



# Commissioner Practices Review Summary of Current State of Findings

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# Scope of Review

- Purpose of Review
  - To examine certain Commissioner practices relating to
    - Credit card use
    - Selected other activities
  - To identify potential concerns
  - To provide recommendations in response
- This review was **not** an “audit”
  - Review of information selective not exhaustive (more reactive than proactive)
  - Goal to present factual findings sufficient to help Commissioners determine potential next steps

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## Actions to Date



- Reviewed relevant policies
- Obtained and reviewed documents
- Conducted interviews
  - Port of Seattle Staff from Commission Office, CEO's Office, Accounting and Financial Reporting Departments, Benefits, and other management employees
  - Port of Seattle Commissioners
- Conducted follow up interviews/phone conversations/emails as needed
- Provided interim briefing to POS Commissioners
- Provided periodic briefings to Workplace Responsibility Office/General Counsel

# Resolution No. 3628



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## Application of AC Policies

- Resolution 3628 **does not** state that Commissioners will be subject to the same policies relating to travel and expense practices as employees are (i.e. AC policies)
- For example, some parts of AC-1 and AC-2 are directly taken from Resolution No. 3628 and clearly apply to Commissioners and/or employees - for other parts, such as “Meals not in travel status,” it is not clear from the way these sections are written that they apply to Commissioners
- Nonetheless, AC policies are generally presumed to include the Commissioners and have been applied as such by Commission and Accounting and Financial Reporting staff –although this view is not uniformly held in the Commission office
- Several Commissioners have stated that they do not believe some of these Port policies, such as the “Meals not in travel status,” should or do apply to them - in general, though, they have agreed to the application of these policies
- Consensus among Commission and other Port staff for
  - Need for clarity in what policies apply to Commission
  - Need for clarity in existing policy language

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# Relevant Policy Reviewed AC-1 Travel Planning, Fund Advances and Port Credit Cards\*



- Proper Use
  - **Port credit cards may be used to charge only allowable Port Business expenses** (emphasis added)
- Improper Use
  - **Credit cards acquired by the Port for Commissioners or employees may be used only in connection with authorized Port business or travel**
  - **Personal charges are not allowed on Port credit cards** (emphasis added)
  - The Port of Seattle will audit the use of credit cards and report any discrepancies
  - Improper use of the credit card may result in disciplinary action, up to and including termination of employment

**\*Commissioners have not fully adopted, but applied to Commissioner expenditures**

# Relevant Policy Reviewed AC-2\*

## Acceptable Business or Travel Expenses



- Meals Not in Travel Status
  - Expenses incurred for meals exclusively between and among Port employees are not normally reimbursable while not in travel status, except
    - Meals consumed on-site for staff meetings or retreats lasting more than a half day
    - Meals consumed on-site when an integral part of a job related seminar, meeting, conference, convention, or training occurs during the meal
  - Alcohol is not reimbursable unless Port staff engage in promotional hosting activities
- Working Meals
  - Except for above or when approved by specified positions, expenses incurred for meals during meetings between Port employees are not reimbursable

**\*Commissioners have not fully adopted, but applied to Commissioner expenditures**

# Relevant Policy Reviewed



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## AC-2 (cont)

- Business Meetings/Conferences/Seminars
  - Necessary and reasonable business expenses are reimbursable at cost when proper authorization to attend is obtained
  - Authorization must prove legitimate business purpose for attendance
  - Other actual miscellaneous expenses may be reimbursed as incurred, when accompanied by receipt and justification
  - Note: "Business Meetings" are defined as meetings of official groups in which the Port District holds memberships or is otherwise affiliated for the purposes of promotion, education, research, or joint action - Legitimate expenses may include but are not limited to, registration fees, printed matter, business telephone calls, baggage handling, or such other miscellaneous items as may be necessary in order to participate on the official proceedings

## Relevant Policy Reviewed AC-4 Promotional Hosting



- Members of the Port Commission, CEO [and others designated] – are specifically authorized to make promotional hosting expenditures
- (Note – some years ago Commissioners decided to exclude themselves from promotional hosting and that practice has not been changed)



# Relevant Policy Reviewed



## Resolution No. 3583 (cont.)

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- Whereas:
  - High moral and ethical standards among public officials are essential to good government
  - Port Commission strongly supports organizational policies and procedures that maintain the public's trust and confidence and ensure fair dealings in all Port transactions

