Linda Lehman- Mayor
Stephanie Haug, CMC- City Clerk/Treasurer
Spink Engineering- City Engineer
Kerr Law Group-City Attorney

BENTON CITY

Lisa Stade-Councilwoman
Mary Lettau- Councilwoman
Vanessa Coates- Councilwoman
David Sandretto- Councilman
Jake Mokler- Councilman

REGULAR CITY COUNCIL MEETING

May 3, 2016 | **AGENDA** | **Ki-Be High School - PAC 7pm**

TURN OFF ALL CELL PHONES & PAGERS-EMERGENCY PERSONNEL USE SILENT ALERT

A. CALL TO ORDER/PRESENTATION OF COLORS

B. ROLL CALL

C. READING AND APPROVAL OF MINUTES
1. *Regular Meeting – April 19, 2016*

D. OPENING REMARKS, "HOUSEKEEPING" ITEMS, EXECUTIVE SESSION REQUESTS, ETC.
1. *Liquor License Renewal – The Wild Boar Grill*

E. APPROVAL OF AGENDA (Only essential changes not requiring preparation, review, public notice, or action may be added)

F. VISITOR COMMENTS- *for non-agenda items.*
Council will not take action on an item not already on agenda without time to research, read, and receive staff report. Items may be added on future agenda, but not current agenda. Please do not speak or make remarks unless recognized by the Chair, then if you are called, come forward to microphone, give name and address for minutes recorder. Council chamber over-flow will be moved to City Community Center.

G. REGULAR REPORTS:
1. EDC Report
2. Staff Report
   a) Maintenance Report
3. Engineer Report
4. Council Committee Reports

H. ITEMS FOR APPROVAL:
1. Public Hearing – Moratorium- Marijuana Establishments
2. Resolution #2016-08- Moratorium- Marijuana Establishments
3. Resolution #2016-09 - Ballot Title – Advisory Vote
4. Set Date/Time for Two Workshops – Benton City Visioning Workshop AND Current Projects Workshop
5. City Hall Closure – May 11, 2016
6. Vouchers

I. ITEMS FOR DISCUSSION:
1. City Council Rules of Conduct

J. GENERAL COUNCIL COMMENTS:

K. ADJOURNMENT

Updated 4/29/2016

Councilmember Stade: Mayor, I'd like to make a motion. (00:00:38*Audio recording begins)

Mayor Lehman: I haven't called the meeting to order.

CALL TO ORDER – Mayor Lehman called the April 19th, 2016 Regular Council meeting to order at 7:07 p.m. at the Benton City Community Center (00:01:00*)

Councilmember Stade: Mayor, I'd like to make a motion. Do you acknowledge me to make a motion?

Mayor Lehman: No, because it's not ready to have a motion yet. First…

Councilmember Stade: Mayor, I oppose this meeting even taking place. It violates everybody being able to hear and at the High School, when we had this many people come for a controversial issue, there was, it was violating fire codes if we let everybody in. People were in the lobby; they couldn't hear, so we wrote a sign on the door that said "Moved to the Performing Arts Center". Wade Haun says he's willing to have it go to the Performing Arts Center if we do not move there, then we are saying we don't have a location when we know that we do, and you've been informed; and I want all sides to be able to be represented, to hear and to speak, and if you don't, you're violating the Open Meeting Act where people can hear and speak; if you cannot hear, you won't know what to say, and if you're, if you're not able to say, you know, get in here, you can't respond. We do have an alternative location.

Mayor Lehman: Mr. Kerr, could you please give your opinion on that?

Mr. Kerr: Well, I can. Council has control of its own meetings, so you can determine when and where you have your meetings. We established our regular meetings by ordinance. Your ordinance specifically provides that this is the date, this is the time for the meeting. Just because there is not capacity to be able to have all those that wish to participate be in the room, does not make it less than an open meeting, or a public meeting. We are constrained by the, by the, by the capacity, by the fire code allows those that can actually, physically be in the room, to be in the room; City has the capacity to be able to adjourn the meeting, to adjourn it to a different place, or and a different time. There is a process that we go thru to do that, normally it would be postponed to a different date so it allows all those who wish to be able to participate to be identified of the new date and time. It's unfair sometimes to those people that are prepared to present their material at this meeting but, like I said, Council has by majority vote, the capacity to either conduct the meeting as they are here; they are within a legal meeting with a legal, open public meeting or they can adjourn it to another place or another place and time.

Councilmember Stade: So I didn't say completely now that I know what he, now that I know what the attorney says, I move to adjourn the meeting and move it to the Performing Arts Center where all may be able to hear and speak, today. And it may not, it won't happen, because it will take time for the City Clerk to set up and then those that are already here and prepared will be able to speak and we that are prepared for this will be able to speak in here as well.

Councilmember Lettau: I second.

MOTION #1- C. L. Stade moved and C. M. Lettau seconded to adjourn the April 19th, 2016 Regular Council Meeting at the Benton City Community Center and move it to the Performing Arts Center at the Ki-Be High School

ROLL CALL VOTE #1- C. L. Stade, C. M. Lettau – YEAS; C. D. Sandretto, C. V. Coates, C. J. Mokler – NAYS. Motion failed.

PRESENTATION OF THE COLORS – Councilmember Sandretto led the Council and audience in the Pledge of Allegiance. (00:04:37*)

ROLL CALL (00:05:09*)

Council Members Present –
- **Lisa Stade**
- **Mary Lettau**
- **Dave Sandretto**
- **Vanessa Coates**
- **Jake Mokler**

City Staff Present –
- **Stephanie Haug, City Clerk/Treasurer**
- **Paula Kauer, General Clerk**
- **Kyle Kurth, City Maintenance Foreman**
- **John G. Brown, Jr., Code Enforcement**

Other Professionals Present –
- **Alan Rainey, City Engineer, Spink Engineering LLC**
- **Lee Kerr, City Attorney, Kerr Law Group**

Other Professionals Absent –
- **Lt. Steve Caughey, Benton County Sheriff's Office**

READING AND APPROVAL OF MINUTES (00:05:29*) **- REGULAR MEETING APRIL 5TH, 2016**

Councilmember Lettau: Madam Mayor, I make a motion to approve the Minutes Meeting, April 5th, 2016 as written.

Councilmember Sandretto: Second.

MOTION #2- C. M. Lettau moved and C. D. Sandretto seconded to approve the Minutes of the April 5th, 2016 Regular Council Meeting as presented.

VOICE VOTE #2- C. V. Coates, C. L. Stade, C. J. Mokler, C. M. Lettau, C. D. Sandretto
ALL YEAS. Motion carried.

OPENING REMARKS, "HOUSEKEEPING" ITEMS, EXECUTIVE SESSION REQUESTS, ETC. (00:06:03*)

1. **Liquor License Renewal – Multiple**

Ms. Haug – Rules of the order of this meeting

APPROVAL OF AGENDA (00:08:17*)

Councilmember Coates: Madam Mayor, I move to approve the Agenda.

Councilmember Sandretto: I second it.

MOTION #3- C. V. Coates moved and C. D. Sandretto seconded to approve the Agenda for the April 19th, 2016 Regular Council Meeting as presented.

VOICE VOTE #3- C. V. Coates, C. L. Stade, C. M. Lettau, C. D. Sandretto, C. J. Mokler
ALL YEAS. Motion carried.

VISITOR COMMENTS (00:09:40*)

Heather Duncan, Benton City Chamber of Commerce - *Benton City Spring Opener Car & Bike Show* – April 30th – Support youth activities – ***Chamber monthly luncheon*** – Earth Day – Derrick Dietrich – Serving Community – Wild Boar Grill – Opens 11:30 – Lunch at 12:00 - Please RSVP

REGULAR REPORTS

1. **SHERIFF'S REPORT** (00:11:11*)
   Lt. Steve Caughey, Benton County Sheriff's Office - In packets - March 2016 - 338 Calls for Service vs. 284 in 2015 -33 Case Offenses vs. 29 in 2015 - 48 Infraction Offenses were issued
2. **STAFF REPORTS** (00:12:53*)
   Stephanie Haug, City Clerk/Treasurer - In packets - *Code Report* - *Treasurer Report*
3. **ENGINEER REPORT** (00:13:05*)
   Alan Rainey, City Engineer, Spink Engineering LLC – Finishing up sewer cleaning video project – Report back within six weeks – Well #5 – Six to eight weeks complete
4. **COUNCIL COMMITTEE REPORTS** (00:13:39*)

Councilmember Sandretto – PAC Meeting at Pasco – Federal money for highway improvements – Talk with Alan after roundabout is complete

ITEMS FOR APPROVAL:

1. **SECOND READING – ORDINANCE 955 – AMENDING CHAPTER 12.05 "SIDEWALK CONSTRUCTION"** (00:14:29*)

Councilmember Lettau: Madam Mayor, I move to approve, on its Second Reading, the corrected copy of Ordinance 955 of the City of Benton City, Washington, amending B.C.M.C. Chapter 12.05 "Sidewalk Construction, Maintenance and Repair".

Councilmember Sandretto: I second.

MOTION #4- C. M. Lettau moved and C. D. Sandretto seconded to approve, on its Second Reading, the corrected copy of Ordinance 955 of the City of Benton City, Washington, amending B.C.M.C. Chapter 12.05 "Sidewalk Construction, Maintenance and Repair".

VOICE VOTE #4- C. J. Mokler, C. D. Sandretto, C. V. Coates, C. M. Lettau, C. L. Stade
ALL YEAS. Motion carried.

2. **SECOND READING – ORDINANCE 956 – MARIJUANA ESTABLISHMENT REGULATIONS** (00:15:11*)

Councilmember Coates: Madam Mayor, I move to approve on its Second Reading, Ordinance 9556 of the City of Benton City, Washington, creating a new section 5.12.050 "Marijuana Businesses"; amending Section 20.33.030 "Conditional Uses" in C-1 commercial for Retail Recreational Marijuana; and amending Section 20.36.030 "Conditional Uses" in IL, Industrial, Light District for Manufacturing and Production of Recreational Marijuana; and creating a new Section 20.60.290 "Marijuana Control Regulations".

Councilmember Mokler: Is that possibly, excuse me, Madam Mayor, is that possibly a typo, 9556, it should be 956?

Councilmember Coates: 956

Mayor Lehman: Okay, I'm going to open the floor for discussion, but I kind of want to set the tone; we're here tonight to look at regulations, to decide whether or not…

Councilmember Lettau: Madam Mayor, we need a second on that motion before we have a discussion.

Mr. Kerr: To make sure we have it before the Council…

Mayor Lehman: Before? Oh, okay. Is there a second?

Councilmember Sandretto: I'll second it.

MOTION #5- C. V. Coates moved and C. D. Sandretto seconded to approve, on its Second Reading, Ordinance 956 of the City of Benton City, Washington, creating a new Section 5.12.050 "Marijuana Businesses"; amending Section 20.33.030 "Conditional Uses" in C-1 Commercial for Retail Recreational Marijuana; and creating a new Section 20.60.290 "Marijuana Control Regulations".

Mayor Lehman: All right, thank you. What I want to do is set the tone. We're here to determine whether or not we want to regulate marijuana. We're not here to locate a marijuana shop. That is not what is on the Agenda. We're adopting regulations in order to try to control the use of marijuana in our town, so I would like you to, please keep your comments towards the regulatory aspects of this, as opposed to siting of a marijuana shop and where it's going to go. This is not, this is not voting to lift the moratorium either, so this is to develop our regulations and a regulatory base should we, at a future date, decide to have a marijuana establishment. These laws, this regulation is quite stringent and its goes over and above what the State Law does in order to protect the citizens. We have instituted a

Conditional Use Permit process and so that will give the City more control that just having it (inaudible) where the State Law says it has to be, so that's how I would like you to proceed, and I don't want to get in arguments about siting a marijuana shop at this point.

Councilmember Lettau: Madam Mayor, I have a comment. My understanding is if we pass this tonight, within five days, a marijuana store can be located in our town, so if we vote yes on this tonight, it's a done deal; if we vote no on this tonight, the next meeting we can put the moratorium, or continue the moratorium.

Councilmember Sandretto: If we vote yes on this tonight, they still have to permit or request a permit, they have to become before the City Council and we have to approve that Conditional Use Permit, before they can have a store here, so it would be at least two weeks before a permit could come before us and it may be longer than that, because we have, based on these regulations, the right to put more restrictions on that particular store, so our choices right now, I want to address this, our choices right now are to go for an open ban, in which case, eventually, the State Supreme Court is going to overrule that. Right now, we have the choice to put regulations in play where we have control; where we can set the tone, where we put the store, why it's there, not, oh, everybody can put it wherever they want in a Commercial zone. We've tried to limit that. The Planning Commission did a great job at that. A lot of people are very confused as to where stores can go. There's only three locations in this City. Production has only the Industrial locations, yes, but we've also got in that ordinance that they can, they have to be inside a building with filtration. I seen so many emails about the smell concerns. It's not a concern. The Planning Commission ruled that out. So please when you're thinking about this, think about the fact that this is our chance to control it versus get stuck with what the state gives us in the future.

Mr. Kerr: Just to clarify, it's going to be a little longer than a couple of weeks. The process that we have is that the Council affirmably votes and approves it tonight; it then becomes published and is effective five days after its publication, so we've got at least until next Monday before the publication, and we've five days thereafter. At that time, anybody that wishes to make an application for a Conditional Use Permit will have to come and will have to make an application for, here, for Conditional Use, have to demonstrate that they qualify, and then it will go to the Planning Commission for a hearing for identifying specifically the conditions that Councilman addressed, and once they conduct that, make their findings so it will come to City Council, and then City Council can finally have the ultimate determination, so it's, it's going to take, if this is approved, a little longer, it's going to be a fairly complete process.

Councilmember Sandretto: I was just making the point, because I keep hearing that everybody's concerned it's going to happen in their neighborhood tonight. It's going to be tomorrow morning; we're going open a store. It's going to be tomorrow morning, there's going to be an increase in crime. None of these things are true. I've saw statistics; I've read websites; I've talked to the City of Prosser; I've talked to their records people. I'm sorry. I worked in law enforcement for 12.5 years as dispatcher and a jailer. I have been a firefighter in our community for twenty plus years. I've been to many of your homes. It is not going to be the evil that we see. Right now, what we see is it's here. The State has already approved it. Our citizens are going to Prosser to buy it. Our medical patients are going to Prosser to buy it. Pretty soon, all the medical patients in the Tri-Cities are going to Prosser to buy it. We have a chance to regulate it. We have a chance to garner something from it. It may be horrible and many of you may look at it as a basis of morality and say that it is wrong. I, for one, don't use marijuana, I don't believe in it. But I'm going to vote yes on this because it's not about morality, in this particular case. It's not about your individual belief system. It's about what the State is hogging to shove down our throat eventually, and it's about what our citizens deserve. Our elderly don't need to be going to Prosser. Our people with chronic migraines don't be needing to go to Prosser. They should be able to purchase that here in our town.

Mayor Lehman: And right now the options are, we have, we have plenty of drug dealers here bringing it in. We have gangs, we have the cartels that are supplying the gangs, and it's not just marijuana that

they're getting. They're getting cocaine, they're getting heroin, they're getting crack, they're getting angel dust and whatever kind of chemical cocktail they can come up with that is potentially lethal, and for me, the intent of this law is to stop that. I want to stop that, and the first step is to regulate it. I don't want those drug dealers here and I'm going to do what it takes to get rid of them, and regulating is one of the first steps we have to take in order to get rid of them. If we don't regulate it, then it's just going to go on like it is and thank goodness for Washington State Patrol, who's here in the room with us, because they've had a undercover sting operation going on for the last three years and because of that, they've gotten rid of quite a few of them here but even in their own words "if we're not diligent, they're just going to come back". One replaced with the other one. The only way we can do this is to financially cut them out of the deal and this is the first way to go about it. *** Council Discussion ***

****Citizen Comments ****

Jordan Sillito, 1310 11th St., Benton City – Pro-Marijuana business

Brenda Trammell, 42901 N. River Rd., Benton City – Pro-Marijuana business

Steve Rouse, 36107 N. Demoss Rd., Benton City – Anti-Marijuana business

Mark Kastl, 1103 E. Corral Creek Rd., Benton City – Chose not to speak

Lynn Leavitt, 29904 N. 113 PRNE, Benton City – Anti-Marijuana business

Sonya Brown, 1541 13th St., Benton City – Anti-marijuana business

Nicole Bragg, 1501 12th St., Benton City – Anti-marijuana business

Jim Von Tungeln, 700 Saturn Ave., Benton City – Anti-marijuana business

Douglas Gale, 36605 N. Demoss Rd., Benton City – Anti-marijuana business

David Bragg, 1501 12th St., Benton City – Anti-marijuana business

Curt Cannon, 1004 Angeline Blvd., Benton City – No longer in attendance

Heather Duncan, 2502 W. Dusty Lane, Benton City - Neutral

Debbie Galat, (Unknown address) – Anti-marijuana business

Joe Lloyd, 40602 N. Highland, Benton City – Anti-marijuana business

Cynthia Tobin, 5704 E. 468 PRNE, Benton City – Pro-marijuana business

Jaime Torres, 1514 W. Sylvester, Pasco – Pro-marijuana business

Javier Madrigal, 811 W. Nixon, Pasco – Pro-marijuana business

Stacy Quick, 821 Fern Ct., W. Richland – Pro-marijuana business

Esther Shorthill, 407 3rd St. #18, Benton City – No longer in attendance

<<< Estimated Ten Minute Break – 8:10 p.m. to 8:20 p.m. >>>

Sherri Page, 314 6th St., Benton City – No longer in attendance

Nila Hodgson, 48602 N. 108 PRNW, Benton City – Anti-marijuana business

Gabriel Navarro, 4525 W. 9th Ave., Kennewick – No longer in attendance

Becca Long - 418 W. 8th St., Kennewick – Pro-marijuana business

Jeanne Wallace, 900 7th St., Benton City – Pro-marijuana business

Mike Null, 400 14th St. #7 Benton City – No longer in attendance

Carolyn Mason, 2105 E. Mason PRNE, Benton City – No longer in attendance

Connie Meredith, 913 13th St., Benton City – Anti-marijuana business

Gary Lyon, 57803 N. Shuler Rd., Benton City – No longer in attendance

Rena McKenzie, 415 Birch Ct., Benton City – Anti-marijuana business

Joshua Daymon, 1825 11th St., Benton City – No longer in attendance

Chelsea Wright, 614 9th St., Benton City – Pro-marijuana business

Carol Martin, 803 Babs Ave., Benton City – Asked to be skipped

Peggy Higham, 717 12th St., Benton City – Anti-marijuana business

Donald Hunter, 315 7th St., Benton City – Pro-marijuana business

Holly Prior, 65207 N. SR225, Benton City – Anti-marijuana business

Candace Crandall, 68403 N. SR225, Benton City – Anti-marijuana business

Tynan Bender, 7604 E. Pendleton Rd., Benton City – Pro-marijuana business

Leroy Peters, 23504 110 PRNE, Benton City – Anti-marijuana business

Victoria Burt, 20948 E. Ruppert Rd., Benton City – Undecided

Michelle McLeod, 1201 Fig Ave., Benton City – Pro-marijuana business

Erin Fuller, 45106 N. 280 PRNE, Benton City – Anti-marijuana business

Dyana Alcazar, 908 Babs Ave., Benton City – Anti-marijuana business

Earl Norman, 66604 N. SR225, Benton City – Anti-marijuana business

Don Arbogast, 29712 E. Kennedy Rd., Benton City – Anti-marijuana business

Bob Brown, Benton City – Pro-marijuana business

Brad Klippert, 2301 S. Ranier St., Kennewick – Anti-marijuana business

Doug Moser, 17305 E. Ruppert Rd., Benton City – Anti-marijuana business

*** Council Discussion ***

Councilmember Mokler: I know we have the motion on the table for Ordinance 956; I would like to propose to the Council that we table this motion, extend the moratorium until this can go to a vote of a general ballot to the public.

Mayor Lehman: I'm sorry, but that's not possible. It's not allowed for this to go to a general ballot, because that's the law. It has to go to, the City Council has the authority.

Councilmember Mokler: So we can't do an advisory vote to see what the public really wants; the citizens of Benton City, who actually were able to vote on it.

Mr. Kerr : If I may, both of you are right. This matter's already gone to the ballot, and the voters of the State of Washington have answered. Advisory ballots, however, are appropriate, if the City Council feels that they need the advice of their citizens through a ballot, they can do so. There is a number of steps we'd have to go through to be able to do so. One, of course, is that we would have to identify what exactly we're going to do in the interim because the first opportunity, first to be able to get it on ballot would August, and the more probable would be the November general and to do that, there's a number of things that would have fall into place. To maintain the moratorium during that pre time until the ballot results are known, then we would, as indicated earlier, we'd have to have a action at the next City Council meeting to continue the moratorium to extend it and followed by another Public Hearing on the moratorium issue, but the advisory ballot is permissible (inaudible) to determine whether or not we're going to have a legalized marijuana as such is not so, both of you are correct in that regard.

Councilmember Stade: I'd like to make a motion…regarding 956…

Mayor Lehman: We have, we have a motion on the table…

Councilmember Stade: Okay, so regarding 956 with an addendum, that we extend the moratorium and request procedures as directed by our attorney to find out advisory ballots, find out from our citizens what they want, our community.

Mr. Kerr: As a parliamentary matter, we have a motion to table, which is appropriate, if the motion to table has a second, then that becomes the primary issue on the Council's table.

Councilmember Lettau: I second that motion.

Councilmember Mokler: Do we have to clear the original reading first?

Mr. Kerr: No. What it boils down to right now, is we had a motion for Second Reading; it was surpassed, if you will, by a motion to table. If the motion to table gets a second and passes, then that'll be, that will, that will take the action, and the Second Reading would be postponed. We still have First Reading, opportunity for Council to have Second Reading either after the advisory ballot or sometime in between would still be possibility.

