everyone is showing by pulling together and helping each other.

Commissioner Hanke commented that communication is what's going to get us through all of this. He felt that the Port needs to stay nimble and make adjustments where possible. He said he had spoken with many business owners and has started a notebook of what problems they are having and any ideas for solutions. He complemented staff for their hard work during this difficult time, and welcomed Executive Director Berg to the job.

## X. Next Public Regular Business Meeting:

Wednesday, April 8, 2020. Meeting at 1:00 PM, Via Zoom

## XI. Executive Session - none

XII. ADJOURNMENT (01:31:08)

The meeting adjourned at 7:11 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

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William W. Putney III, Vice President

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 4/3/2020  
**TO:** Port Townsend Port Commission  
**FROM:** Eric Toews, Deputy Director  
**SUBJECT:** Grant of Easement to PUD for 3-Phase Power & Fiber Optic Cable – Jefferson County International Airport parcels 001331005, 001331018 & 001331016

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**ISSUE PRESENTED:** Should the Commission authorize the Executive Director to execute a utility easement with Jefferson County Public Utility District No. 1 (PUD) to support the provision of power and fiber optic utility services to the Port's "Rural Light Industrial" zoned property at the JCIA?

**BACKGROUND & DISCUSSION:** The PUD has been working with Port staff to extend 3-phase power and fiber optic service to the Port's "Rural Light Industrial" zoned property at the JCIA.<sup>1</sup> The extension of these utility services to these parcels by the PUD greatly improves the Port's property and would also allow Jefferson County Fire District #1 to access power and fiber if plans to develop their adjacent property move forward. Power and fiber would be extended in underground conduit along the alignment depicted on Attachment #2 to this Staff Report. The expectation is that this utility improvement project would be undertaken concurrent with the JCIA runway reconstruction project, while the airport is closed.

If granted, the PUD would be responsible for maintaining utility lines within the easement. Additionally, the PUD has agreed to include language that would allow the easement and utilities to be relocated (at PUD expense) if the current location conflicts with the Port's future development design of the property.

**FISCAL IMPACT:** None. The Port would require nominal consideration from the PUD in return for a grant of easement that would facilitate extension of utility services which would substantially improve the Port's property.

**RECOMMENDATION:** Staff recommends that the Commission authorize the Executive Director to execute the easement to be recorded with the Jefferson County Auditor's office.

**MOTION:** None required. Approval of this item on the Consent Agenda authorizes the Executive Director to execute an easement with the Jefferson County PUD (substantially in the form presented).

**ATTACHMENTS:** Grant of Easement (incorporating Map Depicting Easement Location).

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<sup>1</sup> This 23.5-acre parcel (No. 01331005) was rezoned by Jefferson County in 2009 and included within the "Airport Overlay III" zoning designation described in Jefferson County Code Section 18.15.453. The purpose of the overlay designation is to provide a limited opportunity for rural scale non-aviation-related industrial use that contributes to the long-term financial viability of the JCIA.



RETURN ADDRESS:  
PUD#1 of Jefferson County  
P.O. Box 929  
Port Hadlock, WA 98339

## EASEMENT

GRANTOR: PORT OF PORT TOWNSEND  
GRANTEE: PUBLIC UTILITY DISTRICT NUMBER #1 OF JEFFERSON COUNTY.  
SHORT LEGAL: SECTION: 33 QTR. SECTION: NE1/4 TOWNSHIP: 30N RANGE: 1W  
ASSESSOR'S PROPERTY TAX PARCEL: 001331005, 001331018, 001331016

For and in consideration of One Dollar (\$1.00) and other valuable consideration in hand paid,

PORT OF PORT TOWNSEND ("Grantor" herein), its successors and assigns hereby conveys and warrants to **PUBLIC UTILITY DISTRICT #1 OF JEFFERSON COUNTY**, a Washington Municipal ("Grantee" herein), its successors and assigns for the purposes hereinafter set forth, a nonexclusive perpetual easement over, under, along, across and through the following described real property ("Property" herein) Jefferson County, Washington:

**SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.**

**EASEMENT LOCATION:** Except as may be otherwise set forth herein, Grantee's rights shall be exercised upon that portion of the Property (the Easement Area" herein) that is ten (10) feet in width having five (5) feet of such width on each side of the centerline of Grantee's systems located as constructed or to be constructed' extended or relocated on the Property.

**1. Purpose.** Grantee shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, and enlarge all utility systems for purposes of transmission, distribution, fiber optic and sale of water. Together with the right of access over and across said Property to enable Grantee to exercise its rights hereunder. As used herein, the term "systems" shall include all appurtenances and facilities as are necessary, in the judgment of Grantee, for the operation and maintenance of said systems.

**2. Grantor's Use of Easement Area.** Grantor agrees not to erect any structures on said Easement Area, and further agrees not to place improvements or other obstructions on the Property that would interfere with the exercise of Grantee's rights herein.

**3. Grantor's Agreement to Relocate Utility Systems.** Upon approval of development and construction permits for improvements and structures on Grantee's property that would cause existing PUD Utility System(s) to obstruct, impinge upon or conflict with a valid construction design; PUD will cooperate with Grantee to remodel or relocate existing systems at PUD expense.

DATED this \_\_\_\_\_ day \_\_\_\_\_ of 2020:

