

# SUNSET AUDIT REPORT

2015-S6

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Port Commission

Port of Anchorage

August 14, 2015

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# Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 14, 2015

Honorable Mayor and Members of the Assembly:

I am pleased to present **Sunset Audit Report 2015-S6, 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, 2015 unless reauthorized by the Assembly.

Michael Chadwick, CICA  
Acting Director, Internal Audit



# Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 14, 2015

**Sunset Audit Report 2015-S6  
Port Commission  
Port of Anchorage**

**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 June through July 2015.

**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, 2015

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

*Anchorage Municipal Code (AMC) 11.50.030.B, Powers and duties, 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, Membership, states*

*"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.

<b><u>Commission Member</u></b>	<b><u>Most Recent Assembly Confirmation</u></b>	<b><u>Term Expiration Date</u></b>
Patrice Case (Fairbanks)	10-8-13	10-14-16
Bradley Kroon	10-9-12	10-14-15
Suzanne Linford	10-8-13	10-14-16
Simon Lisiecki	10-8-13	10-14-16
Wilbur O’Brien	10-9-12	10-14-15
Robert Pawlowski	10-9-12	10-14-15
Stephen Saunders	9-9-14	10-14-17
Stephanie Kesler	9-9-14	10-14-17
Andrew MacLeod	10-7-14	10-14-17

Source: Assembly Memorandums

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 Commission. Since the Commission is regulatory, AMC 4.05.060.F applies to the 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.”*

In 2013, AMC 11.50.030.A.3 was amended to allow Commission members to attend and participate in meetings using telephonic or video conferencing equipment or facilities.

**Audit Finding.** No members were absent from three regular meetings without an excuse within any 12 month period.

One member was absent from six regular meetings within any 12 month period. This member has not been removed from the Commission.

Two members failed to attend two thirds of the regular meetings within any 12 month period from January 2014 through June 2015. 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 2014 through June 2015, the Commission met 13 times. Meetings are publicly announced on the Municipality of Anchorage's 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, Commission minutes were taken at each Commission meeting. Port of Anchorage (Port) staff keeps a copy available for the public.

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

*AMC 11.50.030.C, Regulations, 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 contained comments from the Director and status updates regarding various Port projects and functions. In 2014, the Commission adopted two resolutions. One resolution supported the Harbor Facility Grant Application to the State of Alaska. The other resolution approved the Port of Anchorage Terminal Tariff No. 8 and recommended that the Anchorage Municipal Assembly approve the tariff. In addition, in May 2014, the Commission issued a letter of support regarding the Anchorage Centennial Maritime History Project sent to the Anchorage Centennial Commission.