

March 15<sup>h</sup> 2006

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**TO:**

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**Special Instructions:**

Please Place This Document on the March 15<sup>th</sup> 2006 Regular Public Meeting Agenda and Fully Discuss and Take Action as Appropriate: **X 03/15/2006**

I am Requesting that Commissioner **Brad Carey** Please Read This Document Into the Minutes of the March 15<sup>th</sup> 2006 Port of Tahuya Regular Public Meeting: **X 03/15/2006**

Please Attach This Document to the Official and Formally Approved Minutes of the March 15<sup>th</sup> 2006 Port of Tahuya Regular Public Meeting: **X 03/15/2006**

Attention Commissioner Brad Carey:

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Subject 1: PDA Request & OPMA Request – **Letter – PDA Request 20060315-1 The Commission’s Plan For Shutting Down The Port of Tahuya - See Section Titled “REQUEST”.**

## **Authority:**

On July 25<sup>th</sup> 2004 Christine Gregoire stated, and I quote:

*“Citizens can control their government only if they can remain informed about the decisions their government officials are taking.”*

Christine Gregoire goes on to say, and I quote:

*“That important principle underlies Washington’s open public records and meeting laws. The laws, which are now more than two decades old, are intended to give us (the People – inserted by author) an informed electorate which can evaluate the performance of our elected officials and provide us with an honest, competent and responsive government.”*

Continuing to quote Christine Gregoire who goes on to quote **RCW 42.30 Open Public Meetings Act; RCW 42.30.010 - Legislative declaration:**

Here is how the Legislature stated the purpose of these two laws:

*“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”*

The basis from which RCW 42.17 was formulated into law is spelled out in RCW 42.17.251 and follows:

*“The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.”*

### **RCW 42.20.040**

#### **False Report.**

Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

[1909 c 249 § 98; RRS § 2350.]

### **RCW 42.20.050**

#### **Public Officer Making False Certificate.**

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Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor.

[1909 c 249 § 128; RRS § 2380.]

#### **RCW 42.20.080**

##### **Other Violations by Officers.**

Every officer or other person mentioned in RCW [42.20.070](#), who shall wilfully disobey any provision of law regulating his official conduct in cases other than those specified in said section, shall be guilty of a gross misdemeanor.

[1909 c 249 § 318; RRS § 2570.]

#### **RCW 42.20.100**

##### **Failure of Duty by Public Officer a Misdemeanor.**

Whenever any duty is enjoined by law upon any public officer or other person holding any public trust or employment, their wilful neglect to perform such duty, except where otherwise specially provided for, shall be a misdemeanor.

[1909 c 249 § 16; RRS § 2268. Prior: Code 1881 § 889; 1854 p 90 § 82.]

##### **NOTES:**

Official misconduct by public servant: RCW 9A.80.010.

#### **RCW 9A.80.10**

##### **Official Misconduct.**

(1) A public servant is guilty of official misconduct if, with the intent to obtain a benefit or deprive another person of a lawful right or privilege:

- (a) He intentionally commits an unauthorized act under color of law; or
  - (b) He intentionally refrains from performing a duty imposed upon him by law.
- (2) Official misconduct is a gross misdemeanor.

[1975-'76 2nd ex.s. c 38 § 17; 1975 1st ex.s. c 260 § 9A.80.010.]

## **Notes:**

**Effective date -- Severability -- 1975-'76 2nd ex.s. c 38:** See notes following RCW 9A.08.020.

Failure of duty by public officers: RCW 42.20.100.

## **DEFINITIONS:**

### **Public Record:**

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*(41) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.*

**Writing:**

*(48) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.*

**INTRODUCTION:**

The Port of Tahuya is part of government.

The publicly elected Port Commissioners of the Port of Tahuya are its government.

Most citizens want and expect to receive good government. To the degree we all receive good government – we all win. To the degree we all do not receive good government – we all lose.

What is good government?

Good government understands, believes and practices the concept that it is the servant of the people – all the people.

Good government insists that it govern by obeying the rules and laws under which it has been granted the privilege to govern. It sets the proper example for its citizens.

Good government respects the rights of all the citizens – both the rights of the majority as well as the rights of the minority.

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Good government welcomes public input and thanks the public for such input. Good government understands the most valuable input is when the public is pointing out where government is or may be violating the law. Good government takes immediate impartial action to determine whether or not it is violating the law, and if found to be violating the law, takes immediate action to stop violating the law. And again, thanks the public – whether law was being violated or not.

Good government is fair and impartial.

Good government develops consensus and harmony and not division and disharmony.

Good government obeys and embraces material such as listed in this document under the section above titled “**Authorities**”.

Good government requires public servants that are honest, impartial, and fair.

Good government requires public servants with integrity, and with high ethical and moral codes of conduct.

Over the long haul, good government exists, if and only if, citizens continually demand and require good government from those they elect to office.

It is because most of us expect, demand and require good government, that this document is being written. This document is being written because, we, the citizens of the Port District of Tahuya, are not currently the recipients of good government.

Let me now begin to elaborate.

## **BACKGROUND:**

### **Introduction.**

Except for most notably the Courts and the Legislature, most Washington State agencies and local government agencies are required to comply with laws that govern their conduct with respect to public records and writings. They are also required to comply with laws that govern their conduct with respect to Open Public Meetings.

For example, the public has the legal right under the law to inspect public records and writings. The public has the legal right under the law to obtain copies of public records and writings. The public has the legal right under the law to publicly ask our publicly elected officials questions and receive answers.

