



P.O. Box 1180 • Port Townsend, Washington 98368-4624

Administration: (360) 385-0656

Operations: (360) 385-2355

Fax: (360) 385-3988

**Port of Port Townsend  
2<sup>nd</sup> Monthly Meeting Agenda  
Tuesday, December 22, 2015, 1:00 PM  
Port Commission Building  
333 Benedict Street, Port Townsend, WA**

- I. Call to Order / Pledge of Allegiance
- II. Approval of Agenda
- III. Election of Officers, Year 2016
- IV. Consent Agenda
  - A. Approval of Meeting Minutes – December 9, 2015.....1-3
  - Approval of Public Workshop Minutes – December 9, 2015.....4-5
  - B. Approval of Warrants
- V. Public Comments (not related to Agenda)
- VI. Second Reading (action items)
  - A. Boat Ramp Update.....6
  - B. Craftsmen United.....7
  - C. 2016 Miscellaneous Fees.....8
- VII. First Reading (discussion only)
  - A. Resolution Establishing Port SEPA Policies, Procedures & Implementing Rules...10-20
- VIII. Potential Immediate Action Items (unanimous Commission approval required)
  - A. Marina Café Lease.....21
  - B. Octopus Gardens Lease.....22
  - C. Puget Sound Express Lease.....23
- IX. Staff Comments
- X. Public Comments
- XI. Commissioner Comments
- XII. **Public Workshop/Meeting: Wednesday, January 13, 2016 – workshop at 9:30 AM, meeting at 1:00 PM in the Port Commission Building, 333 Benedict Street, Port Townsend, WA.**
- XIII. Executive Session – (if called)
- XIV. Adjournment

**PORT COMMISSION MEETING– December 9, 2015**

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

Present: Commissioners – Tucker, Clinefelter and Hanke  
Executive Director – Crockett  
Deputy Director - Pivarnik  
Auditor – Berg  
Planning Analyst - Toews  
Minutes – Nelson

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Commissioner Tucker called the meeting to order at 1:00 PM.

II. APPROVAL OF AGENDA:

Proposed additions to the agenda include **Executive Session, Item A – Real Estate**, Pursuant to RCW 42.30.110 (b), (c), thirty minutes, with no action; and, **First Reading, Item B – Presentation from Dan Wiggins of Craftsmen United**.  
**Commissioner Tucker moved to approve the Agenda as amended.**  
**Commissioner Hanke seconded the motion.**  
**Motion carried by unanimous vote.**

III. CONSENT AGENDA:

A. Approval of Meeting Minutes – November 24, 2015  
B. Resolution No. 636-15 – Declaring Certain Items Surplus  
C. Operations Reports – November 2015  
D. Approval of Warrants  
Warrant #055440 through #055457 in the amount of \$101,275.32 for Payroll & Benefits  
Electronic Payment in the amount of \$44,352.06 for Payroll & Benefits  
Warrant #055458 through #055520 in the amount of \$205,768.83 for Accounts Payable  
**Commissioner Tucker moved to approve the Consent Agenda as presented.**  
**Commissioner Clinefelter seconded the motion.**  
**Motion carried by unanimous vote.**

IV. PUBLIC COMMENTS (Not related to agenda):

V. SECOND READING (Action Items):

A. Quilcene Wastewater Update (2:06):

Mr. Crockett announced that four applications were received in response to the RFQ for the Wastewater Project. The interview team consisted of Linda Herzog, Mr. Pivarnik, Mr. Toews and Mr. Crockett. They selected Tetra Tech as their number one choice. Mr. Crockett requested from the commission authorization to move forward with Tetra Tech.  
**Commissioner Hanke moved to approve Tetra Tech as the consultant for the Quilcene Wastewater Project, and to begin negotiations on a contract.**  
**Commissioner Tucker seconded the motion.**  
**Motion carried by unanimous vote.**

B. Boat Ramp Update (5:35):

Mr. Pivarnik reported Neptune Marine is ahead of schedule and doing a good job on the ramp project. Mr. Crockett added the contractor will be doing some night time work the next few weeks because of low tide conditions. (Dates and times posted to the Port's website.)  
Commissioner Clinefelter asked if there was a change order.  
Mr. Pivarnik answered that they do not expect to have a change order. Mr. Crockett explained the fuel lines were not as deep as depicted on the drawings, but the contractor will be able to encapsulate and pour over those lines.

