

January 30, 2024

6:00 P.M.

Newport, OR

**PORT OF NEWPORT COMMISSION MINUTES**

*This is not an exact transcript. The video of the session is available on the Port's website.*

The Port of Newport Commission met on the above date and time at the Administration Building, 600 SE Bay Blvd., and virtually via Microsoft Teams. In attendance were Commissioners Sylvia, Retherford, Ruddiman, Chuck, and Lackey. Also in attendance were Executive Director Paula Miranda, Director of Business and Finance Services Mark Brown, Operations Director Aaron Bretz, Administrative Assistant Gloria Tucker, and PR Consultant Angela Nebel. Visitors included Rex Capri and Al Pazar (remotely).

**PUBLIC HEARING**

**Match Funds Discussion and Adoption of Resolution No. 2024-02 Regarding a Supplemental Budget.** Sylvia introduced the agenda item. Brown reported as he dug into the Port's different balances, he found the Port isn't really cash short, but doesn't have access to its cash. Miranda stated the main reason for cash flow restraint is not just a lot of projects, but also that the Port has grants close together that have matches and a lot of unexpected work. She emphasized this is a combination of reasons. Brown stated he hopes the state will kick in some more grant money for the Port's matches. He explained he prepared a cash flow for the NOAA Lease Revenue Fund through the end of the lease. He indicated at the end of their lease and when the final bond payment is made, \$3 million will still be in the bank. He added his cash flow includes dredging every three years, increases in inflation for salaries, materials and services, as well as rent increases. He noted there should be a good cash balance left to build additional buildings should they stay and want to expand.

Brown reported given the fact at the end of the lease, the Port would have money available for NOAA capital improvements in the NOAA Lease Revenue Fund, he took a look at the NOAA Capital Improvement Fund. He stated with almost \$2 million there, it is important to have that money for future projects. He suggested the Port rename it to Capital Reserves, and then borrow against that and pay it back within six years. Miranda noted the Capital Reserves is different than the Port's General Fund contingency of \$1.2 million. Since he was the only Commissioner here at the time of its creation, she asked Chuck to provide background on why it was created since the bond covers NOAA's needs.

Chuck explained the reserve fund was set aside mainly since the Port had not done a good job in the past for setting aside funds for emergencies for its other assets like the Terminal or RV Park. He stated the Commission didn't want to continue that precedent. He noted if there was an emergency, the Commission wanted the Port to be able to address it. He indicated they wanted to maintain the facility in the way the Commission promised to the state, the US government, and NOAA. He added when the bond was approved, it was \$3 million, and they knew that buying power would decrease over time. He explained the fund has been borrowed against for other projects in the past, prefaced that those were revenue producing endeavors.

Retherford clarified with staff the \$1.2 million is the overall budget's contingency fund in the General Fund. Sylvia asked Brown to explain the other options in the report. Brown replied option 2 is to borrow funds from Business Oregon. He noted the Port would be looking at six months to borrow, and Business Oregon could run out of their current bonds by that time, which means their interest rates would go up. He explained option 3 is to borrow funds from Business Oregon until the rate of interest on LGIP funds goes below the rate of borrowed funds. Miranda added the whole point is not to lose funds through interest. Sylvia summarized staff recommend option 1 because interest rates will go up and it will take six months for the whole process. He asked couldn't staff play that by ear. He noted staff isn't sure what interest rates would do, and if interest rates are still good, then staff could keep that option open. Miranda stated she recommended the combination option. She noted she would rather have the option to borrow as long as the interest rate makes sense.

Sylvia asked why \$300,000 was the number left in the fund. Brown replied that is arbitrary, but he wanted to leave some funds in there at all times. Miranda noted the conversations staff have had so far with NOAA is expanding the building and storage. She stated she doesn't think what they want will cost that much more, and if it does, the Port won't have a bond anymore and could borrow again. She added the Port could go out for another bond. Sylvia noted the Port doesn't know what their RFP will look like, what requirements will be. He stated having that money available might be useful if it is needed for negotiations. He indicated their RFP may require charter airplane service. Miranda stated she is working with the city and federal legislators on air service. She noted there is a survey out for how much businesses are willing to pay for flights from here to Portland. Sylvia added having worked on grants for federal agencies, language can get inserted into an RFP that favors one set of bidders rather than others.