Councilmember Mokler: I make a motion to table the Ordinance 956 Second Reading until we can obtain a vote of the public by General Election ballot.

Councilmember Lettau: I second.

MOTION #6- C. J. Mokler moved and C. M. Lettau seconded to table Ordinance 956 in its Second Reading until an advisory vote is put before the citizens of the City of Benton City by General Election ballot.

VOICE VOTE #6- C. L. Stade, C. M. Lettau, C. J. Mokler – YEAS; C. D. Sandretto, C. V. Coates – NAYS. Motion carried.

<<< Five minute recess >>>
(02:22:44*)

3. **RESOLUTION #2016-07 – AUTHORIZING MAYOR TO SIGN PERSONAL SERVICES CONTRACT – ONEZA & ASSOCIATES** (02:29:30*)

Ms. Haug – Overview of Resolution

Councilmember Coates: Madam Mayor, I move to approve Resolution #2016-07, authorizing the Mayor of the City of Benton City to sign the Personal Services Contract between the City of Benton City and Oneza & Associates.

Councilmember Mokler: Second.

MOTION #7- C. V. Coates moved and C. J. Mokler seconded to approve Resolution #2016-07, authorizing the Mayor of the City of Benton City, Washington, to sign the Personal Services Contract between the City of Benton City and Oneza & Associates.

ROLL CALL VOTE #7- C. M. Lettau, C. D. Sandretto, C. J. Mokler, C. L. Stade, C. V. Coates ALL YEAS. Motion carried.

4. **WELL NO. 5 – CHANGE ORDER #1** (02:32:04*)

Councilmember Lettau: Madam Mayor, I move to approve Well #5 – Wellhouse and Site Work Change Order #1 for $1,542.57 plus WA State Sales Tax.

Councilmember Coates: I second.

MOTION #8- C. M. Lettau moved and C. V. Coates seconded to approve Well #5 – Wellhouse and Site Work Change Order #1 for $1,542.57 plus WA State Sales Tax.

ROLL CALL VOTE #8- C. J. Mokler, C. D. Sandretto, C. L. Stade, C. V. Coates, C. M. Lettau ALL YEAS. Motion carried.

5. **VOUCHERS** (02:32:43*)

Councilmember Lettau: Madam Mayor, I move to approve payment of Claim check numbers 27575 through 27619 with EFTs as listed in the amount of $134,454.85 and Payroll checks numbers 27536 through 27546 with EFTs as listed in the amount of $66,782.68 this 19th day of April, 2016.

Councilmember Coates: Second.

MOTION #9– C. M. Lettau moved and C. V. Coates seconded for the City Council of the City of Benton City, Washington, to hereby authorize payment of Claim Check Numbers 27575 through 7619with EFTs as listed in the amount of 134,454.85 & Payroll check numbers 27536 through 27546 with EFTs as listed in the amount of $66,762.68 this 19th day of April, 2016.

ROLL CALL VOTE #9–C. D. Sandretto, C. J. Mokler, C. M. Lettau, C. L. Stade, C. V. Coates
ALL YEAS. Motion carried.

ITEMS FOR DISCUSSION (02:33:42*)

1. DNR Land Discussion * Council Discussion *

Claude Oliver – Statement on current agreement

GENERAL COUNCIL COMMENTS – None (02:43:46*)

ADJOURNMENT – Mayor Lehman (02:43:52*)

Councilmember Sandretto: Motion to adjourn this meeting.

Councilmember Coates: Second.

MOTION #10– C. D. Sandretto moved and C. V. Coates seconded to adjourn the April 19th, 2016 Regular Council Meeting 9:50 p.m. (02:44:04*)

VOICE VOTE #10–C. V. Coates, C. L. Stade, C. D. Sandretto, C. M. Lettau, C. J. Mokler
ALL YEAS. Motion carried.

Meeting adjourned at 9:50 p.m. (02:44:06*Audio recording ends)

_____
Linda Lehman
Mayor, City of Benton City

_____
Stephanie Haug, CMC
City Clerk-Treasurer

Date: _____

Washington State
Liquor and Cannabis Board
PO Box 43098, 3000 Pacific Ave. SE, Olympia WA 98504-3098, (360) 664-1600
www.liq.wa.gov Fax #: (360) 753-2710

April 07, 2016

Dear Local Authority:
RE: Liquor License Renewal Applications in Your Jurisdiction - Your Objection Opportunity

Enclosed please find a list of liquor-licensed premises in your jurisdiction whose liquor licenses will expire in about 90 days. This is your opportunity to object to these license renewal requests as authorized by RCW 66.24.010 (8).

1) Objection to License Renewal

To object to a liquor license renewal: fax or mail a letter to the Washington State Liquor and Cannabis Board (WS-LCB) Licensing Division. This letter must:

- Detail the reason(s) for your objection, including a statement of all the facts upon which your objection or objections are based. You may include attachments and supporting documents which contain or confirm the facts upon which your objections are based.

- Please note that whether a hearing will be granted or not is within the Board's discretion per RCW 66.24.010 (8)(d).

Your letter or fax of objection must be received by the Board's Licensing Division at least 30 days prior to the license expiration date. If you need additional time you must request that in writing. Please be aware, however, that it is within the Board's discretion to grant or deny any requests for extension of time to submit objections. Your request for extension will be granted or denied in writing. If objections are not timely received, they will not be considered as part of the renewal process.

A copy of your objection and any attachments and supporting materials will be made available to the licensee, therefore, it is the Local Authority's responsibility to redact any confidential or non-disclosable information (see RCW 42.56) prior to submission to the WSLCB.

2) Status of License While Objection Pending

During the time an objection to a renewal is pending, the permanent liquor license is placed on hold. However, temporary licenses are regularly issued to the licensee until a final decision is made by the Board.

3) Procedure Following Licensing Division Receipt of Objection

After we receive your objection, our licensing staff will prepare a report for review by the Licensing Director. The report will include your letter of objection, as well as any attachments and supporting documents you send. The Licensing Director will then decide to renew the liquor license, or to proceed with non-renewal.

4) Procedure if Board Does Not Renew License

If the Board decides not to renew a license, we will notify the licensee in writing, stating the reason for this decision. The licensee also has the right to request a hearing to contest non-renewal of their liquor license. RCW 66.24.010 (8)(d). If the licensee makes a timely request for a hearing, we will notify you.

The Board's Licensing Division will be required to present evidence at the hearing before an administrative law judge to support the non-renewal recommendation. You may present evidence in support of your objection or objections. The administrative law judge will consider all of the evidence and issue an initial order for the Board's review. The Board members have final authority to renew the liquor license and will enter a final order announcing their decision.

5) Procedure if Board Renews License Over Your Objection

If the Board decides to renew the license over your objection, you will be notified in writing. At that time, you may be given an opportunity to request a hearing. An opportunity for a hearing is offered at the Board's discretion. If a hearing is held, you will be responsible for presenting evidence before an Administrative Law Judge in support of your objection to license renewal. The Board's Licensing Division will present evidence in support of license renewal. The Licensee may also participate and present evidence if the licensee desires. The administrative law judge will consider all of the evidence, and issue an initial order for the Board's review. The Board members have final authority to renew the liquor license and will enter a final order announcing their decision.

For questions about this process, contact the WSLCB Licensing Division at (360) 664-1600 or email us at wslcb@liq.wa.gov.

Sincerely,

Rebecca Smith

Rebecca Smith, Director,
Licensing and Regulation Division

LIQ 864 07/10

C091080-2 WASHINGTON STATE LIQUOR AND CANNABIS BOARD DATE: 04/07/2016

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF BENTON CITY
(BY ZIP CODE) FOR EXPIRATION DATE OF 20160731

	LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1.	GRAPES & GRAIN, L.L.C.	FRICHETTE WINERY 39412 N SUNSET RD BENTON CITY WA 99320 8599	411336	DOMESTIC WINERY < 250,000 LITERS
2.	VRA LLC	THE WILD BOAR GRILL 623 9TH ST BENTON CITY WA 99353 0000	088079	SPIRITS/BR/WN REST SERVICE BAR

Kyle Kurth
Maintenance Forman

CITY OF BENTON CITY

OFFICE OF MAINTENANCE DEPARTMENT

P.O. Box 70, * Benton City * Washington 99320 * (509) 588-3322

April 1, 2016- April 28, 2016

Streets

- **Street sweeper came to clean streets**
- **1 pre pour inspection for curb and gutter**
- **3 street cut inspections**

Water

- **23 shut offs. 3 still off**
- **Put out door hangers for water shut offs**
- **Two water leaks fixed**
- **Replaced one broken water meter**
- **Read meter**
- **Working on broken hydrant at high school**
- **Dug out hydrant at well #4**
- **Replaced a water service valve**

Sewer

- **Worked with sewer cleaning guys.**
    1. **Uncovering buried man holes**
    2. **Cleaning out plugged cleanouts**
    3. **Cutting pipes off in man holes**

Equipment/ Shop

- **Repaired broken flow hydrant**
- **Cleaned out tank in pumper truck**

Facilities

- **Painted park bathroom and opened up**
- **Had ac repaired at com. Center**
- **Got drinking fountain up and running at city hall**
- **Brush hog weeds**

Desk work

- **Morning emails**
- **Reviewed 1 sight plan application**

Spraying

- **Spot spraying**
- **Updated spray map**
- **Sprayed more curb and gutter**

Locates

- **5 locates**

Meetings

- **Met with Engineer about sewer projects**
- **Meeting with Tim small about development**
- **Met with wade about water/ sewer projects**
- **Met with Alan to look over well #5**
- **Met with Cintas about our clothing**

Parks

- **Repaired drinking fountain at boat launch**
- **Repaired water service to school grass area**
- **Got water going on trees on main drag. And cleaned up around them.**
- **Fixing drinking fountains at skate park area**
- **Fertilized parks**

Training

Kyle Kurth
Maintenance Department

CITY OF BENTON CITY

City Council Agenda Item

PROCESS INFORMATION

SUBJECT: Public Hearing - Moratorium- Marijuana Establishments **DATE/ITEM:** 05-03-16- H 1

BUDGET INFORMATION

DEPT: General **BUDGETED?**

FUND: General **EXPENDITURE:** N/A

DESCRIPTION/SUMMARY

ACTION

Conduct a public hearing to receive public input on renewing the Marijuana Moratorium

HISTORY

Please see Resolution 2016-08

ATTACHMENTS

1) 3)

2) 4)

RECOMMENDED ACTION/SAMPLE MOTION

NO ACTION

CITY OF BENTON CITY

City Council Agenda Item

PROCESS INFORMATION

SUBJECT: Resolution #2016-08- Moratorium Marijuana Establishments

DATE/ITEM: 05-03-16- H 2

BUDGET INFORMATION

DEPT: General

FUND: General

BUDGETED?

EXPENDITURE: N/A

DESCRIPTION/SUMMARY

ACTION

Consideration of adoption of Resolution 2016-08, a resolution of the City of Benton City, Washington, declaring a renewal of the moratorium established by Resolution No. 2013-20, extended by Resolution No. 2013-26, and renewed by Resolution No. 2014-18 and Resolution No. 2015-06 and Resolution No. 2015-17 and adopting findings of fact and approving an amended work plan

HISTORY

Please see the resolution for the history of this item.

ATTACHMENTS

1) Resolution #2016-08

2) Letter From Lee Kerr

3)

4)

RECOMMENDED ACTION/SAMPLE MOTION

I move to approve Resolution #2016-08, a resolution of the City of Benton City, Washington, declaring a renewal of the moratorium established by Resolution No. 2013-20, extended by Resolution No. 2013-26, and renewed by Resolution No. 2014-18 and Resolution No. 2015-06 and Resolution No. 2015-17 and adopting findings of fact and approving an amended work plan

RESOLUTION NO. 2016-08

A RESOLUTION OF THE CITY OF BENTON CITY, WASHINGTON, DECLARING A RENEWAL OF THE MORATORIUM ESTABLISHED BY RESOLUTION NO. 2013-20, EXTENDED BY RESOLUTION NO. 2013-26, AND RENEWED BY RESOLUTION NO. 2014-18 AND RESOLUTION NO. 2015-06 AND RESOLUTION NO. 2015-17 AND ADOPTING FINDINGS OF FACT AND APPROVING AN AMENDED WORK PLAN

WHEREAS, Initiative 502 ("I-502") was passed in November 2012 legalizing, for purposes of State law, marijuana production, processing and retail sales; and

WHEREAS, the Washington State Liquor Cannabis Board has promulgated regulatory rules identified as Washington Administrative Code Chapter 314-55; and

WHEREAS, the City passed Resolution No. 2013-20 on August 6, 2013 establishing a moratorium on the siting of any marijuana production, processing or retail sale establishment for the purpose of allowing the City time to research the issue and make educated decisions regarding local zoning and regulation; and

WHEREAS, the City pursuant to RCW 35A.63.220 held a public hearing on the moratorium on October 1, 2013; and

WHEREAS, the City pursuant to RCW 35A.63.220 adopted Findings of Fact, approved a Work Plan, and extended the moratorium for one year on October 14, 2013; and

WHEREAS, the City pursuant to RCW 35A.63.220 held a subsequent public hearing on September 16, 2014 at 7:00pm on whether to renew the current moratorium.

WHEREAS, the City pursuant to RCW 35A.63.220 adopted Findings of Fact, approved a Work Plan, and renewed the moratorium for six months on October 7, 2014; and

WHEREAS, the City pursuant to RCW 35A.63.220 held a public hearing on the moratorium on April 21, 2015 at 6:00pm; and

WHEREAS, the City pursuant to RCW 35A.63.220 adopted Findings of Fact, approved a Work Plan, and renewed the moratorium for six months on May 5, 2015; and

WHEREAS, the City pursuant to RCW 35A.63.220 held a subsequent public hearing on October 20, 2015 on whether to renew the current moratorium.

WHEREAS, the City pursuant to RCW 35A.63.220 adopted Findings of Fact, approved a Work Plan, and renewed the moratorium for six months on November 3, 2015; and

WHEREAS, the City pursuant to RCW 35A.63.220 held a public hearing on the moratorium on May 3, 2016 at 7:00pm; and

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

Section 1. Findings of Fact. The City of Benton City hereby adopts the following findings of fact:

A. On May 3, 2016, the City held a duly noticed public hearing on the moratorium established originally by Resolution No. 2013-20, extended by Resolution No. 2013-26, and subsequently renewed by Resolution No. 2014-18 and Resolution No. 2015-06 and Resolution No. 2015-17. Members of the public were offered an opportunity to speak for or against the renewal of the moratorium or other issues relating to I-502.

B. Under Federal law, the Controlled Substance Act, marijuana is still a Schedule I drug, and there appears to be a clear conflict between complying with Federal and State law.

C. Even though there were significant legislative changes in 2015 that consolidated laws regarding medical marijuana and recreational marijuana, and helped to clarify I-502. There is pending case law that may impact operation of this law as well as opportunity to receive additional clarification from Federal agencies regarding enforcement of the Controlled Substance Act.

D. Allowing marijuana relating business to locate within the City of Benton City raises numerous concerns regarding impacts to the environment, the economy, and the general health and safety of the citizenry. Taking additional time before implementing local zoning regulations will allow the City the advantage of learning from larger jurisdictions that have more funding to deal with the issue, and observing the trial and error process that occurs in this groundbreaking area of the law.

E. Continuing work on a Work Plan for this process will allow the City to stay on track and make progress towards making a final determination on how the City will comply with I-502.

Section 2. Renewal of Moratorium. The moratorium imposed pursuant to Resolution No. 2013-20, extended by Resolution No. 2013-26, and renewed by Resolution No. 2014-18 and Resolution No. 2015-06 and Resolution No. 2015-17 shall remain in effect in accordance with the terms of said Resolution, and shall be renewed for an additional six (6) months to complete a Work Plan and implement appropriate local regulations. The moratorium shall expire after six (6) months, or immediately upon passage of local zoning regulations.

Section 3. Amending of Work Plan. The Work Plan attached hereto as Exhibit A is hereby amended to reflect the changes and the progress by the City Council.

Section 4. Effective Date. This Resolution shall be in full force and effect upon its passage and signature below.

ADOPTED this 3 day of May, 2016, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 3 day of May, 2016.

Resolution 2016-08 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 3 day of May, 2016.

_____
Linda Lehman, Mayor

Attest:

_____
Stephanie Haug, City Clerk/Treasurer

Approved as to Form:

_____
Kerr Law Group, Attorneys for the City

MORATORIUM WORK PLAN
RCW 35A.63.220

The following steps are intended to identify the expected process of creating legislation unique to the City of Benton City's needs and legislative priorities.

1. Research cities/states with similar circumstances/laws pertaining to recreational marijuana.

2. Research Washington Cities Insurance Association, Association of Washington Cities and the Municipal Research and Service Center to determine latest developments, cautions, examples and experiences in regulation of recreational and medicinal marijuana.

3. Research current State law and reconcile the discrepancy of federal laws concerning processing, producing and retail sales of recreational marijuana, the question of precedence of State versus Federal law and the implications of risk of prosecution of City personnel implementing State law.

4. Involve City staff and contractors to determine the extent and degree of intervention needed from a licensing, taxation, code enforcement, crime prevention, public safety (police and fire protection) and zoning standpoint and other applicable concerns.

5. Research the degree of consistency for regulation desired/needed from Benton County and neighboring jurisdictions.

6. Evaluate the expected timeframe of developing local regulation against any State legislative movement. Consider renewal of the moratorium as needed.

7. Develop draft legislative alternatives for regulating recreational marijuana cooperative gardens.

8. Review developing State legislative amendments to State law concerning cooperative medical marijuana gardens.

9. City staff update to City Council presentation at Council meeting tentatively scheduled for October 2016.

10. Return to Council for formal action as directed.

11. Obtain the results of an Advisory Election for the citizens of Benton City to vote on whether they prefer to regulate or ban recreational and medical marijuana sales, production, and manufacturing.

KERR|LAW|GROUP

Leland B. Kerr
Attorney at Law
lkerr@kerrlawgroup.net

Eric W. Ferguson
Attorney at Law
eferguson@kerrlawgroup.net

April 25, 2016

Mayor Linda Lehman
Members of the Benton City Council
CITY OF BENTON CITY
PO Box 70
Benton City WA 99320

RE: Ordinance No. 956 - Marijuana

Dear Mayor Lehman and Members of City Council:

Following up on the City Council meeting of April 19, 2016, I would like to recap what happened and identify suggested steps forward.

Ordinance No. 956 had received its First Reading at the April 5, 2016, meeting, and was on the Agenda for the Second Reading at the April 19 meeting. After a motion to adopt the Ordinance upon Second Reading, as well as a second and substantial public and Council discussion, the motion was made to "table" the Second Reading until after an advisory election was placed on the ballot for the citizens of Benton City. This tabled the action to a specific time following the results of the advisory election. It is important to note that doing so keeps action on the Ordinance alive, which means it can be brought on for Second Reading after the advisory election without the necessity of starting all over again. Had the action been tabled for an indefinite period of time, the Ordinance would be essentially dead and should Council decide to go in this direction, the process should begin all over again.

As a result of this action, the Council would need to address the moratorium. The moratorium is set to expire on May 3, 2016. To ensure continuous coverage of the moratorium, the Council will need to renew the moratorium before it expires. RCW 35A.63.220 allows for one or more six-month extensions of the moratorium if a public hearing is held and findings of facts are made prior to each renewal. Therefore, the City Council must conduct a public hearing before it approves a Resolution renewing the moratorium. Therefore, it would be necessary to conduct a public hearing and to entertain a Resolution renewing the moratorium at the Council's May 3, 2016, meeting.

The Council has the statutory authority to place an advisory ballot at the regularly schedule election date. The next available date would be the August 2, 2016, primary election date. To get on that ballot, the City Council would be required to pass a Resolution for placement of the issue on the ballot including the ballot caption filed before May 13, 2016. The election cost will depend on how many other jurisdictions have ballot items with the cost of the election shared

7025 West Grandridge Boulevard, Suite A, Kennewick, Washington 99336
Telephone: 509-735-1542 Fax: 509-735-0506
A Professional Limited Liability Company

among those jurisdictions. Currently, there are three other items set for the primary election, and the County Auditor anticipates more prior to the filing deadline. The costs associated with placing this on the ballot will not be known until the filing deadline. However, the County Auditor anticipates a minimum of $1,400 for Benton City to put this issue before the voters. This would require this Resolution to be adopted by the Council on the May 3, 2016, meeting as well. The next opportunity would be the general election on November 8, 2016.

The results of the election will be certified by the Benton County Auditor, and thereafter, the City Council may then place Ordinance No. 956 back on the agenda for consideration of second reading for adoption or consideration of an Ordinance to ban marijuana business in the City.

I hope this provides some guidance, and if there are any further questions, please do not hesitate to contact me.

