

THE PORT OF TAHUYA CITIZENS ADVISORY COMMITTEE (CAC) RECOMMENDATIONS

1. The CAC recommends to the Port of Tahuya Commissioners they “un-adopt the Public Access Plan and remove it from the Comprehensive Plan”.
2. The CAC recommends to the Port of Tahuya Commissioners they adopt a Comprehensive Plan for the port district. The CAC has drafted and assembled a “draft” Comprehensive Plan for the Port of Tahuya Commissioner’s consideration and action. A copy is attached hereto in the section of this report under the tab called “The Committee’s Product(s)”
3. The CAC recommends to the Port of Tahuya Commissioners that they follow the required procedure in adopting a Comprehensive Plan and in addition they send to all the residents, voters, businesses and landowners in the Port District for input and comment a draft of the revised Comprehensive Plan before they adopt a Comprehensive Plan.
Further, the CAC recommends to the Port of Tahuya Commissioners they look into whether the current Comprehensive Plan was properly adopted before they consider an update. While discharging the CAC charge and looking at the history of the Comprehensive plan it could not be determined that the existing plan resulted from any earlier plan properly adopted. Therefore, it may be that any future plan needs to be adopted as “the” plan.
4. The CAC recommends to the Port of Tahuya Commissioners they place the adopted Comprehensive Plan on the Port’s website once adopted as well as in other public places so people without a computer can read or obtain copies.
5. The CAC recommends to the Port of Tahuya Commissioners they adopt a policy for timely review and update of the Comprehensive Plan. The Committee recommends that the process occurs at least every three years.
6. The CAC recommends to the Port of Tahuya Commissioners they finalize a set of “Quality of Life Values” for the Port of Tahuya district as referenced in goal statement number 2.2 in mission statement 2.0 under the Mission and Goal section of the draft Comprehensive Plan. (Note that a potential list of Quality of Life Values is found in section 6.2 of this report). The CAC further recommends that a public survey, possibly by an independent professional third party survey company, be considered in helping finalize these values.
7. The CAC recommends to the Port of Tahuya Commissioners they adopt a policy wherein existing and new commissioners are required to familiarize and/or educate themselves on the RCW’s and Acts pertaining to their office and duties, the WPPA, grant organizations such as the IAC, the Hood Canal Coordinating Council, other governmental agencies that relate to or can impact the duties of the Port Commissioners and understand and stay in touch with the Port of Allyn and Port of Dewatto.

8. The CAC recommends to the Port of Tahuya Commissioners they adopt an annual business plan. The plan should include projects and activities of the Port within the current year and a “look ahead” plan for the future (1 – 5 years).
9. The CAC recommends to the Port of Tahuya Commissioners they adopt an orderly process for conducting port meetings.
10. The CAC recommends to the Port of Tahuya Commissioners they use citizen’s advisory groups to help address issues or opportunities by researching the situation or opportunity and making recommendations to the Commissioners so that progress and decisions can be made during official Port meeting in a timely manner.
11. The CAC recommends to the Port of Tahuya Commissioners they finalize a Planning Methods and Processes for the Projects section of the Comprehensive Plan using guidelines from the WPPA but specific to the needs of this Port District. The CAC further recommends that any finalized method and process have as a component the finalized quality of life values and these values be used in evaluating any projects. The CAC has provided in the attachment section of this report a sample matrix that could be used for this purpose.
12. Regarding park and recreational facilities, CAC analysis has produced the following:

The Law:

The most significant law governing Park and Recreational Facilities is RCW 53.08.260.

RCW 53.08.260

Park and Recreation Facilities.

“A port district may construct, improve, maintain, and operate public park and recreation facilities when such facilities are necessary to more fully utilize *(existing)* boat landings, harbors, wharves and piers, air, land, and water passenger and transfer terminals, waterways, other port facilities authorized by law pursuant to the port’s comprehensive plan of harbor improvements and industrial development.”

Reading and applying the law as written, it is the opinion of the CAC the POT is out of compliance with said law at the time the Menard’s Landing property was purchased and again when the formal decision was made to construct a park known as Menard’s landing. For example, the property on which Menard’s Landing was constructed contained no “port facilities” on or adjacent to said property. It is the opinion of the CAC, the POT is still out of compliance with RCW 53.08.260.

Regarding the section of law which states “...authorized by law pursuant to the port’s comprehensive plan of harbor improvements and industrial development”, it appears that neither the Port of Tahuya’s 1984 nor its 1993 Comprehensive Plan makes any provision for harbor improvements and industrial development. Even if one or both Comprehensive Plans made such provision, said provision would still not satisfy RCW 53.08.260 as the property contained no facilities whatsoever. To this day, the only facility is the park itself.

Further, the Menard's landing property was purchased for the sole purpose and intent of creating a park. It is the opinion of the CAC this purchase was in direct violation of RCW 53.08.260. It is also the opinion of the CAC the law was further violated when park facilities were actually constructed on the Menard's Landing property.