- Preamble:

- It is assumed and expected that a Commissioner will act in accordance with applicable law and with integrity, and will strive to avoid any appearance of impropriety in the conduct of his/her office
- Ultimately, ethics for Port Commissioners are a matter of personal honesty, common sense and good judgment



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# Relevant Policy Reviewed

## Resolution No. 3583 (cont.)

- Section 3. Use of Office:
  - A Port Commissioner shall not knowingly use his or her office for personal or family gain or profit
- Section 4. Conflicts of Interest:
  - Special Consideration Prohibited. A Port Commissioner shall avoid circumstances in which it appears, or to a reasonable person might appear, that the Port Commissioner is requesting or otherwise seeking special consideration, treatment or advantage
  - Appearance of Impropriety. A Port Commissioner shall not request or otherwise seek special consideration, treatment or advantage from others, or knowingly engage in activities which are in conflict, or which have the potential to create a conflict, with the performance of official duties
    - 2. Solicits for himself/herself or for another, a Gift or any other thing of value from the Port or from any Person having dealings with the Port...

# Relevant Policy Reviewed

## Resolution No. 3583



- Section 4. Financial or Beneficial Interest
  - Contracts Prohibited No Port Commissioner or his/her Immediate Family shall (i) have a Financial or Beneficial Interest, direct or indirect, in any contract which may be made by, through or under the supervision of the Port Commission, or which may be made for the benefit of the Port
- Section 9. Board of Ethics
  - Powers
    - Interpret provisions
    - Investigate and report to Port Commission
    - Summon witnesses
    - Impose sanctions

# Transparency Code of Conduct Signed Annually



- "I give my personal commitment to fostering and maintaining a culture of accountability and transparency within the Commission, among Port of Seattle employees, and between the Port of Seattle and King County's citizens"
- "As Commissioner, I will support and advance policies and practices that increase the Port's openness and accountability, including support to any and all Commission efforts to limit the use of executive sessions and to subject executive session deliberations to appropriate annual review"

# General Summary of Issues



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- Improper credit card use – (assuming application of AC policies)
  - Charging personal expenses to Port credit card
    - Issue that such charges violate Port policy and require staff time/resources to identify and process for reimbursement
    - Issue of timeliness of reimbursement
  - Charging meals that are not allowed
- Propriety of coverage of conference cancellation fee
- Propriety of a Commissioner attending a Commission event where other Commissioners felt excluded or that might have been perceived as benefitting that Commissioner outside of the Port
- Potential unauthorized credit card use on behalf of a Commissioner
- Propriety of Commissioner attending an outside meeting arranged by Port staff on a matter on which the Commissioner was alleged to have a personal interest
- Propriety of a Commissioner request for Domestic Partner insurance coverage
- Propriety of a Commissioner asking Port Staff to speak at a class being taught by the Commissioner in the Commissioner's absence
- Propriety of a Commissioner returning a Port phone with an inappropriate photograph stored on the memory
- Propriety of a Commissioner giving an interview on outside Port project when Port was identified in news story
- Propriety of a Commissioner entering into a personal services contract with an entity that had interactions with this Commissioner independently and through the Port

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# Contextual Observations



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- Although Commission staff try to familiarize new Commissioners with Port policies and practices, there is no specific Commissioner orientation
- Policies relating to Commissioners vs. employees are not clear
- One way Commissioners have dealt with credit card policy ambiguity is to stop using them – which does not address the underlying issues
- There is no active mechanism through which the Commission as a body uniformly identifies, evaluates or responds to potential breaches of policy, ethics or conflict of interest or through which Commissioners hold themselves or each other accountable (the Board of Ethics is inactive)
- There is no identified mechanism through which staff concerns relating to Commissioner adherence to policy or interaction with staff are brought to Commissioner attention or resolved
- There is no identified mechanism through which Commissioner concerns with staff are identified or resolved
- Without resolving outstanding issues at staff or Commissioner level – individuals can lose the benefit of the doubt and interactions and/or motives can be misconstrued
- There appear at times to be decisions relating to policy/ethics/conflicts of interest made by Commission office staff on behalf of but not in consultation with the Commissioners
- The roles/responsibilities within the Commission office as relate to staff and Commissioners themselves are not clear – thus making it difficult both to identify responsibilities within the office and to hold people accountable for meeting clear expectations
- Impact of ambiguity on Port staff and Commission staff from efforts to support Commissioners and Commission activities consistent with POS expectations