VI. FIRST READING (Discussion Only):

A. 2016 Miscellaneous Rates (7:51):

Mr. Crockett explained Miscellaneous Rates were discussed previously.  
Mr. Pivarnik discussed the changes made to the rates, which include an increase in the Labor rate, the Kayak rate at Point Hudson and the Work Float rate. Discussion ensued on the Work Float rate increase. Commissioner Clinefelter would like to see feedback from the marine trades community.  
Commissioner Tucker reminded this is a first reading.  
Comments were heard from John Zimmer and Dan Wiggins.

B. Presentation from Dan Wiggins of Craftsmen United (16:58):

Mr. Wiggins discussed their proposed plans for a new building in the shipyard, 180' long, 90' wide and 50' tall. He asked if the commission would consider covering the cost for ballasting and the geotechnical report. Mr. Wiggins reported Craftsmen United and Wiggins Marine currently employ thirty people. He explained currently, they are not able to accommodate all their jobs in Port Townsend due to the size of many of their projects. He discussed their specialty (large aluminum boats), their customers, including many Federal projects, their good crew, good safety record and their experience. He would like to have a completed building by May.

VII. POTENTIAL IMMEDIATE ACTION ITEMS):

A. Sandoz Hangar Assignment (35:27):

Mr. Pivarnik explained Ms. Sandoz has been an airport tenant with the Port for over ten years. She has sold her hangar to another long-time airport tenant, Neil Morrison. Mr. Pivarnik requested from the commission, approval of the lease transfer to Mr. Morrison.

**Commissioner Tucker moved to approve a vote on the hangar transfer.**

**Commissioner Hanke seconded the motion.**

**Motion carried by unanimous vote.**

**Commissioner Tucker moved to approve the Lease Transfer from Ms. Shirley Sandoz to Mr. Neil Morrison.**

**Commissioner Clinefelter seconded the motion.**

**Motion carried by unanimous approval.**

VIII. STAFF COMMENTS (36:42):

Ms. Berg handed out the October year-to-date financials to the commission. She explained revenues are up and expenses are down from budget projections. She added things are looking good for 2015.

Mr. Crockett informed he would be attending the WA Boating Alliance meeting in Seattle tomorrow where updates will be provided from DOE and the Feds on the No Discharge Zone. He added the Port would be holding the Employee Recognition gathering Friday, December 18 at noon. (Port offices close at noon December 18.)

IX. PUBLIC COMMENTS (38:29):

John Collins commented on the proposed "exciting" Craftsmen United project.

Bertram Levy had a question on ballasting cost at proposed Craftsmen United site.

Melinda Bryden asked when the subject of raising rates to meet the financial costs for the capital improvements would be discussed amongst the commission.

X. COMMISSIONER COMMENTS (41:37):

Commissioner Hanke stated he is excited for the Quilcene project. He is pleased with the Port's participation. Mr. Crockett reminded that costs for this project are coming from the County's PIF money.

Commissioner Clinefelter asked if there were any other health and safety issues other than the Sail Loft in the Capital Facilities Repair & Replacement Plan. Mr. Toews answered that included in the Plan is a cost projection for asbestos remediation at the duplex, the Commanders Beach House and the "main building", all at Point Hudson.

XI. NEXT MEETING: Next regular meeting will be held **Tuesday, December 22, 2015 at 1:00 PM** in the Port Commission Building, 333 Benedict St, Port Townsend.

XII. EXECUTIVE SESSION:

The regular session recessed into Executive Session at 1:47 PM (actual start time 1:50 PM) to discuss real estate, pursuant to RCW 42.30.110 (b), (c), duration of thirty minutes with no action.

At 2:30 PM, Attorney O'Malley announced to anyone waiting outdoors (no one present) that the meeting would be extended.

XIII. RECONVENING AND ADJOURNMENT OF REGULAR MEETING:

The meeting reconvened and adjourned at 2:43 PM there being no further business to come before the Commission.

ATTEST:

\_\_\_\_\_  
Peter W. Hanke, Secretary

\_\_\_\_\_  
Stephen R. Tucker, President

\_\_\_\_\_  
Brad A. Clinefelter, Vice President

**PORT COMMISSION PUBLIC WORKSHOP – December 9, 2015**

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

Present: Commissioners Tucker, Clinefelter and Hanke  
Executive Director - Crockett  
Deputy Director – Pivarnik  
Finance Director – Berg  
Planning Analyst - Toews  
Minutes Nelson

I. CALL TO ORDER:

The Workshop was called to order at 9:30 AM.

