

**PORT OF NEWPORT
MINUTES
November 23, 2010
Combined Work Session and Regular Meeting**

I. CALL TO ORDER

Commission President Ginny Goblirsch called the combined work session and regular meeting of the Port of Newport Board of Commissioners to order at 6:00 p.m. in the Port of Newport Conference Room, 600 SE Bay Blvd., Newport, OR, the same being within the boundaries of the Port District.

Commissioners Present: Ginny Goblirsch, President; JoAnn Barton, Vice-President; David Jincks, Secretary; Don Mathews, Treasurer; Dean Fleck, Assistant Secretary-Treasurer.

Port of Newport Management and Staff: Don Mann, General Manager; Patti Britton, Director of Finance; Pete Dale, Project Manager; Kent Gibson, Port Operations; Barb Martin, Accounts Receivable; Patty Benjamin, Administrative Assistant.

Others Present: Peter Benjamin, Samaritan Pacific Communities Hospital ER; Frank Berg, Ray Glur, and Glenn Schnaidt, Day CPM; Ron Cole, Yaquina Bay Yacht Club; Yale Fogarty, Pat Ruddiman, and Barry Tower, ILWU Local 53; Lee Fries, CM/GC Selection Committee; Pete Gintner, Port Legal Counsel; Mark Reusser, Andersen-WCC; Derek Tokos and Jim Voetberg, City of Newport; Rob Moody, Talbot, Korvola & Warwick, by speaker phone.

II. MINUTES

A. Work Session and Regular Meeting—October 26, 2010

Commissioner Barton moved, Jincks seconded, to approve the minutes of the Work Session and Regular Meeting of October 26, 2010 as submitted. The motion passed 5-0.

III. FINANCIAL STATEMENTS

A. Audit Report for the Year Ended June 30, 2010

Rob Moody, Talbot, Korvola & Warwick, briefed the commission on the audit report for the year ended June 30, 2010, as presented to the audit committee earlier that day. He said the audit firm was able to provide an unqualified clean opinion, which is the highest level of assurance that the Port's financial statements are accurate and fairly presented. He said there were no systemic issues that caused concern; however, there were a couple of single incidents that required identification. One was in connection with a fund that was set up for the NOAA MOC-P Homeport Project. A resolution was passed to set up the fund but not to establish budget authority, which was a violation of local budget law. Moody said he had talked with staff about the oversight and was comfortable that everyone understood the issue and steps have been taken so that it wouldn't happen again. The second issue related to an invoice for work that had been completed before June 30, 2010, but was not paid until July of 2010. Moody said he was aware that the invoice was not paid by the end of the fiscal year because the Port was still working out the contract language with the contractor, and operationally that made sense; however, from an accounting perspective, the amount should have been accrued back to June 30 as an accounts payable because the work had already been completed. The issue was noted during the audit and an adjustment was made, but because staff did not make the adjustment in the normal course of business, and because of the size of the adjustment (\$1.47 million) it became what was deemed a material weakness. Moody said the issue had been discussed at length with staff and he had no concerns that this was a systemic issue. In answer to questions from Commissioner Barton, Moody said he was confident the staff fully grasped the issues and he would not recommend bringing in outside assistance for the accounting staff. Moody said he and some of the audit team would spend time quarterly with the Port accounting staff to talk through whatever transactions have been presented in relation to the two ongoing large projects, focusing on compliance requirements with respect to the federal grant dollars the Port would be spending over the course of the fiscal year ending June 30, 2011. The audit committee had accepted the report and had no further recommendations.

Commissioner Jincks moved to accept the audit report for the year ending June 30, 2010. Commissioner Mathews seconded the motion. By way of discussion, Commissioner Barton commended the accounting staff for an outstanding job. The motion passed 5-0.

- B. Financial Reports**
- C. Accounts Paid**

There were no questions on the Finance Director's written report, the Financial Reports, or Accounts Paid.

Commissioner Jincks moved to approve the Financial Statements and Accounts Paid, Check Nos. 11456-11465/Construction Fund; Check Nos. 11301-11318/NOAA Checking-OCB; Check Nos. 30766-30845/Operating Account. Commissioner Fleck seconded the motion and it passed 5-0.

Commission President Goblirsch said that, due to the increasing complexity of the Port's finances with two major projects underway, she had been talking with the General Manager and Finance Director about arranging training on financial issues for the commission. The other commissioners agreed that was a good idea, and Finance Director Britton was going to look into some possible dates for the training.

IV. PUBLIC COMMENT

There was no public comment.

