

**PORT OF HOOD RIVER
Resolution No. 2008-09-3**

**RESOLUTION APPROVING GOVERNANCE POLICY
FOR THE PORT OF HOOD RIVER**

WHEREAS, the governance policy for the Port of Hood River was last updated in August 2003; and

WHEREAS, there have been significant changes in State of Oregon Statutes and information technology and other areas that require the Port to update its Governance Policy; and

WHEREAS, the Port of Hood River Commission has engaged in a thorough review of changes to state law and best practices carried out by other Ports and special districts in the area of governance; and

WHEREAS, the Port of Hood River Commission has reviewed a draft, updated Governance Policy and received expert review assistance from its attorney and outside counsel on changes to its governance policy; and

WHEREAS, it is necessary and advisable to adopt a new Governance Policy to reflect current law and clearer governance practices; now, therefore, be it

RESOLVED:

1. That the Governance Manual dated April 7, 2009 and attached to this Resolution shall be the policy of the Port of Hood River.

ADOPTED BY THE BOARD OF COMMISSIONERS this 7th day of April 2009.



Fred Duckwall



Sherry Bohn

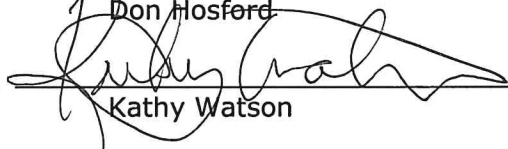


Hobby Streich

(Absent)



Don Hosford



Kathy Watson

Port Of Hood River

Mission and Policies

- I. Strategic Plan
- II. Governance**
- III. Financial Procedures
- IV. Ordinance 22 [Rules and Regulations for Recreational Properties]
- V. Personnel Policies
- VI. Public Information Request Form
- VII. Real Estate Transaction Policy

PART II

GOVERNANCE

Mission Statement. The mission of the Port of Hood River (“the Port”) is to initiate, promote and maintain quality of life and a healthy economy throughout the Port District and the Columbia River Gorge.

In support of this mission, the Port of Hood River strives to manage its assets to accomplish the public purposes outlined in the Oregon Revised Statutes. The Port’s Strategic Plan, goals, objectives and action plans are designed to support these efforts. The Port’s Strategic Plan is found in Section I of the Port’s Mission and Policies document.

This Section of the Port’s Mission and Policies contains policies relating to Port Governance.

A. ORGANIZATION AND STRUCTURE

- 1. Introduction.** The powers and duties of the Port are described in Oregon Revised Statutes (“ORS”) Chapter 777, and other state and federal laws. The Port is governed by an elected Board of Commissioners (Commission), who carry out the Port’s powers and duties, and govern the Port by adopting rules, regulations, policies and procedures consistent with applicable laws. Commissioners are public officials who must act in the best interest of the public.

The Commission is responsible for establishing policy, reserving to itself all authority and responsibility not expressly assigned to other personnel. These policies, rules and regulations express the judgment and will of the Commission and are binding on all members.

The Commission must comply with all applicable laws of the United States and the State of Oregon, including but not limited to Oregon laws for special districts, port districts, public records, public meetings, public contracting, elections, and ethics for public officials, as well as the general operating procedures codified in its policy manuals.

- 2. Governing Board; Eligibility.** The Port Commission consists of five members, each of whom serves a four-year term. All Commissioners serve at large, and not by zone. Each Commission position is designated by a position number. Commissioners are elected or appointed to a specific position designated by this number. The election of Commissioners is conducted as provided by ORS Chapter 255. Except where the Commission is filling a vacancy by appointment, terms of office begins on July 1.

To be eligible to serve on the Commission, a Commissioner must reside within the boundaries of the Port District. A Commissioner who moves out of the Port District’s geographical boundaries during a term of office will lose his or her position. No one

elected or appointed to the Commission may be sworn in unless he or she meets the qualifications for office. If questions exist regarding the eligibility of any candidate, the Commission will obtain an opinion from legal counsel prior to swearing in the person. Each newly elected or appointed Commission member must take an oath of office at a Commission meeting prior to assuming the duties of the position.

Vacancies on the Port Commission are filled according to the procedures described in Section B, paragraph 4, of this Section.

3. **Board Officers.** At the first Commission meeting in July of each year, or at a subsequent meeting at the discretion of the Commission if all Commissioners are not present at the first meeting in July, the Commission is required to choose a President, Vice President, Secretary, and Treasurer. Each officer so elected must take office immediately, and serves until the first Commission meeting of the following year, or until his or her successor is elected and qualified to serve. It is the practice of the Board to require a member of the Commission to have served for at least one year on the Board before becoming eligible for nomination for the office of President or Vice President.

Officers of the Board may be required to serve on Port committees, as described in Section A, paragraph 6 of this Section. ORS 777.140(2) requires the president, vice president, treasurer and secretary to prepare annual reports and file them with the board.

If the President resigns, or for any reason is unable to fulfill the obligations of his or her office, the Vice President shall automatically fill the position of President. If any other office becomes vacant, the vacancy will be filled at the next regular meeting of the Commission by nomination and vote of the remaining Commissioners.