GRANTOR: BY: \_\_\_\_\_

BY: \_\_\_\_\_

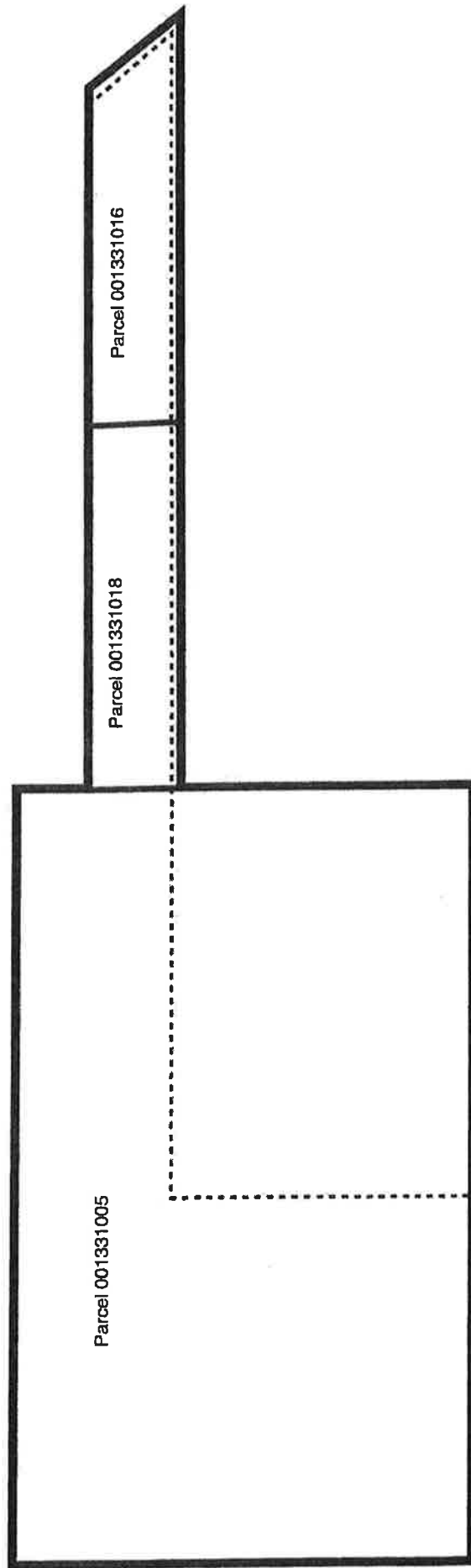
STATE OF WASHINGTON    )  
                                      )SS  
COUNTY OF                )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the individual(s) who executed the within and foregoing instrument, and acknowledged that \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this hereto affixed the day and year in this certificate first above written.

\_\_\_\_\_  
Print or stamp name of Notary)  
NOTARY PUBLIC in and for the State of Washington,  
Residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

Notary seal, text and all notations must be inside 1" margins



# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 4/8/2020  
**TO:** Commission  
**FROM:** Jim Pivarnik  
**SUBJECT:** Termination and acquisition of solar array at JCIA

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### **BACKGROUND**

In 2012 the Port entered into an agreement with a group of investors to install and maintain a large solar array at Jefferson County International Airport. This venture was in part for the investors to capture tax credits for installation of renewable energy projects on public properties. This also provided the Port with renewable energy at a wholesale price. For the last eight years the Port has paid Jefferson Solar group a wholesale price for energy generated to the grid on our behalf. In fact the energy produced back to the grid was enough to power all of our runway lights and navigation beacon. Since that time the tax credits have expired and the insurance requirements that the Port has imposed on the investment group far exceed the income to the investment group.

### **DISCUSSION**

This agreement was designed to be in place as long as the tax credits were to be extended or at least 10 years. It was also intended the Port would purchase the array at the termination of the agreement at a depreciated value to be determined. Since the credits have expired early, the investment group is asking for early termination of the lease and offer as a value to the Port, donation of the array at no cost. Please see attached email from the group that outlines their desire as well as the current condition of the array.

This has been a very important project for the Port and staff believes with future maintenance and replacement of some of the panels in the future, it will continue to generate much needed renewable energy. Remembering back to 2012, at that time JCIA was the first Washington airport to have all of its navigation aids totally supported by renewable energy.

### **RECOMMENDATION**

Motion to authorize the Executive Director to execute a termination agreement with the Jefferson Solar Group and accept ownership of the array to the Port through a bill of sale with no monetary consideration.

**From:** Andy Cochrane <andy@powertripenergy.com>  
**Sent:** Tuesday, March 17, 2020 10:54:06 AM  
**To:** Jim Pivarnik <jim@portofpt.com>  
**Cc:** Kathryn Lamka <kathrynlamka@gmail.com>  
**Subject:** Jefferson Communnity Solar Array

Hi Jim,

The Jefferson Solar Group has determined we would like to give ownership of the array to the Port of PT. We would like to declare victory and give the array to the Port.

The array has value in that it is producing about 18,000 kwh per year, which is currently about \$1800 worth of electricity at the retail rate from JPUD. My recollection is that this amount of electricity provides more than 100% of the electricity used by the runway lights and the navigational beacon, and the excess is credited towards one of the other electrical accounts at the airport.

The array is showing some signs of deterioration due to a manufacturing flaw, currently about 9 of the 88 modules are showing various amounts of delamination. The manufacturer of the array was a small Washington-based company named Silicon Energy, which is sadly out of business and no longer exists to provide warranty support.

For the Jefferson Solar Group, the liability insurance required by the Port costs about \$2000 per year in premiums. The project was a financial success for the Jefferson Solar Group due to the incentives which were in place and which cease on June 30, 2020. The port should not face any additional insurance costs when they take ownership, but of course this is for the port and its insurer to verify.

We propose to give the array to the Port effective July 1, 2020, as the best way for the community to benefit from this clean energy resource, without incurring any additional costs for the Jefferson Solar Group or the Port, and without offering any warranty or guarantee of performance over time.

Power Trip Energy will perform a maintenance and service on the array prior to ownership transfer. Most of the delamination we see is minor and not affecting performance. In some other cases, when we see a more seriously delaminated module, we have increased array performance by removing the faulty module. We also hope to replace several of these arrays in the second half of the year with new less expensive and more efficient solar modules, and so we may in the future have access to replacement modules, for the arrays which will continue to operate.

I am interested in your thoughts, and available to answer any questions.