V. STAFF REPORTS (* Indicates no questions or additional comments.)

A. Department Reports

- Kevin Bryant, Commercial Marina Harbormaster—Commissioner Mathews said he liked the new format and in depth content of the Harbormaster's written report.
- Pete Dale, Project Manager*
- Maureen Keeler, Special Projects Manager*
- Gina Nielsen, RV-Marina Office Supervisor—In answer to a question from Commissioner Goblirsch, Finance Director Patti Britton said the nearly 20% drop in occupancy at South Beach was not unusual for this time of year.
- Ron Smith, Terminal Manager*
- Chris Urbach, South Beach Marina Harbormaster*

B. General Manager

General Manager Don Mann reported that he was negotiating a lease extension with US Customs. Customs currently leases a mobile office next to the Port administration building at Port Dock 7. The lease extension would be for a period of one year, starting in January, and the lease rate would go up slightly to cover mobilization and de-mobilization costs for the mobile office, along with utilities. Mann said he had offered Customs an office at the new terminal building but they indicated that they wanted a larger space. He added that the lease extension would give them time to decide if they want the smaller space, after all; however, the Port would lease that space at the terminal in the meantime, given the opportunity.

The General Manager said the Port had been working with Andersen/WCC and the City of Newport in trying to locate an under bay utility line, and Andersen/WCC was negotiating with Golder Associates to attempt to locate the line using a magnometer. The City of Newport has committed \$10,000 to the effort and the Port will pay any additional cost above that. The work is estimated at about \$13,000. In answer to a question from Commissioner Barton, Mark Reusser, Andersen/WCC, said he thought the Port had already spent about \$6,500 to locate the utility line.

Pete Gintner, Port Legal Counsel, provided an update on the F/V Helen McColl. The vessel sank at her slip at Port Dock 5 on November 1, 2009. The Port had been trying to get a judgment against the vessel's owner to recover the expense of raising the boat; however, Gintner said that, at this point, it was his recommendation that the Port "cut its losses". He added that the vessel's owner was working with a maritime attorney who seemed intent on turning the case into a long and expensive process, and there was no guarantee that the Port would be able to recover any money, even if there was a trial and a judgment against the owner.

The vessel is currently sitting at the terminal. The Port had expended more than \$40,000 in legal fees and on recovering the boat. Project Manager Pete Dale said it would cost about \$12,000 to destroy the boat. A discussion followed about insurance requirements for vessels mooring at the Port and on changes to the Port Ordinance that would prevent such an event from happening again.

The General Manager said that a draft of the new changes to the Port Ordinance should be available to the commission for review in mid-December. He also noted that the Port will require \$1.5 million in general liability insurance from lessees and vendors, in keeping with changes to the state's tort liability amount; and Captain's Charters has been sold so that lease will come up for assignment in December or January.

General Manager Mann briefed the commission on a meeting he and Commission President Goblirsch had on November 19, 2010, with Port lobbyist and attorney Peter Friedmann. Friedmann is based on Washington DC and has a contract with the State to assist ports in federal relations. Their discussion with Friedmann had centered on the difficulty of getting an appropriation or earmark to fund the last two phases of the Terminal Renovation Project, particularly now that congress is considering eliminating earmarks altogether. Friedmann had advised that if an appropriation were possible, it would have to be through an existing program and there is no program for marine terminals at this time. Mann had asked Friedmann to put a work scope together to see what it would cost the Port to hire him to assist with the process. Commissioner Jincks said he had no faith in getting terminal funding through a stand alone earmark and said the best approach would be to pressure the Oregon delegation heavily to get funding through the transportation budget. He added that it was important to start with the state delegation because it would take the state people to get the request to the federal level. Commissioner Barton said she was extremely skeptical that the Port would get any appropriation through an earmark and cautioned against putting a lot of effort, energy, and financial resources into that funding strategy. She added that she would want to have another discussion before hiring Peter Friedmann as a lobbyist to pursue earmarks because she considered them a "long shot".

B. Commissioners' Reports

Commissioner Barton said she had been gone for part of the past month but planned to attend the meeting about the permit for the Terminal Renovation Project the following day.

Commissioner Jincks said he had been attending the regular terminal meetings.

Commissioner Goblirsch said she had filled in for Commissioner Barton at the project meetings, and expressed her appreciation for Senator Ron Wyden's assistance in getting the Joint Permit Application for the NOAA MOC-P Project.

VI. OLD BUSINESS

A. Terminal Renovation Project—Day CPM Services Frank Berg, Day CPM, reported that work was underway on the permanent bulkhead wall on the north side of the Pasley and the ship was being monitored for movement. Much of the high timber dock had been removed and mobilization on the vibroflotation was expected the following week. Berg said the Joint Permit Application is not expected until December 7 or 8, 2010, and expressed frustration at the delay; however, he said it was his understanding that the permit had already been extended to allow in-water work until March 1, 2011, so that would provide a couple of additional weeks. He reported that the Nationwide 38 permit that would have allowed work to start on the Hennebique had been side-lined because one of the principals at the Army Corps of Engineers was on vacation. The Guaranteed Maximum Price (GMP) stands at \$7,676,967.97. Any savings from amendments 1-7 will be rolled back into the project.