Sincerely yours,

Leland B. Kerr
KERR LAW GROUP

LBK/sla

CITY OF BENTON CITY

City Council Agenda Item

PROCESS INFORMATION

SUBJECT: Resolution #2016-09 - Ballot Title – Advisory Vote **DATE/ITEM:** 05-03-16- H 3

BUDGET INFORMATION

DEPT: General **BUDGETED?**

FUND: General **EXPENDITURE:** Est. @ $1400

DESCRIPTION/SUMMARY

ACTION

Consideration of adoption of a resolution of the City of Benton City, Washington, calling for an advisory election to consider adopting regulations for production, processing, and retail sales of recreational and medicinal marijuana, or adopting a ban for production, processing, and retail sales of recreational and medicinal marijuana within the city

HISTORY

Please see letter from City Attorney, Lee Kerr, under agenda item H2

ATTACHMENTS

1) Resolution #2016-09

2)

3)

4)

RECOMMENDED ACTION/SAMPLE MOTION

I move to approve Resolution #2016-09, a resolution of the City of Benton City, Washington, calling for an advisory election to consider adopting regulations for production, processing, and retail sales of recreational and medicinal marijuana, or adopting a ban for production, processing, and retail sales of recreational and medicinal marijuana within the city

RESOLUTION 2016 -09

A RESOLUTION OF THE CITY OF BENTON CITY, WASHINGTON, CALLING FOR AN ADVISORY ELECTION TO CONSIDER ADOPTING REGULATIONS FOR PRODUCTION, PROCESSING, AND RETAIL SALES OF RECREATIONAL AND MEDICINAL MARIJUANA, OR ADOPTING A BAN FOR PRODUCTION, PROCESSING, AND RETAIL SALES OF RECREATIONAL AND MEDICINAL MARIJUANA WITHIN THE CITY

WHEREAS, Initiative 502 was passed by the voters of the State of Washington in November 2012 providing a framework which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, under Initiative 502, the Washington State Liquor Cannabis Board ("Board") has adopted regulations governing the licensing and operation of marijuana producers, processors, and retailers; and

WHEREAS, marijuana production, processing, and retailing uses must be addressed in the City's zoning code, but the impacts of these uses are still largely unknown; and

WHEREAS, possession and use of marijuana for any purpose, including medical use, remains illegal under Federal Law. Marijuana is listed as a Schedule I drug under the Uniform Controlled Substances Act. Despite efforts by the Governor and the State Attorney General to get some clarity from the U.S. Attorney General, it is still unclear, how the Federal government would respond to the State and local governments who issue permits in compliance with State law; and

WHEREAS, there are several lawsuits pending, which could eventually impact regulations related to marijuana production, distribution, sales and use; and

WHEREAS, it is anticipated that producing, processing, and retail sales of recreational marijuana may require an increased risk to health and safety, require increased police and code enforcement activities, and affect the use and enjoyment of surrounding properties without appropriate regulations; and

WHEREAS, unless the City acts immediately to address production, processing and retails sails of marijuana, and other marijuana-related uses, such uses may be able to locate in the City without regulation and thereby have adverse impacts on the City and its citizens; and

WHEREAS, the City intends to develop appropriate zoning and land use regulations to accommodate the production, processing, and retail sales of recreational

and medicinal marijuana to the extent such activities do not conflict with Federal law; and

WHEREAS, many jurisdictions in Washington have passed bans for the production, processing, and retail sales of recreational and medicinal marijuana; and

WHEREAS, several jurisdictions have been involved with litigation in defense of these bans, and to date, the bans have been upheld but required extensive financial resources to defend; and

WHEREAS, Washington law authorizes the City to call for an advisory election to help the Council consider whether the City should adopt appropriate regulations for production, processing, and retail sales of recreational and medicinal marijuana, or whether the City should pass a ban on such activities; and

WHEREAS, it appears that the most appropriate way to determine the will of the people on this question is to submit to the voters, as an advisory ballot measure, the question of whether or not the people are in support of allowing a regulation of production, processing, and retail sales of recreational marijuana in the City of Benton City.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, as follows:

Section 1. Request for Election. The City Council of the City of Benton City, hereby requests that the Benton County Auditor place on the primary election on August 4, 2016, the ballot proposition described in Section 2 of this Resolution.

Section 2. Ballot Proposition. The proposition to be submitted to the electorate shall read substantially as follows:

PROPOSITION 1:
(Advisory only)
City of Benton City
Marijuana Regulations

Please advise the City Council (nonbinding) of your preference for recreational and medicinal marijuana activities in the City (select one of the following).

[ ] Allow regulation of recreational and medicinal marijuana activities within the City of Benton City to include production, processing, and retail sales of recreational and medicinal marijuana.

[ ] Ban recreational and medicinal marijuana activities within the City of Benton City to include production, processing, and retail sales of recreational and medicinal marijuana.

Section 3. Effective Date. This Resolution shall be in full force and effect upon its passage and signature below.

ADOPTED this 3 day of May, 2016, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 3 day of May, 2016.

Resolution 2016-09 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 3 day of May, 2016.

_____
Linda Lehman, Mayor

Attest:

_____
Stephanie Haug, City Clerk/Treasurer

Approved as to Form:

_____
Kerr Law Group, Attorneys for the City

April 29, 2016

Dear Benton City - City Council Members,

We are writing you today representing a local group called Benton City for Cannabis. We consist of around 70 local members, as well as, representing on behalf of Benton City (within City limits) members, Benton City (Rural area) members and potential customers within Benton County & surrounding, by their signatures on our petition that we will provide you with on May 3, 2016. We are a large group of concerned citizens who urge our leaders to act now to allow recreational marijuana sales and production within Benton City without collecting the advisory ballot first and amending Ordinance #956 with a 500' residential buffer zones included. We would like to explain why we request this and then address some issues that our group agreed may need clarification to help you decide.

Our three main reasons for this petition and requests are what we feel, is in the best interest of our community. First let's begin with this estimated cost of $22,000 for a mail ballot to get *(within city limits only)* residents opinion on the matter. That is a small percentage of the Benton City residents and business owners that this would affect and does not seem like a logical way to confirm any numbers, especially at that cost! In the end the Council is still the one who gets a vote and will ultimately decide. That money could definitely go to a much better option within our community than this.

Second, you have heard that as per Washington state SB-5052, beginning July 1, 2016, all medical dispensaries and delivery services are to be shut down or merge into the Recreational industry. This is an enormous problem for thousands of local medical patients. They cannot just purchase at any Recreational store with their prescription. Washington law requires that medical patients must use a i502 Rec Store *with a medical enhancement*. The state only allowed so many of these dispensaries to merge into Recreational w/ an enhancement, leaving it even more scarce of an option for these patients. Green2Go, the local business who would like to build on the Kiona development, received this enhancement, and The Bake Shop in Prosser has obtained one of these enhancements as well. Altitude in Prosser, did not receive one and

unfortunately, public transportation does not come any where near where the Bake Shop is located, but it does stop right next to the intended property for the business in Benton City, leaving a larger demand for medical patients and our city.

Lastly, the property in Kiona, where Green2Go has proposed their shop location to be - **is empty** , and has been for years. Why would the city want to waste an opportunity to fill empty, developed and ready land to a well known, already established, local business owner who is also ready to bring in other businesses to build next to him, immediately. Why are we not filling this land and collecting revenue for our city? Why are we not allowing all these jobs to be created within our community? These are concerns that, to us, seem vital to make our town prosperous. We as a community, all seem to agree that the property across from Neptune/14th is very close to that residential community. While you, as Council, still have the opportunity, we ask that you rewrite the buffer zone to increase the amount to 500' in the residential areas, eliminating that particular plot from the availability map. We hope that by addressing some of the concerns we have heard at recent meetings and providing you with some answers and facts, that this will help you in your tough decision ahead.

These are the main concerns we keep hearing at City Council meetings from those against the idea of allowing i502 within our city:

What About the Kids?

If you have ever taken the time to read the laws that obtain to a marijuana dispensary to even be allowed to open it's doors you could see that the owners have a lot at stake in this type of business endeavor and they have to make sure to cross every "t" and dot every "i" in order to even keep their business running. If you have ever just taken a look at one of these stores, (i.e. Prosser), you would see that safety and following those laws are their number one priority. There are cameras on every corner of the facility, you have to show your ID to even get past the entryway of the facility, our local bars do not even do this, then you have to show your ID again to even complete a purchase, rarely do our local bars even do that! With cameras on every corner of the building, and inside, it would be very

difficult for a child to stand outside of one of these facilities and ask someone to buy them marijuana.

The reality is, if a child of this community wanted to get their hands on some marijuana it would be easier to get it from a dealer, or the black market, then it would be to get it from a marijuana dispensary. These web links will provide you with the Security requirements and State guidelines that come along with a marijuana retail shop. (*http://apps.leg.wa.gov/WAC/default.aspx?cite=314-55-083* *and* *http://www.liq.wa.gov/mj2015/faqs_i-502*). At this point it would actually be easier for a minor to get alcohol from one of our local bars then it would be for them to get marijuana from a dispensary. While we are not comparing the degree of problems between a child getting their hands on either one of these items as less harmful than the other, let us not kid ourselves on the matters at hand and the fact that they are already not only getting their hands on both but they are doing it with an ease that would not be provided by the addition of a marijuana facility in our town.

Currently, National statistics state that the consumption of Alcohol is higher than Marijuana or even cigarettes in minors 12-17 years of age (see link for statistics: *http://pubs.niaaa.nih.gov/publications/UnderageDrinking/UnderageFact.htm*). Some people seem to think that bringing Retail Recreational Marijuana will entice our kids to use, yet there are 3 gas stations, 1 grocery store, 2 restaurants, and 1 bar that serve or sell alcohol, all within our very small town. All of these businesses advertise alcohol and/or cigarette sales on the front windows for all to see. State guidelines have requirements for advertising Recreational shops to minimize that reach. Here is a list of those requirements: *http://liq.wa.gov/mj2015/faq_i502_advertising* . And currently at a few of those retail establishments within our city, you can also purchase (right at the front counter) paraphernalia for use of methamphetamines, such as glass smoking devices that are disguised as other items, *http://www.cracked.com/blog/5-secret-criminal-uses-stuff-they-sell-in-gas-stations/*

Morality?

You have the opposing side biting at the bit to go into combat like they are the infantry while the pro side is trying to lay out the ground work like the navy seals. Both battle

approaches are equally important and have their place and points. But the problem is there needs to be a separation of church and state with this issue, and the state has voted. While asking for petition signatures we had some concerns about certain areas of the community but it was actually some of the areas we thought were good that treated us the worst and if those are the kinds of morals being taught at home, a pot shop is not going to change anything one direction or the other.

What about the morals of helping the medical patients of our community, in particular the ones that cannot access their medical needs due to no transit. Some say they should grow it, or make it, on their own but where do you purpose they get the supplies needed for that or the knowledge to get the full medical benefits out of it that they need? A recent study shows that regulated marijuana with no pesticides can improve brain function and actually grow brain cells. Take the marijuana laced with pesticides and other unknowns out of the hands of the people who sale it to our kids.
http://www.newstarget.com/2016-02-01-marijuana-found-to-improve-brain-function-as-long-as-its-not-laced-with-pesticides.html

There is talk of an autism community in Benton City. Currently states like Illinois, are approving marijuana for the autistic and it is helping them. Currently there is one major disease being combated with marijuana that is a leading killer throughout our country, that is cancer, but there are at least 7 more disease that many people everywhere are battling that marijuana is helping and proving to be effective. Those are: Epilepsy and Seizures, Asthma, HIV/Aids, Alzheimer's, Inflammatory Bowel Disease, Multiple Sclerosis, and Menstrual cramps.
http://elitedaily.com/wellness/diseases-medical-marijuana-treat/1466960/

Recently there has been the comment made that marijuana users just enjoy the "high", and while we can understand this comment from a recreational usage point of view, this is not completely true from a medical standpoint. There are many medical users in our community that prefer to not get a "high" and choose products called CBD (*http://cbdcrew.org/what-is-cbd/*). Yet even if it is the "high" that may help to alleviate pain for some, as it is in many cases, how is that any different than a "high" you would get from pharmaceutical pain prescriptions? Which cause many many side effects and in

almost all cases lead to needing more and more pills. Prescription narcotics are by far a bigger problem throughout our nation then marijuana is and not one of them holds the key to cure any diseases.

Concerns about Deputy Klippert and his statement

Deputy Klippert is using his badge and uniform to misinform the community on this subject. The DEA classifies marijuana as a psychoactive drug, not a hallucinogenic one. Other psychoactive drugs include alcohol, antidepressants, and coffee. Nowhere on the DEA website does it show the main governing body of drugs in the United States list marijuana as a hallucinogen. I doubt Dep. Klippert is going to give up his coffee, assuming he drinks coffee, even though it's a drug in the same psychoactive category as marijuana. Also according to the DEA website, there has not been even a single death from a marijuana overdose.

We would also like to mention the marijuana pills (*Marinol*) Dep. Klippert spoke of at the city council meeting on April 19th 2016. He claimed this "Marijuana Pill" can be obtained at your local pharmacy. These pills are ***man-made synthetic drugs***, just the same as any pharmaceutical drug and their laundry list of side effects, which in some cases include such horrible diseases like cancer. He also stated that those pills could be picked up at the local pharmacy here in Benton City, but in 1 phone call we found this to also be false. Our pharmacy does not stock these pills.

Our city currently pays over $300,000 a year for the sheriff's department to cover and protect this area and our community. We should be a top priority, regardless of a retail/medical marijuana facility. We believe the safety of our community and the children in it are top priority and we are not only relying on the sheriff's department but believe it is their duty to make our community their priority as well. We also believe that it is the job of the LCB (Liquor Cannabis Board) to regulate control if there is a marijuana retail store opened in Benton City, not the job of the city council.

Revenue (Where does the money go)?

This is currently where the State of Washington places all the excise taxes collected, every 3 months!

WA State I-502 Excise Tax Distributions
-📅Every 3 months📊
--💵$175,000 to DSHS for edu/studies
--🔍$5,000 To UW/WSU to research
--💸$1.25M to WSLCB for costs
-Everything left over
👀50% to Basic Health Plan Savings
👮15% to DSHS for marijuana prevention
🎓10% to Dept of Health for education
🚑5% to WA Health Care Authority
💻1% to UW and WSU for research
💰anything left goes to the general fund.

@SteveTheGrownup

These totals do not even include the sales tax our city would obtain with retail sales. Since 2014, Prosser alone has collected over $485,000 for their city with sales tax! Can you imagine all the good that could be done within our city with that amount of money? Lets also add, the expected amount of customers for the Kiona location, would far exceed the amount that is currently going to Prosser. In July, once medical is fully closed and merged within the recreational aspect, we would also expect to receive a large majority of those medical patients, who currently purchase in the Tri-City area, on top of, the recreational users coming from there to Prosser.

Federal Government - Not legal!

We have heard over and over that many are against it due to it not being legal within the federal government, and only within our state. Here is a little history about how Cannabis became so misunderstood:

In 1930, Marijuana was listed and used commonly as a medical prescription. It wasn't until wealthy businessmen, who were invested in Nylon and Cotton realized that Hemp was a much more versatile and better option, did they start looking at Marijuana differently. This product was much more than just a medicine, it could be the most versatile product in the world, using every aspect of the plant, but instead of utilizing this, these men started creating fear within the public. Soon, propaganda with the link of violent crimes and marijuana started emerging. Creating the "refer madness" era. These same men had friends in the Federal Bureau of Narcotics, and eventually in 1937, the Marijuana Tax Act banned the use of Marijuana as well as hemp and the sale within the United States.

In 1970, cannabis was placed temporarily in Schedule I, the most dangerous controlled substances group, pending the results of a commission created by Richard Nixon to study cannabis and its medicinal effects.

In 1972, this commission, the National Commission on Marijuana and Drug Abuse, recommended that cannabis prohibition end, which would remove it from Schedule I. Instead, Nixon disregarded the compelling results of his own appointed commission. Four decades later, cannabis remains a Schedule I classification along with heroin and cocaine.
http://naturalsociety.com/thank-president-nixon-dea-us-prison-industry-classifying-marijuana-schedule-drug/

Then in 1999, The United States of America, represented by the Department of Health and Human Services, filed for **Patent #US6630507 B1 Cannabinoids as antioxidants and neuroprotectants.** Claiming that the main property in Marijuana was a beneficial medicinal product. *http://www.google.com/patents/US6630507*

Currently there are nearly 20 separate bills pertaining to the rescheduling, excluding Marijuana from a scheduled drug all together, Regulate Marijuana like Alcohol and/or allowing complete legalization within the United States. It will not be long before our government changes our current situation and begins to regulate it themselves, just as many states are now currently doing.
http://www.theweedblog.com/list-of-marijuana-bills-currently-being-considered-by-congress/ . Our current top 4 presidential candidates all have a stance on Marijuana legalization too. Although Clinton , Cruz & Trump are against federal legalization, they all are for allowing state legalization based on each state's own choices and laws. Among that Clinton is for rescheduling to a schedule II and Sanders is for federal & state legalization and DEscheduling. So no matter which candidate goes into office, all candidates are for state legalization and independant choice.
https://www.mpp.org/2016-presidential-candidates/

Crime and Neighborhood Concerns

As part of this community, we acknowledge and share in the concern for an over abundance of traffic due to a marijuana shop being placed in Benton City. We believe that in changing the residential buffers from 100' to 500' it would help to eliminate that issue and also help to alleviate that concern for those residents in areas of question.

We would like it noted that the majority, if not all of the crime information provided by those who are against it, are statistics from Colorado and not Washington. Colorado state laws for legalizing Marijuana are quite different and looser than Washington State is currently written and cannot be an accurate account of facts when using for information such as this. Currently, using Prosser as our statistics, there has been no crime reported in or around either retail store in their town since opening either shop, according to crime mapping. (*http://www.crimemapping.com/map.aspx*) And according to city data, crime within Prosser has gone dramatically down in the past 10 years (*http://www.city-data.com/crime/crime-Prosser-Washington.html*) We are not claiming that allowing legal sales are making the crime rates are go down, but they are definately not rising at all, due to allowing it either.

We agree, there is a rather large drug problem within Benton City, but currently Marijuana is not even on the radar for abuse, use or reportable amount of criminal activity involving it. With that said, Heroin and Meth have taken control of our community is a huge way. These are the drugs our law enforcement and community should be focusing on. These drugs are destroying our communities and our families.

There aren't many statistics available for drug usage. But one University of Washington study showed that deaths attributed to heroin grew by 75% from 2002 to 2013 in Benton County alone. If you need help with a drug addiction or know someone dealing with addiction, please call a drug treatment program for help.

Here are some other webpages that will provide you with current, Washington State information on what has happened since allowing i502.

1.*http://www.drugpolicy.org/news/2015/07/marijuana-legalization-washington-state-one-year-status-report*

2.*https://www.merryjane.com/news/illegal-marijuana-seizures-decline-drastically-since-legalization-in-washington-state*

We were unable to find any information for property values within Washington State and the statistics of what allowing retail sales have done, but Colorado has provided a few stating a huge bump in property values, created more jobs and provided more income to update and improve their cities.

1.*http://money.cnn.com/2015/06/04/real_estate/marijuana-denver-housing-market/*

2.*http://blog.phmc.com/resources/marijuana-effects-on-economy-jobs-and-property-values/*

In conclusion, this town's motto is "Bent on progress" but we are sitting in nearly the same hole dug 20 to 30 years ago with no progress in site. Morally we are asking you to uphold what the voters of this state have passed into law. You are a state regulated

council, not Federal, so the laws you have been sworn to should be upheld in our community. The council members placed in seats, as of this year, were voted in partially due to statements they made of not being opposed to allowing a retail marijuana shop in Benton City, your words should be honored and upheld in this community or you should resign your position due to being voted in under false pretences. We appreciate and value this community and while sometimes that requires giving respect to those who do not share the same views as you, FACTS must be taken into consideration and not obscured by the many falsifications that were presented at the last meeting as well as the previous meetings concerning this matter, over the years. See this article about Benton City from a year ago.

http://i502guide.com/2015/04/stigmatized-part-1/?age-verified=bd02d1aabc

We truly hope that you are able to take the time to research the information and facts that we have provided you. We also encourage you to check out a portion of our online petition where we have asked all views to leave comments on their opinion, we have yet to receive a single negative response.

https://www.change.org/p/benton-city-for-cannabis-allow-i502-revenue-add-a-500-residential-buffer-zone-reconsider-the-advisory-ballot . This is more than just allowing a bunch of potheads a way to get their fix. This is stepping forward in the progression of our country, allowing medical patients the access to safe and reliable medication, all while creating and bettering our community with the taxes that this will provide. Do what is best for our community and allow i502 to help us better our future.

Sincerely,

BENTON CITY FOR CANNABIS

CITY OF BENTON CITY

City Council Agenda Item

PROCESS INFORMATION

SUBJECT: Set Date/Time for Two Workshops – Benton City Visioning Workshop AND Current Projects Workshop

DATE/ITEM: 05-03-16- H 4

BUDGET INFORMATION

DEPT: General

FUND: All

BUDGETED?

EXPENDITURE: N/A

DESCRIPTION/SUMMARY

ACTION

Please check your schedules and be prepared to schedule TWO Council workshops in the next couple of months.

The first workshop will be a visioning workshop, where we will invite community groups to participate with the Council to look into the City's future for projects and goals.

The second workshop will be with our City Engineer, to discuss current projects, including City Hall and the City Park terracing project.

HISTORY

I have marked out the dates that do not work with the City schedule (other meetings) and I've checked with Sue Jetter's availability and marked out the dates she is unavailable.

ATTACHMENTS

1) Calendar

2)

3)

4)

RECOMMENDED ACTION/SAMPLE MOTION

I move to schedule a visioning workshop on _____ at _____pm and a projects workshop on _____ at _____pm.

May 2016

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 Council Meeting - 7pm	4	5	6	7
8	9	10	11	12	13	14
15	16	17 Council Meeting - 7pm	18	19	20	21
22	23	24	25 Ping Pong - 6pm	26	27	28
29	30	31				

June 2016

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7 Council Meeting - 7pm	8	9	10	11
12	13	14	15	16	17	18
19	20	21 Council Meeting - 7pm	22	23	24	25
26	27	28	29 Plng comm 6pm	30		

CITY OF BENTON CITY

City Council Agenda Item

PROCESS INFORMATION

SUBJECT: City Hall Closure – May 11, 2016 **DATE/ITEM:** 05-03-16- H 5

BUDGET INFORMATION

DEPT: General **BUDGETED?**

FUND: General **EXPENDITURE:** N/A

DESCRIPTION/SUMMARY

ACTION

Consideration of a request by City office staff to close City Hall to the public on Wednesday, May 11th in order to work on archiving the City's records.

HISTORY

As you know, we recently purchased an oversized scanner to enter all of our old maps into a digital database, and we believe the most efficient way to process the plans is with all three of us working together to scan, label and file. We would also be able to process the items that are due to be disposed.