The duties of the President shall be to preside at all public meetings and work sessions of the Commission, to sign all documents that require a formal signature of the Commission, to create committees and appoint Commissioners to those committees, and to assist in the preparation of the meeting agenda. Commission concurrence will be requested on the creation of committees and the appointments to those committees. The President shall have the same right as other Commissioners to discuss and vote on all issues before the Commission and shall be called upon for the final individual vote on roll-call votes. The President may make or second a motion.

In the President's absence, the Vice President shall have the powers and duties of the President. The Vice President shall have such other powers and duties determined by a majority of the Commission and other duties as may be assigned by the President.

The Secretary shall cause accurate minutes of each public meeting to be taken, transcribed, and distributed in a timely manner for review prior to approval by the Commission, and shall maintain properly authenticated official minutes in chronological order. Any of the foregoing responsibilities may be delegated to staff members.

The Treasurer shall ensure that accurate accounting and financial records are maintained by the Commission and shall oversee the annual financial audit.

Any Commissioner may request that any issue, project, commitment of resources, or other matter be placed on the agenda of the Commission. If possible, the request should be submitted to the President or to the Executive Director no later than the Friday before a scheduled meeting.

4. **Executive Director.** The Executive Director functions as the chief executive officer of the Port of Hood River. He or she serves as the principal resource to the Board of Commissioners, and is responsible for implementing policies set by the Commissioners while overseeing port marketing, development of Port facilities, property management, and community relations. This includes overall direction of the operation, maintenance, administration, and use of airports, marinas, industrial districts, and other properties and facilities.

The Executive Director is responsible for execution of contracts, delivery of services essential to the Port's mission, as well as the financial, accounting and legal matters of the Port. He or she facilitates the development of goals, objectives, business plans, budgets and programs; works to develop and maintain positive relationships with tenants and customers, community groups, and other public and government agencies; and hires and provides administrative direction to Port staff.

5. **Rules and Regulations.** The Commission is authorized by ORS Chapter 777 to adopt rules and regulations governing operations and procedures for the Port. Rules and regulations are intended to promote understanding and provide uniformity in the operations of the Port.

If any rule or regulation is found to be in conflict with law, only the part or parts so found shall be null and void and the remainder shall remain in full force and effect.

Where a new regulation replaces or amends an existing regulation, the Commission shall repeal or amend the older one by direct action.

Any rule or regulation of the Port may be amended or suspended by a majority of the Commissioners at any Commission meeting, provided that each Commissioner shall have been notified in writing of the proposed amendment or notice of the proposed suspension at least forty-eight (48) hours in advance of the meeting.

The Executive Director may, in case of emergency, suspend any part of the rules and regulations which may be in conflict with handling an emergency; provided, however, that the Executive Director shall report the fact of, and the reason for, such suspension at the next meeting of the Commission; and provided further that the suspension shall expire at the time of said report unless continued in effect by the Commission.

6. **Committees.** Committees support the responsibilities of the Executive Director for day-to-day operations of the Port, providing a mechanism for the Commission to execute its fiduciary responsibilities. Committees may be created and their members appointed by the President, with the concurrence of the Commission.

Port committees exist at the discretion of the Commission and may be formed, dismantled, inactivated or activated as conditions dictate. The functions of a committee shall be designated by the Commission at the time the committee is created. It shall be the responsibility of a committee to investigate, discuss, and collect information on behalf of the Commission. Committees do not have the authority to act on behalf of the Port Commission unless specifically authorized by vote of the Commission.

Committees that are given authority to make decisions for the Commission, or to collectively make recommendations to the Commission for action, will follow Oregon's Public Meetings Law and will require a public notice of meetings, a quorum present, and minutes recorded. Public Meetings Law does not apply to committees whose members are charged to form their recommendations individually rather than collegially through a quorum requirement.

The Finance and Personnel Committees are internal committees. The President and Vice President serve as members of the Personnel Committee. The Secretary and Treasurer serve as members of the Finance Committee. These committees assist staff with operational and preliminary issues. It is not necessary that a quorum be present for an internal committee member to act. Any recommendation by an internal committee member to the Port Commission shall be made individually rather than collegially with another internal committee member, even if committee members agree on a recommendation.

The Budget Committee, mandated and governed by ORS 294.336, is a statutory committee whose membership consists of the members of the Commission and five private citizen appointees.

Ad Hoc Committees have limited assignments not to exceed two years. They support the vision, goals, and objectives of the Commission and the Strategic Plan, and are set up around a specific budgeted activity where it is desirable to have public involvement. Membership and quorum requirements will be determined at the time of creation. Ad Hoc committees terminate upon completion of the assignment or by a majority vote of the Commission.

Committee members must be residents of the Port District at all times during their service on a committee. A committee member shall not participate with the intent to lobby the Port Commission from a special interest group or organization's specific position or viewpoint. Each Committee shall include at least one Commissioner. Staff may serve on committees as ex-officio members.