Regards,

Andy

Andy Cochrane



**Power Trip Energy**

83 Denny Avenue  
Port Townsend, WA 98368  
(360) 643-3080  
[www.powertripenergy.com](http://www.powertripenergy.com)

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

MEETING DATE	April 8, 2020
AGENDA ITEM	<input type="checkbox"/> First Reading <input type="checkbox"/> Second Reading <input checked="" type="checkbox"/> Regular Business
AGENDA TITLE	VII. A. Revisit Extending Work Yard Seasonal Rate Through May
STAFF LEAD	Eron Berg, Executive Director
REQUESTED	<input type="checkbox"/> Information <input type="checkbox"/> Motion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Discussion
ATTACHMENTS	A. For discussion

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	April 8, 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. Covid-19 Update Ratifying Emergency Orders & Granting Additional Administrative Authority
<b>STAFF LEAD</b>	Eron Berg, Executive Director
<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. Staff Memo B. Emergency Orders 2020-03 through 2020-06 C. Draft Resolution 720-20 Amending Delegation Authority and Granting Additional Authority to Executive Director

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 4/3/2020  
**TO:** Port Townsend Port Commission  
**FROM:** Eron Berg, Executive Director  
**SUBJECT:** COVID-19 Response – Request for Ratification of Emergency Actions; and Request for Additional Administrative Authority to Early Terminate Lease Agreements and Enter into Monthly Storage Agreements in Response to the Pandemic

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### **ISSUES PRESENTED:**

1. Should the Commission ratify and confirm the Emergency Orders 2020-03, 2020-04 and 2020-05 issued by the Executive Director during the period March 23 through March 26, 2020, or is modification or withdrawal of any of the actions necessary?
2. Should the Commission adopt proposed Resolution No. 720-20 granting additional administrative authority to the Executive Director to early terminate term lease agreements and enter into month-to-month storage agreements in response to the outbreak of COVID-19?

### **BACKGROUND & DISCUSSION:**

#### **What Additional Actions Have Been Taken by the Port in Response to the COVID-19 Pandemic in the last two weeks?**

As of April 3, 2020, a total of six (6) Emergency Orders have been issued by the Executive Director under the authority of Declaration of Emergency 01-2020 to safeguard the health of employees and mitigate the financial impacts to Port tenants. The first two (2) of these orders were confirmed and ratified by the Commission at its March 25, 2020 regular meeting. The four (4) subsequent orders direct as follows (see attached copies of the orders for more detail):

#### **Emergency Order 2020-03:**

- Closure of the Point Hudson RV Park to nightly guests, with monthly guests ("winter overs" permitted to remain and shelter in place through May 31, 2020;
- Authorization for first responders/healthcare workers to use all vacant RV sites to "self-quarantine" in self-contained RVs (all such bookings to be made through the Jefferson County Department of Emergency Management, Emergency Operations Center);
- Cancelling reservations and refunding the deposits of all nightly RV Park guests through May 31, 2020, provided the booking was made prior to March 23, 2020;
- Permitting continued day-use of outdoor recreation areas at Point Hudson subject to appropriate social distancing;



- Requiring public restroom facilities to be cleaned at least two (2) times daily with Port custodial staff following appropriate protocols for personal protection; and
- Indicating that public restroom facilities may be incrementally closed as facts and circumstances require (note: Boat Haven “West End” restrooms have been closed), but seeking to maintain bathroom and laundry facility use by permanent tenants.

#### Emergency Order 2020-04:

- Adopting findings and conclusions regarding the essentiality of the Port’s workforce consistent with Governor’s Proclamation 20-25;
- Relocating the Boat Haven Yard Staff breakroom to the Commission Building to assure adequate social distancing;
- Relocating the Port Operations Manager to the Commission Office to assure adequate social distancing;
- Mandating social distancing [minimum six (6) feet] by all Port employees and directing that tasks that cannot be maintained at this distance shall not be undertaken;
- Authorizing and encouraging certain employees to work remotely, if possible;
- Modifying staff work schedules (half-crews/alternating weeks) and allowing the use of either paid administrative leave or use of a newly established “COVID-19 Leave” to compensate employees for their work time off;
- Closing the walk-up window at the Boat Haven Yard/Moorage Office to physical receipt of payments;
- Restricting Boat Haven hoist operations to ensure compliance with the “essential sector/essential workforce” limitations of Governor’s Proclamation 20-25 (i.e., haul-outs limited to working vessels and vessels of any kind being refitted/repaired by a Boat Haven based marine trade; haul-outs for “do-it-yourself” refits of recreational vessels suspended); and
- Requiring signage be placed at all boat ramps indicating that such facilities are closed to all recreational/non-essential use until further notice.

#### Emergency Order 2020-05:

- Clarifying the application and use of the COVID-19 leave benefit to ensure consistency with the Families First Coronavirus Response Act (FFCRA), if applicable.

#### Emergency Order 2020-06:

- Modifying the duration of various provisions of earlier orders to ensure conformance with the extended timelines of the Governor’s Emergency Proclamations and ensuring that adequate RV spaces are held in reserve to accommodate self-quarantining first responders/healthcare workers at Point Hudson (should the need arise); and
- Urging Port tenants, customers and the general public to avoid entering Port premises if:
  - They have any symptoms of COVID-19 or generally feel unwell; or
  - Have been tested for COVID-19 and are awaiting results; or

- Have had contact with any individual confirmed to have tested positive for COVID-19; and
- Clarifying that all employees may depart the workplace if they conclude that their health is in jeopardy by virtue of the progression of the COVID-19 pandemic in our community, and that they may:
  - Work from home if practicable;
  - Use available discretionary or sick leave; or
  - On a case-by-case basis, take unpaid leave as necessary; and
- Ordering the Port's Director of Finance to submit a written request to the Jefferson County Treasurer seeking an exception to the daily deposit of collections requirements of RCW 43.09.240 in order to reduce the risk of coronavirus exposure by Port employees.

### **Are Other Responses Being Contemplated as a Result of the COVID-19 Crisis?**

Proposed Resolution No. 720-20 Granting Additional Administrative Authority: In addition to the emergency actions outlined above, staff has been discussing ways to further mitigate the financial impact of this crisis on both tenants and the Port. Specifically, some Port tenants occupying commercial building premises are effectively prohibited under Governor Inslee's "Stay Home, Stay Healthy" order and subsequent proclamations from operating their businesses. Proclamation 20-25 precludes restaurants and bars from operating (except for take-out service), and also prohibits social gatherings of any size.

Some Port tenants simply do not have the resources, even with available federal and state aid programs, to weather a business closure of any significant duration. Moreover, even when the "Stay Home, Stay Healthy" order is lifted, many customers of these types of businesses may continue to voluntarily observe safe social distancing that will suppress business activity until either a vaccine is developed and widely administered, or the population develops natural immunity to the disease. At least one (1) tenant in this category is presently in month-to-month holdover status (under an expired lease) and has indicated an intent to immediately vacate occupied premises so as to avoid falling in arrears. Staff is concerned that other tenants could default on their tenancy agreements, potentially necessitating unlawful detainer actions, an outcome we would very much wish to avoid.