We selected May 11th because it is typically a slower time of the month for people making utility payments, and all three clerks are available to work all day.

ATTACHMENTS

1) 3)

2) 4)

RECOMMENDED ACTION/SAMPLE MOTION

I move to approve the closure of City Hall to the public on Wednesday, May 11th, 2016 for City staff to work in the City archives.

CITY OF BENTON CITY
Voucher Summary Sheet
April 20- May 3, 2016

FUND NAME	FUND NO.	PAYROLL	CLAIMS	TOTAL
CURRENT EXPENSE	001		38,269.83	38,269.83
CITY STREET	101		1,865.75	1,865.75
ARCHIVE	103			0.00
PARK & RECREATION CAPITAL IMPROVEMENT	302			0.00
I-82 BUSINESS PARK	350			0.00
WATER	401		4,262.30	4,262.30
SEWER	402		4,292.82	4,292.82
W/S CAPITAL IMPROVEMENT	406			0.00
W/S CAPITAL MAINTENANCE	407			0.00
'82/97 W/S BOND REDEMPTION	409			0.00
'82/97 W/S BOND RESERVE	410			0.00
TOTALS		**0.00**	**48,690.70**	**48,690.70**

I, Stephanie Haug , Audit Officer for the City of Benton City, hereby submit for approval vouchers as listed below and recommend these vouchers to be authorized for payment this 3rd day of May, 2016.

VOUCHER APPROVAL

I move to approve payment of Claim check numbers:

27631 thru 27648 with EFTs as listed in the amount of **$ 48,690.70**

this 3rd day of May, 2016.

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

CITY CLERK/TREASURER

CHECK REGISTER

City Of Benton City
MCAG #: 199

Time: 10:40:53 Date: 04/29/2016
04/20/2016 To: 05/03/2016
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
1862	05/03/2016	Claims	1	EFT	Benton PUD	403.37	Acct No. 6958300000
1863	05/03/2016	Claims	1	EFT	Benton PUD	13.06	Acct No. 1628300000
1864	05/03/2016	Claims	1	EFT	Benton PUD	2.36	Acct No. 4708300000
1865	05/03/2016	Claims	1	EFT	Benton PUD	5,411.51	Acct No. 8297300000
1866	05/03/2016	Claims	1	EFT	Home Depot Credit Services	1,027.78	Acct No. 6035 3220 2492 1912
1867	05/03/2016	Claims	1	27631	Applus RTD USA Inc	185.00	Client Number 107.CUS006855/Inv No. 107.PIN0424050
1868	05/03/2016	Claims	1	27632	B.F. District Health Dept.	100.00	Acct No 0101-340
1869	05/03/2016	Claims	1	27633	Benton City EDC	8,750.00	1 Quarter 2016 Partnership Contribution
1870	05/03/2016	Claims	1	27634	Benton Co. Sheriff Office	25,807.88	2016 Contract Law Enforcement Svcs.- April
1871	05/03/2016	Claims	1	27635	Benton Irrigation District	800.00	Inv No. 2016-40
1872	05/03/2016	Claims	1	27636	City of West Richland	1,290.60	Inv No. 0182111
1873	05/03/2016	Claims	1	27637	Columbia Basin Paper & Supply	469.15	Inv No. L06995; Inv No. L06996
1874	05/03/2016	Claims	1	27638	Columbia Pumping & Construction	1,200.00	Bulk Water Deposit Refund
1875	05/03/2016	Claims	1	27639	Costco Wholesale	110.00	Member No. 000111784574540
1876	05/03/2016	Claims	1	27640	Crystal Springs	51.62	Acct No. 30112065416923/Inv No. 5416923 042316
1877	05/03/2016	Claims	1	27641	DeAtley Crushing Company	527.54	Bulk Water Deposit Refund
1878	05/03/2016	Claims	1	27642	Krista Harmon	150.00	Annual Boot Allowance
1879	05/03/2016	Claims	1	27643	Most Dependable Fountains, Inc.	48.00	Acct No: City Of Benton/Inv No. INV41069
1880	05/03/2016	Claims	1	27644	Total Energy Management Inc.	584.81	Inv No. 81259; Inv No. 81546
1881	05/03/2016	Claims	1	27645	Tri-City Herald	840.18	Acct No. 447464
1882	05/03/2016	Claims	1	27646	U.S. Cellular	361.04	AcctNo. 952635344/Inv No. 013710099
1883	05/03/2016	Claims	1	27647	USABlueBook	491.80	Acct No.955481/Inv No. 923292
1884	05/03/2016	Claims	1	27648	W.A.C.E.	65.00	Membership Fee/Spring Conference Fee

001 Current Expense Fund	38,269.83	
101 City Street Fund	1,865.75	
401 Water Fund	4,262.30	
402 Sewer Fund	4,292.82	
		Claims: 48,690.70
* Transaction Has Mixed Revenue And Expense Accounts	48,690.70	

CITY OF BENTON CITY

City Council Agenda Item

PROCESS INFORMATION

SUBJECT: City Council Rules of Conduct **DATE/ITEM:** 05-03-16- I 1

BUDGET INFORMATION

DEPT: Legislative **BUDGETED?**

FUND: General **EXPENDITURE:** N/A

DESCRIPTION/SUMMARY

ACTION

Please review the examples included with the packet and bring suggestions to the meeting on May 17th for developing Council Rules of Conduct for Benton City.

HISTORY

ATTACHMENTS

1) Existing Municipal Code
2) Port of Kennewick example
3) City of Poulsbo Example
4) City of DuPont Example

RECOMMENDED ACTION/SAMPLE MOTION

NO ACTION AT THIS TIME- DISCUSSION ONLY

Chapter 2.08

CITY COUNCIL

Sections:

2.08.010 Council meetings.
2.08.020 Standing committees.
2.08.025 Appointment of Outside Boards and Committees.
2.08.030 Order of business.
2.08.040 Ordinances--Introduction and enactment.
2.08.050 Ordinances--Which require a week between readings.
2.08.060 Ordinances--Effective date.
2.08.070 Rules of order.
2.08.080 Mayor pro tempore.
2.08.090 Consent to lobby—Declaration.
2.08.100 Consent to lobby--Use of funds restricted.
2.08.110 Appointment and Removal of Municipal Officers.

2.08.010 Council Meetings.

A. The regular meeting of the City Council shall be held on the first and third Tuesdays of each month commencing at 7:00 p.m. at the Benton City Hall, which meeting shall be for the transaction of all business which shall come regularly before the Council. Regular meetings shall terminate no later than 10:00 p.m. unless earlier adjourned or extended by a majority of the Council members present. Council business on the regular meeting agenda not addressed prior to the 10:00 p.m. termination date, shall be adjourned to a new date and time set at the time of adjournment.

B. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day following said holiday.

C. Special meetings of the City Council may be called in the manner provided by the General Laws of the State of Washington. (Ord. 909, Nov. 2012; Ord. 905, June, 2012; Ord. 895, 2011; Ord. 848, 2008; Ord. 778, 2004; Ord. 390 S1 (part), 1981.)

2.08.020 Standing committees. The mayor shall appoint from the members of the council the following standing committees:

A. Water and sewer committee: one member.

B. Streets and alleys committee: one member.

C. Intergovernmental relations committee: one member.

D. Parks and recreation committee: one member.

E. Finance and budget committee: one member. (Ord. 390 SI (part), 1981.)

2.08.025 Appointment of Outside Boards and Commissions. Biennially, in the meeting at which newly elected City Council members take office, or, upon the vacancy of any board, commission or committee upon which a City Council member sits, the Mayor shall, with majority approval of the City Council, appoint the City Council member to serve as the liaison or member of the boards, committees or commissions.

Appointment shall be based upon the Council member's experience, expertise, interest and availability.

The City representative assigned to serve on such boards, committees or commissions may serve as a voting member and participate as officers of the organization. The City representative's purpose is not only to communicate the City Council policy to the organization and to take recommendations and questions back to the Council, but also to encourage the carrying out of City objectives by the organization. The City representative shall also gather information about the organization and communicate to Council when appropriate. (Ord. 908, Nov. 2012; Ord. 805, March 2006.)

2.08.030 **Order of business.** The order of business at every regular and special meeting shall be as follows:

A. Call to Order.

B. Roll call.

C. Reading and approval of minutes of previous meeting.

D. Reports of officers and committees.

E. Action on agenda items.

F. Communications. (Ord. 390 SI (part), 1981.)

2.08.040 **Ordinances—Introduction and enactment.** The title of an ordinance shall in all cases be read prior to its passage; provided, that should a member of the council, or any other person attending a council meeting request that the entire ordinance or certain of its sections be read, such request shall be granted. Every ordinance shall receive two readings by title previous to its passage, and the second reading shall not be upon the day of its introduction; except, that an ordinance may be passed on the day of its introduction if it is declared to be of emergency nature by a two-thirds votes of the entire council present. (Ord. 390 SI (part), 1981.)

2.08.050 **Ordinances—Which require a week between readings.** No ordinance or resolution granting any franchise for any purpose, or conveying any interest in property owned by the city shall be passed except by reading the same twice in its entirety, with at least one week to elapse between readings. (Ord. 390 SI (part), 1981.)

2.08.060 **Ordinances—Effective date.** All ordinances, except emergency ordinances, shall be in full force and effect five days after the date of their passage and publication as required by law.

2.08.070 **Rules of order.** "Roberts Rules of Order Revised" shall govern the deliberations of the city council except as they may be in conflict with the specific rules of Section 2.08.080. (Ord. 390 SI (part), 1981.)

2.08.080 **Mayor pro tempore.** Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their numbers as mayor pro tempore or deputy mayor for such period as the council may specify, the serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified

person to serve as mayor pro tempore in, the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilman, the remaining members by majority vote may appoint a councilman pro tempore to serve during the absence or disability. (Ord. 390 SI (part), 1981.)

2.08.090 **Consent to lobby—Declaration.** It is recognized by the city council that it is in the best interest of the citizens of the city for the preservation of their individual rights and the collective needs of the city and its citizens that it is the moral and practical responsibility of the city council to participate in the process of drafting and enacting state and federal legislation subject to the limitations and requirements of Chapter 42.17 RCW. (Ord. 390 SI (part), 1981.)

2.08.100 **Consent to lobby—Use of funds restricted.** Members of the city council shall be reimbursed for all necessary travel and living expenses incurred for services rendered on behalf of the city in connection with providing information to or communicating with any federal or state elected official or legislative or administrative body; provided, that this section shall not permit the use of any such funds as direct or indirect emolument, or direct or indirect campaign contribution, provided to any federal or state elected official employee, legislative or administrative body who is contacted. All funds so expended shall be reported as required by RCW 42.17.190. (Ord. 390 SI (part), 1981.)

2.08.110 **Appointment and Removal of Municipal Officers.** The Mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable laws, rules and collective bargaining agreements. All appointments of City officers and employees shall be made on the basis of ability and training or experience of the appointees and the duties they are to perform, from among persons having such qualifications as may be required to fulfill the office. The appointment of City officers and employees shall be subject to confirmation by a majority of the whole council. Appointive offices shall be without definite term unless a term is established for such office by law or ordinance. (Ord. 795, October 2005; Ord. 793, June 2005; Ord. 777, April 2004.)

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

RULES
OF
POLICY AND PROCEDURE

ADOPTED AT A REGULAR, OPEN
MEETING OF THE PORT COMMISSION

FEBRUARY 22, 2011

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1. INTRODUCTION AND PURPOSE

1.1 Port of Kennewick. The Port of Kennewick ("Port") is a Washington port district, with authority to act under law, including but not limited to Titles 14 and 53 RCW. The powers of a port district are exercised through a port commission. The Port Commission of the Port of Kennewick consists of three Port Commissioners.

1.2 Other Governing Law. In addition to enabling legislation, the Port is subject to Washington State laws, including the open Public Meetings Act, chapter 42.30 RCW; the Public Records Act, chapter 42.56 RCW; and, the Code of Ethics for Municipal Officers, chapter 42.23 RCW.

1.3 Port Managing Official. Consistent with its authority under RCW 53.12.270, the Port Commission has delegated to the office of Executive Director such administrative powers and duties as deemed proper for the efficient and proper management of the Port's operations. See "Delegation of Authority to Executive Director," Port Resolution 2009-06 (February 10, 2009 – the "Delegation Policy.")

1.4 Purpose. It is the purpose of these Rules of Policy and Procedures to provide a framework and guide for governance, management and operation of the Port.

1.5 Reserved Rights. The adoption and maintenance of these Rules of Policy and Procedure ("Rules") create no vested rights or entitlements. These Rules may be revised, suspended, amended or repealed by majority vote of the Port Commission when acting pursuant to and in compliance with law.

2. COMMISSION AND COMMISSIONERS

2.1 Purpose. The purpose of the Commission is to:

2.1.1 Identify and define the purpose, values and vision of the Port, along with the results the Port is to achieve, and to communicate those items in the form of policy;

2.1.2 Make certain decisions as are designated by law; and

2.1.3 Hire, evaluate, and terminate the Executive Director.

2.2 Governance. Commission governance addresses:

2.2.1 Strategic leadership more than administrative detail;

2.2.2 Encouragement of diversity in viewpoints;

2.2.3 Collaborative rather than individual decisions;

2.2.4 Future, rather than past or present, direction;

2.2.5 Proactive, rather than reactive, conduct; and

2.2.6 Full transparency to the public.

2.3 Actions. The Commission will:

2.3.1 Produce and maintain written policies that ensure a high quality of governance and clear roles in decision-making between Commission and staff;

2.3.2 Regularly monitor, and evaluate the Executive Director's performance;

2.3.3 Adopt, and annually review, the Port's Strategic Work Plan;

2.3.4 Adopt the Port's annual budget;

2.3.5 Adopt, regularly review, and modify as necessary the Delegation of Authority to the Executive Director;

2.3.6 Set the rates, rules and regulations for services provided by the Port;

2.3.7 Purchase or dispose of real estate or other property to the benefit of Port District taxpayers/citizens; and

2.3.8 Take such other actions as may be required by law.

2.4 Port Financial Goals.

As specified in Port Resolution 2010-41, as may from time to time be amended, the Port Commission reiterates the following budgetary goals and acknowledges the importance thereof:

2.4.1 The Port shall work toward funding all operating expenses from revenues from Port operations;

2.4.2 The Port shall fund projects with available resources, not with bonds or loan financing unless otherwise in the best interest of the Port and the communities' long term interest;

2.4.3 The Port shall pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

2.4.4 The Port shall pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill).

3. COMMISSION CODE OF CONDUCT

3.1 Purpose. The purpose of these Port of Kennewick Rules is to foster public transparency and public accountability concerning the transaction of Port business and to protect, and promote the efficiency of, the Port by prohibiting incidents and areas of conflict. Commissioners shall conduct themselves in accordance with all laws and applicable policies and further shall comply with the following.

3.2 Conflict Avoidance. Commissioners are strictly prohibited by law from entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest with their official duties as a Port of Kennewick Commissioner and shall further avoid conduct that may present an appearance of a conflict of interest.

3.3 Policy Acknowledged. On an annual basis and in a public forum, each Commissioner shall acknowledge the obligation to disclose any conflicts of interest under chapter 42.23 RCW.

3.4 Disclosure. On a case by case basis, each Commissioner will disclose to the other Commissioners in a public forum, any remote conflicts of interest under chapter 42.23 RCW. Disclosure will be noted in the Port's official minutes which are public record. As required by RCW 42.23.040, a Commissioner with such remote interest will not participate in any discussion and/or debate concerning such interest, will not vote on the matter, and will do nothing to influence any other Commissioner concerning their decision on the matter. The foregoing shall also apply to any business owned by a Commissioner's spouse, in the absence of a separate property agreement.

3.5 Statement of Financial Affairs. On or before April 15 of each year, or within (14) days of taking oath of office, each Port Commissioner shall file with the Port a copy of a Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240 - .241, which shall be available for public inspection at the first regular Commission meeting after the above-referenced dates.

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules of Policy and Procedure as adopted by the Commission, and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public. As fiduciaries of the Port, Commissioners shall make decisions on the basis of public policy and shall demonstrate undivided loyalty to the interests of Port and its taxpayers. This loyalty shall supersede any conflicting loyalty to advocacy or special interest groups.

3.7 Commissioner Knowledge of Policies. Commissioners will become familiar with their individual and joint obligations pertaining to the Port's directive on reporting alleged improper governmental action, including actions required of the Commission regarding complaints by Port employees and/or the public of alleged improper governmental actions and/or employee claims of retaliation for reporting alleged improper governmental actions.

3.8 Representation of Positions. Unless authorized by the Commission at an open meeting or as set forth in Port policy or plan (e.g., an approved plan), an individual Commissioner may not represent a position as being the position of the Port, either in private communications or in a public forum.

3.9 Shared Information and Advocacy. Recognizing that differences may exist among the Commissioners and that a collegial approach to issue resolution is preferred, Commissioner shall make available to fellow Commissioners all information related to Port activities. A Commissioner should make clear the foundation upon which an opinion stands; be

candid about any philosophical or political preferences; and, recognize and make clear the limits of expertise.

3.10 Representation of Port Position. No Commissioner is authorized, without Commission authorization, to represent the Port with special interest groups, Port tenants, suppliers, vendors, consultants, contractors or others that are or seek to do business with the Port. Unless otherwise authorized by the Commission, a Commissioner shall disclose that the Commissioner's position is not that of the Port or of the Commission when participating in discussions, debates, and forums where the sponsoring group(s) or other participants are identified with a particular perspective on an issue and the Commissioner's participation might put into question both the Commissioner's and the Commission's impartiality. Nothing in this Policy prevents an individual Commissioner from stating a position as that of the individual Commissioner, but not that of the Port or of the Commission.

3.11 Special Privileges Prohibited. RCW 42.23.070 prohibits, in part, Commissioners from using public office to secure special privileges or exemptions for a Commissioner or others.

3.11.1 Commissioners must conduct themselves at all times in a manner that leaves no grounds for belief, or even the appearance that information they have gathered on the job has been used for personal gain or for gain of any individual or special interest group, whether such gain is financial or otherwise.

3.11.2 Commissioners shall avoid any association with individuals or groups organized with an attempt to influence Port policy that will benefit themselves or their cause at the exclusion of the Port at large.

3.12 Commission-Staff Relations. Commissioners may not attempt to exercise individual authority over the Port or staff, except as explicitly set forth and authorized in Commission policies, including the Delegation Policy referenced in Section 1.3.

3.13 Open Meetings. In accordance with Washington's Open Public Meetings Act, Commissioners shall:

3.13.1 Not meet as a quorum outside of Commission-called public meetings to hold discussions or make decisions, as defined under chapter 42.30 RCW, regarding the business of the Port.

3.13.2 Not meet as a quorum with staff outside of a Commission-called public meeting for the purpose of gathering information.

3.13.3 Understand that the requirements of the Washington Open Public Meetings Act apply to communications via telephone, e-mail, instant messaging or other forms of electronic communications. Any exchange of communication between any two Commissioners may constitute an official meeting of the Commission and be in violation of the Act. Commissioners may send information to other members of the Commission on an informational basis; however, replies and/or exchanges of communications regarding Port business must not occur outside of an official public meeting of the Commission. Any such e-mail sent for informational purposes as described above, by any member of the Commission,

shall be sent individually, not as group e-mail. Commissioners will not "reply" to any e-mail received by another member of the Commission.

3.13.4 Respect the confidentiality appropriate to issues, including personnel, real estate transactions, proprietary matters, and attorney-client privileged communications, including those requirements listed under RCW 42.30.110, Executive Sessions, and including any other confidential information gained by reason of the Commissioner's position. See also RCW 42.23.070(4) prohibiting disclosure of confidential Port information.

3.14 Commission Disclosure of Economic Associations. RCW 42.23.070 states in part that "[n]o municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein." Port contracts made in violation of the law are void; and any Port officer violating the law is liable to the Port for a "penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty." RCW 42.23.050. The law also prohibits a Commissioner from employment or engaging in any professional activity that may require disclosure of Port information to non-Port interests. RCW 42.23.070. These statutory prohibitions are based on the principle that a Port official may not have divided loyalties. The line between proper and improper conduct may not always be clear, and even unintentional conduct may expose the Port and Port officers and employees to liability. See *City of Raymond v. Runyon*, 93 Wn. App. 127 (1998) ("In spite of well-intentioned attempts to avoid a prohibited conflict of interest," city commissioner found in violation of law). These Rules attempt to address a Commissioner's responsibility under law and duty of loyalty to the Port, with other interests. See also, Section 3.2.

3.14.1 Under chapter 42.23 RCW, no Commissioner may have an economic association (affiliation, involvement, or interest), directly or indirectly, that may conflict with the Commissioner's official duties as a Port Commissioner. However, Commissioners may engage in other employment or activity only so long as it does not interfere or conflict with their duties as a Commissioner.

3.14.2 In order to avoid inadvertent violation of law, and consistent with the Port's policy for its officers and employees, on or before April 15 of each year, or within fourteen (14) days of taking office, each Port Commissioner, shall file with the Port a written statement identifying any current or prospective economic relationship, whether direct or indirect, which could be a conflict of interest, a remote interest or give rise to an appearance of a conflict of interest with the Port. In addition, each Port Commissioner shall in the written statement disclose other employment and/or business relationships in order that the Port may confirm that there are no Commissioner conflicts or potential conflicts of interest with current or prospective Port activities The statement shall include the name of the employing or business, the nature of services rendered, the time commitments, the location of the performance of such services and the amount of compensation (and expense reimbursement) received for such services. This Section 3.14.2 shall also apply to any employment or business of a Commissioner's spouse, in the absence of a separate property agreement.

3.14.3 The Commissioner shall declare his or her intention to refrain from deliberations and voting on issues related to the person or entity in such relationship. This requirement may be extended by Commission action to any individual or entity that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. Even with disclosure, chapter 42.23 RCW may prohibit the Commission from acting in the face of a conflict of interest.