The Port shall use the following procedures to recruit members of the public to serve on committees according to the following process:

- Advertise position vacancy in local media for two (2) consecutive weeks.
- Require applicants to complete and return to the Port a written application, which shall include the applicant's personal information, background and experience, list of community activities, and statement of desire to be a member of the particular committee.
- Review applications and select those to be interviewed.
- Interview candidates. The Commission may choose to forego the interview process if the entire Commission is in agreement.
- Appoint member(s) to the committee for a designated term if term length is specified or to an indefinite term.
- Unless modified by a majority vote of the Commission, the following shall apply to the membership and term of committees:

COMMITTEE	MEMBERSHIP	Length of Term	Quorum Required
Airport	Two Commissioners Seven Public Airport FBO	3 years	Yes
Architectural Site Review (Currently inactive)	One Commissioner or Port Director One Independent Architect Three Public (full-time residents of Port District) City Planner (ex-officio)	3 years	Yes
Budget	Five Commissioners Five Public (ORS 294.336)	3 years	Yes
Community Relations (Currently inactive)	One Commissioner Port Director Port Newsletter Contractor Two Public (full-time residents of Port District)	3 years	No
Finance (Internal)	Commission Secretary & Treasurer	1 year	No
Personnel (Internal)	Commission President & Vice-President	1 year	No
Waterfront Recreation	One Commissioner Port Director Seven Public (full-time residents of Port District, including outside city limits); Broad representation of business owners, school operators, marina tenants, recreational users	3 years	Yes

B. BOARD POLICIES

- 1. Introduction.** The following subsection describes the Port's policies governing the operation of the Board of Commissioners. All previous policies not consistent with this policy document are hereby declared null and void. In any instance of conflict, this document will supersede past actions. Any Port policy may be amended, suspended, or repealed by a majority vote of the Commission. Nothing herein is intended to override the provisions of federal, state, or local laws, which shall take precedence in the event of conflict.

- 2. Duties and Responsibilities of Commissioners.** The Board of Commissioners of the Port of Hood River shall have the following duties and responsibilities:
 - Exercise all powers provided by law and to take action as necessary therefor.
 - Represent the constituents of the Port of Hood River. Inform the public concerning the progress and needs of the Port District and solicit and consider public opinion as it affects the programs and services provided by the Port.
 - Abide by and become familiar with all laws and policies governing the operation of the District. Ensure that the Port is in compliance with all applicable laws.
 - Recognize that an individual board member has no legal status to act for the entire board. Any formal action shall require a vote of the Board.
 - Select board officers and establish and staff necessary committees and determine the respective duties of each. Approve the form and amount of reimbursement for board members.
 - Approve modifications to the strategic plan.
 - Establish rules, regulations, and policies through the formulation and approval of ordinances and resolutions.
 - Interpret Port rules and determine questions of policy.
 - Select, employ, and evaluate the performance of a professionally trained and experienced Executive Director to administer the Port District. Require reports by the Executive Director concerning the conditions, efficiency and needs of the Port. Consider and act upon recommendations of the Executive Director in all matters of policy, salary schedules or other significant personnel matters.
 - Approve the plan, form, and amount of management compensation, i.e., salaries, bonuses, vacation, travel, etc. Approve any employee benefit plans.

- Provide for the preparation of, and adopt, an annual budget. Monitor district finances and the budget, setting policy or taking action to ensure the fiscal integrity of the Port.
- Approve preliminary and final project plans and specifications, as well as acquisition and disposal of Port property. Provide Port facilities, equipment and supplies for implementing the Port's programs, operations and maintenance.
- Approve contracts binding the district. Ensure that public contracting requirements are satisfied. Approve contracts with and between any unions involved with the district.
- Select legal counsel and consultants for the board.
- Insist that personnel complaints go through a proper chain of command. The Board should get involved only as described in the Port's Personnel Policy, or if the complaint or matter involves the Executive Director.
- Recognize that certain information obtained at board meetings may be confidential, making disclosure of such information a breach of trust.
- Make use of educational sessions, workshops, and seminars to gain a further understanding of effective operations and issues.
- Respect the opinions of other members and accept the principle of majority rule in board decisions.

3. **Authority of Commissioners and Executive Director.** Commissioners have no individual powers separate from the powers of the Commission, and have no authority to act individually without delegation of authority from the Commission. Commissioners only have the right and responsibility to participate in board meetings and vote on Port matters as part of the Board. Acting without authority can result in personal and District liability.

The Commissioners shall not be collectively bound in any way by any statements or action on the part of any individual Commissioner or employee, except when such statement or action is predicated on previous action taken or policy adopted by the Commission and recorded in the official minutes.

All business must be conducted at properly noticed public meetings. Any Port business brought to the attention of an individual Commissioner shall be handled in the following manner:

- Be courteous to the constituent and determine whether the stated business should be referred to the Executive Director or to the Commission.

- Direct the constituent to contact the Executive Director to discuss the issue and request to appear at the next Commission meeting and discuss the matter with the entire Commission, if appropriate.

The Commission may delegate authority to the Executive Director for certain matters, including negotiating personal services contracts, real estate leases and sale agreements, signing of Commission-approved leases, contracts, and other matters approved by the Board. All contracts and agreements shall be approved by the Commission prior to signing, except where the Executive Director has been authorized to act on behalf of the Board.

4. Vacancies on Port Commission.

Vacancy Arising From Lack of Attendance. According to 777.135(6), the term of a Commissioner shall expire when the Commissioner is absent from four or more consecutive regular meetings of the Board of Commissioners, and the board declares the position vacant. The vacancy shall be filled as provided by ORS 198.320. Commissioners should, if possible, attend each regularly scheduled Commission meeting. If a Commissioner is unable to attend a particular meeting they shall make best efforts to inform the President or Executive Director as far in advance as possible.

