

SUNSET AUDIT REPORT

2018-S6

Port Commission

Port of Alaska

August 10, 2018

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Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 10, 2018

Honorable Mayor and Members of the Assembly:

I am pleased to present **Sunset Audit Report 2018-S6, Port Commission, Port of Alaska**, 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 is staffed with seven of the required nine members. However, the terms for four Port Commission members expired on October 14 in 2015, 2016, and 2017 (two Port Commission members), but these members continue to serve on the Port Commission.

The Port Commission will sunset on October 14, 2018, unless reauthorized by the Assembly.

Michael Chadwick, CIA, CICA
Director, Internal Audit



Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

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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, resolutions and agendas, and member authorization and participation.

We conducted this performance audit in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained

provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was performed during the period of May through July 2018.

Overall Evaluation. Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Commission be reauthorized. The Commission is staffed with seven of the required nine members. However, the terms for four Commission members expired on October 14 in 2015, 2016, and 2017 (two Commission members), but these members continue to serve on the Commission.

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, 2018

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

Anchorage Municipal Code (AMC) subsection 11.50.030B, 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 subsection 11.50.030A., 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 staffed with seven of the required nine members.

<u>Commission Member</u>	<u>Most Recent Assembly Confirmation</u>	<u>Term Expiration Date</u>
Bradley Kroon	10-9-12	Expired 10-14-15
Simon Lisiecki	10-8-13	Expired 10-14-16
Stephanie Kesler	9-9-14	Expired 10-14-17
Andrew MacLeod	10-7-14	Expired 10-14-17
Moire Duggan	7-12-16	10-14-18
Robert Pawlowski	7-12-16	10-14-18
Aves Thompson	5-9-17	10-14-18
Vacant		
Vacant		

Source: Assembly Memorandums

5. Are the terms of the Commission members current?

AMC section 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 three of the seven Commission members are current. The terms for the remaining four Commission members expired on October 14 in 2015, 2016 and 2017 (two Commission members), but these members continue to serve on the Commission.

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

AMC subsection 4.05.060A., 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."*

Audit Finding. No members were absent from three regular meetings without an excuse within any 12-month period from January 2017 through June 2018.

No members were absent from six regular meetings within any 12-month period from January 2017 through June 2018.

One member failed to attend two-thirds of the regular meetings in the 12-month periods from February 2017 through January 2018 and from July 2017 through June 2018. In addition, one member failed to attend two-thirds of the regular meetings in the 12-month period from July 2017 through June 2018. These members have not been removed from the Commission.

Note: Attendance requirements found in AMC subsection 4.05.060A. were amended on April 24, 2018, by Assembly Ordinance Number 2018-31, as amended. According to Assembly Counsel, this ordinance is effective prospectively. As a result, the amended changes did not affect this sunset audit for the period beginning January 2017 and ending June 2018. AMC subsection 4.05.060A. cited above is the language prior to the April 24, 2018, amendment.

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

AMC section 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 2017 through June 2018, the Commission met 10 times. The Commission's website states that "The next Port Commission meeting is scheduled at: TBA". In addition, meetings are publicly announced on the Municipality of Anchorage's Public Notices website.

8. Are minutes taken and published?

AMC section 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. Minutes were taken at each Commission meeting. Port of Alaska staff keeps a copy available for the public. In addition, the January 10, 2018, and the April 25, 2018, meeting minutes are available on the Port of Alaska's website.

9. Do meetings have action items or other business?

AMC subsection 11.50.030C., 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. In 2017, the Commission approved two resolutions. One resolution endorsed and supported Assembly Ordinance 2017-74 and urged the Assembly to approve it. The other resolution supported a project regarding the south floating dock relocation and partial replacement and endorsed entering into a grant agreement with the State of Alaska, Department of Transportation and Public Facilities for a Harbor Facility Grant. In addition, in 2018, the Commission approved recommended changes and additions to a terminal tariff. Finally, meeting minutes contained comments from the Director and status updates regarding various Port of Alaska projects and functions.