3.14.4 A Commissioner shall not receive reimbursement for expenses, per diem, or other Port payment for activities (e.g., travel, meals and other costs) when the Commissioner is engaged in or participating for both the Port and another Entity.

4. FULL TRANSPARENCY IN PORT ACTIONS

4.1 This policy shall ensure full, fair, and open discussion of matters of public importance, with opportunity for public participation and media coverage.

4.2 With respect to any quasi-judicial matter before the Commission, or reasonably expected to come before the Commission, it is the policy of the Port Commission that no Commissioner shall:

4.2.1 Have contact with any person, either oral, written, electronic or otherwise communicated, except in a Commission meeting; and

4.2.2 Receive any information or evidence except as a part of the public record at a Commission meeting.

4.3 If a Commissioner is not able to avoid contact with parties outside of an open Commission meeting or receipt of information from parties outside of an open Commission meeting, the Commissioner shall disclose at the next public meeting, the full content of the contact made or information received.

4.4 Avoidance of communications described above is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the contact, even if inadvertent, may bias the outcome and subject the Commission action to challenge.

4.5 All information any person or entity would like distributed to Commissioners should be first provided to Port staff; staff will then consistently distribute the information to all Commissioners and file the information as appropriate.

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and this policy. Complaints against staff (other than the Executive Director) shall be resolved by the Executive Director, according to law and the Port Policies and Procedures manual. Complaints against the Executive Director shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and

the Port Policies and Procedures manual. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner has engaged in misconduct, the Executive Director shall investigate consistent with Section 5.3 and report to the Commission. No employee will be discharged, threatened, or discriminated against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation and in the event that an action is taken.

5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice and counsel of Port general or special legal counsel ("Port counsel"), the Executive Director shall determine whether sufficient evidence exists to proceed with an investigation. If the Executive Director determines that insufficient evidence exists, the complaint shall be dismissed. Otherwise, the Executive Director shall proceed as follows.

5.4 Investigation. If an investigation is warranted, the Executive Director shall recuse himself from the process and delegate all further steps to Port counsel, and/or an investigator retained for such purpose by Port counsel. Port counsel shall inform the party subject of the complaint (Respondent) in writing that a complaint has been filed and that an investigation will take place. Port counsel shall provide a copy of the complaint to the Respondent and the Respondent shall have a reasonable time to prepare and submit a response in writing. Port counsel may seek additional information regarding the matter from the complainant, the Respondent and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port's counsel shall presume that the Respondent acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port counsel shall evaluate the complaint and issue a decision within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port counsel finds misconduct and the complaint substantiated, a report to Executive Director and the Commission shall set forth the basis for the decision and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification of Determination. Following receipt of the decision and recommendation of Port counsel, the Commissioners shall promptly hear, consider and vote upon the recommended action. The complainant and Respondent shall be notified of the action in writing and shall have the right to be heard before the Commission.

5.7 Reconsideration. A decision is subject to reconsideration upon written request by a respondent. But the sole ground for reconsideration shall be that the Respondent has new, relevant information which was not considered by Port counsel. A respondent having new information to submit to the Commissioners may, within fifteen (15) days of receipt of the written notice of determination, file with the Commission a written request for reconsideration stating the reason and including the new information not considered by the Port counsel. Following review of the entire investigative file, the decision and recommendation of the Port

counsel and the new information submitted by a respondent, the Commission shall, within fifteen (15) days of receipt of such new information, hear, consider or render a final decision which may not be further appealed. If the complaint is dismissed, the complainant and the Respondent shall be notified of same in writing. If reconsideration is denied, the Respondent, but not the complainant, shall be notified of same in writing, and any action by the Commission shall be implemented immediately.

5.8 Sanctions. Censure and/or reprimand may be invoked with respect to Commissioner misconduct, in addition to reassignment of committee assignments and other actions.

5.9 Public Notification. Unless otherwise determined by the Commission in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission, the fact of any sanction.

5.10 Other Remedies Reserved. Any action taken by the Commission shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner charged with misconduct, except as otherwise provided under Section 18.

6. COMMISSION MEETINGS

6.1 Presiding Officer. The Presiding Officer at all meetings of the Commission is the President, and in the absence of the President, the Vice President will act in that capacity.

6.2 Presiding Officer Duties. The Presiding Officer shall:

6.2.1 Preserve order and decorum in the Commission chambers;

6.2.2 Observe and enforce all rules adopted by the Commission;

6.2.3 Decide all questions on order, in accordance with these rules, subject to appeal by a Commissioner;

6.2.4 Recognize Commissioners in the order in which they request the floor. Except as otherwise set forth herein, the Presiding Officer, as a Commissioner, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Commissioners; and

6.2.5 Have the authority to appoint Commissioners or the public to serve on ad hoc committees, task forces and any advisory boards, with input from fellow Commissioners.

6.3 Regular Meeting. Port meetings are held on the second and fourth Tuesdays of each month in the Commission Chambers, 350 Clover Island Drive, Suite 200, Kennewick, Washington at 2:00 p.m.

6.4 Special Commission Meetings. A special public meeting of the Commission may be called by the President or by any two Commissioners. Any request and subsequent special

meeting notices shall state the subjects (e.g., agenda items) to be considered at such special meeting and no other subject shall be acted upon.

The Port Administrative Assistant shall provide notice of special Commission meetings pursuant to applicable law.

6.5 Quorum. At all meetings of the Commission, a majority of the Commission (two members) constitutes a quorum for the transaction of business, but a lesser number may adjourn from day to day or until the time of the next regular meeting.

6.6 Recording Proceedings. The Port Administrative Assistant shall maintain an account of all proceedings of the Commission in accordance with statutory requirements. Port meeting minutes can be corrected but shall not be revised without a majority affirmative vote of the Commission at a regularly scheduled Commission meeting.

6.7 Call to Order. The Presiding Officer shall call each meeting to order. The Presiding Officer will announce the attendance of Commissioners and indicate any Commissioner who is not in attendance.

6.8 Participation by Telephone. The Commission strongly believes that a Commissioner's first priority shall be to the District's constituents as a whole and that this obligation is best fulfilled by direct, face-to-face participation in public meetings rather than via telephone or other medium. Such policy provides access by the public to the Commission, provides for better understanding by the public of the deliberative process, minimizes miscommunication, ensures that each Commissioner sees all applicable documents and sees all in attendance. Therefore, the Commission, in furtherance of its long-standing policy of transparency in governance, hereby prohibits the use of attendance at Commission meetings via telephone or other media.

6.9 Commissioner Attendance at Meetings. Commissioners shall inform the President or Executive Director if they are unable to attend any Commission meeting, or if they will be late to any meeting. A majority vote is required to excuse any Commissioner's absence. Unless excused, pursuant to RCW 53.12.140 a Commissioner forfeits office by nonattendance at meetings of the Commission for a period of sixty (60) days. The Executive Director shall maintain a record of Commissioner attendance at Commission, and other meetings, to which a Commissioner is assigned or scheduled to attend.

6.10 Commission Meeting Staffing. The Executive Director shall attend all meetings of the Commission, unless excused. At the discretion of the Executive Director, other staff members shall attend. The Executive Director may make recommendations to the Commission and shall have the right to take part in the discussions of the Commission, but shall have no vote.

6.11 General Conduct of Business.

6.11.1 The President of the Port Commission will introduce the issue, stating whether action will be taken on the issue, whether the issue is introduced for discussion only or whether other results are anticipated.

6.11.2 Port staff will briefly discuss the issue.

6.11.3 If a technical report by a consultant or other is to be presented, the presenter will provide a summary of the technical report, generally not to exceed 15 minutes.

6.11.4 At the conclusion of the technical report, staff will return the issue to the President of the Commission for action. The Commissioners may ask staff, any consultants or the public to briefly clarify any matter presented.

6.12 Public Comment. Public comment shall be permitted at Commission meetings only in accordance with these established procedures. Comments shall be received at the beginning of each meeting, and at the end of each meeting, as identified on the agenda. Either the President or staff may read the following guidelines into the record.

6.12.1 Speakers shall move to the lectern and shall comment only after being recognized by the President;

6.12.2 Speakers shall state their *names and addresses* prior to addressing the Commission;

6.12.3 The President may allocate available time among individuals wishing to comment. Generally, the time shall be *3 minutes* for each speaker;

6.12.4 Groups are encouraged to express their views through a single spokesperson rather than individually;

6.12.5 Speakers shall limit themselves to matters regarding the issue of concern;

6.12.6 Speakers shall not repeat remarks or points of view made by prior speakers;

6.12.7 The President may overrule impertinent, redundant or disruptive comments;

6.12.8 Applause or other disturbances are discouraged;

6.12.9 All remarks should be directed to the President; and

6.12.10 Individuals should not expect the Commission, staff, consultants, other speakers or any other person, to respond to their comments. Instead, the Commission may direct the matter to staff for comment at a future meeting or for Commission consideration at a future meeting.

6.13 Executive Sessions. Executive Sessions shall be held in accordance with the provisions of the Washington State Open Public Meetings Act. An Executive Session is a Commission meeting that is closed except to the Commission, Executive Director and others that may be authorized. The public is restricted from attendance. Executive Sessions may be held during Regular or Special Commission meetings and will be announced by the President. Before

convening an Executive Session, the President shall announce the purpose of the meeting and the anticipated time when the session will be concluded. Should the session require more time, a public announcement shall be made that the executive session is being extended.

6.14 Commission Discussion. All Commission discussion shall be guided by Robert's Rules of Order, Newly Revised. The Port Attorney shall assume the additional duty of Parliamentarian.

6.15 Media Representation at Commission Meetings. All public meetings of the Port shall be open to the media, freely subject to recording by radio, television, electronic, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meeting.

7. AGENDA PLANNING

The work of the Commission is accomplished in public meetings and all proceedings of the Commission shall be by motion or resolution, recorded in its minute books, which shall be public records. The agenda of the public meeting identifies in general terms the topics to be considered by the Commission.

7.1 Placing Item on the Agenda. Items may be placed on either the business agenda or on the consent agenda. An item may be placed on the preliminary Commission meeting agenda by any Commissioner or by the Executive Director.

7.2 Agenda Preparation. The Executive Director shall prepare a preliminary agenda for each Commission meeting. The preliminary agenda shall set forth a brief general description of each item to be considered by the Commission. The Executive Director shall promptly forward the preliminary agenda to the Presiding Officer for review. The Presiding Officer shall have the option to delete any item from the preliminary agenda. The Presiding Officer shall, at the next commission meeting, report any deleted item to the full Commission and the full Commission shall determine whether the item shall be placed on a subsequent agenda.

7.3 Agenda Materials. Agenda materials will be available on the Friday prior to the Commission meeting. Agenda materials will be delivered to Commissioners.

7.4 Adding an Item to a Published Agenda. An item may be placed on a regular Commission meeting agenda after the agenda is closed and the notice published, if the Commissioner or Executive Director explains the necessity and receives a majority vote of the Commission at a public meeting.

7.5 Agenda Item Order. The Presiding Officer may, with the concurrence of the Commission, address agenda items out of order.

7.6 Consent Agenda. Items placed on the consent agenda may be moved to the business agenda upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda. The moved item will be placed on the business agenda for further discussion.

8. ROLE OF THE COMMISSION PRESIDENT

The President of the Commission shall:

8.1 Ensure that the Commission jointly and consistently adheres to its own rules and policies, and those imposed upon it by the laws of the State of Washington.

8.2 Ensure that deliberation is fair, open and thorough, but also timely, orderly and stays on topic. The President of the Commission shall preside over and facilitate all Commission Meetings in accordance with these governance principles and Roberts Rules of Order, as needed.

8.3 Assume responsibility of the Commission that is not specifically assigned to another Commissioner.

8.4 Call Special Meetings of the Commission in the event of a business need as provided for by applicable law.

8.5 Establish ad hoc advisory and standing committees.

8.6 Schedule and coordinate the annual process of evaluating the Executive Director.

8.7 Have no authority to supervise or administratively direct the Executive Director or Port staff, apart from authority expressly granted by the Commission.

9. ROLE OF THE COMMISSION VICE-PRESIDENT

The Vice-President of the Commission shall:

9.1 Perform such duties as are assigned by the President.

9.2 Have all the power and duties of the President in the absence or inability of the President to act.

9.3 Have all the powers and duties of the Secretary in the absence or inability of the Secretary to act, when not acting as the President.

10. ROLE OF THE COMMISSION SECRETARY

The Secretary of the Commission shall:

10.1 Attest all contracts, bonds, deeds, leases and other instruments and documents duly authorized by the Commission unless otherwise delegated by the Commission.

10.2 Perform all duties incident to the office of Secretary as may from time to time be required by law or assigned to such office by motion, rule or resolution of the Commission.

10.3 Have all of the powers and duties of the President in the absence or inability of both the President and the Vice President to act.

10.4 Have the option of delegating the obligations and duties of Secretary to the appropriate Port staff member for implementation.

11. COMMISSION COMMITTEES

11.1 General. The Commission President may establish ad hoc advisory and standing committees. All committees should include designation of members, chair and a charter describing the committee's purpose. The Commission President will review each committee at least annually to determine whether the committee should continue.

11.2 Committee Roles and Responsibilities.

11.2.1 Committees will assist the Commission by gaining education, considering alternatives and implications, and preparing policy alternatives.

11.2.2 Commission committees or any individual Commissioner may not speak or act for the Commission, except when formally given such authority for specific and time-limited purposes.

11.2.3 Commission committees cannot exercise authority over staff or interfere with the delegation from the Commission to the Executive Director.

11.2.4 Participation in committee meetings shall be in compliance with the provisions of the Open Public Meetings Act, when two or more Commissioners are present, or the committee is acting for the Commission. In such event, the committee meeting must be properly noticed as a public meeting.

11.2.5 These policies apply to any group which is formed by action of the Commission President, whether or not it is called a committee.

12. COMMISSION AND PORT ACTION

12.1 Only decisions of the Commission acting as a body are binding upon the Port and Port staff.

12.2 In the case of Commissioners requesting information or assistance without Commission authorization, the Executive Director and staff *must* refuse such requests that require, upon evaluation by the Executive Director, a material amount of staff time or funds, are disruptive to the Port, or which may involve a conflict of interest between the Port and the Commissioner requesting the information or assistance.

12.3 Commissioners individually may communicate directly with Port employees or contractors for the purpose of inquiry only. Commissioners shall, on business matters, deal with staff through the Executive Director. However, the Commission as a body and the Commissioners individually do not give direction to persons who report directly or indirectly to the Executive Director. If an individual Commissioner is dissatisfied with the response from the Executive Director or staff, the Commissioner may seek resolution through the Commission as a body.

12.4 The Commission as a body and the Commissioners individually will refrain from evaluating, either formally or informally, the job performance of any Port employee, other than the Executive Director, except when approving compensation and benefits in the course of budget or employment contract considerations.

13. PORT COMMISSION & STAFF ROLES AND RESPONSIBILITIES

13.1 General Roles. The Commission is the Port's governing authority and policy maker. The Executive Director and Port staff implement and administer the Commission's policies. The Port of Kennewick has a Commission-Executive Director form of governance. With this structure, the Port Commission's role is to establish port policies and priorities. The Commission hires an Executive Director to implement those policies and undertake the administration of the organization. The Executive Director is hired by the Port Commission to enforce its directives, to direct the daily operations of Port governance, to prepare and monitor the budget, and to implement the policies and programs initiated by the Port Commission. The Executive Director is responsible to the Port Commission, rather than to individual Commissioners, and directs and coordinates all other employees. The Port Commission authorizes positions through the budget process; based upon that authorization, the Executive Director is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The Executive Director is authorized to make recommendations on policy matters to the Commission and the Commission retains the authority to accept, reject, or amend the recommendations. Individual Commissioners may not intervene in staff decision-making, scheduling of work, and executing department priorities. This is necessary to allow staff to execute priorities given by the Executive Director. All Commissioners with concerns affecting the Port of Kennewick should address those concerns with the full Commission or with the Executive Director.

No Commissioner shall direct the Executive Director to initiate any action, prepare any report, or initiate any project or study without the authorization of a majority of the Commission. Commissioner requests for information shall be made to the Executive Director, unless otherwise determined by the Executive Director. Commissioners needing staff assistance shall work through the Executive Director.

13.3 Executive Director's Role.

13.3.1 The Executive Director is the chief administrative officer of the Port. The Executive Director is directly accountable to the Port Commission for the execution of the Port Commission's policy directives as set forth in the Delegation Policy and for the administration and management of all Port activities and staff.

13.3.2 The Executive Director is the administrator and manager of all Port activities and staff; and the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the Executive Director and will be responded to promptly. The information requested will be copied to all members of Commission so that each member may be equally informed. The Executive Director will provide staff support for Commissioners as appropriate in their official roles.

13.3.3 In addition to regular, comprehensive memoranda written by the Executive Director directly to the Port Commission concerning aspects of Port operations (exclusive of confidential personnel issues), all Commissioners shall receive copies of correspondence received by the Executive Director that will assist them in their policy-making role. The Executive Director also provides other documents to the Commission on a regular basis, such as status reports, executive summaries, and minutes of meetings.

13.3.4 The Executive Director shall have an open-door policy which allows individual Commissioners and the public to meet with the Executive Director on an impromptu, one-on-one basis. Such meetings are highly encouraged. No Commissioner, person or special interest group shall abuse the open-door policy.

13.4 Staff Role. The Commission recognizes the primary functions of staff as 1) executing the policies and actions taken by the Commission as a whole, and 2) keeping the Commission informed. Staff is obligated to take guidance and direction from the Executive Director or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the Executive Director through the Delegation Policy. Port staff will, acting through the Executive Director, make every effort to respond in a timely and professional manner to all individual Commissioner's requests for information or assistance; providing, in the judgment of the Executive Director, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the Executive Director through the direction of the full Port Commission.

13.5 Summary. The following is a brief summary from the Washington Public Port Association ("WPPA") Commissioner Resource Guide, and identifies parallel leadership roles and responsibilities.

Port Commission	***Executive Director***
Governs:	Administers:
Guides	Operates
Directs	Manages
Decides what	Decides how
Requests information	Seeks and provides information
Considers issues	Provides recommendations
Creates, reviews and adopts policy	Recommends and carries out policy
Reviews and monitors plans	Implements plans
Monitors progress	Reports progress
Contracts with personnel	Supervises hiring process, practices
Approves evaluation criteria, procedures	Supervises and evaluates personnel
Reviews and approves budget	Formulates budget
Represents public interest	Acts in the public's interest

14. BUDGET AND PROCUREMENT AUTHORITY

14.1 General. By resolution, the Commission shall set forth the authority of the Executive Director to manage and expend Port funds in accordance with financial policies and budgetary limits. Procurement of goods and services shall take place in accordance with applicable legal requirements in a fair, competitive and inclusive manner to maximize the benefit to the Port's taxpayers/customers.

14.2 Financial Policies. The Commission, by resolution, shall adopt financial policies that provide guidance to the Executive Director in managing the finances of the Port and in developing budgets, financial plans and rates. At a minimum, these policies shall:

14.2.1 Provide for sufficient liquidity relative to the Port's risk profile;

14.2.2 Provide for adequate coverage to meet debt covenants;

14.2.3 Establish criteria for debt and rate – financed capital expenditures;

14.2.4 Require that budgets be developed based on conservative and prudent assumptions consistent with standard industry practice; and

14.2.5 Establish budgetary and procurement controls over expenditures.

14.3 Budgetary Authority. As required by and consistent with law, the Commission, by resolution, shall approve the Port's budget prior to the start of each calendar year. The Executive Director shall manage the Port's operations within the approved budget levels consistent with authority levels set forth in the financial policies.

14.4 Procurement Authority.

14.4.1 The Commission, by resolution, shall establish procurement authorities and guidelines for the Executive Director consistent with state laws and regulations. The Executive Director shall establish procurement controls that provide reasonable assurance that the procurement of goods and services are made for a valid business purpose and within authorized budget levels.

14.4.2 It is Port policy that procurement decisions shall be made free from actual or perceived conflicts of interest consistent with these Rules of Policy and Procedure.

14.4.3 It is Port policy that due diligence and prudent judgment be exercised in the making of procurement decisions, including conducting a risk assessment. If the Executive Director reasonably determines that a procurement activity presents, regardless of the size of the financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the Executive Director shall inform the Commission.

15. EVALUATING THE EXECUTIVE DIRECTOR'S PERFORMANCE

15.1 General. The Executive Director's job performance shall be evaluated by comparing the organization's operations and results and the Executive Director's performance to the policies established by the Commission.

15.2 Process.

15.2.1 The Commission shall evaluate the Executive Director's performance on an annual basis.

15.2.2 The evaluation will be based on an evaluation of the organization's performance and the Executive Director's personal performance against the evaluation criteria previously established by the Commission and the Executive Director.

16. COMMISSION-AUDITOR RELATIONSHIP

16.1 General. The Port Auditor (Auditor) serves the Port to assist in the Port's compliance with the Local Government Accounting Act, RCW 43.09.200 – 43.09.2855.

16.2 Hiring and Reporting.

16.2.1 The Executive Director shall hire the Auditor. The Auditor shall perform those duties specified in RCW 43.09.240, Port Policy or job description and shall be granted direct access to the Commission as necessary in the performance of these duties.

16.2.2 The Auditor shall report through the Executive Director or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The Executive Director may assign additional duties to the Auditor as long as these duties do not interfere with the Auditor's duties as specified by law.

17. COMMISSION-PORT ATTORNEY RELATIONSHIP

17.1 Port Attorney Role. The Executive Director is responsible for hiring and terminating the Port Attorney. The Executive Director shall make provision for and appoint legal counsel for the Port by any reasonable contractual arrangement for such professional services. The Port Attorney is the legal advisor to the Port, the Commission, its committees, commissions and boards, the Executive Director, and all Port officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the Port. It is important to note that the Port Attorney does not represent individual members of Commission, but rather the Port Commission as a whole. The Port Attorney reports to the Executive Director. The Executive Director is responsible for evaluating the Port Attorney's performance.