Filling Vacancies. The following Oregon Revised Statutes establish procedures for filling vacancies on the Port Commission and may be consulted in their entirety:

ORS 198.320	Filling of vacancies on boards of certain districts
ORS 255.022	Procedures for Special District Elections
ORS 777.080	Application of Special District Election Laws to Ports
ORS 777.135	Board of port commissioners; qualifications; appointment; term first meeting; election
ORS 777.165	Vacancies

As required by these statutes, if the Port Commission is authorized to fill vacancies that occur on the Commission between regularly scheduled elections, the remaining Commissioners must appoint a successor by majority vote, who will serve in the position until the next regularly scheduled Port election. In all cases, the appointee shall be an elector registered in the Port District.

In filling Board vacancies, the Commission shall use the following procedures:

- Advertise the vacancy in local media (newspaper and radio) for two (2) consecutive weeks.

- Require applicants to complete and return to the Port in a timely manner a written application containing the following information:
 - Personal information (name, addresses, phone, etc.)
 - General background and experience
 - Community activities
 - Statement of desire to be a member of the Commission
 - Receive written applications for the position from members of the public. [If the resignation will take effect at a later date, the Commission may begin receiving applications and reviewing applicants' qualifications prior to the effective date of the resignation.]
 - Review qualifications. Factors to be considered will include, but not be limited to, the applicant's eligibility, experience, expertise, interest in the position, and time available to devote to Commission duties.
 - Select candidates to be interviewed and conduct interviews. The interview panel may include Commissioners, staff, and any other member of the public so designated by the Commission.
 - Appoint a new Commissioner, and notify all candidates of the selection.
5. **Meetings.** At least one Commission meeting per month is required. The Commission has established as its regular meeting dates on the first and third Tuesdays of each month, at the Port office, at 5:30 p.m. A regular meeting may be cancelled or rescheduled by the Commission President, in which case the Port will provide notice of the change to the public. The date and time of regular monthly meetings may be changed by majority vote of the Commission.

All meetings of the Commission shall be subject to the Oregon's Public Meetings Law (ORS 192.620). It is the policy of the Commission to comply with both the letter and the spirit of the law. Public notice shall be given of the time and place of all meetings, including meetings of subcommittees and advisory committees established by the Commission.

The presiding officer of any meeting has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. The Commission may determine and adopt its own procedural rules for meetings, agendas, decorum and penalties. The right of public attendance guaranteed by the Public Meetings Law does not include the right to participate by public testimony or comment unless specifically allowed, such as in a Budget hearing. The Commission may allow a public comment period at its discretion. Any person who fails to comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser.

Types of Meetings. Meetings of the Commission may take one of the following forms:

- **Special Meetings.** Special meetings may be called by the President at any time or by any three members of the Commission, following a minimum of 24-hours' public notice. No business shall be transacted at any special meeting which does not come within the purpose or purposes set forth in the call for the meeting, unless all the members of the Commission are present and agree to the consideration of the additional items.
- **Work Sessions.** Work sessions may be called by the President or by any three members of the Commission. Notices of work sessions will be given and minutes taken the same as with special meetings. Work sessions may be held for the purpose of discussion or receiving or giving information. Subjects discussed at a work session shall be limited to the agenda items for the work sessions. Final decisions shall not be made at a work session. However, a work session may be held in conjunction with a regular meeting or a special meeting. Final action may be taken at a regular or special meeting held in conjunction with a work session or at the next regular or special meeting.
- **Emergency Meetings.** Emergency meetings of the Commission may be held upon a call of the President or by three members of the Commission and require as much notice as possible under the circumstances. The minutes of the meeting must reflect the reason for the emergency meeting and explain why less than 24 hours' notice was given. Only such matters as pertain to the emergency meeting may be discussed at such an emergency meeting. Final action may be taken at an emergency meeting.
- **Executive Sessions.** Executive Sessions may be held on certain matters in accordance with provisions of Oregon Revised Statutes (ORS 192.660). Executive sessions may be scheduled separately or may be held at a regular meeting, special meeting, emergency meeting, or work session, after the Presiding Officer has identified the authorization under ORS 192.660 for the holding of such Executive Sessions. Unless excluded by law, representatives of the news media must be allowed to attend Executive Sessions, but the Commission may require that information be undisclosed. No final action may be made in an Executive Session. Final action must be made at a regular meeting, special, or emergency meeting. If an Executive Session is not held in conjunction with a regular, special or emergency meeting, final action shall be delayed until the next regular meeting or special meeting. Failure to properly comply with requirements for executive sessions is a violation of Oregon's Ethics Laws, and may subject individual board members to investigation and penalties under these laws.

Agendas; Public Comment. The meeting agenda will be prepared by the President and the Executive Director during the week prior to a meeting date. Commissioners should submit potential agenda items to them prior to that time.

The Executive Director will research all issues and present options and recommendations to the Commission for consideration, and for formal action if required. Commissioners are encouraged to discuss items of interest or concern with the Executive Director for inclusion on the agenda before they come to the meeting for public discussion. Items raised at the meeting that require official action of the Commission will be placed on the agenda following a majority vote of the Commissioners at the meeting, a quorum being present. Commissioners may report on activities or issues that do not require action during the portion of the meeting set aside for Commission Call.