In order to assist this narrow category of tenants to manage this unfortunate set of circumstances, while assuring that the Port continues to receive some rent (albeit reduced), rather than none whatsoever, staff is requesting a further amendment to the delegation of authority. Proposed Resolution No. 720-20 would authorize the Executive Director to early terminate leases for this specific category of tenant, and to execute monthly storage agreements in their place.

The monthly storage agreements would allow the tenant to remain in the premises at a proposed rent of \$0.25 per square foot (plus LHT and utilities), provided that the space was

used only for passive storage. This would permit a restaurant tenant, for instance, to leave all equipment and furniture in place, rather than vacating, in anticipation of reletting the premises for active business use once activity can safely be resumed. While under such a monthly storage agreement, the Port would market the premises and seek an active tenant willing to let the premises at market rate for commercial building space. In the event such a prospective tenant was identified, the original/existing tenant would be given the option to lease the space at market rate or vacate the premises. Staff does not believe that the majority of tenants would want to early terminate their leases to avail themselves of this program. However, some limited number of tenants who are in dire circumstances may wish to use this option.

Our goals with respect to this requested additional authority are clear:

- To be compassionate and supportive of our tenants and assist them in maintaining their businesses (if possible); and
- To maintain the Port's economic viability; and
- To accomplish both of the above within a framework that is equitable and legally defensible.

**FISCAL IMPACTS:** The Emergency Orders closing the Point Hudson RV Park to nightly guests and suspending haul-outs of certain types of vessels at Boat Haven in response to the Governor's Emergency Proclamations are having an adverse impact - as yet unquantified - on Port revenues. The additional administrative authority under Resolution No. 720-20 is intended to preserve some Port revenue that would otherwise be lost entirely. The scope of fiscal impact of this program, if pursued, has not been quantified.

**ACTIONS REQUESTED:**

1. Move to ratify and confirm Emergency Orders 20-03, 20-04, 20-05 and 20-06 issued by the Executive Director; and
2. Move to adopt Resolution No. 720-20 granting additional administrative authority to early terminate term lease agreements and enter into monthly storage agreements in response to the COVID-19 pandemic.

**ATTACHMENTS:**

1. Emergency Order 2020-03: COVID-19 Pandemic Response;
2. Emergency Order 2020-04: COVID-19 Pandemic Response;
3. Emergency Order 2020-05: COVID-19 Pandemic Response;
4. Emergency Order 2020-06: COVID-19 Pandemic Response (NOTE: to be issued on April 3, 2020 following distribution of packets, and provided subsequently as "late materials"); and
5. Draft Resolution No. 720-20 Amending the Delegation of Authority and Granting Additional Authority to the Port District's Executive Director.



## **Emergency Order 2020-03 COVID-19 Pandemic Response**

March 23, 2020

Consistent with the Declaration of Emergency dated March 18, 2020 and guidance from civil authorities, and in an effort to keep Port staff safe and maintain essential operations and slow the spread of COVID-19, I am ordering the following changes to current policy and practice:

1. The following changes in policy and procedure shall apply to the Point Hudson RV Park:
  - a. No new nightly guest campers are permitted at the Point Hudson RV Park beginning Monday, March 23, 2020, except as specifically exempted in #1(c), below. Nightly guest campers are permitted to complete their current stays, but no extensions will be permitted.
  - b. Current monthly guest campers at the Point Hudson RV Park (i.e., "winter overs") will be allowed to complete their stays, at this time, subject to change.
  - c. Qualified healthcare workers may be permitted to "self-quarantine" in their RVs at Point Hudson as either nightly or monthly guests, as applicable.
  - d. RV campers who have previously booked Point Hudson RV Park reservations for the period March 23 to April 30, 2020 will be notified and offered a full refund.
  - e. RV campers who book reservations from the date of this order onwards for a stay commencing any time after April 30, will also be eligible for a refund in the event this campground closure order is extended as set forth in #3, below.
2. Day-use areas and the beach trail at Point Hudson are to remain open. Visitors should continue to practice social distancing when recreating outdoors.
3. The changes in policy and procedure set forth in items 1 and 2, above, will remain in effect until April 30, unless facts and circumstances concerning the spread of COVID-19 require that the duration of this Emergency Order 2020-03 be extended.
4. All Port public restroom facilities are to be cleaned at least two (2) times daily, with Port custodial staff following all prudent protocols for personal protection.
5. Port public restrooms may be closed as facts and circumstances require (e.g., spread of the virus, staff resource limitations). Closures, if necessary, will be incremental and seek to maintain

uninterrupted bathroom and laundry facility use to permanent Port tenants (e.g., live-aboards) at all Port facilities.

Signed March 23, 2020:

  
\_\_\_\_\_  
Eron Berg  
Executive Director



## **Emergency Order 2020-04 COVID-19 Pandemic Response**

March 25, 2020

On March 23, 2020 Governor Inslee ordered a "Stay at Home, Stay Healthy" order (Proclamation 20-25) immediately requiring all state residents to stay at home unless they need to pursue essential activities, banning all gatherings for social, spiritual and recreational purposes, and requiring closure (within 48 hours of issuance of the order) of all non-essential businesses for a period of at least two (2) weeks.

Proclamation 20-25 directs all state residents to heed public health directives and to stay home, except as needed to maintain continuity of operations of thirteen (13) Essential Critical Infrastructure Sectors and additional sectors as the State Public Health Officer may designate as critical. The Governor has designated "Essential Critical Infrastructure Workers" within each of the thirteen (13) sectors to help state and local partners protect communities while ensuring continuity of functions critical to public health and safety, as well as economic and national security.

After review and deliberation with senior staff, I have concluded that the Port of Port Townsend provides essential workforce elements under Proclamation 20-25, including:

- Maritime transportation workers (port workers, equipment operators, marina workers);
- Workers that repair and maintain vehicles, aircraft, rail equipment, marine vessels, and equipment and infrastructure that enables operations that encompass movement of cargo and passengers; and
- Owners/operators of government facilities (community-based government operations and essential functions).