17.2 Port Attorney Responsibilities.

The general legal responsibilities of the Port Attorney are to:

17.2.1 Provide legal assistance necessary for formulation and implementation of legislative policies and projects.

17.2.2 Represent the Port's interest, as determined by the Executive Director, in litigation, administrative hearings, negotiations, and similar proceedings.

17.2.3 Prepare or approve as to form resolutions, contracts, and other legal documents to best reflect and implement the purposes of the Port.

17.2.4 Keep the Port Commission and staff apprised of court rulings and legislation affecting the legal interest of the port.

17.2.5 Shall advise the Commissioners regarding potential conflict of interest issues or ethical matters. Port Attorney shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port Attorney's obligations to the Port or to specific direction of the Commission.

17.2.6 Give advice or opinion when required by the Commission or Executive Director.

17.2.7 Inform the Commission of material legal issues impacting the Port or the Commission.

17.2.8 Assist the Commissioners and staff in complying with applicable statutes and laws.

17.2.9 Serve as the parliamentarian at all commission meetings and other port-related meetings as requested by the Executive Director.

17.2.10 Other matters as designated by the Executive Director.

18. INDEMNIFICATION AND DEFENSE POLICY

18.1 Policy Stated. As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of officials and employees of the Port, including volunteers, while performed or in good faith purported to have been performed in the scope of their official duties.

18.2 Definitions. Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

18.2.1 "Employee" means any person who is or has been employed by the Port, including volunteers and appointed members of advisory boards and commissions. "Employee" does not include independent contractors. "Employee" also includes an employee's spouse when an employee's marital community is named in any action subject to this policy.

18.2.2 "Official" means any person who is serving or has served as an elected Port Commissioner, and any person who is serving or who has served as an appointed officer of the Port as defined by RCW 42.23.020(2), as written or hereafter amended. "Official" does not include independent contractors performing the duties of appointed positions.

18.3 Legal Representation.

18.3.1 The Port shall provide to an official or employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such official or employee may have concluded service or employment with the Port, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such official or employee resulting from any conduct, act or omission of such official or employee performed or omitted on behalf of the Port in his/her capacity as a Port official or employee, which act or omission is within the scope of his/her service or employment with the Port. The provisions of this chapter

shall not operate to provide legal representation to defend a claim or lawsuit for any conduct, act, or omission resulting in the termination for cause of any official or employee.

18.3.2 The legal representation shall be provided by the office of the Port legal counsel and may include the Executive Director engaging the services of outside legal counsel. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port legal counsel will work with the policy holder for purposes of obtaining legal representation under the existing insurance policy.

18.3.3 In the event that outside counsel is retained under Section 18.3.2, the Port shall indemnify the employee or official from the reasonable costs of defense; provided, that in no event shall the official or employee be indemnified for legal counsel's fees in excess of the hourly rates established by the Port's contract with legal counsel selected by the Port. The official or employee shall be liable for all hourly rates charged in excess of said rate.

18.3.4 The determination whether the official or employee was acting in good faith within the scope of his or her official duties shall be made by the Executive Director in consultation with the Port legal counsel and/or outside legal counsel. This determination shall be based on an investigation of the acts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the official or employee involved shall be notified by the Executive Director in writing. If the employee or official involved is the Executive Director, the determination shall be made by the Commission in consultation with the Port legal counsel and/or outside legal counsel based on an investigation of the acts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the Executive Director shall be notified by the Port legal counsel, in writing. In any claim involving an allegation of criminal conduct, no investigation by the Port will occur prior to a determination of guilt, or prior to a dismissal of the criminal charge with prejudice, so as not to compromise the official's or employee's Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal.

18.4 Exclusions. Except as otherwise determined pursuant to Section 18.3, in no event shall protection be offered under this chapter by the Port to:

18.4.1 Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an official or an employee;

18.4.2 Any act or course of conduct of an official or employee which is not performed on behalf of the Port;

18.4.3 Any act or course of conduct which is outside the scope of an official's or employee's service or employment with the Port; and/or,

18.4.4 Any lawsuit brought against an official or employee by or on behalf of the Port;

18.4.5 Any action or omission contrary to or not in furtherance of any adopted Port policy.

18.5 Reserved Rights. Nothing herein shall be construed to waive or impair the right of the Port to institute suit or counterclaim against any official or employee nor to limit its ability to discipline or terminate an employee.

18.6 Policy Secondary to Insurance. The provisions of this chapter shall have no force or effect with respect to any accident, occurrence or circumstance for the which the Port or the official or employee is insured from whatever source against loss or damage; provided that the provisions of this chapter shall apply in the event the loss or damages fall within the deductible or exclusion(s) of the Port's applicable insurance policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance whether owned by or otherwise applicable to any official or employee. The Port shall have the right to require an employee to fully utilize any such policy protection prior to requesting the protection afforded by this Chapter.

18.7 Determination of Exclusion. The determination whether an official or employee shall be afforded a defense by the Port under the terms of this chapter shall be made after a determination pursuant to Section 18.3 as to whether the official or employee was acting within the scope of his or her duties. The Executive Director and Port legal counsel shall prepare a recommendation to the Commission. The decision of the Commission shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter. Nothing herein shall preclude the Port from undertaking an official's or employee's defense under a reservation of rights. The determination as to whether a defense is to be furnished as provided under this chapter to a member or to members of the Commission shall be made without the vote of the Commissioners named in the claim or lawsuit unless the inclusion of such member or members is required for a quorum; provided, that if a claim or lawsuit affects a quorum or greater number of the members of the Commission, all such affected members shall retain their voting privileges under this Section.

18.8 Representation and Payment of Claims – Conditions. The provisions of this chapter shall apply only when all the following conditions are met:

18.8.1 In the event of any incident or course of conduct potentially giving rise to a claim for damages, or for the commencement of a lawsuit, the official or employee involved shall, as soon as practicable, give the employee's department director and, if applicable, the Port legal counsel and the Executive Director written notice thereof. The notice shall identify the official or employee involved, all information known to the official or employee involved with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the potential claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

18.8.2 Upon receipt, the official or employee shall as soon as practicable deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the Port legal counsel and shall cooperate with the Port legal counsel, or if the Executive Director authorizes or designates another legal counsel to handle the matter, shall cooperate with that legal counsel, and, upon request, shall assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the Port because of any damage or claim of loss arising from said incident or course of conduct,

including, but not limited to, rights of recovery for costs and legal counsel's fees arising out of state or federal statute upon a determination that the lawsuit brought was frivolous in nature. Failure to timely deliver any claim, demand, notice or summons to the Port legal counsel, and in which an adverse decision against the official, the employee or Port results from such failure, shall operate to negate all indemnification and opportunity for defense under this chapter and the Port shall have no obligation to offer a defense to the named official or employee.

18.8.3 Such official or employee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining assistance of witnesses all without any additional compensation to the official or employee, and, in the event that an employee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such official or employee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to said claim or lawsuit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. Nothing herein shall be deemed to preclude any official or employee from retaining legal counsel to represent his/her interests relating to such claim or lawsuit; however, all costs and expenses incurred thereby shall be paid by the official or the employee.

18.8.5 Nothing herein shall modify existing procedures or requirements of law for processing and payment of claims against the Port.

18.9 Effect of Compliance With Conditions. If legal representation of an official or employee is undertaken by the Port, whether by the Port legal counsel or by legal counsel obtained by the Port or through its insurance coverage, and all of the conditions of representation are met, and a judgment is entered against the official or employee or a settlement is made, the Port shall pay such judgment or settlement according to the provisions herein; provided, that the Port may at its discretion appeal as necessary any such judgment. In no event shall this Section be interpreted to provide for payment of an award of punitive damages. The process for payment of punitive damages is discretionary under this chapter, and is set forth in Section 18.16. The decision to appeal an award of damages will be made by the Commission upon the recommendation of the Executive Director and the Port legal counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any official or employee fails or refuses to comply with any of the conditions set forth in Section 18.8, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

18.11 Reimbursement of Incurred Expenses.

18.11.1 If the Port's investigation under Section 18.3 determines that an official or employee does not come within the provisions of this chapter and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the Port shall pay any judgment, excepting punitive damages, rendered against the official or employee and reasonable legal counsel's fees incurred in defending against the claim if said

judgment is not covered by the Port's insurance provisions or by the official's or employee's insurance. The Port shall pay any costs and reasonable legal counsel's fees incurred by the employee or official in obtaining the determination that such claim is covered by the provisions of this chapter; provided, that if a court of competent jurisdiction determines that such claim does not come within the provisions of this chapter, then the official or employee shall pay the Port's costs and reasonable legal counsel's fees incurred in obtaining the determination that such claim is not covered under the provisions of this chapter.

18.11.2 If the Port determines that a claim against a Port official or employee does come within the provisions of this chapter and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the Commission shall have the option of requiring reimbursement by the official or employee for costs or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

18.12 Conflict With Provisions of Insurance Policies. The indemnification provisions of this chapter do not constitute a policy of insurance and nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where the Port or any of its current or former officials or employees thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this chapter shall be deemed to limit or restrict any employee's or official's right to full coverage pursuant to this chapter, it being the intent of this chapter to provide the coverage detailed in this chapter only above and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provisions contained in this chapter.

18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any official or employee at the time of adoption of this ordinance and to any such claims or lawsuits hereinafter filed within an applicable statute of limitations, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

18.14 Modification of Chapter. The provisions of this chapter shall be subject to amendment, modification and repeal, at the sole discretion of the Commission, provided that unless explicitly set forth, any such amendment, modification or repeal shall apply prospectively only and shall have no effect on the obligation of the Port to indemnify and/or defend against any claim which is based, in whole or in part, upon any action or omission of an employee or official occurring prior to the effective date of the amendment, modification or repeal.

18.15 Bargaining Unit Contracts. If a union contract under chapter 41.56 RCW covers any of the provisions of this chapter, all employees under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

18.16 Punitive Damages. When an employee or official of the Port has been represented in a claim and/or litigation by the Port pursuant to this chapter and any judgment is rendered against such employee or official for punitive damages, the employee or official may make a request to the Commission that the Port pay the award of punitive damages on behalf of

the official or employee. Upon receiving a request made by or on behalf of a Port employee or official to pay punitive damages, the Commission shall receive a report and recommendation from the Executive Director and the Port legal counsel. If the official or employee is the Executive Director or a Commission member, the Commission may request a report and recommendation from the Port legal counsel or may retain the services of another person or agency to provide a recommendation. Following receipt of the report and any recommendation, the Commission shall determine whether the best interests of the Port and justice will be served by payment by the Port of the award for punitive damages. There shall be no appeal from such determination. The Executive Director shall communicate the council's determination with respect to the employee's or official's request for payment of punitive damages to said employee or official. Thereafter, the finance director shall prepare the payment of punitive damages if the council authorized such payment.

18.17 Application to Recall Proceedings.

18.17.1 Consistent with RCW 4.96.041(3), the necessary expenses of defending a Port Commissioner in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the Port if the Commissioner requests such defense and approval is granted by both the Commission and the Port's legal counsel or attorney appointed by the Executive Director to review the request. The expenses paid by the Port may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

18.17.2 As authorized by the Supreme Court in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the Port's decision to indemnify and pay the costs of a recall defense does not constitute a contract under RCW 42.23.030, and, as a result, a Commissioner requesting payment of such expenses may vote on the Commission's consideration of the request.

19. GENERAL COMPLAINT RESOLUTION

19.1 Administrative Complaints Made Directly to Individual Commissioners. When administrative policy or administrative performance complaints are made directly to individual Commissioners, the Commissioner shall then refer the matter directly to the Executive Director for review and/or action. The individual Commissioner may request to be informed of the action or response made to the complaint.

19.2 Administrative Complaints – "Best Practice." Although citizen's direct access to elected officials is to be encouraged, Port Commissioners should be cautious in making statements or taking actions that may delay a timely customer service response. The best policy is to put the citizen into direct contact with the Executive Director.

Ten Commandments for Staying out of Trouble as a Port Commissioner
[as presented in the WPPA Commissioner Resource Guide]

1. Thou shalt never spend the public's money in secret.
2. Thou shalt not accept personally more money or benefits than any other fellow commissioner.
3. Thou shalt not require the port staff to do more work than necessary to inform (please) you when they could be occupied in improving the business of the port.
4. Thou shalt not speak as the official spokesperson of the port without knowing officially that you have been so designated by the commission majority.
5. Thou shalt not use the press against your fellow commissioners.
6. Thou shalt not use port property for unofficial business, not even a paper clip. Paper clips are cheap, buy your own. Use your own car too.
7. Thou shalt not argue with, grill, or embarrass port staffers in public. They'll hate you for it and get back at you in a thousand ways without your ever knowing it or leaving a scrap of evidence.
8. Thou shalt not depend on news media to keep the public informed of the activities and purposes of the port. Have your own PR program and carry it out.
9. Thou shalt not align yourself closely with a certain group of port tenants or users. Your motives will always be aligned with that group regardless of the issues. And the group will turn on you if you don't support them every single time.
10. Thou shalt not become involved in hiring anyone but the port manager and the port auditor.

Exhibit "A"
Resolution No. 2011-04

POULSBO CITY COUNCIL

RULES OF PROCEDURE

Adopted by: Resolution Number 95-02, February 1, 1995
(including amendments as listed)

AMENDMENTS

Resolution Number	Date
95-08	April 26, 1995
95-10	July 5, 1995
98-07	October 7, 1998
99-03	June 2, 1999
2000-02	February 16, 2000
2000-08	June 7, 2000
2001-14	July 11, 2001
2003-10	October 8, 2003
2005-11	October 5, 2005
2008-04	March 12, 2008
2010-06	March 10, 2010
2011-04	April 6, 2011

RULES OF PROCEDURE

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POULSBO CITY COUNCIL
RULES OF PROCEDURE

1. GENERAL RULES

1.1 **MEETINGS TO BE PUBLIC**: All official meetings of the Council shall be open to the public with the exception of executive sessions for certain limited topics (as defined in RCW Chapter 42.30). The journal of proceedings (minute book) shall be open to public inspection.

1.2 **QUORUM**: Four Councilmembers shall be in attendance to constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time, but no adjournment shall be for a longer period than until the next regular meeting.

1.3 **ATTENDANCE, EXCUSED ABSENCES**: RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three (3) consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall either: (1) contact the Chair prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Chair, the member shall contact the City Clerk or Deputy City Clerk, who shall convey the message to the Chair. The Chair shall inform the Council of the member's absence, state the reason for such absence and inquire if there is a motion to excuse the member. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Recorder will make an appropriate notation in the minutes. If the motion is not passed, the Recorder will note in the minutes that the absence is unexcused; or (2) the member shall contact the Chair, City Clerk or Deputy City Clerk and state the date and the reason for the absence. The City Clerk or Deputy City Clerk will route a notice explaining the absence to all other Councilmembers for approval. (Rev. Res. 99-03)

1.4 **JOURNAL OF PROCEEDINGS**: A journal of all proceedings of the Council shall be kept by the City Clerk and shall be entered in a book constituting the official record of the Council.

1.5 **RIGHT OF FLOOR**: Any councilmember desiring to speak shall be recognized by the Chair and shall confine his/her remarks to one subject under consideration or to be considered.

1.6 **RULES OF ORDER**: Robert's Rules of Order Newly Revised shall be the guideline procedures for the proceedings of the Council. If there is a conflict, these rules shall apply.

1.7 **COUNCIL LETTER WRITING**: Any time Councilmembers write individual letters or contact the news media, they shall include a disclaimer that they are speaking only for themselves and not speaking for any other member or the Council as a whole. (Rev. Res. 99-03, Res. 2000-02)

1.8 **VIOLATION OF CITY ORDINANCES**: Members concerned with a violation of a city ordinance shall contact the Mayor or appropriate department head and explain the violation and its location. Members shall not act as an enforcement agent. (Rev.: Res. 99-03)

1.9 **RULES OF PROCEDURE REVIEW**: The City Clerk will schedule a workshop to review Council's Rules of Procedure during January of every even-numbered year or at such time deemed necessary. (Rev.: Res. 99-03; Res. 2010-06)

2. TYPES OF MEETINGS

2.1 **REGULAR COUNCIL MEETINGS**: The Council shall meet on the first three Wednesdays of each month at 7:00 PM. When a Council meeting falls on a holiday, the Council may determine an alternate day for the meeting or cancel the meeting. The Council may reschedule regular meetings to a different date or time by motion. The location of the meetings shall be the Council Chambers at city hall, unless specified otherwise by a majority vote of the Council. All regular and special meetings shall be public pursuant to the RCW Chapter 42.30 and the Open Public Meetings Act. (Rev: Res. 99-03; Res. 2010-06)

2.2 **SPECIAL MEETINGS**: Special meetings may be called by the Mayor or any four (4) members of the Council. The City Clerk shall prepare a notice of the special meeting stating the time, place and business to be transacted. The City Clerk shall attempt to notify each member of the Council, either by telephone or otherwise, of the special meeting. The City Clerk shall give at least 24 hours' notice of the special meeting to each local newspaper of general circulation and to each local radio and/or television station which has filed with the Clerk a written request to be notified of special meetings. No subjects other than those specified in the notice shall be considered. The Council may not make final disposition on any matter not mentioned in the notice. (Rev.: Res. 95-10)

Special meetings may be called in less than 24 hours, and without the notice required in this section, to deal with emergencies involving injury or damage to persons or property or the likelihood of such injury or damage if the notice requirements would be impractical or increase the likelihood of such injury or damage.

2.3 **CONTINUED AND ADJOURNED SESSIONS**: Any session of the Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting.

2.4 **STUDY SESSIONS AND WORKSHOPS**: The Council may meet informally in study sessions and workshops (open to the public), at the call of the Mayor or of any three or more members of the Council, to review forthcoming programs of the city, receive progress reports on current programs or projects, receive other similar information from city department heads or conduct procedures workshops, provided that all discussions and conclusions thereon shall be informal and do not constitute official actions of the Council.

2.5 **EXECUTIVE SESSIONS**: Executive sessions or closed meetings may be held in accordance with the provisions of the Washington State Open Meetings Act (RCW 42.30.110 – Attached as Exhibit "A"). Among the topics that may be discussed are: (1) personnel matters; (2) consideration of acquisition of property for public purposes or sale of city-owned property; and (3) potential or pending litigation in which the city has an interest, as long as legal counsel is present in person or by phone as provided in the Revised Code of Washington. The Council must keep confidential all written materials and verbal information provided to them during Executive Sessions to ensure that the City's position is not compromised. The Council may hold an executive session during a regular or special meeting. Before convening in executive session the Chair shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session will be concluded. If the Council wishes to adjourn at the close of a meeting from executive session, that fact will be announced along with the estimated time for the executive session. The announced time limit for executive sessions may be extended to a stated later time by the announcement of the Chair. (Rev: Res. 99-03, Res. 2008-04)

2.6 **ATTENDANCE OF MEDIA AT COUNCIL MEETINGS**: All official meetings of the Council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

3. CHAIR AND DUTIES

3.1 **CHAIR**: The Mayor, if present, shall preside as Chair at all meetings of the Council. In the absence of the Mayor, the Deputy Mayor shall preside. In the absence of both the Mayor and Deputy Mayor, the Alternate Deputy Mayor shall preside. In the absence of the Mayor, Deputy Mayor and Alternate Deputy Mayor, the Council shall elect a Chair.

3.2 **CALL TO ORDER**: The meetings of the Council shall be called to order by the Mayor or, in his/her absence, by the Deputy Mayor. In the absence of both the Mayor and Deputy Mayor, the meeting shall be called to order by the Alternate Deputy Mayor. In the absence of the Mayor, Deputy Mayor and Alternate Deputy Mayor, the meeting shall be called to order by the City Clerk or Clerk's designee for the election of a temporary Chair. (Rev: Res. 99-03)

3.3 **PRESERVATION OF ORDER**: The Chair shall preserve order and decorum, prevent attacks on personalities or character of members' and confine members in debate to the question under discussion (Rev: Res 2010-06).

3.4 **POINTS OF ORDER**: The Chair shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be "Shall the decision of the Chair be sustained?"

3.5 **QUESTIONS TO BE STATED**: The Chair shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon all questions.

3.6 **SUBSTITUTION FOR CHAIR**: The Chair may call the Deputy Mayor to temporarily chair the meeting. In the absence of both the Mayor and Deputy Mayor, the Alternate Deputy may temporarily chair the meeting. In the absence of the Mayor, Deputy Mayor and Alternate Deputy Mayor, any other member (Presiding Officer) may be called to temporarily chair the meeting. (Rev: Res. 2008-04)

3.7 **PRESIDING OFFICER - POWERS**: The Presiding Officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges of a Councilmember by reason of acting as the Presiding Officer.

4. ORDER OF BUSINESS AND AGENDA

4.1 **ORDER OF BUSINESS**: The order of business for all regular meetings shall be transacted as follows unless the Council, by a majority vote of the members present, suspends the rules and changes the order:

(1) Call to Order
(2) Pledge of Allegiance
(3) Comments from Citizens (limited to a total of 15 minutes)
(4) Mayor's Reports and Council Comments
(5) Agenda Review
(6) Consent Agenda
(7) Business Agenda (Committee Reports will be given during agenda item)
(8) Council Committee Reports (limited to a total of 5 minutes per Committee)
(9) Department Head Comments
(10) Continued Comments From Citizens
(11) Mayor and Councilmember Comments/Board/Commission Reports
(12) Adjournment

The Consent Agenda may contain items which are of a routine and non-controversial nature which may include, but are not limited to, the following: meeting minutes, payroll, claims, budget amendments, and any item previously approved by Council with a unanimous vote and which is being submitted to Council for final approval. Any item on the Consent Agenda may be removed and considered separately as an agenda item at the request of any Councilmember or any person attending a Council meeting. (Rev: Res. 99-03, Res. 2003-10, Res. 2005-11, Res. 2008-04, Res. 2010-06)

4.2 **COUNCIL AGENDA**: Subject to the Council's right to amend the agenda, no legislative item shall be voted upon which is not on the Council agenda, except in emergency situations (defined as situations which would jeopardize the public's health, safety or welfare).

