

Washington State Auditor's Office

Citizen Hotline Report

City of Port Angeles
Port of Port Angeles
Harbor Works Public Development
Authority

Report No.

Issue Date
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WASHINGTON
BRIAN SONNTAG
STATE AUDITOR



**Washington State Auditor
Brian Sonntag**

Date – (Issued by OS)

City of Port Angeles
Port of Port Angeles
Harbor Works Public Development Authority
Clallam County
Port Angeles, Washington

Report on Citizen Hotline Investigation

Attached is the official report on Citizen Hotline Case No. **H-08-738** for the **City of Port Angeles**, the Port of Port Angeles and Harbor Works Public Development Authority.

This referral was submitted to us under the provisions of Chapter 43.09 of the Revised Code of Washington. This report contains the results of our investigation.

Questions about this report should be directed to Deputy Director of Special Investigations **Kim Hurley** at **(360) 725-5352** or Director of Special Investigations **Jim Brittain** at **(360) 902-0372**.

BRIAN SONNTAG, CGFM
WASHINGTON STATE AUDITOR

Investigation Summary

City of Port Angeles Port of Port Angeles Harbor Works Public Development Authority Clallam County

ABOUT THE ENTITIES

City of Port Angeles

The City of Port Angeles serves approximately 19,000 citizens in Clallam County. It is administered by a Council-Manager form of government. The seven-member City Council is elected at large and serves four-year terms with a limit of three consecutive terms. The City Council elects a Mayor and Deputy Mayor from the Council to serve two-year terms. The City operates on an annual budget of approximately \$74 million. Its 230 employees provide services including electric, water, wastewater, solid waste, police, fire, emergency medical, parks and recreation, planning and building permits, community and economic development, street maintenance and construction, public works, engineering and general administrative services.

Port of Port Angeles

The Port of Port Angeles is in Clallam County and has approximately 50 employees and a \$5 million annual budget. The Port is governed by a three-member Board of Commissioners that meets twice a month. Board members and management take an active role in monitoring Port activities and ensuring fiscal integrity.

Harbor Works Public Development Authority

The City of Port Angeles created this Public Development Authority on May 20, 2008 and named it Harbor Works. At the same May 20, 2008 meeting, the City and the Port entered into an inter-local agreement to operate Harbor Works to acquire and clean up a mill site that was closed in 1997. While this site needs environmental cleanup, it contains a five million gallon secondary treatment storage tank. The City wants the tank to help it meet a Department of Ecology-mandated cleanup of its sewer overflows.

ABOUT THE INVESTIGATION

On October 1, 2008, a citizen contacted the State Auditor's Office Citizen Hotline and asserted violations of the Open Public Meetings Act, an improper formation of the Public Development Authority and raised concerns about financial issues.

ASSERTIONS AND RESULTS

Assertion 1:

The City and/or Port did not comply with the Open Public Meetings Act when conducting business regarding the Public Development Authority.

Results

We reviewed meeting minutes for the City and Port, e-mail and other documents and found no violations of the Open Public Meetings Act.

Assertion 2:

The formation of the Authority was not in accordance with its Charter and, therefore, the Authority is not a legal entity.

Results

We reviewed the minutes of the meeting between the City and Port and found one member of the Authority's Board was not nominated in accordance with the Charter. The Charter requires the City and the Port to nominate two individuals each. Once the four individuals were approved by vote of the governing bodies, the four were required to nominate and vote on one additional member. Initially, the City nominated three Board members while the Port nominated and approved two members. However, at its October 1, 2008 public meeting the Board voted to confirm the appointment of the fifth member. We consider this matter resolved.

Assertion 3:

The City of Port Angeles did not form the Authority in accordance with Chapter 4 of the Municipal Code as required.

Results

The ordinance creating the Authority stated if provisions of Title 4 of the Municipal Code conflict with the ordinance creating the Authority, the Title 4 provisions would be inapplicable to the Authority. Thus, the ordinance creating the Authority supersedes some provisions of previously adopted ordinances. A City Council is permitted to adopt ordinances that repeal or amend previously adopted ordinances.

Assertion 4:

As of the September 2008 Authority meeting, the Board had not elected or bonded a Treasurer, which is a violation of its Charter.

Results

We reviewed the Public Development Authority's Charter and found no provision for selecting and bonding a Treasurer with a certain time period. In its November 2008 meeting, the Authority nominated and approved a Treasurer.

Assertion 5:

The City, Port and Public Development Authority do not separate their finances and the Authority has no organized accounting system.

Results

The initial funding for the Authority was to be contributed by the City and the Port as documented in the inter-local agreement. At the time of the hotline referral, the Authority had no employees, no physical address, no revenue source other than the amounts pledged by the City and the Port and no accounting system.

The Authority passed a resolution on June 23, 2008 to allow the City to pay for its initial expenses and to reimburse the City for all expenses incurred on its behalf. This is an acceptable way to handle accounting for the inception period of a public entity.

CITY'S PLAN OF RESOLUTION

PORT'S PLAN OF RESOLUTION

HARBOR WORKS PUBLIC DEVELOPMENT AUTHORITY'S PLAN OF RESOLUTION

AUDITOR'S REMARKS

We thank **City, Port and the Public Development Authority** officials and personnel for their assistance and cooperation during the investigation.

INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

Revised Code of Washington 42.30.030 states:

"All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter."

Revised Code of Washington 42.30.020(2) states:

"'Governing body' means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment."

Revised Code of Washington 42.30.110 states, in part:

"(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: ... (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; ... (i) To discuss with legal counsel representing the agency matters related 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. ... (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."

City of Port Angeles, Ordinance 3333, passed May 20, 2008:

"AN ORDINANCE creating the Port Angeles Harbor Works Public Development Authority; authorizing a charter and bylaws therefor; establishing a Board of Directors to govern the affairs of the PDA; and describing how the PDA shall conduct its affairs."

City of Port Angeles, Resolution 2-08, passed May 20, 2008:

“A RESOLUTION of the City Council of the City of Port Angeles, Washington, in support of a cooperative effort with the Port of Port Angeles for the cleanup and redevelopment of the Port Angeles harbor and the former Rayonier Mill Site.”

Official City of Port Angeles meeting minutes

Official Port of Port Angeles meeting minutes

Official Harbor Works Public Development Authority meeting minutes.