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# Credit Card Commissioner Albro

Event	Issue	Rationale	Result	Timing
5/4/10 Charged bfast w/BB \$58.95	AC-2	Unaware AC-2 applied to Comm	Repaid	12/8/10
11/15/10 Charged Lunch w/RH \$43.90	AC-2	Unaware AC-2 applied to Comm	Repaid	12/8/10

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# Credit Card Commissioner Bryant

Event	Issue	Rationale	Result	Timing
6/25/10 Prom. Hosting Spokane \$88.45	No Hosting	Unaware	Repaid	9/30/10
8/3/10 Dinner w/GT \$26.74	Unclear whether fits within AC-2	Presumed appropriate	Comm. Director approved charge	





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# Credit Card

## Commissioner Creighton

Event	Issue	Rationale	Result	Timing
1/21/10 Meal 28.59	AC-1	To be repaid	Repaid	2/23/10
1/21/10 Meal 19.21	AC-1	To be repaid	Repaid	2/23/10
1/21/10 Hotel 109.40	AC-1/AC-2	To be repaid	Repaid	2/23/10
3/19/10 Hotel and expenses \$544.24	AC-1/AC-2	Tacked on to Port trip bill – to be repaid	Repaid	12/7/10

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# Credit Card Commissioner Creighton

Event	Issue	Rationale	Result	Timing
Personal expenses offsite mtg \$75.00	AC-1	To be repaid	Repaid	7/19/2010
Acknow- ledged few personal expenses 2011	AC-1	Mistake	Repaid	



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# Credit Card Commissioner Holland

Event	Issue	Rationale	Result	Timing
2/2010 Repeated personal purchases \$39.00	AC-1	Did not understand expense policy	Repaid	7/12/10
2-3/2010 Same \$248.00	AC-1	Same	Repaid	7/12/10
3-4/2010 Same \$350.97	AC-1	Same	Repaid	5/28/10
4-6/2010 Personal travel \$53.10	AC-2	Personal	Repaid	9/10/10

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# Credit Card Commissioner Holland

Event	Issue	Rationale	Result	Timing
6/2010 Travel/ alcohol \$288.48	AC-1, AC-2	First overseas trip - thought covered	Total Amount for 6-8 expenses due was \$400	
6-8/2010 Addtl. personal or improper travel expenses		No stated excuse - had been instructed by staff on appropriate expenses	Check -Delayed -NSF Cashier's check	12/1/2010  Next day

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# Credit Card Commissioner Holland

Event	Issue	Rationale	Result	Timing
1/2011 - Had turned in credit card prior, wanted back for trip to Hawaii	Employee with so many issues would not get card; CEO authorizes	CEO says he will take responsi- bility for charges	Card given to Comm	
1/2011 Personal Travel Expenses \$115.46	AC-2		Repaid	As of 3/2011

# Credit Card

## Commissioner Tarleton

Event	Issue	Rationale	Result	Timing
3/10 Cancel fee \$1500	Who should bear cost	No set policy applied to Comm	Port paid (Comm not asked to repay)	
5/10 Donation \$75	AC-1		Repaid	5/10
8/2010 2 airline change fees \$150	AC-1/AC-2		Repaid	1/2011
9/2010 Non-Port travel \$716	AC-1/AC-2	Part of larger Port trip October 11, 2011	Repaid	10/2010



# Additional Issues Identified

## General

- Use of Port property – email, staff resource, computer, etc. – for non-Port business
- Commissioner hesitance to use Port credit cards
- 10/15/2010 email CFO to Commissioners – re personal charges reiterating AC-1/AC-2
- Unclear who is responsible for managing Commission staff, expectations, accountability
- Commissioner cancellation of events or appearances once fees are non-refundable
- Need to balance extensive reach of Port with outside employment/engagements without raising conflicts of interest concerns
- Impact of Commissioner behavior on all Port staff

# Additional Issues Identified Specific



- **Commissioner Albro**
  - None
- **Commissioner Bryant**
  - Eastern Washington Round Table trip
    - Inclusivity
    - Any potential or apparent conflicts
  - Issue raised by two Commissioners
    - Legal opinion from GC
    - Not apparently shared with entire Commission
    - What is process/procedure/practice
- **Commissioner Creighton**
  - None