4.3 **MAYOR AND COUNCILMEMBER COMMENTS AND CONCERNS**: The agenda shall provide a time when the Mayor ("Mayor's Reports") or any Councilmember ("Comments From Councilmembers") may bring before the Council any business that he/she feels should be deliberated upon by the Council. These matters need not be specifically listed on the agenda, but formal action on such matters may be deferred until a subsequent Council meeting, except that immediate action may be taken upon a vote of a majority of all members of the Council. There shall be no lectures, speeches or grandstanding.

5. CONSENSUS AND MOTIONS

5.1 **CONSENSUS VOTES**: When a formal motion is not required on a Council action or opinion, a consensus voice vote will be taken. The Chair will state the action or opinion and each Councilmember will state his/her name and vote by saying "aye" or "nay."

5.2 **MOTIONS**: No motion shall be entertained or debated until duly seconded and announced by the Chair. The motion shall be recorded and, if desired by any Councilmember, it shall be read by the Recorder before it is debated and, by the consent of the Council, may be withdrawn at any time before action is taken on the motion.

5.3 **VOTES ON MOTIONS**: Each member present shall vote on all questions put to the Council except on matters in which he or she has been disqualified for a conflict of interest or under the appearance of fairness doctrine, or in which he or she has been granted leave to abstain by the City Council in advance and for a stated reason. Such member shall disqualify himself or herself prior to any discussion of the matter and shall leave the Council Chambers. When disqualification of a member or members results or would result in the inability of the Council at a subsequent meeting to act on a matter on which it is required by law to take action, any member who was absent or who had been disqualified under the appearance of fairness doctrine may subsequently participate, provided such member first shall have reviewed all materials and listened to all tapes of the proceedings in which the member did not participate. (Rev: Res. 2010-06)

5.4 **FAILURE TO VOTE ON A MOTION**: Any Councilmember present who fails to vote without a valid disqualification or without having otherwise received the Council's permission to abstain shall be declared to have voted in the affirmative on the question (Rev: Res. 2010-06).

5.5 **MOTIONS TO RECONSIDER:** A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same or succeeding regular meeting, provided that the time for a motion to reconsider any matter governed by PMC 18.91.150 shall be as set forth in that section. No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted. (Rev.: Res. 95-08, Res. 98-07)

6. PUBLIC HEARING PROCEDURES

6.1 SPEAKER SIGN-IN: Prior to the start of a public hearing the Chair may require that all persons wishing to be heard sign in with the Recorder, giving their name and whether they wish to speak as a proponent, opponent or other member of the public.

A "Proponent" a person, firm, or organization speaking in favor of a proposal on which a public hearing is being held. The term "proponent" includes, but is not limited to, the permit applicant when a development permit is the subject of the public hearing; and

An "opponent," a person, firm or organization speaking against a proposal on which a public hearing is being held. The term "opponent" includes, but is not limited to, a person, organization or association opposing a permit application when a development permit is the subject of the public hearing; and "Other members of the public," are those persons, firms, or organization wishing to speak concerning a proposal on which a public hearing is being held and who do not met the definition of proponent or opponent. The term "other members of the public" includes, but is not limited to, persons and government agencies who desire to comment on a proposal but who are not speaking in favor of or against the proposal on which the public hearing is being held. (Rev: Res. 2008-04)

Any person who fails to sign in shall not be permitted to speak until all those who signed in have given their testimony. The Chair, subject to the concurrence of a majority of the Council, may establish time limits and otherwise control presentations. (Suggested time limits are five minutes per individual speaker or ten minutes for the proponent, opponent, or when presenting the official position of an organization or group.) (Rev. Res. 2000-02)

6.2 CONFLICT OF INTEREST/APPEARANCE OF FAIRNESS

Prior to the start of a public hearing the Chair will ask if any Councilmember has a conflict of interest or Appearance of Fairness Doctrine concern which could prohibit the Councilmember from participating in the public hearing process. A Councilmember who refuses to step down after challenge and the advice of the City Attorney, a ruling by the Mayor or Chair and/or a request by the majority of the remaining members of the Council to step down is subject to censure. The Councilmember who has stepped down shall not participate in the Council decision nor vote on the matter. The Councilmember shall leave the Council Chambers while the matter is under consideration, provided, however, that nothing herein shall be interpreted to prohibit a Councilmember from stepping down in order to participate in a

hearing in which the Councilmember has a direct financial or other personal interest.

6.3 THE PUBLIC HEARING PROCESS

Public hearings will begin according to the established agenda (or as soon thereafter as possible).

The Chair introduces the agenda item, opens the public hearing and announces the following Rules of Order:

(1) All comments by proponents, opponents or other members of the public (as defined in Section 6.1) shall be made from the podium; any individuals making comments shall first give their name. This is required because an official recorded transcript of the public hearing is being made.

(2) No comments shall be made from any other location. Anyone making "out of order" comments shall be subject to removal from the meeting. If you are disabled and require accommodation, please advise the Recorder.

(3) There will be no demonstrations during or at the conclusion of anyone's presentation.

(4) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard and to ensure that no individual is embarrassed by exercising his/her right of free speech.

The Chair calls upon city staff to describe the matter under consideration.

The Chair calls upon proponents, opponents and all other individuals who wish to speak regarding the matter under consideration.

The Chair inquires as to whether any Councilmember has questions to ask the proponents, opponents, speakers or staff. If any Councilmember has questions, the appropriate individual will be recalled to the podium.

The Chair continues the public hearing to a time specific or closes the public hearing. (Rev.: Res. 99-03)

7. DUTIES AND PRIVILEGES OF CITIZENS

7.1 **MEETING PARTICIPATION**: Citizens are welcome at all Council meetings and are encouraged to attend and participate prior to the deliberations of the Council. Recognition of a speaker by the Chair is a prerequisite and necessary for an orderly and effective meeting, be the speaker a citizen, Councilmember or staff member. Further, it will be expected that all speakers will deliver their comments in a courteous and efficient manner. Anyone making out-of-order comments or acting in an unruly manner shall be subject to removal from the meeting. Use of cellular telephones is prohibited in the Council Chambers.

7.2 **COMMENTS FROM CITIZENS**: Under agenda item "Comments From Citizens" citizens may address any item they wish to discuss with the Mayor and Council. They shall first obtain recognition by the Chair, state their name and the subject of their comments. The Chair shall then allow the comments, subject to a three (3) minute limitation per speaker, or other limitations as the Chair or Council may deem necessary. Following such comments, if action is required or has been requested, the Chair may place the matter on the current agenda or a future agenda or refer the matter to staff or a Council committee for action or investigation and report at a future meeting. (Rev.: Res. 99-03)

Citizen/group presentations scheduled on the agenda to address the Council will be requested to step to the podium, give their name for the record. Presentations should be prearranged through the Mayor's Office and be limited to the time allotted, not to exceed twenty (20) minutes, with ten (10) minutes allowed for a question/answer period after the presentation. (Rev. Res. 2000-08, Res. 2010-06)

7.4 **MANNER OF ADDRESSING THE COUNCIL - TIME LIMIT**: Each person addressing the Council shall step up to the podium, give his/her name in an audible tone of voice for the record and, unless further time is granted by the Council, shall limit his/her remarks to three (3) minutes. Agenda item "Comments From Citizens" shall be limited to a total of 15 minutes and agenda item "Continued Comments From Citizens" shall be limited to the time available at the end of the regular Council meeting, unless additional time or less time is agreed upon by the Council (dependent upon the length of the Council agenda). All remarks shall be addressed to the Council as a body and not to any member thereof. No person, other than the Chair, members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked of the Councilmembers, except through

the Chair. The Council will then determine the disposition of the issue (information only, place on present agenda, workshop, a future agenda, assign to staff, assign to Council Committee or do not consider).

7.5 **PERSONAL AND SLANDEROUS REMARKS**: Any person making personal, impolite, disrespectful or slanderous remarks or who shall become boisterous while addressing the Council may be requested to leave the meeting and may be barred from further audience before the Council during that Council meeting by the Chair or Presiding Officer (Rev: 2010-06).

7.6 **WRITTEN COMMUNICATIONS**: Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the city's business or over which the Council had control at any time. The written communication may be submitted by direct mail or by addressing the communication to the City Clerk who will distribute copies to the Council members. The communication will be entered into the record without the necessity for reading as long as sufficient copies are distributed to members of the audience/public.

7.7 **COMMENTS IN VIOLATION OF THE APPEARANCE OF FAIRNESS DOCTRINE**: The Chair may rule out of order any comment made with respect to a quasi-judicial matter pending before the Council or its Boards or Commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

7.8 **"OUT OF ORDER" COMMENTS**: Any person whose comments have been ruled out of order by the Chair shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the Chair may subject the individual to removal from the Council Chambers.

These rules are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

8. FILLING COUNCIL VACANCIES AND SELECTING DEPUTY MAYOR AND ALTERNATE DEPUTY MAYOR

8.1 **NOTICE OF VACANCY**: If a Council vacancy occurs, the Council will follow the procedures outlined in RCW 42.12. In order to fill the vacancy with the most qualified person available until an election is held, the Council will

widely distribute and publish a notice of the vacancy and the procedure and deadline for applying for the position. (Rev.: Res. 99-03)

8.2 **APPLICATION PROCEDURE**: The Council will draw up an application form which contains relevant information that will answer set questions posed by Council. The application form will be used in conjunction with an interview of each candidate to aid the Council's selection of the new Councilmember.

8.3 **INTERVIEW PROCESS**: All candidates who submit an application by the deadline will be interviewed by the Council during a regular or special Council meeting open to the public. The order of the interviews will be determined by drawing the names; in order to make the interviews fair, applicants will be asked to remain outside the Council Chambers while other applicants are being interviewed. Applicants will be asked to answer questions submitted to them in advance of the interview and questions posed by each Councilmember during the interview process. The Councilmembers will ask the same questions of each candidate. Each candidate will then be allowed two (2) minutes for closing comments. Since this is not a campaign, comments and responses about other applicants will not be allowed.

8.4 **SELECTION OF COUNCILMEMBER**: The Council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting.

8.5 **SELECTING DEPUTY MAYOR AND ALTERNATE DEPUTY MAYOR**: Pursuant to RCW 35A.12.065 "Biennially at the first meeting or a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during the absence or disability." (Rev: Res. 2008-04, Res. 2010-06)

9. FILLING VACANCY IN THE OFFICE OF THE MAYOR

9.1 **VACANCY:** If a vacancy occurs, the Council will follow the procedures outlined in RCW 42.12. (Rev.: Res. 99-03)

9.2 **SELECTION OF MAYOR**: The Council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting. (Rev.: Res. 99-03)

10. RULES OF CONDUCT (added by Res. 2001-14)

PREAMBLE: Each Councilmember is elected by and answers to the citizens of Poulsbo. Our oath of office pledges that each of us will uphold the laws of the City of Poulsbo, the State of Washington, and the provisions of the constitution of the State and the United States. We have pledged ourselves to avoid conflicts of interest, the appearance of unfairness and to abide by other statutory directives.

These Rules of Conduct and standards of behavior have been adopted to guide us in instances where the law does not. They are based on common sense and courtesy, and may be enforced by the City Council through a motion of censure in accordance with the procedures as established by Robert's Rules of Order.

10.1 **RESPECT:** The citizens have elected each of us and by displaying respect and courtesy to our fellow Councilmembers, we honor the citizens' choice. We pledge that we will accord each Councilmember, the Mayor and staff the respect which their positions accord. We will extend this same respect to members of the public and to others who testify before us, recognizing that those individuals have a duty to conduct themselves in a reasonable manner.

10.2 **LISTEN:** We will listen to each other, to the staff and to the public. We will listen with an open mind. We will allow each speaker an equal opportunity to be heard within the time limits established by the Chair, so long as that individual adheres to our standards of conduct.

10.3 **FAIR DEBATE:** Each Councilmember will be permitted an opportunity to speak. As Councilmembers, we will allow our fellow Councilmembers to finish their thoughts. We will adhere to the City Council's adopted Rules of Procedure. Each Councilmember will await recognition by the Chair before speaking.

10.4 **DISCLOSURE, AVOIDING THE APPEARANCE OF IMPROPRIETY**: While state statutory provisions regarding the Appearance of Fairness Doctrine govern our conduct in quasi judicial matters, Councilmembers will also attempt to avoid even the appearance of impropriety in all of our actions. When we are aware of an issue that might reasonably be perceived as a conflict, and even if we are in doubt as to its relevance, we will reveal that issue for the record. We pledge that we will step down when required

by the Appearance of Fairness Doctrine, that is, when an objective person at a Council meeting would have reasonable cause to believe that we could not fairly participate.

10.5 **MAINTAIN OUR LEGISLATIVE FOCUS**: We pledge to respect the administrative function of the Mayor and staff. We will do so, however, without suspending our critical faculty and the legislative oversight which we have been elected to exercise.

10.6 **MAJORITY AND MINORITY RIGHTS**: As we determine where the best interests and welfare of our citizens lie, we will always attempt to balance the wishes of the majority with the rights of the minority.

10.7 **OPEN PROCESS**: We will carry on our debates in public based upon information in the record. In addition to honoring the requirements of the Open Public Meetings Act, we will endeavor to carry on all of our business in open public session based on information in the public record and equally accessible to all citizens.

10.8 **HONOR CONFIDENCES**: To the extent required by law, we will honor the confidences to which we are privy due to our role as Councilmembers. In addition to any statutory requirement, we will avoid the release of any information that would give any person a competitive or unfair advantage and will endeavor to make sure that public information is equally and readily accessible to all members of the public and not just to specific constituencies.

11. SUSPENSION AND AMENDMENT OF THESE RULES

11.1 **SUSPENSION OF THESE RULES**: Any provision of these rules not governed by the Poulsbo Municipal Code may be temporarily suspended by a vote of a majority of the Council. (Rev.: Res. 99-03)

11.2 **AMENDMENT OF THESE RULES**: These rules may be amended or new rules adopted by a majority vote of all members of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting. (Rev.: Res. 99-03)

COUNCIL RULES OF PROCEDURE – EXHIBIT "A"
RCW 42.30.110
Executive sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

[2005 c 424 § 13; 2003 c 277 § 1; 2001 c 216 § 1; 1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

Notes:

Captions not law -- Liberal construction -- Severability -- Effective dates -- 2005 c 424: See RCW 43.350.900 through 43.350.903.

Severability -- Effective date -- 1987 c 389: See notes following RCW 41.06.070.

Severability -- 1986 c 276: See RCW 53.31.901.

CITY OF DuPONT WASHINGTON

CITY COUNCIL RULES OF PROCEDURE

Adopted: August 10, 2004, by Ordinance No. 04-770
Amended: July 26, 2011, by Ordinance No. 11-918
Amended: March 27, 2012, by Ordinance No. 12-930
Amended: May 27, 2014, by Ordinance No.14-966

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Exhibit "A" – RCW 42.30.110 – Executive Sessions

1. General Rules

1.1 Meetings to be Public: The meetings of the Council shall be open to the public with the exception of executive sessions for certain limited topics (as defined in RCW Chapter 42.30). The journal of proceedings (minute book) shall be open to public inspection.

1.2 Quorum: A simple majority of Councilmembers shall be in attendance to constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time, but no adjournment shall be for a longer period than until the next regular meeting.

1.3 Attendance, Excused Absences: RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three (3) consecutive regular meetings of the Council without being excused by the Council. Member of the Council may be so excused by complying with this section. The member shall contact the Chair prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Chair, the member shall contact the City Clerk or Designee, who shall convey the message to the Chair. The Chair shall inform the council of the member's absence, state the reason for such absence and inquire if there is a motion to excuse the member. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the City Clerk or Designee will make an appropriate notation in the minutes. If the motion is not passed, the City Clerk or Designee will note in the minutes that the absence is unexcused.

1.4 Journal of Proceedings: The City Clerk will keep an account of all proceedings of the Council in accordance with the statutory requirements, and proceedings will be entered into a minute book constituting the official record of the Council. Council meeting minutes will not be revised without a majority affirmative vote of the Council at a regularly scheduled Council meeting.

1.5 Right of Floor: Any councilmember desiring to speak shall be recognized by the Chair and shall confine his/her remarks to one subject under consideration or to be considered.

1.6 Rule of Order: *Robert's Rules of Order Newly Revised* shall be the guideline procedures for the proceedings of the Council. If there is a conflict, these rules shall apply.

1.7 Council Member Seating: A City Council Member's seat at the dais will be determined as follows or as mutually agreed upon by Council:

(1) The Mayor shall sit in Chair #5, the center seat at the dais, and the Deputy Mayor shall sit to the Mayor's right, in Chair #4; and

(2) The remaining Council Members will be seated left to right by position #1 through #7 respectively.

2. Types of Meetings

2.1 Regular Council Meetings: The Council shall meet on the 2nd and 4th Tuesday of each month at 7 p.m. If at any time, any regular meeting falls on a holiday or a primary, general, or special election day, wherein any matter is on the ballot in the City of DuPont, such regular meeting shall be held the next business day.

The Council may reschedule regular meetings to a different date or time by motion. The location of the meetings shall be the Council Chambers at City Hall, unless specified otherwise by a majority vote of the Council. All regular and special meetings shall be public.

2.2 Special Meetings: Special meetings may be called by the Mayor or any two (2) members of the Council. The City Clerk shall prepare a notice of the special meeting stating the time, place and business to be transacted. The City Clerk shall attempt to notify each member of the Council, either by e-mail or otherwise, of the special meeting. The City Clerk shall give at least 24 hours' notice of the special meeting to each local newspaper of general circulation and to each local radio and/or television station, which has filed with the Clerk a

written request to be notified of special meetings. No subjects other than those specified in the notice shall be considered. The Council may not make final disposition on any matter not mentioned in the notice.

2.3 Study Session and Workshops: The Council may meet informally in study sessions and workshops (open to the public), at the call of the Mayor or of any two or more members of the Council, to review forthcoming programs of the city, receive progress reports on current programs or projects, receive other similar information from city department heads or conduct procedures workshops, provided that all discussions and conclusions thereon shall be informal and do not constitute official actions of the Council. Study sessions and workshops held by the council are "special meetings" of the council, and the notice required by RCW 42.30.080 must be provided.

2.4 Emergency Meetings: An Emergency meeting is a Special Council meeting called without 24-hour notice. An Emergency meeting deals with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of a 24-hour notice would make notice impractical and increase the likelihood of such injury or damage. Emergency meetings may be called by the City Administrator or the Mayor with the consent of a majority of Council members. The minutes will indicate the reason for the emergency.

2.5 Executive Sessions: An executive session is a Council meeting that is closed except to the Council, City Administrator and authorized staff members and/or consultants authorized by the Mayor. The public is restricted from attendance. Executive sessions may be held during Regular or Special council meetings and will be announced by the Mayor.

Executive Session subjects are limited pursuant to Chapter 42.30.110 RCW, including but not limited to, considering real property acquisition and sale, public bid contract performance, complaints against public officers and employees, public employment applications and public employee evaluation, elective office appointments, and attorney-client discussions.

Before convening in executive session the Chair shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session will be concluded. If the Council wishes to adjourn at the close of a meeting from executive session, that fact will be announced along with the estimated time for the executive session. The announced time limit for executive sessions may be extended to a stated later time by the announcement of the Chair.

2.6 Continued and Adjourned Sessions: Any session of the Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting. Regular Council meetings shall adjourn at or before 10:00PM; except the time may be extended to a later time certain upon approval of a motion by a Councilmember.

2.7 Council Contact Outside an Official Meeting: Generally Councilmembers have the same freedoms of association as any other citizen. Councilmembers must take great care when present at the same social, unofficial functions, or in any public setting to refrain from engaging in any activity which could be interpreted as de facto deliberation or action on a matter of city business.

3. Chair and Duties

3.1 Chair: The Mayor, if present, shall preside as Chair at all meetings of the Council. In the absence of the Mayor, the Deputy Mayor shall preside. In the absence of both the Mayor and Deputy Mayor, the Council shall elect a Chair.

3.2 Call to Order: The meetings of the Council shall be called to order by the Mayor or, in his absence, by the Deputy Mayor. In the absence of both the Mayor and Deputy Mayor, the meeting shall be called to order by the City Clerk or Clerk's designee for the election of a temporary Chair.

3.3 Preservation of Order: The Chair shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives and confine members in debate to the question under discussion.

3.4 Points of Order: The Chair shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be "Shall the decision of the Chair be sustained?"

3.5 Questions to be Stated: The Chair shall state all questions submitted for a vote and announce the result. A roll call vote may be taken on any question.

3.6 Mayor – Powers: The Mayor may not make or second motions, but may participate in debate to the extent that such debate does not interfere with chairing the meeting. If the mayor wishes to participate vigorously in the debate of an issue, the Mayor shall turn over chairing of that portion of the meeting to the Deputy Mayor, or to another Councilmember if the Deputy Mayor is absent. The Mayor's voting rights and veto power are as specified in RCW 35A.12.100.

3.7 Privilege of Council: Any Councilmember may bring forth a resolution or ordinance by submitting a timely request to the City Administrator for inclusion on the City Council Agenda. At the request of the Councilmember(s) sponsoring the proposed legislation their name(s) shall appear at the top of the legislation indicating such sponsorship.