Citizens, having the above legal rights under the law, may exercise those rights with state or local agencies for a number of reasons. For example, a major reason is that citizens often suspect or know that a public servant or elected public official may be, or is, in violation of civil law, criminal law, codes of conduct, policies, procedures, rules, their

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duties and responsibilities, etc. Such conduct, if true, is harmful to the public interest. Citizen access to records and writings, defined and guaranteed by law, allow the citizen a means for reviewing, investigating and determining appropriateness or inappropriateness of the conduct or actions of its public servants and of its elected public officials.

Any time a request is made to inspect public records and writings and/or to request copies of same from a state or local governmental organization, it is forbidden (against the law), except for a few exceptions, for anyone within the government to ask the private citizen why said public records and writings are wanted, how they are going to be used, etc. Therefore, a requestor usually never provides any background material or information whatsoever regarding any aspect of the requested inspection of public records and writings and/or the requested copies of public records and writings. None of these legal rights are waived with regards to this Public Records request.

However, because this request is itself a public record, in some cases this requestor may provide background information related to the request proper. This request, being a public record, can itself be requested, reviewed and copied. To the degree this document can provide information and insight regarding the request, this request may help other citizens interested in good government achieve positive results.

#### **Background Regarding This Request.**

The Port of Tahuya has been involved in a mission. That mission is to perform the will of the people. The people have spoken. The will of the people is to shut down the Port or Tahuya. The Commission has procedurally and formally presented the will of the people to the Court.

*“The Court hereby also finds that the best interests of all persons concerned will be served by the proposed dissolution of the Port of Tahuya under the conditions set forth herein, and that an order dissolving the Port of Tahuya port district should be entered by the Court.”* (See page 2 item 2.2 of document titled Superior Court of Washington for Mason County, re: The Port of Tahuya, No. 05-2-01083-9, Order On Hearing January 9<sup>th</sup> 2006.)

*“The Court considered the .... [Request of Brad Carey For Orderly Dissolution, With Supporting Declaration](#), the [Declaration of Brad Carey Regarding Unfinished Business Of The Port](#), and the proposed [Order Requiring Systematic Winding Up Prior To Dissolution](#), filed by Brad Carey’s attorney Susan Rae Sampson; the [Letter Dated January 6, 2006 To Mason County Court From Brad Carey](#), submitted by Mr. Carey on behalf of himself; ....”* (See page 2 item 1.3 of document titled Superior Court of Washington for Mason County, re: The Port of Tahuya, No. 05-2-01083-9, Order On Hearing January 9<sup>th</sup> 2006.)

Requestor has attended every Port of Tahuya meeting and hearing during which the dissolution of the Port of Tahuya has been discussed. As of March 15<sup>th</sup> 2006, Requestor has yet to hear or see any evidence of any Plan for the dissolution of the Port of Tahuya. In fact, Requestor has repeatedly witnessed egregious conduct and actions by Chairman,

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Secretary, Commissioner Jimmy Christen and by Brad Smith that is in direct opposition to the letter and the spirit of the agreement struck between the parties and with the Court on January 9<sup>th</sup> 2006.

## REQUEST:

### Request 0.

**PDA.** Please provide Requestor with a soft copy of the Word Documents of all public records and writings related to Chairman Jimmy Christen's Plans and the Commission's Plans for dissolving the Port of Tahuya including but not limited to *Orderly Dissolution, Unfinished Business Of The Port, and Systematic Winding Up (of the port's affairs) Prior To Dissolution*,. Also, please include via US Mail the unfolded hardcopies of all attachments to said Plans if unable to provide in soft copy form. For both your convenience and Requestor's, you may send these requested soft copies to Requestor via e-mail as attachments to your e-mail. If for some reason you cannot provide soft copies, unfolded hard copies are acceptable. Requestor is prepared to pay the port's standard per page charges as directed by the port.

### Request 1.

**PDA.** Please provide Requestor with all the public records and writings that constitute Chairman, Secretary, Commissioner Jimmy Christen's Plan for accomplishing an "*Orderly Dissolution*", for accomplishing a proper and orderly finishing on the "*Unfinished Business Of The Port*", and for the "*Systematic Winding Up (of the port's affairs) Prior To Dissolution*".

### Request 2.

**OPMA.** Please ask Chairman, Secretary, Commissioner Jimmy Christen to locate these requested public records and writings at the time this document is being presented to the Commission.

If the public records and writings are not at the location where the meeting is being held, or if such records do not exist, please request Chairman, Secretary, Commissioner Jimmy Christen to publicly explain to the Commission the process he goes through to ensure that both he and Commissioner Smith are in compliance with the letter and the spirit of the agreement struck between the parties and with the Court on January 9<sup>th</sup> 2006.

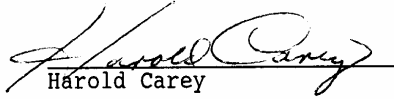
*In order to avoid any misunderstanding regarding what is being requested in this PDA request, I am requesting all questions regarding this PDA request be put in writing and e-mailed to requestor at [hcarey1@mindspring.com](mailto:hcarey1@mindspring.com) or faxed to 360-277-3455. Your letter, if any,*

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*acknowledging receipt of my PDA request may also be e-mailed to me for both your and my convenience.*

Unless I hear otherwise, I will assume my PDA request is being processed as requested.

Thank you,



Harold Carey

CC: None.