

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR MASON COUNTY**

IN THE MATTER OF:

NO.

THE RECALL OF CYNTHIA
OLSEN, Port Commissioner of
the Port of TAHUYA,
Washington

PETITION TO DETERMINE
SUFFICIENCY OF RECALL
CHARGES AND FOR
APPROVAL OF BALLOT
SYNOPSIS

COMES NOW GARY P. BURLESON, Prosecuting Attorney of Mason
County, and Mike E. Clift, his deputy, petitioning this Court pursuant to RCW
29.82.021 for a determination of the sufficiency of recall charges, and for
approval of the attached ballot synopsis.

1. On July 14, 2004, Bradley J. Carey, Celeste A. Carey, Norton B. Young,
Beatrice H. Young, Harold Carey, Barbara G. Carey, John L. Christen,
Michael S. Christen, Ernest W. Aries and Shirley J. Aries filed with the
Mason County Auditor a PETITION FOR RECALL OF CYNTHIA OLSEN
AS PORT COMMISSIONER OF THE PORT OF TAHUYA, requesting the
recall of Cynthia Olsen as a port commissioner of the Port of Tahuya,

1 2. This Court has jurisdiction over this action, and proper venue lies in Mason
2 County because Mrs. Olsen is a resident of Mason County, and the acts
3 complained of occurred in Mason County. RCW 29.82.021(2).
4

5 3. A true and correct copy of the Petition for Recall, including the statement of
6 charges, is attached hereto as Attachment # 1. The attachment includes the
7 following:
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9 a. A copy of a letter dated July 14, 2004 from the Auditor to Cynthia
10 Olsen, serving her with a copy of the charges filed against her;
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12 b. A transmittal letter dated July 14, 2004 from the Auditor to the
13 Prosecuting Attorney, "Certifying Charge for Recall" and, forwarding
14 the statement of charges;
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16 c. Petition for Recall of Cynthia Olsen as port commissioner of the Port of
17 Tahuya;
18

19 d. A signed and verified statement of charges relating to a special meeting
20 of the port held on July 9, 2004, and supported by copies of meeting
21 minutes - Exhibits A, B, C and D.
22

23 4. Upon receipt of the statement of charges, the Auditor's duties were to (1)
24 serve a copy of the Petition for Recall upon the officer subject to recall; and
25 (2) to certify and transmit those charges to the preparer of the ballot
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1 synopsis, in this case, the Prosecuting Attorney. RCW 29.82.015 and RCW
2 29.82.021(1)(b). A port commissioner is a public officer subject to recall.
3
4 Const. art. I, § 33, 34 (Amendment 8).

5 5. On July 14, 2004, the County Auditor mailed a copy of the charges to
6 Cynthia Olsen at 13150 NE North Shore Rd, Belfair, WA 98528, her current
7
8 address and, on the same date, personally delivered a copy of the charges to
9 the Prosecuting Attorney.

10 6. After receiving the charges, the statute directs the Prosecuting Attorney to
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12 prepare a ballot synopsis that will eventually appear on the ballot, if the
13 recall matter qualifies for the ballot. RCW 29.82.021(2). The ballot
14 synopsis prepared by the Prosecuting Attorney is attached to this Petition as
15 Attachment #2 and is transmitted to Cynthia Olsen, and to Mr. Thomas C.
16 O'Hare, an attorney for the individually-named petitioners, along with
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18 service of this Petition.

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20 7. Additionally, the statute mandates that the Prosecuting Attorney certify and
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22 transmit the charges and the ballot synopsis to the superior court of the
23 county in which the officer subject to recall resides, and shall petition the
24 superior court to approve the synopsis and to determine the sufficiency of the
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1 charges. RCW 29.82.021(2). This petition is filed, together with its
2 attachments, in response to this statutory directive.

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4 RELIEF IS THEREFORE REQUESTED AS FOLLOWS:

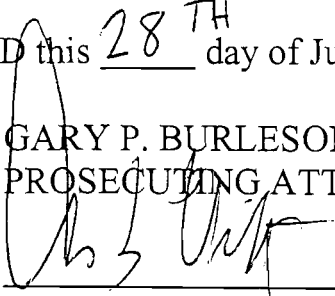
5 1. That this Court enter an order determining whether the statement of
6 charges filed by Petitioners and attached as Attachment # 1, are, or are not
7 factually and legally sufficient to support the recall of Cynthia Olsen as Port
8 Commissioner of the Port of Tahuya Washington.

9
10 2. That this Court approve the ballot synopsis attached to this petition as
11 Attachment # 2 or, alternatively, that the Court correct that synopsis if the Court
12 finds it to be inadequate; and

13
14 3. For such other and further relief as the Court deems just and appropriate.

