

SUNSET AUDIT REPORT

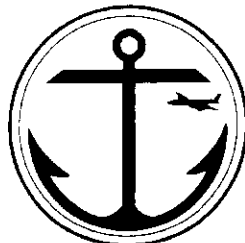
2012-S8

Port Commission

Port of Anchorage

August 15, 2012

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Mayor Dan Sullivan

August 15, 2012

Honorable Mayor and Members of the Assembly:

I am pleased to present **Sunset Audit Report 2012-S8, Port Commission, Port of Anchorage** for your review. A brief summary of the report is presented below.

In accordance with Assembly Ordinance Number 2011-64(S-1), Section 14, we have performed a sunset audit of the Port Commission. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Port Commission should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

Based on our review of meeting minutes, resolutions and attendance records, we recommend that the Port Commission be reauthorized.

The Port Commission will sunset on October 14, 2012 unless reauthorized by the Assembly.



Peter Raiskums, CIA, CFE
Director, Internal Audit

August 15, 2012

Sunset Audit Report 2012-S8
Port Commission
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Introduction. We have performed a sunset audit of the Port Commission (Commission) as required by Assembly Ordinance Number 2011-64(S-1), Section 14 which states:

"The Municipal Clerk shall notify the Assembly and the Mayor by assembly memorandum at least 120 days prior to the sunset of any board or commission, and an ordinance for reauthorization shall be introduced through the Assembly Chair with the assembly memorandum. The assembly memorandum shall include direction to the Office of Internal Audit to audit the board or commission under Anchorage Municipal Code section 3.20.110 D.3. and 4. The Office of Internal Audit shall report its findings to the Mayor and Assembly at least 60 days, prior to sunset, prior to vote by the Assembly on reauthorization."

Objective and Scope. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Commission should be reauthorized. Our audit included a review of meeting minutes, Commission resolutions and agendas, and Commission member authorization and participation.

The audit was conducted in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review, and accordingly, included tests of accounting records and such other auditing procedures as we considered necessary in the circumstances. The audit was performed during the period of July through August 2012.

Overall Evaluation. Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Port Commission be reauthorized.

SUNSET FACTORS

The following factors were used in our evaluation and are presented for information to the Mayor and Assembly:

1. **Name of Commission.**

Port Commission

2. **Sunset Date.**

October 14, 2012

3. **The purpose and goal of the Commission.**

Anchorage Municipal Code (AMC) 11.50.030.B, Port commission, states "The port commission shall regulate the operation of terminal and transportation facilities at the port by promulgating a terminal tariff containing rates, charges, rules and regulations applicable at the port and subject to the approval of the assembly and the Federal Maritime Commission."

4. **Have Commission members been appointed?**

AMC 11.50.030.A states "Membership.

- 1. The port commission shall consist of nine members appointed by the mayor and confirmed by the assembly; and*
- 2. Notwithstanding the qualifications of board and commission members set out in subsections 4.05.035A. and B., up to two members of the port commission may be Alaskan citizens who are not residents of the municipality."*

Audit Finding. Currently, the Commission is fully staffed.

<u>Commission Member</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term Expiration Date</u>
Bradley Kroon	11-17-09		10-14-12
Wilbur O'Brien	11-17-09		10-14-12
Capt. Ron Ward	3-29-11		10-14-12
Simon Listeck	2009	2-15-11	10-14-13
Patrice Case (Fairbanks)	2-15-11		10-14-13
Suzanne "Sue" Linford	2001/2004	2007	10-14-13
Stephen "Steve" Saunders			10-14-14
John Stallone (Big Lake)	2006/2008		10-14-14
James DiMaggio	9-13-11	11-8-11	10-14-14

Source: Mayor's Office

5. Are the terms of the Commission members current?

AMC 4.05.040, Terms, states "Except as otherwise specified in this Code, the regular term of each member of a board or commission is three years commencing on October 15 of the year in which appointed and ending three years thereafter on October 14, provided however, to avoid a vacancy until new appointments can be made and confirmed, an appointed member's term is extended until a new appointment is confirmed or a maximum of 120 days which ever occurs first. The terms of initial or subsequent appointments to a board or commission shall be staggered so that, as nearly as possible, a pro rata number of its members shall be appointed each year of the established regular term of office."