Accordingly, this Order 2020-04 is consistent with, and seeks to implement, Proclamation 2020-04, and to protect the health and safety of Port staff and the public while maintaining continuity of essential operations and slowing the spread of COVID-19 in our community. The following changes to current Port policy and practice are ordered:

1. Yard staff are prohibited from using the break room adjacent to the Boat Haven Yard & Moorage Office and shall hereafter use the Commission Building located at 333 Benedict Street for breaks, while continuing to observe the social distancing and sanitation measures previously established by way of Emergency Order 2020-01.<sup>1</sup>
2. In order to ensure appropriate social distancing, the Port's Operations Manager shall hereafter use the Commission Office, also located in the in the Commission Building at 333 Benedict Street.
3. As supplemental direction to all Port staff with respect to mandatory social distancing and sanitation measures: if a task or activity cannot be undertaken with a co-worker while maintaining a minimum distance of six (6) feet at all times, it shall not be undertaken.
4. The following employees are authorized, at their discretion, to work from home using Port laptop computers/virtual private network (VPN): Executive Director; Deputy Director; Director of Finance; Lease & Contracts Administrator.
5. Staffing and work schedules will generally be modified as follows, with specific details to be confirmed by Port Management:
  - a. Crews will alternate work schedules with one week on and one week off from March 24, 2020 through April 7, 2020;
  - b. Employees who are on their off week (either March 25-31 or April 1-7) will be on paid administrative leave;
  - c. Employees who are on their work week will be paid in accordance with normal procedures and the Collective Bargaining Agreement (CBA);
  - d. Employees who work straight through the succeeding two-week period will be provided a compensatory time bank in the amount of ½ of the second week of worked hours. This "COVID-19 Comp Bank" will have no cash-out value and may be used in accordance with normal policies before June 30, 2021, at which time any remaining unused hours will expire.
  - e. Employees who are on paid administrative leave status shall remain available and are subject to recall at any time.
6. Emergency Order 2020-01 (Item #1) is modified as follows: the Boat Haven Yard/Moorage office will no longer provide access for physical receipt of payments via the walk-up window located at the rear of the office. All payments arrangements are to be via phone (via credit card), although the walk-up window will remain open for

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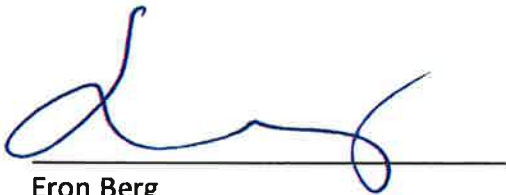
<sup>1</sup> Emergency Order 2020-01 seeks to implement the United States Department of Labor's Guidance on Preparing Workplaces for COVID-19 at <https://www.osha.gov/Publications/OSHA3990.pdf> and the Washington State Department of Health Workplace and Employer Resources & Recommendations at <https://www.doh.wa.gov/Coronavirus/workplace>.

customer inquiries. Checks may continue to be delivered via US Mail or dropped in any one of the iron rangers located at Port facilities.

7. Emergency Order 2020-03 is clarified as follows: Item #1 in Order 2020-03 applies only to RV campers and not to moorage customers.
8. For the period March 25 to April 7, Boat Haven Yard & Moorage staff are directed not to make reservations for, or execute, Haul-Out and Yard Tenancy Agreements for any "do it yourself" recreational vessel owners. Haul out operations serving government and working vessels (e.g., military craft, fishing vessels, etc.) are to continue without restriction, as are vessels regardless of type (i.e., including recreational) that are being refitted by any of the marine trades based at Boat Haven.
9. Signage is to be placed at the head of all Port boat ramps which reads as follows:  
"RAMP CLOSED TO ALL RECREATIONAL/NONESSENTIAL USE UNTIL FURTHER NOTICE – see Governor's Proclamation 2025, March 23, 2020."

This order shall take effect immediately, and remain in effect until midnight on April 6, 2020, unless sooner terminated or extended by subsequent order.

Signed March 25, 2020:



Eron Berg  
Executive Director





**Emergency Order 2020-05  
COVID-19 Pandemic Response**

March 26, 2020

Consistent with the Declaration of Emergency dated March 18, 2020, this Emergency Order 2020-05 seeks to clarify the interpretation and application of Emergency Order 2020-02 issued on March 19, 2020. The Port desires to ensure that its actions are consistent with the Families First Coronavirus Response Act (FFCRA or "the act"), should it be concluded that it is applicable to Washington Public Port Districts. Accordingly, Emergency Order 2020-02 shall be interpreted and applied in a manner that is consistent with, and implements, the FFCRA (if applicable). In the event of an inconsistency between Emergency Order 2020-2 and the FFCRA (if applicable), the FFCRA shall apply.

This clarifying order is intended to support Port staff using limited Port resources, consistent with federal law. As we enter into a period of economic uncertainty, staff are reminded to prioritize their health and safety, and to use the COVID-19 leave benefit judiciously.

Signed March 26, 2020:

A handwritten signature in blue ink, appearing to read "Eron Berg", is written over a horizontal line.

Eron Berg  
Executive Director



**Emergency Order 2020-06  
COVID-19 Pandemic Response**

April 7, 2020

On April 2, 2020 Governor Inslee issued Proclamation 20-25.1 extending the "Stay at Home, Stay Healthy" order (Proclamation 20-25) originally issued on March 23<sup>rd</sup>. The extended order directs all state residents to heed public health directives and to stay home, except as needed to maintain continuity of operations of thirteen (13) Essential Critical Infrastructure Sectors through midnight on May 4, 2020. Consistent with the Governor's Proclamation 20-25.1, and in an effort to keep Port staff safe, maintain essential operations, and slow the spread of COVID-19, I am ordering the following:

1. Public meetings in Port facilities available for rent are cancelled through May 31, 2020.<sup>1</sup>
2. Late fees and finance charges are suspended through July 1, 2020.<sup>2</sup>
3. Implementation of discretionary base rate adjustments and CPI increases in leases is delayed until July 1, 2020.<sup>3</sup>
4. The following changes in policy and procedure shall apply to the Port's Point Hudson facility (both RV Park & Marina):
  - a. No nightly guest campers are permitted at the Point Hudson RV Park until June 1, 2020, except as specifically exempted in #1(c), below.<sup>4</sup>
  - b. Current monthly guest campers at the Point Hudson RV Park (i.e., "winter overs") will be allowed to extend their stays until May 31, 2020.
  - c. No new (i.e., not yet arrived) monthly guest RV campers will be permitted between the date of this order and May 31, 2020.

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<sup>1</sup> Extended from April 30, 2020, amending item #3 of Emergency Order 2020-01.