15
16 RESPECTFULLY SUBMITTED this 28TH day of July 2004.

17 GARY P. BURLESON
18 PROSECUTING ATTORNEY

19 
20 MIKE E. CLIFT, WSBA #14302
21 Chief Deputy Prosecutor

PETITION FOR RECALL OF

CYNTHIA OLSEN

AS PORT COMMISSIONER OF THE

PORT OF TAHUYA

FEE _____
REEL _____ FRAME _____
AUDITOR MASON COUNTY
ALLAN T. BROTCHE

2004 JUL 14 A 11: 06

REQUEST OF:

The undersigned legal voters of the State of Washington and the Port District of the Port of Tahuya hereby demand the recall and discharge from office of Cynthia Olsen, Port Commissioner of the Port of Tahuya on the grounds and for the reason that Cynthia Olsen has committed acts of malfeasance or misfeasance while in office in the following particulars:

Cynthia Olsen violated the State of Washington Code of Ethics for Municipal Officers, and particularly RCW 42.23.030 by voting for the authorization and approval of contracts in which she was beneficially interested. On July 9, 2004 Cynthia Olsen, at a special meeting of the Port Commissioners of the Port of Tahuya, after being advised by Commissioner Jim Christen that voting on such resolutions constituted a conflict of interest for her, nevertheless voted for the adoption of resolutions of the Port Commission which:

1. Granted the request of Cynthia Olsen that the Port of Tahuya indemnify her in connection with the claims made against Cynthia Olsen in Mason County Cause No. 04 2 00303 6, Residents for Preservation of Quality of Life on Hood Canal v. Cynthia Olsen and Steven Olsen. See Exhibit A attached hereto.
2. Authorized retaining an attorney, Steve DeJulio of Foster, Pepper & Sheffelman P.L.L.C., at the Port of Tahuya expense, to defend Cynthia Olsen in connection with actions, claims and proceedings against Cynthia Olsen while serving within the scope of her duties as a Commissioner for the Port of Tahuya. See Exhibit B attached hereto.
3. Authorized retaining separate counsel, at the Port of Tahuya expense, to represent Cynthia Olsen if a legal conflict impedes or prevents joint representation of Cynthia

Olsen and Bog Gilbert. See Exhibit C attached hereto.

4. Granted the request of Cynthia Olsen that the Port of Tahuya indemnify her for legal defense costs and possible judgments or settlements occurring as a result of threatened future actions claims or proceedings which may be instituted against her in connection with her duties as a Commissioner of the Port of Tahuya. See Exhibit D attached hereto.

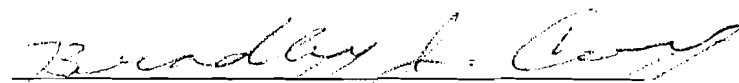
Commissioner Olsen directly and personally financially benefitted from adoption of the subject resolutions.

The votes of Commissioner Olsen were instrumental in the adoption of the subject resolutions because the vote of the Port Commissioners on each such resolution was two in favor and one opposed.

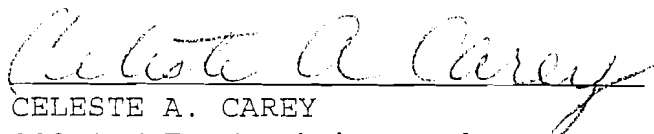
VERIFICATION

The undersigned, being first duly sworn, on oath, affirm that they have knowledge of the facts upon which the above stated Petition to Recall Cynthia Olsen as a Port Commissioner of the Port of Tahuya are based and believe that the above charges contained in the Petition to Recall Cynthia Olsen as a Port Commissioner of the Port of Tahuya, are true and correct as stated.

July 14, 2004


BRADLEY J. CAREY
20811 N.E. Northshore Rd.
Tahuya, Wa. 98588
360-372-2600

55246


CELESTE A. CAREY
20811 N.E. Northshore Rd.
Tahuya, Washington 98588
360-372-2600

88247

Norton B. Young
NORTON B. YOUNG
20231 N.E. Northshore Rd.
Tahuya, Wa. 98588
360-275-2098

44372

Beatrice H. Young
BEATRICE H. YOUNG
20231 N.E. Northshore Rd.
Tahuya, Wa. 98588
360-275-2098

44371

Harold Carey
HAROLD CAREY
251 N.E. Shorebook Dr.
Tahuya, Wa. 98588
360-275-3454

9303269

Barbara G. Carey by Harold Carey DPOA 9303268
BARBARA G. CAREY
251 N.E. Shorebook Dr.
Tahuya, Wa. 98588
360-275-3454

John L. Christen
JOHN L. CHRISTEN
190 N.E. Timber Lane
Tahuya, Wa. 98588
360-275-8887