Retherford clarified with staff the \$3 million is reflected in multiple accounts. Lackey thanked Chuck for the history on the intent behind the fund. He stated it is a top priority to keep NOAA here, and staff need to think in advance. He summarized the funds and asked if the Port will still have \$1.95 million in the reserve fund with IOUs once the lease ends. Brown replied there will be a payment plan for any outstanding loans from the fund. Discussion ensued on paying off the loan for the pedestals in South Beach.

Ruddiman noted under the lease, the Port is required to do maintenance. He asked if staff feel they will have adequate funds to cover those costs. Brown stated he talked to NOAA Facility Manager Jim Durkee who said they don't foresee any major things coming up in the next 8-10 years. He noted he has put \$500,000 aside for improvements, and he did consider that. Chuck noted the Port will have to dredge every three years, and dredging has tripled since he has been on the Commission. He noted it could double in 7 years. He noted he wasn't averse to using some of the money for projects, but there may be future uses that are more pressing than now. He explained the Port will need a \$2-3 million match for Port Dock 7 and funds to redo the RV Park Annex. He stated he thinks the staff need to look at keeping this fund as whole as possible. He added he is concerned if NOAA would want a brand-new building. Brown replied he included two or three dredging in the cash flow that increased \$300,000 every time. He agreed huge projects are coming up.

Lackey stated there are a lot of needles to thread in the next seven years, but if the Port keeps fixing things, it's not going to be easy, but the Port may be in good shape. Sylvia clarified with staff the motion should be to approve option 3. Option 3 included in the packet stated the following:

Borrow funds from Business Oregon, make available the funds in the NOAA Reserve account by renaming and repurposing account, and then repay the Business Oregon loan when the interest rate for the Local Government Investment Pool (LGIP) funds is at or below the Business Oregon borrowing rate.

Borrowing the money will require a \$150 fee, but the Port earnings would be much higher than this. The rates earned with the Local Government Investment Pool have been above 3.4% since May of 2023.

MOTION was made by Lackey, seconded by Retherford, to approve option 3, rename and repurpose the NOAA Capital Reserve Fund, and adopt Resolution No. 2024-02 Regarding a Supplemental Budget. The motion carried unanimously in a voice vote.

### **PUBLIC COMMENT**

Capri, Newport resident, stated the requirement to have to register online a day and half before this meeting to give public comment is counter-productive for the people of this port district. He noted in the past people could just sign in on a sheet at the meeting. He suggested people getting off work shouldn't have to register online but should be able to walk in. Tucker explained signing up is just for giving public comment virtually, and people can still attend the meeting and give public comment in person without notice.

Capri stated the Newport Terminal renovation was completed 10 years ago. He stated during that time, the Port has not had any new users of that facility other than fishing vessels. He noted the intent was to try and draw in new users of that facility. He indicated he feels like the Port has lost an opportunity on a lot of additional revenue by not pursuing that more aggressively. He added he would like to see the projects for the Terminal bumped up in priority.

Capri stated he recommends hiring a marketing person who can devote more time directly to trying to market the Port assets, not just the Terminal. He stated the renovation project ended up at \$28 million and the taxpayers are still paying on that bond measure. He noted the Terminal is only bringing in \$300-400,000, so the taxpayers are losing on their investment. He indicated 10 years is too long, and it is time to prioritize that asset. Miranda replied the Port is doing a lot but it's not being seen. She stated she would reach out to Capri directly and explain the work going on.

### **CONSENT CALENDAR**

MOTION was made by Ruddiman, seconded by Lackey, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

### **OLD BUSINESS**

**Approval of Employee Handbook Update.** Sylvia introduced the agenda item. Brown reported every couple of years, new laws are enacted, and staff have to take a look at the handbook and make sure those new laws are incorporated. He stated much of this handbook is a rewrite because the Port went from a corporate handbook to a governmental handbook. He noted he added a Title VI and ADA complaint form as a result of getting the MARAD grant. He indicated the Port can't do non-disclosure agreements, and staff can't do political activity on Port property. He added Paid Leave Oregon was included. He explained clarifications to PTO, which includes a

requirement for all staff to take a mandated five consecutive days off, how staff who work on a holiday are paid, and management PTO accrual rates taken out. He added Miranda has the authority to give extra vacation accrual. The Commission thanked Brown for his work on the handbook. Brown thanked staff for their review.

Brown reported this handbook is based on a template from HR Answers. Lackey asked how often this handbook gets referred to. Brown replied he and Bretz look at this every week. Miranda reported every time the Port hires someone, staff give them a copy and a statement to sign saying they received it. She noted she reminds folks to read this on an annual basis. Lackey asked if staff highlight items in onboarding, Brown that is the responsibility of the supervisor, but he tells hires to review it before signing the receipt.