<sup>2</sup> Extended from April 30, 2020, amending item #4 of Emergency Order 2020-01.

<sup>3</sup> Extended from June 1, 2020, amending item #8 of Emergency Order 2020-01.

<sup>4</sup> Amends item #1(a) of Emergency Order 2020-03.

- d. Monthly guest RV campers who have previously booked reservations for the period May 1 to May 31, 2020 will be notified and offered a full refund.<sup>5</sup>
  - e. Qualified first responders and healthcare workers are permitted to “self-quarantine” in their RVs at Point Hudson as either nightly or monthly guests, as applicable. First responder/healthcare worker bookings are subject to the following additional restrictions:
    - i. Bookings shall only be made through the Jefferson County Emergency Management Department, Emergency Operations Center (EOC), and shall not be made directly with individual first responders/healthcare workers; and
    - ii. All EOC bookings for first responders/healthcare workers shall be limited to individuals utilizing fully self-contained RVs, thereby ensuring that access to Port public restroom and laundry facilities is avoided.<sup>6</sup>
  - f. RV campers who have previously booked Point Hudson nightly guest reservations for the period March 23 to May 31, 2020 will be notified and offered a full refund.<sup>7</sup>
  - g. No nightly guest moorage is permitted at Point Hudson until May 5, 2020.
  - h. Nightly guest moorage customers who have booked reservations for the period March 23 to May 4, 2020 will be notified and offered a full refund.
5. Day-use areas and the beach trail at Point Hudson continue to remain open. Visitors shall practice social distancing when recreating outdoors.
  6. The modifications to staffing and work schedules set forth in item #5 of Emergency Order 2020-04 are hereby rescinded, and normal work schedules shall resume on Wednesday, April 8, 2020.<sup>8</sup>
  7. The following changes in policy and procedure shall apply to the Port’s Boat Haven facility:
    - a. Through the period ending May 4, 2020, Boat Haven Yard & Moorage staff are directed not to make reservations for, or execute, Haul-Out and Yard Tenancy Agreements for any “do it yourself” recreational vessel owners.
    - b. Haul out operations serving government and working vessels (e.g., military craft, fishing vessels, etc.) are to continue without restriction, as are vessels regardless of type (i.e., including recreational) that are being refitted by any of Boat Haven’s marine trades businesses.<sup>9</sup>

<sup>5</sup> Amends item #1(b) of Emergency Order 2020-03.

<sup>6</sup> Amends and clarifies item #1(c) of Emergency Order 2020-03.

<sup>7</sup> Extended from April 30, 2020, amending item #1(d) of Emergency Order 2020-03.

<sup>8</sup> Supersedes and replaces item #5 of Emergency Order 2020-04.

<sup>9</sup> “Boat Haven marine trades businesses” means all trades working at the facility, whether lease tenants or independent contractors, PROVIDED that such businesses have valid State and City businesses licenses.



- c. Haul-outs scheduled to occur during this period for “do it yourself” recreational vessel owners shall be cancelled.<sup>10</sup>
8. Port tenants, customers and the general public are strongly advised to avoid Port premises if they have:
- a. Any symptoms of COVID-19 (dry cough, fever, generally feel unwell); or
  - b. Been tested for COVID-19 and are awaiting results; or
  - c. Had contact with any individual confirmed to have tested positive for COVID-19.
9. Port employees are advised that they may depart the workplace at any time if they conclude that their continued presence jeopardizes their health by virtue of the progression of the COVID-19 pandemic in our community. An employee electing to depart the workplace must first notify their supervisor. Thereafter, they may:
- a. Work from home if practicable; or
  - b. Use available discretionary or sick leave; or
  - c. On a case-by-case basis, take unpaid leave as necessary.
10. The Port’s Director of Finance is ordered to submit a written request to the Jefferson County Treasurer seeking an exception to the daily deposit of collections requirements of RCW 43.09.240 in order to reduce the risk of coronavirus exposure by Port employees required to physically handle money.
11. The Executive Director, consistent with the administrative authority delegated under Port Resolution No. 713-20, intends to enter into “Deferred Moorage Payment Agreements” with commercial and live-aboard moorage tenants that would authorize up to three (3) months of moorage to be repaid within a period of up to fifteen (15) months (including the deferral period). Such agreements shall be limited, as follows:
- a. Agreements shall be in writing and approved by the Executive Director (or designee) on a case-by-case basis;
  - b. Deferred Moorage Payment Agreements shall be available only to tenants who are current and in good standing with the Port;
  - c. No late fees or finance charges shall be accrued during the deferred moorage period;
  - d. Deferred Moorage Payment Agreements shall only be entered into with commercial moorage tenants or tenants with valid live-aboard permits that have submitted a written request to the Port specifically documenting how the COVID-19 pandemic has resulted in unanticipated and unavoidable financial hardship. Such financial hardship may include, but is not necessarily limited to the following<sup>11</sup>:

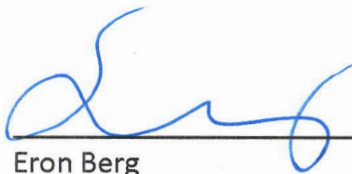
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<sup>10</sup> Amends and clarifies item #8 of Emergency Order 2020-04. “Do it yourself” recreational vessel owners” shall include owners or employees of Boat Haven marine trades businesses seeking to repair or refit personal vessels.

<sup>11</sup> Loss of investment income shall not be considered a valid reason justifying entry into a Deferred Moorage Payment Agreement.

- i. The business activity associated with a commercial moorage slip(s) has been suspended due to an Emergency Proclamation of the Governor; or
- ii. The moorage tenant (if a live-aboard) has been laid off work due to the pandemic; or
- iii. The moorage tenant (whether commercial or live-aboard) has been unable to work directly as a result of having contracted the COVID-19 illness (confirmed by testing) or has been unable to work while awaiting test results, or has had to "self-quarantine" for a period after contact with an individual confirmed to have tested positive for COVID-19.