10760

Michael S. Christen
MICHAEL S. CHRISTEN
190 N.E. Timber Lane
Tahuya, Wa. 98588

Ernest W. Aries

ERNEST W. ARIES
15130 N.E. Northshore Rd.
Tahuya, Wa. 98588
360-275-2720

Shirley J. Aries

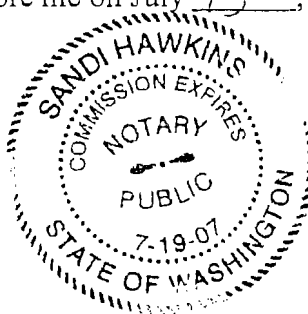
SHIRLEY J. ARIES
15130 N.E. Northshore Rd.
Tahuya, Wa. 98588
360-275-2720

State of Washington)

County of ^{Kitsap} ~~Mason~~) ss

Signed and sworn to by BRADLEY J. CAREY before me on July 13, 2004

Sandi Hawkins
Notary Public in and for the State of Washington
Residing at Bremerton
My commission expires 7-19-07

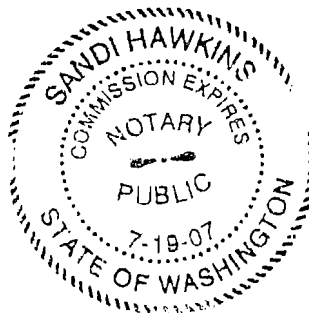


State of Washington)

County of ^{Kitsap} ~~Mason~~) ss

Signed and sworn to by CELESTE A. CAREY before me on July 13, 2004

Sandi Hawkins
Notary Public in and for the State of Washington
Residing at Bremerton
My commission expires 7-19-07



State of Washington)

County of Mason) ss

Signed and sworn to by NORTON B. YOUNG before me on July 13th, 2004

Alene Rutter

Notary Public in and for the State of Washington

Residing at TAHUVA

My commission expires 4/28/07



State of Washington)
) ss
County of Mason)

Signed and sworn to by BEATRICE M. YOUNG before me on July 13th, 2004

Alene Rutter

Notary Public in and for the State of Washington

Residing at TAHUVA

My commission expires 4/28/07



State of Washington)
) ss
County of Mason)

Signed and sworn to by HAROLD CAREY before me on July 13th, 2004

Alene Rutter

Notary Public in and for the State of Washington

Residing at TAHUVA

My commission expires 4/28/07



State of Washington)
) ss
County of Mason)

Signed and sworn to by BARBARA G. CAREY before me on July 10th, 2004

Alene Rutter

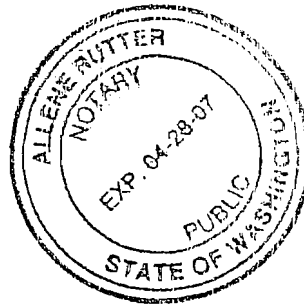


Notary Public in and for the State of Washington
Residing at TANUYA
My commission expires 4/28/07

State of Washington)
) ss
County of Mason)

Signed and sworn to by JOHN L. CHRISTEN before me on July 13th, 2004

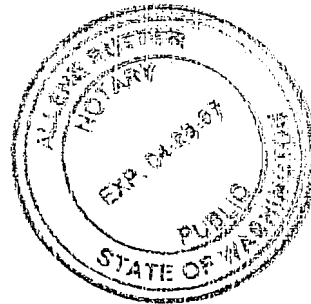
Allene Rutter
Notary Public in and for the State of Washington
Residing at TANUYA
My commission expires 4/28/07



State of Washington)
) ss
County of Mason)

Signed and sworn to by MICHAEL S. CHRISTEN before me on July 13th, 2004

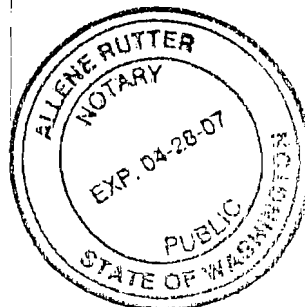
Allene Rutter
Notary Public in and for the State of Washington
Residing at TANUYA
My commission expires 4/28/07



State of Washington)
) ss
County of Mason)

Signed and sworn to by ERNEST W. ARIES before me on July 13th, 2004

Allene Rutter
Notary Public in and for the State of Washington
Residing at TANUYA
My commission expires 4/28/07



State of Washington)
) ss

County of Mason)

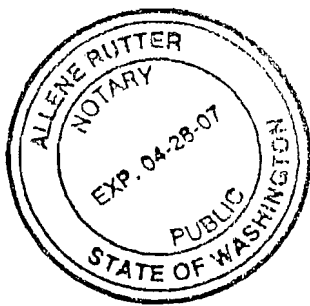
Signed and sworn to by SHIRLEY J. ARIES before me on July 13th, 2004