II. AGENDA:

Refer to attached Workshop agenda for items discussed.

III. ADJOURNMENT:

The Workshop adjourned at 10:34 AM.

ATTEST:

\_\_\_\_\_  
Stephen R. Tucker, President

\_\_\_\_\_  
Peter W. Hanke, Secretary

\_\_\_\_\_  
Brad A. Clinefelter, Vice President

**Port of Port Townsend Public Workshop  
Wednesday, December 9, 2015, 9:30 AM  
Commission Building  
333 Benedict Street  
Port Townsend, WA**

**AGENDA**

**2016-2021 Capital Repair & Replacement Plan:**

- Staff will present the first draft of the 2016-2021 Capital Repair & Replacement Plan.

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

PORT OF PORT TOWNSEND

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** V. Second Reading  
A. Boat Ramp Update

**BACKGROUND:**

Staff will brief the commission on boat ramp construction progress.

**Executive Director's Recommendation:**

For discussion only.

**PORT OF PORT TOWNSEND**

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** V. Second Reading  
-B. Craftsman United

**BACKGROUND:**

Staff continues to work with Mr. Wiggins from Craftsman United to locate a suitable spot for the company to build a 12,000 sq. foot building in the shipyard. Mr. Wiggins has proposed to build the building in the southeast corner of the ballasted shipyard. Yard and management staff have met and determined that this spot would work and not seriously impact Port operations. In addition Mr. Wiggins is proposing to rent the entire lumber yard site for employee parking, lay down area and future expansion.

Craftsman United is requesting a letter of agreement from the Port so that he can continue to apply for permits and start the engineering phase of this project.

**Executive Director's Recommendation:**

Authorize Executive Director to provide a Letter of Agreement regarding the proposed leasing of the property to Craftsman United with term yet to be determined.



**PORT OF PORT TOWNSEND**

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** V. Second Reading  
C. 2016 Miscellaneous Rates

**BACKGROUND:**

Miscellaneous Rates were discussed at the previous commission meeting.

**Executive Director's Recommendation:**

Recommend adopting Miscellaneous Rates, as presented.

## MISCELLANEOUS CHARGES

Service Rates – Effective January 1, 2016

Approved by Port Commission on xxxx

Mini-Storage Units	\$ 1.00/square foot per month
Port Labor Rate	\$ 60.00/hr. per person
Overtime Labor Rate	\$ 85.00/hr. per person
Charter Vessel passenger fee	\$ .60 per person
Relocate Vessel by Hand	\$ 75.00
Relocate Vessel with Port Skiff	\$ 150.00
Non-Metered Electrical	\$ 1.25 per foot per month
Emergency Pumps	\$ 125.00
Bilge Water	\$ .75 per gallon
Best Management Practices (BMP) violation FEE	
1 <sup>st</sup> offense	\$ 100.00
2 <sup>nd</sup> offense	\$ 500.00
3 <sup>rd</sup> offense	\$1,000.00
Chain Up Fee-1 <sup>st</sup> Offense	\$ 150.00
2 <sup>nd</sup> Offense	\$ 250.00
3 <sup>rd</sup> Offense	\$ 400.00
Impound Fee-1 <sup>st</sup> Offense	\$ 200.00
2 <sup>nd</sup> Offense	\$ 300.00
3 <sup>rd</sup> Offense	\$ 500.00
Pet Clean-up	\$ 50.00
Late Charge	\$ 10.00 minimum or 1.5%
Waiting List Fee	\$ 50.00
Waiting List Renewal Fee or Pass Fee	\$ 25.00 per year or per pass
Illegal Garbage Dump Fee	\$ 320.00
Photocopy/page	\$ .15
Oversized Copy	Actual cost
Scanning documents/page	\$ .10
CD/DVD	\$ 1.00 plus scanning charges
Fax - First Page	\$ 2.50
Each Additional Page	\$ 1.25
Notary Service	\$ 10.00
NSF Check Charge	\$ 50.00 per occurrence
Launch Ramp Fee	\$ 10.00 per day
Annual Ramp Fee**	\$ 70.00 per year
Kayak Rack Rental	\$ 28.00 per month
Work Float Use	\$ 2.00 per ft. per day (2 week max.)