To minimize the time required for the handling of routine, non-controversial matters that do not require public discussion or budget approval, the Commission may approve a Consent Agenda at the beginning of each regular meeting. If any Commissioner considers a specific item to need public discussion, the Commissioner may request that the item be removed from the Consent Agenda and placed on the regular agenda prior to or during the board meeting. The President shall present the Consent Agenda items by title only. It must be approved with a single motion and unanimous vote.

Presentations by invited guests will be placed on the agenda under Reports, Presentations and Discussion Items. Discussion and/or action may be taken at the discretion of the President and/or a majority of the Commission when appropriate.

At a designated time during each meeting that is open to the public, the members of the general public in attendance at the meeting may be offered an opportunity for comment, or to bring issues before the Commission that may otherwise not have been included on the agenda. Any presentation by a member of the public is limited to five minutes per individual unless arrangements are made with the President in advance. The President may regulate the order and length of appearances and may limit appearances to presentations of relevant points.

In all instances, topics may be tabled until next meeting to allow staff time to research and present options on individual issues presented at public meetings.

Voting Requirements. The Port Commission consists of five members. A majority of the members of the Commission [three (3) or more] shall constitute a quorum. If the scheduled meeting time arrives and a recognized quorum is not assembled, the meeting may be officially canceled after a fifteen (15) minute waiting period.

No action of the Commission shall be binding and valid unless there is an affirmative vote of at least three (3) members. A majority of a quorum is insufficient.

All official actions must be taken by public vote, and the results of such vote, including how each member voted on each issue, must be recorded in the minutes. Secret ballots are prohibited.

Motions; Forms of Action.

A motion is a procedural device to place a matter before the Commission for consideration and action. Each form of action listed below must be initiated by motion, and shall be recorded in the official minutes kept for such purpose:

- **Ordinances.** Ordinances have the force of law. They are generally used to enact rules and regulations that apply to residents or customers of the Port, and can be enforced by the Commission or by local law enforcement personnel. Adoption of ordinances is subject to statutory adoption procedures found in ORS 198.510 to 198.600.
- **Resolutions.** Resolutions are used to establish policy or express a position of the Commission, or to approve a significant action, such as a contract or major expenditure of funds, including adoption of the annual budget, borrowing funds, and transferring, appropriating or spending budgeted funds.
- **Routine Decisions.** Routine decisions, decisions of an administrative nature, and other procedural matters may be decided by a vote of the Commissioners, which is recorded in the minutes.

Minutes. The official minutes of the Commission meetings shall be kept in accordance with the provisions of ORS 192.650 and shall be made available to citizens desiring to examine them, subject to the State of Oregon public records statutes and the administrative policies of the Port.

Copies of the minutes shall be prepared as soon as practicable after each meeting and shall be distributed to all Commissioners.

6. Public Records. It is the policy of the Commission to comply with both the letter and the spirit of Oregon Laws concerning public records (ORS 192.410 - 192.530). All documents and records of any kind that pertain to the District's operation are public records, which are subject to public disclosure upon request, unless state or federal law provides an exemption.

Public Records Policy. ORS 192.440(7) requires every public body to make available to the public a written procedure for making public record requests that includes: (a) The name of one or more persons to whom public record requests may be sent, with addresses; and (b) The amounts of and the manner of calculating fees that the public body charges for responding to requests for public records. To comply with this requirement, the Port of Hood River's Board of Commissioners has adopted the following public records policy:

1. All public records requests must be submitted in writing.

2. The Executive Director shall be the custodian of the Port's public records. Request for public records shall be submitted to:

Executive Director
Port of Hood River
1000 E. Port Marina Drive
Hood River, OR 97031

3. The Port shall respond to all public records requests as soon as practicable and without unreasonable delay. The Port may request additional information or clarification from the requestor in order to expedite its response to the request. The Port also may take the time necessary to consult with the Port's attorney regarding the request, if necessary.
4. Unless the requested record is exempt from disclosure under ORS 192.410 to 192.505, the Port shall either provide a copy of the requested record(s) at the expense of the requestor, or provide proper and reasonable opportunities for inspection and examination of public records during business hours. The Port shall not permit any original record to be removed from the Port office.
5. Upon receipt of a written request to inspect a public record or to receive a copy of a public record, the Port shall provide a written acknowledgement of receipt of the request and include one of the following statements:
 - (a) The Port does not possess, or is not the custodian of, the public record(s).
 - (b) The Port is the custodian of at least some of the requested public records. [This statement must include an estimate of the time the Port requires before the public record(s) may be inspected or copies of the records will be provided, and an estimate of the fees that the requestor must pay as a condition of receiving the public record(s).]
 - (c) The Port is the custodian of at least some of the requested public records, and that an estimate of the time and fees for disclosure of the public records will be provided by the Port within a reasonable time.
 - (d) The Port is uncertain whether it possesses the public record and that the Port will search for the record and make an appropriate response as soon as practicable.
 - (e) State or federal law prohibits the Port from acknowledging whether the record exists would result in the loss of federal benefits or other sanction, with a citation to the law relied upon.