Alene Rutter

Notary Public in and for the State of Washington

Residing at VADUVA

My commission expires 4/28/07



7-9-04

Page 5
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I MOVE THAT THE PORT COMMISSION FIND THAT ALL OF THE ALLEGED VIOLATIVE ACTS BY CYNTHIA OLSEN, IF DONE, WERE DONE IN GOOD FAITH AND WITHIN THE SCOPE OF HER DUTIES AS A PORT COMMISSIONER AND THEREFORE, THAT THE REQUEST OF CYNTHIA OLSEN, REQUESTING THAT THE PORT OF TAHUYA INDEMNIFY HER UNDER THE PROVISIONS OF RCW 53.08.208 IN CONNECTION WITH THAT LEGAL ACTION IN MASON COUNTY SUPERIOR COURT TITLED RESIDENTS FOR PRESERVATION OF QUALITY OF LIFE ON HOOD CANAL V. CYNTHIA OLSEN AND STEVEN OLSEN AND BOB GILBERT AND PAM GILBERT, CAUSE NO. 04 2 003-03 6, BE GRANTED.

Robert B. Christen
 Cynthia Olsen

Stephen

DiJulio

7-9-04

Page 8
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I move that the Port Commission of the Port of Tahuya retain Mr. Steve DeJulio of the firm Foster Pepper & Shefelman PLLC, and any help he deems necessary, to represent and defend ~~Port Commissioners~~ Bob Gilbert and Cynthia Olsen *in connection with actions,*

claims or proceedings against either of them

while serving ~~as~~ with

the scope of their duties as a commissioner for the port of Tahuya.

RCM
7/9/04

Robert C Gilbert
Cynthia Olsen

7-9-04
Page 9
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I MOVE THAT IF THE APPOINTED PORT OF TAHUYA ATTORNEY DETERMINES, AT SOME FUTURE DATE, THAT THERE IS A LEGAL CONFLICT THAT WOULD IMPEDE OR PREVENT THE LEGAL REPRESENTATION OF CYNTHIA OLSEN AND BOB GILBERT BY A SINGLE ATTORNEY IN CONNECTION WITH PENDING OR FUTURE ACTIONS, CLAIMS, OR PROCEEDINGS AGAINST THEM IN CONNECTION WITH THEIR RESPONSIBILITIES AND DUTIES AS A PORT COMMISSIONER FOR THE PORT OF TAHUYA, THAT HE IS AUTHORIZED TO ENGAGE SEPARATE COUNSEL TO BE PAID BY THE PORT OF TAHUYA TO REPRESENT EITHER CYNTHIA OLSEN OR BOB GILBERT.

Cynthia Olsen
Robert C Gilbert

7-9-04
Page 7
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I MOVE THAT THE TAHUYA PORT COMMISSION INDEMNIFY CYNTHIA
OLSEN FOR LEGAL DEFENSE COSTS AND POSSIBLE JUDGEMENTS
OR SETTLEMENTS THAT MAY OCCUR AS THE RESULT OF THREATENED
FUTURE ACTIONS, CLAIMS OR PROCEEDINGS THAT MAY BE
INSTITUTED AGAINST HER IN CONNECTION WITH HER DUTIES AS
COMMISSIONER OF THE PORT OF TAHUYA AND WHILE ACTING IN
GOOD FAITH AND WITHIN THE SCOPE OF HER DUTIES.

Robert C. Ghera
Cynthia Olsen

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ATTACHMENT #2

**BALLOT SYNOPSIS FOR RECALL OF
CYNTHIA OLSEN
AS PORT COMMISSIONER OF THE PORT OF TAHUYA,
WASHINGTON**

Port Commissioner Cynthia Olsen is accused of malfeasance, misfeasance and violating her oath of office while serving as an elected port commissioner, in violation of Chapter 29.82 Revised Code of Washington (RCW).

The Statement of Charges claims that Commissioner Olsen violated the Washington Ethics Code (RCW 42.23.030), by voting in favor of port resolutions which benefited her personally while acting as a port commissioner for the three-member Port of Tahuya.

It is claimed that on July 9, 2004, she ignored a warning from Commissioner Jim Christen that her votes, favoring resolutions which authorized the Port to pay her legal expenses, was an unlawful conflict of interest.

Despite the warning, Commissioner Olsen voted in favor of four (4) resolutions which authorized the Port of Tahuya to indemnify her, by paying her past and future attorney fees, including judgment and settlement costs arising out

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of a pending lawsuit wherein she is a defendant charged with violating the state
Open Public Meetings Act (RCW 42.30.030).

SHOULD PORT COMMISSIONER OLSEN BE RECALLED FROM OFFICE,
BASED UPON THESE CHARGES?