Signed April 7, 2020:



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Eron Berg  
Executive Director

## **RESOLUTION NO. 720-20**

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

#### **AMENDING THE DELEGATION OF AUTHORITY ADOPTED BY WAY OF RESOLUTION 713-20 AND GRANTING ADDITIONAL ADMINISTRATIVE AUTHORITY TO THE EXECUTIVE DIRECTOR TO EARLY TERMINATE TERM LEASE AGREEMENTS AND ENTER INTO MONTH-TO-MONTH STORAGE AGREEMENTS IN RESPONSE TO THE OUTBREAK OF COVID-19**

**WHEREAS**, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization (WHO) as a worldwide pandemic, has broadly spread throughout Washington State, significantly increasing the threat of serious associated health risks statewide; and

**WHEREAS**, on February 29, 2020, Washington State Governor, Jay Inslee, issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

**WHEREAS**, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to the state's most vulnerable populations, Governor Inslee has issued a number of subsequent proclamations further amending Proclamation 20-05, exercising emergency powers under RCW 43.06.220 and prohibiting certain activities and waiving and suspending specific laws and regulations; and

**WHEREAS**, on March 16, 2020, Governor Inslee issued Proclamation 20-13 amending Proclamation 20-05 and placing statewide limits on in-person dining in restaurants and bars, the closure of recreational facilities, and ordering the cessation of social gatherings of 50 or more persons; and

**WHEREAS**, on March 23, 2020, Governor Inslee issued Proclamation 20-25 further amending Proclamation 20-05 and requiring all state residents to stay at home unless they need to pursue essential activities, banning all gatherings for social, spiritual and recreational purposes, and requiring closure of all non-essential businesses until Wednesday, April 8 (i.e., the "Stay Home, Stay Healthy" order); and

**WHEREAS**, as of April 1, 2020, the Washington State Department of Health was reporting that there were at least 6,585 cases of COVID-19 in Washington State and, tragically, 262 deaths of Washingtonians associated with COVID-19; and

**WHEREAS**, as of April 3, 2020, the WHO Situation Report confirmed a total of 972,640 cases and 50,325 deaths globally associated with COVID-19; and

**WHEREAS**, on April 2, 2020, Governor Inslee issued Proclamation 20-25.1 further amending Proclamations 20-05 and 20-25 and extending the original “Stay Home, Stay Healthy” order through midnight on Monday, May 4, 2020, in order to slow the progression of the COVID-19 pandemic in Washington State; and

**WHEREAS**, the facts recited above, which document the rapid progression of the COVID-19 pandemic globally and in Washington State, indicate that the State of Emergency under Proclamation 20-05 and attendant COVID-19 response measures and restrictions on business activities and congregations are likely to be in place for an undetermined period of time to come; and

**WHEREAS**, the rapidly evolving COVID-19 pandemic and response measures ordered under Proclamations 20-11, 20-13, 20-25 and 20-25.1, which place increasingly stringent state-wide restrictions on social gatherings and food-and-beverage services, effectively preclude a number of Port tenants from continuing business operations; and

**WHEREAS**, the precipitous drop in business activity for particular categories of Port tenants makes it infeasible for some tenants to comply with the terms of their lease and rental agreements with the Port; and

**WHEREAS**, on January 8, 2020, the Port Commission adopted Resolution No. 713-20 outlining a policy establishing the limits of administrative authority delegated to the Port District Executive Director or his or her designee; and

**WHEREAS**, Section VI of the Specific Policy Directives of Administrative Authority to the Port District Executive Director adopted by way of Resolution No. 713-20 (“the policy”) limits the Director’s authority to rent or lease real or personal property; specifically, Section VI of the policy requires that all real property leases and non-ministerial amendments thereto be approved by the Commission; and

**WHEREAS**, on March 25, 2020, the Port Commission adopted Resolution No. 719-20, amending Resolution No. 713-20 to grant specific additional authority to the Executive Director to enter into agreements that would defer the payment of rent for those businesses most directly and adversely affected by this unprecedented public health emergency; and

**WHEREAS**, the Commission desires to further amend the delegation of authority policy adopted by way of Resolution No. 713-20 and to grant specific additional authority to the Executive Director to early terminate term leases and enter into month-to-month storage agreements for the same premises at a reduced rate with tenants with businesses that depend upon congregations of people and which cannot maintain proper social distancing, and therefore, cannot continue to operate; and

**WHEREAS**, the Commission finds that this limited additional authority will allow a specific category of tenants that have been affected by the pandemic to continue occupancy of their

premises under modified terms, conditions and reduced monthly rent, thereby ensuring an uninterrupted revenue stream to the Port and a measure of stability and predictability to tenants;

**NOW, THEREFORE, BE IT RESOLVED** by the Commission of the Port of Port Townsend, as follows:

- 1. Authority Granted to Early Terminate Certain Types of Leases & Enter into Month-to-Month Storage Agreements:** The Executive Director is hereby specifically authorized to execute Lease Termination Agreements and enter into Month-to-Month Storage Agreements with Port tenants that, in the Director's discretion have been most directly and adversely affected by the COVID-19 pandemic and the Governor's proclamations issued in response thereto, subject to the following limitations:
  - a. The program shall be offered only to commercial building tenants (not industrial building or ground lease tenants) prevented from conducting normal business operations by way of Governor's Proclamation 20-05 or any subsequent Proclamation issued thereunder; and
  - b. The tenant must be current as to all rents and charges and otherwise in good standing with the Port; and
  - c. If the tenant is currently under a term lease (i.e., rather than in holdover, under an expired lease or a month-to-month rental agreement), the lease must be tendered and early terminated; and
  - d. A Month-to-Month Storage Agreement shall be entered into which allows the tenant to continue occupying the premises for passive storage use only, at a rate of \$0.25 per square foot (plus leasehold excise tax and utilities), with no active business use of any kind permitted upon the premises; and
  - e. The Month-to-Month Storage Agreement shall specify that the Port will actively market the premises and place "For Rent" signs upon the premises, and in the event a prospective business entity wishes to let the premises for business use, that the tenant will be given 20-days' notice to either:
    - i. Enter into a new term lease agreement at the then prevailing market rate for commercial business space; or
    - ii. Vacate the premises.
- 2. Effective Date - Duration:** This Resolution No. 720-20 shall take effect immediately and be in full force and effect for the same period, and without action required to renew, as Declaration of Emergency No. 01-2020 remains in effect.