4. Order of Business and Agenda

4.1 Order of Business: The order of business for all regular meetings shall be transacted as follows unless the Council, by a majority vote of the members present, suspends the rules and changes the order:

(1) Call to Order: The Mayor calls the meeting to order and requests that the City Clerk or designee announce the attendance of Councilmembers. The Mayor will indicate any Councilmember who is not in attendance and whether the Councilmember has

requested an excused absence. Excused absences will be handled as stated in 1.3.

(2) Pledge of Allegiance

(3) Proclamations and Presentations: A proclamation is defined as an official announcement made by either the City Council or the Mayor.

(4) Public Hearings: See Section 6

(5) Approval of Agenda: The Mayor may, with the concurrence of the Councilmembers, take agenda items out of order. Agenda items may be added pursuant to Section 4.2 of these Rules.

(6) Comments from the Public: Members of the audience may comment on items relating to any matter. Public comment sign-ups will be available at each regular Council meeting for the use of those citizens wishing to address the Council. Comments are limited to three (3) minutes per person and limited to five minutes per person speaking on behalf of a group; the allotted time may be modified by the Chair. No speaker may convey or donate his or her time for speaking to another speaker. Persons having more than three (3) minutes of comments may provide written comments to the City Clerk or designee. Copies of the written comments will be furnished to the Council at a later date.

(7) Consent Agenda: The Consent Agenda may contain items which are considered to be routine, non-controversial, and require no discussion, and may be approved in one motion. Items may include, but are not limited to: meeting minutes, payroll, claims, resolutions, budget amendments, park use requests, bid awards, contract or Interlocal authorizations, and previously discussed agreements or matters being submitted to Council for final approval. Any item on the Consent Agenda may be removed and considered separately as an agenda item at the request of any Councilmember.

(8) Discussion Items

(9) Mayor's Report: The Mayor updates the Council on current issues or items of Council interest, and may include a calendar of events.

(10) City Administrator's Report: The City Administrator updates the Council on current issues or items of Council interest and may include other staff participation.

(11) Councilmember Reports: Councilmembers may report on significant activities since the last meeting.

(12) Department Reports: Department Directors will be given an opportunity to discuss operational progress and issues.

(13) Unfinished Business: Those items that were continued or not finished from a previous agenda and second readings of ordinances. Discussion by the Council may be held at this time.

(14) New Business: Introduction or first reading of ordinances, staff reports, resolutions, and other items requiring Council action.

(15) Public/Council Comments

(16) Executive Session

(17) Adjournment

4.2 Council Agenda: The Mayor and City Administrator shall prepare the agenda for Council meetings. Subject to the Council's right to amend the agenda, no legislative item shall be voted upon which is not on the Council agenda, except in emergency situations (defined as situations which would jeopardize the public's health, safety or welfare). An item may be placed on a Council meeting agenda by any of the following methods: 1) by any two or more Councilmembers, 2) by a Council committee, and 3) by a Department Director with the approval of the City Administrator.

5. Consensus and Motions

5.1 Consensus Votes: When a formal motion is not required on a Council action or opinion, a consensus voice vote will be taken. The Chair will state the action or opinion. The Council as a group will indicate concurrence or nonconcurrence.

5.2 Motions: No motion shall be entertained or debated until duly seconded and announced by the Chair. The motion shall be recorded and, if desired by any Councilmember, it shall be read by the City Clerk or designee before it is debated and, by the consent of the Council, may be withdrawn at any time before action is taken on the motion.

5.3 Votes on Motions: Each member present shall vote on all questions put to the Council except on matters in which he or she has a conflict of interest. If a conflict of interest exists, such member shall disqualify himself or herself prior to any discussion of the matter and shall leave the Council Chambers.

5.4 Failure to Vote on a Motion: Any Councilmember present who fails to vote without a valid disqualification shall be declared to have voted in the affirmative on the question.

5.5 Motions to Reconsider: A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same or succeeding regular meeting. No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted.

5.6 Tele/video Conference Participation: From time to time, a Councilmember will not be able to be physically present at a regular Council meeting but will want to be involved in the discussion and/or decision on a particular agenda item. Telephone/computer system charges are to be at the Councilmember's own expense, unless waived in the Council motion. Adequate notice must be given to the City Clerk or Designee to allow setup of the required equipment prior to the specified Council meeting. No tele/video Conference participation for voting purposes shall be allowed for public hearings or any quasi -judicial proceedings. The procedure and guidelines for permitting a Councilmember to attend a Council meeting via speakerphone or video conference are as follows:

(1) The Rare Occasion: Attendance via speakerphone or videoconferencing should be the rare exception, not the rule, and is limited to two times per year per Councilmember. Examples of situations where tele/video conferencing would be appropriate include, but are not limited to:

a. Tele/video conferencing may only be used if an quorum of the Council is physically present for the meeting, with the exception of occasions when an agenda item is time sensitive and tele /video conferencing is needed for a quorum;
b. An agenda item is of very high importance to the Councilmember that cannot be physically present;
c. It is important for all Councilmembers to be involved in a decision, but one Councilmember is unable to be physically present;
d. Tele/video conferencing should be limited to one priority agenda item, not the entire Council meeting, at the Mayor's discretion.

(2) Attendance – Procedure

a. The Councilmember attending via speakerphone or video conferencing:
    i. Must be able to hear the discussion on the agenda item taking place in the Council chambers; and
    ii. Must be able to be heard by all present in the Council chambers.
b. When the particular agenda item is ready to be discussed, the Chair should state for the record:
    i. Let the record reflect that Councilmember _____ is attending via speakerphone or video conferencing for Agenda Item , relating to _____.
    ii. Councilmember _____, can you hear me? (There must be a clearly audible response in the affirmative.)
    iii. Councilmember _____, please confirm that no one else will be present in the room with you during this teleconferencing or video conferencing session. (There

must be a clearly audible response in the affirmative.)

iv. Let the record reflect that Councilmember _____, who is teleconferencing or video conferencing to participate in the proceedings related to Agenda Item _____, can be heard by all present in the Council chambers and no one else will be present in the room with him/her during this teleconferencing or video conferencing session.

c. Upon conclusion of the particular agenda item, the Chair should state:

i. Councilmember _____, discussion on Agenda Item _____ has concluded. Thank you for your attendance via speakerphone or video conferencing. The telephone or computer connection will now be terminated. (Connection should be terminated at this time.)

ii. Let the record reflect that the teleconferencing or videoconferencing session with Councilmember _____ has been terminated. Next on the agenda is.....

Examples of rare occasions and extraordinary circumstances would be: emergencies or illness, accident, unforeseen urgent business, etc.

5.7 Council Relations with City Staff

(1) There will be mutual respect from both City staff and Councilmembers of their respective roles and responsibilities when, and if, expressing criticism in a public meeting.

(2) Councilmembers shall not attempt to coerce or influence City staff in the selection of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or the granting of City licenses or permits.

(3) No Councilmember shall direct the City Administrator to initiate any action or prepare any report that is significant in nature, or initiate any significant project or study without the consent of a majority of

the Council. New initiatives having policy implementation shall be directed to a Council Committee for consideration.

(4) Individual requests for information can be made directly to the Department Director unless otherwise determined by the City Administrator. If the request would create a change in work assignments or City staffing levels, the request must be made through the City Administrator.

(5) To provide staff the necessary preparation time, Councilmembers will provide staff advance notice of any questions or concerns they may have regarding an agenda item prior to a public meeting, if possible.

5.8 Council Representation:

(1) If a Councilmember appears on behalf of the City before another governmental agency, a community organization, or through the media, for the purpose of commenting on an issue, the Council member shall state the majority position of the Council, if known, on such issue. Personal opinions and comments which differ from the Council majority may be expressed if the Councilmember clarifies that these statements do not represent the Council's position.

(2) Councilmembers need to have other Councilmembers' concurrence before representing (1) another Councilmember's view or position, or (2) the majority of Council's view or position with the media, another governmental agency or community organization.

(3) As a matter of courtesy, letters to the editor, interviews or other communication by a Councilmember of a controversial nature, which do not express the majority opinion of the Council, should be presented to the full Council prior to publication so that the Councilmembers may be made aware of the impending publication, when practical.

6. Public Hearing Procedures

6.1 Definition of Public Hearing: There are two types of public hearings: legislative and quasi-judicial. Legislative hearings focus on broad policy with general application. Quasi-judicial hearings focus on the rights of specific parties and decisions must be based on a formal record. The Mayor will state the public hearing procedures before each public hearing. Citizens may comment on public hearing items.

6.2 Speaker Sign-In: Prior to the start of a public hearing the Chair may require that all persons wishing to be heard sign in with the City Clerk or designee, giving their name and whether they wish to speak as a proponent, opponent or from a neutral position. Any person who fails to sign in shall not be permitted to speak until all those who signed in have given their testimony. The Chair, subject to the concurrence of a majority of the Council, may establish time limits and otherwise control presentations. (Suggested time limit is three minutes per speaker. Persons wishing to address the Council and having more than three (3) minutes of comments may provide written comments to the City Clerk or designee. Copies of the written comments will be furnished to Council at a later date.) The Chair may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, etc.).

6.3 Conflict of Interest/Appearance of Fairness: Prior to the start of a public hearing, the Chair will ask if any Councilmember has a conflict of interest or Appearance of Fairness Doctrine concern which could prohibit the Councilmember from participating in the public hearing process. A Councilmember who refuses to step down after challenge and the advice of the City Attorney, a ruling by the Mayor or Chair and/or a request by the majority of the remaining members of the Council to step down is subject to censure. The Councilmember who has stepped down shall not participate in the Council decision nor vote on the matter. The Councilmember shall leave the Council Chambers while the matter is under consideration, provided, however, that nothing herein shall be interpreted to prohibit a Councilmember from stepping down in order to participate in a hearing in which the Councilmember has a direct financial or other personal interest.

6.4 The Public Hearing Process: The Chair introduces the agenda item, opens the public hearing and announces the following Rules of Order:

(1) All comments by proponents, opponents or other members of the public shall be made from the podium; any individuals making comments shall first give their name and address. This is required because an official recorded transcript of the public hearing is being made.

(2) No comments shall be made from any other location. Anyone making "out of order" comments shall be subject to removal from the meeting. If you are disabled and require accommodation, please advise the City Clerk.

(3) There will be no demonstrations during or at the conclusion of anyone's presentation.

(4) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising his/her right of free speech.

- The Chair calls upon City staff to describe the matter under consideration.
- The Chair calls upon proponents, opponents and all other individuals who wish to speak regarding the matter under consideration.
- The Chair inquires as to whether any Councilmember has questions to ask the proponents, opponents, speakers or staff. If any Councilmember has questions, the appropriate individual will be recalled to the podium.
- The Chair continues the public hearing to a time specific or closes the public hearing.

7. Duties and Privileges of the Public

7.1 Meeting Participation: The public is welcome at all Council meetings and is encouraged to attend and participate prior to the deliberations of the Council. Recognition of a speaker by the Chair is a prerequisite and necessary for an orderly and effective meeting, be the speaker a resident, Councilmember, or staff member. Further, it will be expected that all speakers will deliver their comments in a courteous and efficient manner and will speak only to the specific subject under consideration. Anyone making out-of-order comments or acting in an unruly manner shall be subject to removal from the meeting. Use of cellular telephones is prohibited in the Council Chambers.

7.2 Subjects Not on the Current Agenda: Under agenda item "Public Comments" members of the public may address any item they wish to discuss with the Mayor and Council. They shall first obtain recognition by the Chair, state their name, address and subject of their comments. The Chair shall then allow the comments, subject to a three (3) minute limitation per speaker and a five (5) minute limitation per person speaking on behalf of a group. The allotted time may be modified by the Chair. No speaker may conveny or donate his or her time for speaking to another speaker. Persons having more than three (3) minutes of comments may provide written comments to the City Clerk or designee. Copies of the written comments will be provided to the Council at a later date. Following such comments, if action is required or has been requested, the Chair may place the matter on the current agenda or a future agenda or refer the matter to staff or a Council committee for action or investigation and report at a future meeting.

7.3 Comments and Suggestions to Council: When public comments or suggestions are brought before the City Council not on an agenda, the Chair shall first determine whether the issue is legislative or administrative in nature and then:

(1) If legislative, and a comment about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council

finds such comment suggests a change to an ordinance or resolution of the City, the Council may refer the matter to a committee, Administration or the Council of the whole for study and recommendation.

(2) If administrative and a comment regarding administrative staff performance, administrative execution of legislative policy or administrative policy within the authority of the City Administrator, the Chair should then refer the complaint directly to the City Administrator for his/her review if said complaint has not been so reviewed. The City Council may direct that the City Administrator brief or report to the Council when his/her response is made.

(3) The Chair will provide an opportunity for public comment on all Ordinances prior to their final adoption.

7.4 Personal and Slanderous Remarks: Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the Council may be requested to leave the meeting and may be barred from further audience before the Council during that Council meeting by the Chair or Presiding Officer.

7.5 Written Communications:

(1) Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the city's business or over which the Council had control at any time.

(2) The written communication may be submitted by direct mail or by addressing the communication to the City Clerk who will distribute copies to the Councilmembers. The communication will be entered into the record without the necessity for reading as long as sufficient copies are distributed to members of the audience/public.

7.6 Comments in Violation of the Appearance of Fairness Doctrine: The Chair may rule out of order any comment made with respect to a quasi-judicial matter pending before the Council or its Boards or Commissions.

Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

7.7 "Out of Order" Comments": Any person whose comments have been ruled out of order by the Chair shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the Chair may subject the individual to removal from the Council Chambers. These rules are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

8. Filling Council Vacancies and Selecting Deputy Mayor

8.1 Notice of Vacancy: If a Council vacancy occurs, the Council will follow the procedures outlined in RCW 42.12.070. In order to fill the vacancy with the most qualified person available until an election is held, the Council will widely distribute and publish a notice of the vacancy and the procedure and deadline for applying for the position.

8.2 Application Procedure: The Council will draw up an application form which contains relevant information that will answer set questions posed by Council. The application form will be used in conjunction with an interview of each candidate to aid the Council's selection of the new Councilmember.

8.3 Interview Process: All candidates who submit an application by the deadline will be interviewed by the Council during a regular or special Council meeting open to the public. The order of the interviews will be determined by drawing the names. Exact interview times can accommodate the schedules of the candidates. In order to make the interviews fair, applicants will be asked to remain outside the Council Chamber while other applicants are being interviewed. Applicants will be asked to answer questions submitted to them in advance of the interview and questions posed by each Councilmember during the interview process. The Councilmembers will ask the same questions of each

candidate. Each candidate will then be allowed two (2) minutes for closing comments. Since this is not a campaign, comments and responses about other applicants will not be allowed.

8.4 Selection of Councilmember: The Council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting.

A Councilmember may only nominate persons who have submitted an application and completed the interview process with the City Council. Nominations will be allowed from all Councilmembers from the floor (Open Nominations). Nominations will close once all Councilmembers have had an opportunity to make a nomination. A roll call vote will be administered by the City Clerk or his/her designee for all nominees. Each Councilmember when called upon will indicate his/her vote for a particular applicant. The applicant who receives a majority vote is the person selected. In the event that more than two applicants are nominated and no one applicant receives a majority vote, the applicant with the lowest number of votes is dropped and the Council will be asked to vote again on the remaining applicants until one applicant receives a majority vote or until the vote qualifies for the Mayor to break a tie per RCW 35A.12.100.

8.5 Selecting Deputy Mayor: The Deputy Mayor will be selected by a majority of the Councilmembers.

9. Creation of Committees, Boards and Commissions

9.1 Citizen Committees, Boards and Commissions: The Council may create committees, boards and commissions to assist in the conduct of the operation of City Government with such duties as the Council may specify not inconsistent with the City Code.

9.2 Types of Committees: There shall be four types of committees in the City of DuPont. A committee that acts on behalf of the legislative body,

conducts hearings, or takes testimony or public comment could be subject to the Open Public Meetings Act.

(1) Standing Committees. Such committees are established to conduct business delegated by the legislative body and may be authorized by either state statute or City Ordinance. An example would be the Planning Agency.

(2) Special Committees. Such committees are to investigate a specific subject and report back to the City Council. Such a group may be chaired by a Councilmember. Typically such a committee would focus on a policy issue or legislative matter. An example would be the Cultural Heritage Committee.

(3) Citizen Advisory Committee. Such committees are formed to promote citizen participation on a particular subject and provide guidance on community views on a subject. An example would be the Citizens Advisory Committee for a Property Tax Increase.

(4) Mayor's Committee. Such committees are formed to investigate a specific operational issue and report back to the Mayor and City Council. An example would be the Sequalitchew Creek & Edmond Marsh Committee.

9.3 Membership and Selection: Membership and selection of members shall be as provided by the Council if not specified otherwise in the City code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. All City Standing Committees shall sunset every even numbered year and may continue only upon the adoption of a Resolution of the Council restating or modifying the purpose of the body. No committee so appointed shall have powers other than advisory to the Council or to the Mayor except as otherwise specified in the City Code.

9.4 Removal of Members on Boards and Commissions: The Council may remove any member of any board or commission which it has created by a vote of at least a majority of the Council (this rule does not apply to

the Civil Service Commission or any other such body which has statutory procedures concerning removal).

10. Suspension and Amendment of These Rules

10.1 Suspension of These Rules: Any provision of these rules not governed by the City Code may be temporarily suspended by a vote of a majority of the Council.

10.2 Amendment of These Rules: These rules may be amended or new rules adopted by a majority vote of all members of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting.

11. Public Records

11.1 Public records created or received by the Mayor or any Councilmember should be transferred to the City Clerk's office for retention by the City in accordance with the Public Records Act, Chapter 42.17 RCW. Public records that are duplicates of those received by, or in the possession of the City, are not required to be retained. Questions about whether or not a document is a public record or if it is required to be retained should be referred to the City Attorney.

11.2 Electronic mail communications that do not relate to the functional responsibility of the recipient or sender as a public official, such as meeting notices, reminders, telephone messages and informal notes, do not constitute a public record. All other messages that relate to the functional responsibility of the recipient or sender as a public official constitute a public record.

11.3 Open Public Meetings Act regarding electronic mail: E-mails between elected officials of a governing body can implicate the Open Public Meetings Act. If discussing City business with a quorum of fellow Councilmembers via e-mail, it can constitute a meeting and all the requirements for a public meeting would have to be met or a violation of the Act could occur.

12. Rules of Conduct

Each Councilmember is elected by and answers to the citizens of DuPont. Our oath of office pledges that each of us will uphold the laws of the City of DuPont, the State of Washington, and the provisions of the constitution of the State and the United States. We have pledged ourselves to avoid conflicts of interest, the appearance of unfairness and to abide by other statutory directives.

These Rules of Conduct and standards of behavior have been adopted to guide us in instances where the law does not. They are based on common sense and courtesy, and may be enforced by the City Council through a motion of censure in accordance with the procedures as established by Robert's Rules of Order.

12.1 Respect: The citizens have elected each of us and by displaying respect and courtesy to our fellow Councilmembers, we honor the citizens' choice. We pledge that we will accord each Councilmember, the Mayor and staff the respect which their positions accord. We will extend this same respect to members of the public and to others who testify before us, recognizing that those individuals have a duty to conduct themselves in a reasonable manner.

12.2 Listen: We will listen to each other, to the staff and to the public. We will listen with an open mind. We will allow each speaker an equal opportunity to be heard within the time limits established by the Chair, so long as that individual adheres to our standards of conduct.

12.3 Fair Debate: Each Councilmember will be permitted an opportunity to speak. As Councilmembers, we will allow our fellow Councilmembers to finish their thoughts. We will adhere to the City Council's adopted Rules of Procedure. Each Councilmember will await recognition by the Chair before speaking.

12.4 Disclosure, Avoiding the Appearance of Impropriety: While state statutory provisions regarding the Appearance of Fairness Doctrine govern our conduct in quasi-judicial matters, Councilmembers will also attempt to avoid even the appearance of impropriety in all of our actions. When we are aware of an issue that might reasonably be perceived as a conflict, and even if we are in

doubt as to its relevance, we will reveal that issue for the record. We pledge that we will step down when required by the Appearance of Fairness Doctrine, that is, when an objective person at a Council meeting would have reasonable cause to believe that we could not participate fairly.

12.5 Maintain Our Legislative Focus: We pledge to respect the administrative function of the Mayor, City Administrator and staff. We will do so, however, without suspending our critical faculty and the legislative oversight which we have been elected to exercise.

12.6 Majority and Minority Rights: As we determine where the best interests and welfare of our citizens lie, we will always attempt to balance the wishes of the majority with the rights of the minority.

12.7 Open Process: We will carry on our debates in public based upon information in the record. In addition to honoring the requirements of the Open Public Meetings Act, we will endeavor to carry on all of our business in open public session based on information in the public record and equally accessible to all citizens.

12.8 Honor Confidences: To the extent required by law, we will honor the confidences to which we are privy due to our role as Councilmembers. In addition to any statutory requirement, we will avoid the release of any information that would give any person a competitive or unfair advantage and will endeavor to make sure that public information is equally and readily accessible to all members of the public and not just to specific constituencies.

12.9 Use of Electronic Communication Devices During Council Meetings Prohibited: Councilmembers and the Mayor shall not access any electronic communication device during Council meetings. Electronic communication devices include but are not limited to cell phones, tablets, laptops, and Personal Digital Assistants (PDA's). Accessing such communications could be construed as receiving public comment without the benefit of having the citizen in person to address their concerns.

If the Mayor or any Councilmember accesses an electronic communication device during a Council meeting then they will be prohibited from participating in the remainder of the meeting from that point onward which will be considered an excused absence (first time in calendar year). They must leave the premises for the remainder of the meeting. They may return after the final gavel adjourning the meeting. If after the Councilmember's departure means that there is no longer a quorum, then the meeting shall be adjourned. If the Mayor accesses their electronic device then the Deputy Mayor will assume the role as head of the meeting. If this occurs and the Deputy Mayor is not in attendance, then the meeting shall be adjourned.