\*\*Free with Verified DAV Determination

**PORT HADLOCK DOCK** – Dinghy/Skiff Tie-up \$ 125.00 annual (dock) - \$75.00 annual (beach)

## PORT OF PORT TOWNSEND

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** VI. First Reading  
A. Resolution No. xxx-16 – Establishing Port SEPA Policies, Procedures and Implementing Rules

**BACKGROUND:**

This proposed Resolution would, if approved, establish new Port of Port Townsend Policies, Procedures and Implementing Rules, in conformance with the recently revised State Environmental Policy Act (SEPA) rules (WAC 197-11). The proposed new policies, procedures and rules address changes in the state rules, and are based largely on similar resolutions adopted by other Washington Ports, including the Ports of Olympia and Kennewick.

The rules will be used by the Port in those limited situations in which it assumes “lead agency” status and conducts its own SEPA review and threshold determination – usually on programmatic, rather than project, actions (e.g., adoption of amendments to the Port’s Capital Improvement Plan). The Port typically relies upon Jefferson County or the City of Port Townsend to assume lead agency status for project level actions (e.g., construction activities).

**Executive Director’s Recommendation:**

This is a first reading. Accordingly, it is recommended that the Commission schedule a public hearing for its second public meeting in January to accept public testimony on the proposed Resolution and attached Appendix (i.e., containing the proposed policies, procedures and implementing rules).

**RESOLUTION NO. \_\_\_\_-16**  
**A Resolution of the Commission of the Port of Port Townsend**

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

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

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

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

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

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

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

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

**ADOPTED** this \_\_\_\_ day of January 2016, by the Commission of the Port of Port Townsend and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.

**ATTEST:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

\_\_\_\_\_  
Vice President

**APPROVED AS TO FORM:**

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

## APPENDIX A

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

### Sections:

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

### **Section 1. Adoption of SEPA rules.**

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

### **Section 2. Authority.**

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

**Section 3. Purpose, applicability, and intent.**

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

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

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

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

**Section 4. Environmental policies adopted.**

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

**Section 5. Additional definitions.**

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

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

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

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

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

**Section 6. Timing of the SEPA process.**

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

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

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

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

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

## **Section 7. Public notice.**

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

7.2 Notice Requirements.

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

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

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

## **Section 8. Comments.**

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

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

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

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

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

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

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

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

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

9.3 Administrative Appeal Procedures.

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

9.3.2 Appeal Deadlines/Standing.



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

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

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

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

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

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

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

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

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

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

viii. The appropriate fee; and

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

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

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

9.4 Public Administrative Appeal Hearing.

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

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

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

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

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

- i. In violation of constitutional provisions as applied; or
- ii. The decision is outside the statutory authority or jurisdiction of the Port; or
- iii. The Responsible Official has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure; or
- iv. In regard to challenges to the appropriateness of the issuance of a determination of non-significance (DNS), clearly erroneous in view of the public policy of the Act (SEPA); or
- v. In regard to challenges to the adequacy of an EIS shown to be inadequate employing the "rule of reason."

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

9.4.7 Continuation of Hearing.

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

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

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

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

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

**9.5 Port's Final Decision.**

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

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

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

**9.6 Appeal of Port's Final Administrative Decision.**

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

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

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

**Section 10. Flexible thresholds for categorical exemptions.**

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

**Section 11. Emergencies.**

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

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

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

12.1 The SEPA PIC shall maintain a DNS register.

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

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

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

**Section 13. Critical areas.**

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

**Section 14. Lead agency – Responsibilities.**

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

**Section 15. Severability.**

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

**Section 16. Repealer.**

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

**Section 17. Effective Date.**

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

**PORT OF PORT TOWNSEND**

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** VII. Potential Immediate Action  
A. Marina Café Lease

**BACKGROUND:**

Lease to be presented.

**Executive Director's Recommendation:**

For commission approval.

**PORT OF PORT TOWNSEND**

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** VII. Potential Immediate Action  
B. Octopus Gardens Diving Lease

**BACKGROUND:**

Lease to be presented.

**Executive Director's Recommendation:**

For commission approval.

**PORT OF PORT TOWNSEND**

**MEETING OF:** December 22, 2015

**AGENDA ITEM:** VII. Potential Immediate Action  
C. Puget Sound Express Lease

**BACKGROUND:**

Lease to be presented.

**Executive Director's Recommendation:**

For commission approval.