B. NOAA MOC-P—Day CPM Services Mark Reusser, Andersen/WCC, presented a series of slides showing progress at the NOAA site, including sheet pile, removal of the fish ladder, the sided building and glass windows, and the eel grass mitigation site. Glenn Schnaidt, Day CPM, briefed the commission on the project. He said the in-water work permit came with several pages of conditions, and he had put together an informal request for proposals for someone to monitor all of those conditions independently to ensure that the project was in compliance and report back what the conditions require. He said the windows were being tested for water intrusion and noted that turbidity had been extremely low so the project has created no problems for the intakes at the Hatfield Marine Science Center and Oregon Coast

Aquarium. Schnaidt expressed his appreciation for Senator Ron Wyden's actions in getting the in-water permit for the project. Schnaidt then introduced Ray Glur, Day CPM, who will be taking Schnaidt's place when he is transferred to another project in Portland at the end of December. Schnaidt said he would continue to monitor the NOAA MOC-P Project, even though he won't be actively involved with it.

C. South Beach Peninsula Transportation Project Derek Tokos, City of Newport, gave a Power Point presentation on the South Beach Peninsula Transportation Project and explained the Intergovernmental Agreement (IGA) between the Newport Urban Renewal Agency and the Port of Newport that he was presenting for signature. The purpose of the IGA was to establish the Port's monetary contribution toward the roadway and related improvements along Marine Science Drive, and to describe the parties' respective responsibilities related to installation and maintenance of those improvements. Tokos had presented the project's design, scope, and budget to the Port Commission at a Special Work Session on November 22, 2010, along with a draft IGA. The commissioners considered the proposed underground utility lines to be a key element of the project design. The right of ways and easement the Port agreed to grant to the project were valued at \$138,000. The IGA also called for the Port to contribute \$15,000 towards the cost of frontage improvements, including sidewalks, curbs, and landscaping, that would be made to the NOAA facility. Maintenance of those improvements would be the Port's responsibility. Tokos explained the next steps, which included issuing an Intent to Award a construction contract and Notice to Proceed. Construction is expected to start on the project after the first of next year with completion of the work along Marine Science Drive by the end of May and the jetty trail by July. General Manager Mann said the IGA had been reviewed by the Port's legal counsel and added that the \$15,000 contribution would come from the NOAA MOC-P Construction Fund. Tokos said the Port would receive regular updates on the project at the weekly NOAA meetings, and the Port will remain involved in the process.

Commissioner Barton moved that the Port enter into the Intergovernmental Agreement between the Port of Newport and the Newport Urban Renewal Agency. Commissioner Jincks seconded the motion. By way of discussion, Commissioner Barton said people have brought concerns to the Port Commission about the Port approving this agreement. She said the commissioners had listened to those concerns, and there are members of the Port Commission who share some of those concerns, if not all of them. She went on to say that this was the City's project, and she felt it was a project that looked to the future, and the improvements would help the City, as well as every user of the South Beach peninsula. Commission President Goblirsch said she had appreciated the work session the day before, and Commissioner Mathews said the presentations on the project had been good. A vote was taken and the motion passed 5-0.

D. DCI Objectives Appropriations Document Recommendation

The appropriations and grant process recommended for funding the terminal renovation in the DCI Objectives document had been discussed earlier during the General Manager's oral report. The commission took no action on the agenda item.

VII. NEW BUSINESS

A. Capitalization Policy General Manager Don Mann and Finance Director Patti Britton explained that the Asset Capitalization Policy had been adopted in 2004, and some minor amendments had been made the one-page document. Copies of the changes to the adopted policy had been provided to the commissioners.

Commissioner Barton moved to approve the amendments to the Asset Capitalization Policy. Commissioner Jincks seconded the motion and it passed 5-0.

B. Declaration of Surplus—Sailing Vessel Jump the Shark

The abandoned sailing vessel and its associated gear had been seized at the South Beach Marina for non payment of moorage. The General Manager recommended that the Commission declare the boat and gear surplus so that Port staff could dispose of it.

Commissioner Jincks moved to declare the vessel Jump the Shark, CF6952NZ, and gear associated with the vessel surplus to the Port's needs. Commissioner Barton seconded the motion and it passed 5-0.

VIII. MEETING RECESS (at discretion of the chair)

There was no meeting recess.

IX. OTHER

Due to the upcoming holidays, the commissioners agreed to move the next Work Session and Regular Meeting up one week, from December 28, 2010 to December 21, 2010.

X. PUBLIC COMMENT

There was no public comment.

XI. UPCOMING MEETINGS

- A. Port office closed for Thanksgiving holiday, November 25-26
- B. Fishermen's Forum, Port Conference Room, December 8, 8:30-9:30 a.m.
- C. Port Commission Work Session and Regular Meeting, Port Conference Room, December 21, 6:00 p.m.
- D. Port office closed for Christmas holiday, December 24
- E. Port office closed for New Year's holiday, December 31

XII. ADJOURNMENT

There being nothing more to come before the Board of Commissioners, the meeting adjourned at 7:53 p.m.

ATTEST:

Ginny Goblirsch, President

David Jincks, Secretary

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