Audit Finding. The terms for all Commission members are current.

6. **Are positions deemed vacant after the maximum number of absences?**

AMC 4.05.060.A, Attendance requirements; vacancies, states "... a vacancy shall occur if a member during any 12-month period while in office:

- 1. Is absent from three regular meetings without excuse;*
- 2. Is absent from:*
 - a. six regular meetings; or*
 - b. eight regular meetings for members of the planning and zoning commission, platting board, or zoning board of examiners and appeals; or*
- 3. Fails to attend a two-thirds majority of the regular meetings."*

In addition, AMC 4.40.020, *Port Commission*, found under AMC Chapter 4.40, *Regulatory and Adjudicatory Boards and Commissions*, establishes the Port Commission. Since the Port Commission is regulatory, AMC 4.05.060.F, applies to the Port Commission.

AMC 4.05.060.F states "Physical presence by a board or commission member is required to constitute attendance at a regular or special public meeting of a regulatory or adjudicatory board or commission. Regulatory and adjudicatory boards and commissions are set forth in Chapter 4.40. Written, telephonic or electronic communication shall not constitute attendance at a public meeting of a regulatory or adjudicatory board or commission. All other boards or commissions may allow attendance and full participation by members using telephonic or video conferencing equipment or facilities."

Audit Finding. One member was absent from three regular meetings without an excuse within any 12 month period. Although this member attended telephonically, AMC 4.05.060.F requires the physical presence of a regulatory commission member at Commission meetings. This member has not been removed from the Commission.

The same member noted above was also absent from six regular meetings within a 12 month period. Although this member attended telephonically, AMC 4.05.060.F requires the physical presence of a regulatory commission member at Commission meetings. This member has not been removed from the Commission.

Two members failed to attend two thirds of the regular meetings in the 12 month period from June 2011 to May 2012. One of these Commission members attended telephonically; however, AMC 4.05.060.F requires the physical presence of a regulatory commission member at Commission meetings. These members have not been removed from the Commission.

7. **Does the Commission meet regularly?**

AMC 4.05.090, Meetings, states "A board or commission shall hold regular monthly meetings at such time and place as may from time to time be designated by the board or commission, but meetings need not be held if no business is pending. Boards and commissions shall advise the public of their meeting schedules, or publicly advertise their meetings where necessitated by statutory requirements. The chairman of a board or commission, or the municipal employee who is designated as an ex officio member of the board or commission pursuant to Section 4.05.140, or a majority of the board or commission, may call a special meeting of the board or commission. Meetings of all boards and commissions shall be open to the public, except for an executive session, from which the public may be excluded."

Audit Finding. From January 2011 through June 2012 the Commission met nine times. These meetings are publicly announced on the Municipal Public Notices website.

8. **Are minutes taken and published?**

AMC 4.05.130, Reports, minutes and public hearing records, states "A board or commission shall keep minutes of the board or commission proceedings, and such minutes shall record the vote of each member physically present upon every question formally presented to the board or commissions for its consideration. The minutes shall be maintained in the custody of the municipal agency which supplies staff support to the board or commission and shall be a public record, open to inspection by any person."

Audit Finding. Yes, minutes were taken at each Commission meeting. Port of Anchorage staff keeps a copy available for the public. In addition, minutes are available on the internet.

9. **Do meetings have action items or other business?**

Anchorage Municipal Code (AMC) 11.50.030.C states "The port commission may, pursuant to Chapter 3.40, promulgate rules and regulations relating to the operation of terminal and transportation facilities at the port."

Audit Finding. Minutes contain comments from the Director and status updates regarding various Port projects and functions. In addition, the Commission does promulgated tariffs. However, no tariffs were promulgated from January 2011 to July 2012.