**ADOPTED** this 8<sup>th</sup> day of April 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

## **RESOLUTION NO. 720-20**

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

#### **AMENDING THE DELEGATION OF AUTHORITY ADOPTED BY WAY OF RESOLUTION 713-20 AND GRANTING ADDITIONAL ADMINISTRATIVE AUTHORITY TO THE EXECUTIVE DIRECTOR TO EARLY TERMINATE TERM LEASE AGREEMENTS AND ENTER INTO MONTH-TO-MONTH STORAGE AGREEMENTS IN RESPONSE TO THE OUTBREAK OF COVID-19**

**WHEREAS**, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization (WHO) as a worldwide pandemic, has broadly spread throughout Washington State, significantly increasing the threat of serious associated health risks statewide; and

**WHEREAS**, on February 29, 2020, Washington State Governor, Jay Inslee, issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

**WHEREAS**, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to the state's most vulnerable populations, Governor Inslee has issued a number of subsequent proclamations further amending Proclamation 20-05, exercising emergency powers under RCW 43.06.220 and prohibiting certain activities and waiving and suspending specific laws and regulations; and

**WHEREAS**, on March 16, 2020, Governor Inslee issued Proclamation 20-13 amending Proclamation 20-05 and placing statewide limits on in-person dining in restaurants and bars, closing recreational facilities, and ordering the cessation of social gatherings of 50 or more persons; and

**WHEREAS**, on March 23, 2020, Governor Inslee issued Proclamation 20-25 further amending Proclamation 20-05 and requiring all state residents to stay at home unless they need to pursue essential activities, banning all gatherings for social, spiritual and recreational purposes, and requiring closure of all non-essential businesses until Wednesday, April 8 (i.e., the "Stay Home, Stay Healthy" order); and

**WHEREAS**, as of April 1, 2020, the Washington State Department of Health was reporting that there were at least 6,585 cases of COVID-19 in Washington State and, tragically, 262 deaths of Washingtonians associated with COVID-19; and

**WHEREAS**, as of April 3, 2020, the WHO Situation Report confirmed a total of 972,640 cases and 50,325 deaths globally associated with COVID-19; and

**WHEREAS**, on April 2, 2020, Governor Inslee issued Proclamation 20-25.1 further amending Proclamations 20-05 and 20-25 and extending the original “Stay Home, Stay Healthy” order through midnight on Monday, May 4, 2020, in order to slow the progression of the COVID-19 pandemic in Washington State; and

**WHEREAS**, the facts recited above, which document the rapid progression of the COVID-19 pandemic globally and in Washington State, indicate that the State of Emergency under Proclamation 20-05 and attendant COVID-19 response measures and restrictions on business activities and congregations are likely to be in place for an undetermined period of time to come; and

**WHEREAS**, the rapidly evolving COVID-19 pandemic and response measures ordered under Proclamations 20-11, 20-13, 20-25 and 20-25.1, which place increasingly stringent state-wide restrictions on social gatherings and food-and-beverage services, effectively preclude a number of Port tenants from continuing business operations; and

**WHEREAS**, the precipitous drop in business activity for particular categories of Port tenants makes it infeasible for some tenants to comply with the terms of their lease and rental agreements with the Port; and

**WHEREAS**, on January 8, 2020, the Port Commission adopted Resolution No. 713-20 outlining a policy establishing the limits of administrative authority delegated to the Port District Executive Director or his or her designee; and

**WHEREAS**, Section VI of the Specific Policy Directives of Administrative Authority to the Port District Executive Director adopted by way of Resolution No. 713-20 (“the policy”) limits the Director’s authority to rent or lease real or personal property; specifically, Section VI of the policy requires that all real property leases and non-ministerial amendments thereto be approved by the Commission; and

**WHEREAS**, on March 25, 2020, the Port Commission adopted Resolution No. 719-20, amending Resolution No. 713-20 to grant specific additional authority to the Executive Director to enter into agreements that would defer the payment of rent for those businesses most directly and adversely affected by this unprecedented public health emergency; and

**WHEREAS**, the Commission desires to further amend the delegation of authority policy adopted by way of Resolution No. 713-20 and to grant specific additional authority to the Executive Director to early terminate term leases and enter into month-to-month storage agreements for the same premises at a reduced rate with tenants with businesses that depend upon congregations of people and which cannot maintain proper social distancing, and therefore, cannot continue to operate; and

**WHEREAS**, the Commission finds that this limited additional authority will allow a specific category of tenants that have been affected by the pandemic to continue occupancy of their

premises under modified terms, conditions and reduced monthly rent, thereby ensuring an uninterrupted revenue stream to the Port and a measure of stability and predictability to tenants;

**NOW, THEREFORE, BE IT RESOLVED** by the Commission of the Port of Port Townsend, as follows:

- 1. Authority Granted to Early Terminate Certain Types of Leases & Enter into Month-to-Month Storage Agreements:** The Executive Director is hereby specifically authorized to execute Lease Termination Agreements and enter into Month-to-Month Storage Agreements with Port tenants that, in the Director's discretion have been most directly and adversely affected by the COVID-19 pandemic and the Governor's proclamations issued in response thereto, subject to the following limitations:
  - a. The program shall be offered only to commercial building tenants (not industrial building or ground lease tenants) prevented from conducting normal business operations by way of Governor's Proclamation 20-05 or any subsequent Proclamation issued thereunder; and
  - b. The tenant must be current as to all rents and charges and otherwise in good standing with the Port; and
  - c. If the tenant is currently under a term lease (i.e., rather than in holdover, under an expired lease or a month-to-month rental agreement), the lease must be tendered and early terminated; and
  - d. A Month-to-Month Storage Agreement shall be entered into which allows the tenant to continue occupying the premises for passive storage use only, at a rate of \$0.25 per square foot (plus leasehold excise tax and utilities), with no active business use of any kind permitted upon the premises; and
  - e. The Month-to-Month Storage Agreement shall specify that the Port will actively market the premises and place "For Rent" signs upon the premises, and in the event a prospective business entity wishes to let the premises for business use, that the tenant will be given 20-days' notice to either:
    - i. Enter into a new term lease agreement at the then prevailing market rate for commercial business space; or
    - ii. Vacate the premises.
- 2. Effective Date - Duration:** This Resolution No. 720-20 shall take effect immediately and be in full force and effect for the same period, and without action required to renew, as Declaration of Emergency No. 01-2020 remains in effect.

**ADOPTED** this 8<sup>th</sup> day of April 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