6. The Port will provide copies of non-exempt public records in the form requested, if available. If a public record is not available in the form requested, or if the request does not specify a particular form, the Port may provide the information in the form the Port chooses. The Port is not required to produce or create documents or records in a different form unless it is required by law to produce and maintain the record in that form. If the person requesting the record(s) has a disability requiring the document to be produced in an alternative form, the Port will provide the document in the alternative form unless doing so would impose an undue administrative burden on the Port.
7. The Port may establish fees reasonably calculated to reimburse the Port for its actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records to meet the request. The Port may include in the fees the cost of time spent by an attorney to review the public records to redact or segregate public records into exempt and non-exempt records. Costs for reproducing record(s) are described in the Public Records Request Form, which may be obtained at the Port office or on the Port's website.

END OF POLICY

Commission E-mail Policy. Email may be used to schedule meetings, send informative messages, or request information of the Port staff and other Commissioners. For the purposes of the Public Records Law, any email communication pertaining to Port business or operations, regardless of whether it is generated on Port computers or on the home computer of the Commissioner, is a public record under Oregon law. Each Commissioner will comply with state law by copying the Port of Hood River (porthr@gorge.net) on all emails pertaining to Port business that are received or created on his or her home computer. Because email is NOT confidential, email should not be used to transmit information that is exempt from disclosure under Oregon Public Records Laws.

Furthermore, email communications among a quorum of a public body to communicate and deliberate toward a decision on any matter is subject to Oregon Public Meeting Laws. Therefore, any electronic conversations among a quorum of the Commission, or of an advisory body to the Commission, that is not advertised and to which the public is not permitted to participate may constitute an illegal public meeting. Care should be taken not to deliberately or inadvertently conduct a public meeting by email or other electronic correspondence.

All information and messages that are created, sent, received or stored on the Port's systems are the sole property of the Port and are subject to the same retention requirements as hard-copy documents. Electronic records and communications, like other public records, must be made available upon request to any member of the public, unless the record or communication is exempt by law from disclosure.

7. **Harassment.** The Port of Hood River District does not tolerate harassment of any kind, including but not limited to sexual harassment. Harassment includes unwelcome remarks, gestures, physical contact, or display or circulation of derogatory written materials or pictures, regarding gender, disability or racial, ethnic, or religious groups.

The harassment policies that apply to Port personnel also apply to elected officials. Commissioners, as well as employees, must avoid offensive and inappropriate behavior, and are also responsible for ensuring that the workplace of the Port of Hood River is free from harassment at all times. The Port will take immediate corrective action to address and further prevent harassing behavior. Procedures for addressing harassment are described in the Port's Personnel Policies.

8. **Education, Training, Conferences.** It is the policy of the Port of Hood River to encourage development and training by reimbursing expenses incurred for tuition, travel, and lodging as a result of training, educational courses, participation with professional organizations, and attendance at state, regional, and national conferences associated with the interests of the Port.

A Commissioner may submit a request to the Commission to attend a training or educational course. Upon approval by the Commission, the Operations Manager is responsible for making registration and lodging arrangements. Commissioners make their own travel arrangements, although requests for assistance can be made through the Executive Director's office. Expense reporting forms will be forwarded to each Commissioner attending a conference.

Commissioners are responsible for paying their own tuition for an educational course. Upon completion of the course, the Commissioner may submit a request for reimbursement to the Finance Manager, who will fill out an authorization for payment, obtain the Executive Director's signature, and process the request. Copies of the authorization for payment will be forwarded to the Commission.

At the next Commission meeting following attendance at a conference, seminar, workshops, etc., the Commissioner shall make either a written or verbal report detailing what was learned at the sessions(s) that will be of benefit to the Port. Materials may be turned in to the Operations Manager to be included in the library at the Port office, so that other Commissioners and staff may have access to them.

9. **Compensation and Expenses.** As permitted by ORS 198.190, each Port Commissioner may receive up to \$50 per day as compensation for services performed as a member of the governing body. Currently, the Port provides up to \$100 per month for each Commissioner. The Port also may provide for reimbursement of Commission members for actual and reasonable traveling and other expenses incurred in the performance of official Commission duties (ORS 198.190). Port funds shall not be used to pay expenses incurred by a Commissioner's spouse, family member, or guest.

10. **Political Activities.** ORS 260.432 states that a public employee (includes any public official, paid or unpaid, who is not elected) may not, while on the job during working hours, promote or oppose election petitions, candidates or ballot measures. Additionally, no person (including elected officials) may require a public employee (at any time) to do so.

Because they are elected, Commission members are not considered “public employees” for purposes of ORS 260.432. Therefore, they may advocate a political position support, oppose and publicly discuss a ballot measure, and may perform campaign activity at any time. But, they cannot involve any public employee’s work time or use other public resources to do so. Public funds may be used to inform the public regarding measures, provided the materials are informational only and do not advocate a position.

Commissioners may not use public funds for campaigning.