Finally, under "Development" of the POT's 1984 Comprehensive Plan is stated "Future development will be done, insofar as feasible, with the objective of earning sufficient net income to cover operation and administrative cost and depreciation, always keeping the community needs in mind." Since 1984 the POT has brought one project online; i.e. Menard's Landing. The community (The People of the Port District of Tahuya) rarely use Menard's Landing. The People that live near it consider it a nuisance and would like to see it gone. The facility requires approximately \$5,000 a year to maintain or 20% of the POT's annual budget. It generates no income. In the opinion of the CAC, the facility totally fails with respect to the "Development" objective presented at the beginning of this paragraph; i.e. of the 1984 POT Comprehensive Plan.

Assuming the above analysis is correct, the CAC recommends the following:

POT commissioners need to review the law and other information just provided and then discuss with those CAC members that have been directly involved with this recommendation.

If still necessary, confirm the above legal issues raised through a legal finding with a highly qualified legal expert in Washington State Port Powers.

Assuming the CAC's interpretation of the law is correct, determine all options available for disposing of Menard's Landing, select the best one for the PDOT, and dispose of the property.

13. Regarding "Improvement of lands for industrial and commercial purposes – Providing sewer and water utilities – Providing pollution control facilities.", CAC analysis has produced the following:

The Law:

The most significant law governing this section is RCW 53.08.040.

RCW 53.08.040

"Improvement of lands for industrial and commercial purposes – Providing sewer and water utilities – Providing pollution control facilities."

"A (port) district may improve its lands by dredging, filling, bulk heading, providing waterways or otherwise developing such lands for industrial and commercial purposes." (Remainder of RCW 53.08.040 not included as it is not applicable to dredging.)

Reading and applying the law as written, it is the opinion of the CAC that the POT is out of compliance with said law. The law specifically states that "A district may improve its lands by dredging...". The dredging the POT has been involved in is not on "its lands".

This is land owned by private property owners and/or the State of Washington. In the opinion of the CAC, the law does not authorize a port to make improvements of land a port does not own through such acts as dredging of another's property.

The law in its very title states "Improvement of lands for industrial or commercial purposes".

The dredging the POT has been paying for neither improves the land on which Menard's Landing is located nor does it improve this same land for industrial or commercial purposes. The land is totally a park. The land has no industrial or commercial purposes.

Conclusion:

In the opinion of the CAC, past payments for dredging have been a violation of law – RCW 53.08.040.

Assuming the above analysis is correct, the CAC recommends the following:

POT commissioners need to review the law and other information just provided.

If still additional clarification is necessary, confirm the above legal issues raised through a legal finding with a highly qualified legal expert in Washington State Port Powers.

Assuming the CAC's interpretation of the law is correct, cease all further payments for dredging from this moment in time and hereafter.

14. The CAC recommends to the Port of Tahuya Commissioners they address redistricting as follows:
 - a. Use the latest government census data to bring the Port of Tahuya redistricting data up to date and redistrict as appropriate. The Port of Tahuya redistricting data should include data concerning permanent versus part time residences, out of state property owners, voting property owners, etc.
 - b. If redistricting is required, obtain public input and comment before plans for redistricting are finalized.
 - c. If redistricting is required, ensure the upland property owners such as those in the Tahuya river valley, have equity representation.
 - d. Once a redistricting plan is developed file it with Mason County.
 - e. Ensure the law in effect, specifically RCW's 53.16.015, 53.06.020, 53.16.030 and others, for considering redistricting is adhered to.

15. The CAC recommends to the Port of Tahuya Commissioners they consider installing more signage around the Port district that shows boundaries.

16. The CAC recommends to the Port of Tahuya Commissioners they address the recording of meeting minutes as follows:
 - a. For port meetings, hire a professional to transcribe the meetings and explore live recording of the meetings for airing or downloading to the Port's website.
 - b. For any citizens advisory groups engaged to hold meetings and make recommendations to the Port Commissioners, ensure that budgets to support their efforts include a budget for hiring a professional transcriber if the Commissioners or the citizen's advisory group deems it necessary. A decision on whether or not such services are required must be made prior to or during the groups initial meeting.
17. The CAC recommends to the Port of Tahuya Commissioners they adopt a resolution to include in every port meeting agenda a minimum of at least forty five minutes for a general public comment period at the end of each meeting to answer questions or receive comments from the public. In addition comment periods for specific subjects during the meeting will be considered a normal protocol as the Port Commissioners discuss important issues that impact the public. The time period for such public comment will be determined by the Commissioners.
18. The CAC recommends to the Port of Tahuya Commissioners they adopt an appellate process whereby the public is provided with ability to appeal decisions made by the Commission for reconsideration.
19. The CAC recommends to the Port of Tahuya Commissioners they create and adopt a set of By-laws, policies and procedures.