Sylvia noted a lot of these changes are mandated by law. He asked which ones weren't but were Port-adopted decisions. Miranda replied the five consecutive days was not a requirement for everyone. She emphasized it is important for staff to rest beyond taking sick days. Brown replied travel reimbursements were changed; it's not based on receipts anymore. Sylvia asked how often the handbook should be amended. Brown replied he recommends every two years. He noted the Commission can implement new policies in the interim, but those eventually get adopted in the new handbook. Miranda added all amendments come to the Commission for approval.

MOTION was made by Retherford, seconded by Chuck, to approve Resolution 2024-01 regarding adopting a new employee handbook and rescinding the old handbook. The motion carried unanimously in a voice vote.

**Approval of Rogue Seawall Project Bids and Notice of Intent to Award to Bergerson Construction.** Sylvia introduced the agenda item. Bretz reported the Port finished a 30-day bid process on this and had a lot of interest from highly qualified companies. He noted the bid meeting had 30 people, a mix of contractors and subcontractors. He explained, unfortunately, the low bid was not responsive to the bid criteria. He indicated it came in at \$2.1 million. He added the lowest responsible and responsive bid was from Bergerson Construction for \$2,983,530.

Bretz reported the highest estimate from an engineer was \$2.2 million, and the Port can't afford a \$2.9 million project. He stated he conferred with counsel, and in a scenario like this, where the bids were significantly higher, 30 percent higher by the responsible bidders, the Port can exempt the contract from competitive bidding requirements. He noted he is looking at Bergerson to value engineer the project to try to get their bid down to where the Port can afford it, otherwise, there will be a delay because the Port will have to rebid and rescope the project. He added the motion should be amended to include language to exempt this contract from competitive bidding requirements due to the bids being significantly higher than estimated.

Miranda explained a year ago staff were given an engineering estimate of \$1.6 million. She stated Representative Gomberg worked to get funds from the Legislature that, at the time, was 80 percent of that estimate. She noted things got delayed with permits and the Port got outside of the in-water work window. She explained a year later, prices went up, and the engineer included additional things in the estimate to make the wall sturdier. She indicated the next estimate went to \$2.2 million. She added the Port only got \$1.14 million from the state.

Miranda reported the last thing she wants is to send the money back, and that wouldn't look good for the Port or for Representative Gomberg. She stated she is sure it is frustrating for him when he goes back into session to not be able to say the project is complete. She explained she has been working with Brown on how much the Port can contribute to this project. Retherford stated the Port got \$1.14 million from the state, and that a big amount of money to not be able to

finish a project. She noted she knows there will be challenges when Commission goes for grants or funding, but the Commission still needs to go after them. She indicated, otherwise, the Port will continue to have infrastructure that fails.

Bretz reported the engineer is already working on creating solutions. Sylvia asked is there a lesson here or just bad luck. Bretz replied the Port is getting pinched by the compressed timeline for the project. He noted the Port added the observation well, which is giving more data on the problem. He explained how more information can change the cost of a project. Miranda explained how permits can delay projects. Retherford noted a port in Alaska had a project that with all the permitting and changes was put on hold for a year, and it was a \$10 million hold. She clarified it was a big project, and \$10 million to them is like \$1 million to the Port. She indicated everyone at the PNWA Conference who spoke, deals with the same problems, environmental issues, permitting, and changes to projects. She added all future projects need to try to get as much of the permitting done sooner rather than later because, at some point, permits will be hard to get at all because of environmental justice.

MOTION was made by Chuck, seconded by Ruddiman, to exempt this contract from competitive bidding requirements due to bids that were significantly higher than estimated and authorize the Executive Director or her representative to negotiate a contract not to exceed \$2.2 million with Bergerson Construction for the Rogue Brewery Seawall Project, following completion of the 7-day appeal period. The motion carried unanimously in a voice vote.

**Approval of Construction Management Services Contract for Rogue Seawall Project with PBS Engineering.** Sylvia introduced the agenda item. Bretz reported this would amend the PBS contract to include Construction Management and special inspections for the Rogue Seawall project.

MOTION was made by Lackey, seconded by Ruddiman, to authorize the Executive Director or her designee to increase the PBS contract for professional services by an amount not to exceed \$82,550. The motion carried unanimously in a voice vote.