11. **Real Estate Transactions.** The Port has real estate holdings that are important strategic assets for the Port and the region. Therefore, the Port engages in acquisition, disposition and leasing of real property on a regular basis. The Port has adopted a Real Estate Transaction Policy (April 15, 2008) that separately describes the procedures for purchases, sales, and leases of real estate.
12. **Public Contracting.** All purchases of goods and services, and all construction projects of the Port, are subject to Oregon’s public contracting laws, ORS Chapters 279A, 279B, and 279C. All public contracts in Oregon are subject to competitive bidding requirements, which are established by statute, by administrative rule, and by local rules adopted by the Board of Commissioners acting as the Port’s local contract review board. If federal funds are used for the purchase or product, federal contracting rules may apply. All public improvement projects – i.e., construction-related activities, painting, remodeling, and improvements to land – over \$50,000 are subject to payment of the prevailing wage established by the Bureau of Labor and Industries (BOLI), which enforces prevailing wage laws, or are subject to the federal prevailing wage if federal funds are used.
13. **Local Budget Law.** Port districts are subject to Oregon’s Local Budget Law, found in ORS Chapter 294. These statutes prescribe the procedures that local governments must follow in drafting their annual budgets and obtaining public input throughout the process. The Port’s Budget Committee must include all the members of the governing board, plus an equal number of citizens named by the Commission. ORS 294.100 makes public officials personally civilly liable for any public funds spent in excess of the amounts authorized in the budget, or for any purpose other than that authorized by law. This liability can arise through failure to properly follow or comply with the Local Budget Law; failure to follow public contracting procedures required by law; or any other improper expenditure of public funds.

14. **Tort Liability and Defense.** The Oregon Tort Claims Act (“OTCA”), ORS 30.260 to 30.300, governs District tort liability, provides for defense and indemnity of public officials, and limits damages.

Scope of Act. Under the Tort Claims Act, public entities, such as the Port, are required to indemnify their officers, employees, and agents – including members of the Board – who are acting within the scope of their employment or duties, when they are sued for negligence. Negligence is the failure to perform a duty owed. A tort claim is an action for damages alleged as a result of this failure. Indemnity includes payment by the district or its insurer of any damages attributable to the act or omission of the official, employee, or agent. Indemnity is not required for malfeasance or wanton or willful neglect of duty, and the obligation to indemnify does not extend to contractual or criminal liability.

Furthermore, unless investigation demonstrates that a claim arose out of the official’s or employee’s malfeasance or willful or wanton neglect, the Port must provide counsel to defend the claim against the official or employee. Normally, the Port’s insurer would provide the defense.

Limitations on Damage Awards. The OTCA limits damage awards against special districts, their officers, employees, or agents. Refer to the Act for these limitations.

Discretionary Immunity. Under Oregon law, public bodies and their officers, employees, and agents are immune from liability for “any claim based upon the performance of or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused” (ORS 30.265).

A discretionary (immune) act is an act in which a policy decision is made, while a ministerial (non-immune) act is an act which implements a policy decision which has already been made.

If a court finds that an act by a public body was discretionary, the doctrine of discretionary immunity provides grounds for the action to be dismissed as against the public body. Whenever the Commission makes a decision that requires discretion, the decision and the basis for the decision should be well documented in order to ensure maximum protection from legal claims.

15. **Legal Counsel.** An attorney shall be selected by the Commission. The Executive Director and the President of the Commission may request any legal advice that may be needed in handling or in dealing with matters pertaining to the welfare of the Port. Individual Commissioners should direct requests through the Executive Director and/or the President. The adequacy and cost/benefit of Port legal counsel shall be reviewed every five years, or fewer if circumstances so dictate.
16. **Auditor.** An auditor shall be selected and appointed by the Commission and retained on a yearly retainer fee. The auditor must be a Certified Public Accountant and a member of the State Board of Accountancy roster authorized to conduct municipal audits. The

Executive Director and the President of the Commission may request advice on any financial matters pertaining to the financial welfare of the Port. Individual Commissioners should direct requests through the Executive Director and/or the President. The adequacy and cost/benefit of the Port Auditor shall be reviewed every five years, or fewer if circumstances so dictate.

15. **Insurance Agent(s) of Record.** An Insurance Agent(s) of Record shall be selected and appointed by the Commission. The Executive Director and the President of the Commission may request advice that may be needed in handling or in dealing with insurance matters pertaining to the welfare of the Port. Individual Commissioners should direct requests through the Executive Director and/or the President. Requests for proposals for Insurance Agent of Record shall be solicited every five years.
18. **Bonding.** The Port requires a bond or irrevocable letter of credit from any member of the Commission or any officer or employee of the Port who is charged with possession and control of Port funds and properties. The Commission shall fix the amount of the bond; the premium shall be paid from Port District funds. The letter of credit must be issued by a commercial bank (ORS 198.220).

Under certain conditions, the amount of the bond can affect the frequency of a financial audit as required by the Secretary of State. All board members or employees can be bonded for a minimal additional charge to the cost of bonding only one board member. It is practical and beneficial to take the necessary steps to bond all board members or district managers.

C. ETHICS & CONFLICTS OF INTEREST

1. **Introduction.** This section provides a summary of key areas of the Ethics Laws as they apply to Port Commissioners and employees. This is a summary only. For more detailed discussion and guidance on Oregon's ethics laws, refer to relevant sections of ORS Chapter 244, or see the Oregon Ethics Commission's *Guide for Public Officials*.

Elected officials and employees of the Port are "public officials" for purposes of Oregon's Ethics Laws, ORS Chapter 244. These laws prohibit public officials from using their office to obtain financial gain for themselves, their relatives, or a business with which they or any member of their household is associated.

The Oregon Government Ethics Commission (OGEC) is responsible for enforcing and interpreting these laws. OGEC may levy fines for ethics violations up to \$5,000 per violation. In lieu of, or in conjunction with, finding a violation of law or imposing a civil penalty, OGEC may issue a written letter of reprimand, explanation, or education.