# Additional Issues Identified



## Specific

### ○ Commissioner Holland

- Camera Equipment – Nov/Dec 2010
  - Potential unauthorized use by 3<sup>rd</sup> party of Port credit card – denied and unsubstantiated
  - Delay in returning camera and parts to Port office – substantiated
- Attended meeting with staff and private party re Green Initiative
  - Perception of personal gain
  - Denied – tried to find private funding for Port project – no personal interest
  - Appears related to another issue brought to Workplace Responsibility attention whether Commissioner was attempting to steer business to particular vendor
    - Reviewed by WR
    - Commissioner acknowledged appearance, denied actual, indicated understood
- Domestic Partnership Coverage - 2011
  - Couple month delay in informing Port of termination of 2010 DP
  - Submitted form for 2011 DP coverage as well as proof of State Registration
    - HR rejected form due to “mistake” and deemed State Registration insufficient – but coverage provided

# Additional Issues Identified Specific



- **Commissioner Holland (cont.)**

- **SSCC Class Coverage – 3/2011**

- Directly asked staff to be guest speakers (potential for staff to feel compelled)
- Did not get paid for classes when not there
- Did not notify Commission or Port staff (including CEO) of requests to Port Staff – thus others caught off guard when employees had questions/concerns
- Not unusual for Port staff to speak at courses or community events – but unusual for Commissioner to approach staff directly
- Misuse of Port cell phone
  - Inappropriate photograph discovered by Port staff
  - Investigated by Port staff
  - Acknowledged wrongdoing
  - Agreed to have phone monitored
- TV news story of jobs program – identified as Port program
  - Commissioner stated was interviewed outside Port
  - Connection to Port made w/o his knowledge
- First year misuse of Port credit card was so extensive appears to have fed into perceptions of inappropriate conduct in other areas where “benefit of doubt” needed – can give appearance of or lead to stricter scrutiny

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# Additional Issues Identified Specific

- Commissioner Tarleton
  - PNNL Relationship
    - Multiple roles can create confusion
    - Port staff made travel arrangements for non-Port business travel – Director/staff assumed travel for Port business
    - Transition from Port to consulting
    - Lack of conflict clear to Commissioner but maybe not as much to others – no documentation at Port
    - No clear means or structure to resolve these types of seemingly “gray” areas
  - Maritime Security Conference
    - Participates with two public hats – made transparent
    - Process of Port support transparent
    - Was/is there professional gain from participation



# Consistency

- Without identified policies and procedures, possibility of inconsistent (real or perceived) treatment of/approach to situations and individuals
- Intent vs. impact
- Examples



# Recommendations

## Commissioner Accountability

- With regard to specific findings, Commission to determine if it will
  - Take any action regarding issues that appear to be policy violations such as
    - Ostensive credit card misuse
    - Cell phone photograph
    - PNNL travel arrangements
  - Make any further inquiry into items that have not been fully vetted or subject to a specific process when raised, e.g.
    - Asking Port staff to teach a course
    - PNNL relationship
    - When Commissioners participate in matters that can be perceived as professional gain:
      - Eastern Washington Trip
      - Speaking at a conference, e.g. Maritime Security
- Commissioners to determine how to document findings



# Recommendations

## Commissioners - Structural

- Institute new Commissioner orientation
- Establish and/or clarify application of Port and /or Commission policies to Commissioners
- Institute process and procedure through which the Commission as individuals and as a body identifies, evaluates and responds to potential breaches of policy, ethics or conflict of interest and through which Commissioners hold themselves and each other accountable
- Consider creating mechanism where Commissioners can document relevant outside personal and/or financial activities as the lens through which potential conflict of interest issues can be analyzed
- Consider advisory function for an independent Board of Ethics type body – remove function from GC office

# Recommendations

## Commission Office - Structural



- Clarify roles/responsibilities/expectations/accountability within Commission office
  - Commissioners to Commission staff and staff to Commissioners
  - Commission staff to Commission staff/Port staff
- Institute procedure through which Port or Commission staff concerns relating to Commissioner adherence to policy or interaction with staff are brought to Commissioner attention and resolved
  - Perceived ethical/conflict issues
  - Perceived policy violations
  - Perceived other issues that raise concern with colleagues/staff
- Determine how Commission staff will be managed and institute procedures through which
  - Expectations are identified and articulated
  - Staff concerns with staff are identified and resolved
  - Commissioner concerns with staff are identified and resolved