## **NEW BUSINESS**

**Approval of Letter of Support to Krab Kettle for Marine Debris Removal Program.** Sylvia introduced the agenda item. Bretz reported Al Pazar and his company, Krab Kettle, applied for funding under NOAA's Marine Debris Removal Program. He explained Pazar's purpose for this funding is to put together an operation to locate and remove derelict commercial fishing gear, specifically crab gear, specifically targeting the whale entanglement issue. He stated he met with Pazar about this, and he is currently looking for a letter of support. He noted in the future, there may be a memorandum of understanding to potentially provide him with a small space to store the gear while he lines up disposal. Sylvia stated this is certainly an important issue for the coast and seems consistent with the mission at the Port of Newport. Chuck noted the history of the Port's involvement in the program.

MOTION was made by Chuck, seconded by Retherford, to authorize the President of the Port Commission to sign the attached letter of support for funding of Krab Kettle Inc's federal grant request. The motion carried unanimously in a voice vote.

## **STAFF REPORTS**

**Executive Director.** Miranda presented her report included in the packet. She noted she and Bretz met with the Maritime Museum who owns the parking lot next to Local Ocean. She stated she is trying to get the Port out of providing service at a loss. She explained the Port raised the price of parking to catch up with current costs. She indicated the Maritime Museum wants the Port to maintain or pay to maintain their landscaping. She added if staff do that, the Port is right back into having losses.

Miranda reported Bretz recently had to pay a contractor to do their landscaping before an event. She stated at the end of the day, it makes sense for the Port to let the parking lot go. She noted the museum agreed to hold the lease until the middle of the year, but she sees that parking lot as a big loss. She added the lot is closer to the docks, but there is another parking lot here, and people can walk. She added if people need to load or unload, there is space for that. Sylvia clarified with staff the museum owns that parking lot. Miranda recommended not renewing this lease but keeping the smaller parking lot lease by Schiewe. Lackey asked what the Port would have to raise the parking spot prices to. Miranda replied since the Port already raised them to keep up with the city, she doesn't know if the Port can raise it more. Retherford stated she knows the Port raising to \$100 a year has caused multiple complaints, and if they asked more, there would probably be a riot. She indicated it would be nice if people realized the cost to maintain it. She added it might be nice to write something up that shows the cost because there will be flak from those spots leaving.

Bretz stated as soon as prices are raised, people will complain about enforcement. He noted the Port can't pay for patrol on a constant basis. Chuck asked if staff have ever asked the museum about renting the propeller. Miranda replied that will be a discussion for next year.

Miranda reported DLCD is working on the Lincoln County estuary and coming up with a list of projects for their efforts. She explained there is a NOAA grant due February 8, and they are asking for Business Oregon to send a support letter. She explained in her view, that money could include improvements to the Port's fishing pier; it's not just for nature restoration but also manmade projects that help the estuary. She asked if Business Oregon decides not to do it, would it be OK that she gives a support letter for them to get this funding. She added at the end of the day, it will be beneficial to the Port of Newport. Commission provided consensus to give a support letter.

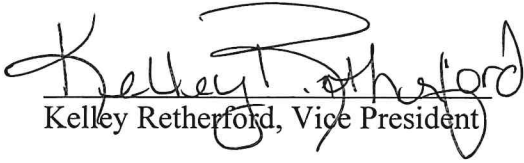
Chuck thanked staff for code enforcement in South Beach even though it is not busy. He asked if seized vessels are derelict vessels. Bretz replied vessels are seized because people stopped paying, but they often become derelict. Chuck asked if the state's derelict funds have been going to other places besides Portland. Bretz replied they have some big projects in the Portland area, but they have also used funds in other areas like Tillamook Bay. Brown explained, generally speaking, if staff seize a boat, most of the time, it is derelict.

Sylvia asked Bretz to explain the geo-archaeologist in his report. Bretz replied under the Natural Historic Preservation Act, the Port can't blindly drill into an area. He stated the Port is looking to go 100 feet down on the South Beach side, and that is the deepest anyone has drilled in Yaquina Bay. He explained if anyone goes below 20 feet, then they have to have a geo-archaeologist on the drill rig in person. He indicated once the Port does it, no one else will have to. He noted he asked if the Port could send the samples to their labs, but they weren't onboard with that. Sylvia asked if they are looking for archaeological artifacts. Bretz replied it is for earth history and artifacts.

**ADJOURNMENT**

Having no further business, the meeting adjourned at 7:52 p.m.

ATTEST:

  
Kelley Retherford, Vice President

  
Walter Chuck, Secretary/Treasurer