Public officials may not use Port time, equipment or services for personal interest or gain. When giving testimony unrelated to their assigned Port responsibilities, Port officials shall not use information or facts that have come to them by virtue of their position for personal gain or benefit. In matters of personal interest, public official should conduct themselves so as not to impair their working relationship with other employees, officials, or the public.

Port Commissioners, their relatives, and members of their households may not ask for, receive or give gifts to or from any entity that has an interest in Port activities unless in conformance with ORS 244.025(1), (2). Public officials are expressly prohibited from using their positions to obtain a financial benefit or avoid a financial cost. In this regard, the appearance of impropriety can be as damaging as actual impropriety and shall be avoided

2. **Financial Disclosure.** Commissioners of the Port are required to file Statements of Economic Interest (SEI) annually on April 15 to the Oregon Government Ethics Commission and quarterly by April 15, July 15, October 15, and January 15 of each year in accordance with ORS Chapter 244.
3. **Conflicts of Interest.** Under Oregon's Ethics Laws, there are two types of conflicts of interest – potential conflicts, and actual conflicts. These are described in more detail as follows:

(1) **Potential Conflict of Interest.** Any action by a public official, including staff, which *could* result in private pecuniary benefit (money or something of economic value) or avoidance of detriment (relief from financial obligation or other financial loss) of the person or the person's relative or business poses a *potential conflict of interest*. If a Commissioner becomes aware that an official action of the Commissioner or the Board has the potential to result in a pecuniary benefit to the public official or his or her relative, the Commissioner must disclose the potential

conflict at the meeting at which the matter giving rise to the conflict is being discussed or acted upon. The disclosure must be recorded in the meeting minutes. The Commissioner then may participate in discussion of the matter, and may still vote.

Announcements regarding the conflict of interest must be made each time that it arises. If the issue is discussed at several different Commission meetings, then the conflict of interest must be disclosed each time.

(2) Actual Conflict of Interest. Any action by a public official, including staff, which *will* result in the private pecuniary benefit (money or something of economic value) or avoidance of detriment (relief from financial obligation or other financial loss) of the person or the person's relative or business poses an *actual conflict of interest*. As with a potential conflict of interest, at each meeting at which the topic arises, the Commissioner must announce the actual conflict of interest, and the disclosure must be recorded in the meeting minutes. In the case of an actual conflict of interest, however, the Commissioner must refrain from further participation in the official action on the issue, including refraining from discussion. A Commissioner with an actual conflict of interest in a matter may not vote on the matter giving rise to the actual conflict.

The exception is if the Commissioner has an actual conflict of interest and his or her vote is necessary to meet the minimum number of votes required for official action. In that circumstance, the public official must make the required announcement and refrain from any discussion, but may participate in the vote.

Exceptions to Conflicts of Interest. The conflict of interest requirements do not apply where the pecuniary benefit or detriment arises out of one of the following:

- An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.
 - Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.
 - Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code, provided the board member is not compensated for this position.
4. **Use of Office for Financial Gain.** Public officials may not use or attempt to use their official position or office to obtain a personal financial gain or to avoid a personal financial detriment if the opportunity would not otherwise be available but for their

holding the official position or office, whether for themselves, their relatives, members of their households, or businesses with which any of these people is associated.

Thus, if the individual would not be receiving the gift but for the public official's holding of the official position or office, acceptance of what is being offered is prohibited.

5. **Gifts.** Public officials, relatives of the public official, and members of the public official's household are limited in the gifts they can receive in their capacity as public officials. Compensation packages from a public employer, and reimbursement of expenses, are not included in the definition of "gift," and may be accepted. Furthermore, public officials may receive honoraria, certificates, plaques, etc., given in appreciation for their capacity as a public official, if the value of such items does not exceed \$50. They also may receive awards for professional achievement if the award is unsolicited. They may receive campaign contributions, and contributions to their legal expense fund; these also are not considered "gifts."

Gifts may be accepted up to any amount if the giver has no administrative or legislative interest in the Port or the public official's service with the Port. "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official.

If the giver does have an administrative or legislative interest, the value of any gift or gifts may not exceed \$50 from any source in a particular year. Both the giver and the recipient are responsible for making sure this amount is not exceeded.

6. **Entertainment.** Public officials and candidates may not accept the payment of expenses for entertainment, nor can a source offer such paid expenses.
7. **Honoraria.** Public officials or candidates for public office, or members of their households, may not solicit or accept honoraria, certificates, plaques, or other such items for activities or service in their capacity public officials, if the value exceeds \$50. Public officials acting in their personal professional capacities are not prevented from accepting such items.
8. **Employment.** Public officials may not solicit or accept the offer, pledge or promise of future employment based on any understanding that a vote, official action or judgment would be influenced by the offer.
9. **Information.** Current or former public officials may not use or attempt to use confidential information gained through their positions as public officials for financial gain.
10. **Nepotism.** After complying with the conflict of interest provisions in ORS 244.120, public officials cannot participate in any personnel action taken by the public agency that

would impact the employment of a relative or member of the public official's household. Exceptions to the provision are:

- If acting as a reference, making a recommendation or performing ministerial acts that are normal functions of the position held.
- If the personnel action involves a relative or member of the household who is an unpaid volunteer.
- Members of the Oregon Legislative Assembly may employ relatives on their personal staff.

