

May 23, 2023
6:04 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 Burke, Retherford, Chuck, Lackey, and Sylvia. Also in attendance were General Manager Paula Miranda, Director of Business and Finance Services Mark Brown, PR Consultant Angela Nebel, Administrative Assistant Gloria Tucker, Mark Harris, Pat Ruddiman, and Diane Henkels.

PUBLIC COMMENT

Diane Henkels, Yaquina Bay Yacht Club, stated she looked forward to seeing a draft of the strategic plan. She noted the Yacht Club's is underway. She added she will share an article about the recent high school regatta.

CONSENT CALENDAR

Chuck declared a conflict of interest and recused himself from voting.

MOTION was made by Lackey, seconded by Sylvia, to approve the consent calendar as presented. The motion carried 4-0. Chuck abstained.

OLD BUSINESS

Public Hearing and Adoption of Ordinance 2022-02 Regarding Code Changes. Burke introduced the agenda item. Miranda reported this is the second public hearing and possible adoption of this item. She noted Sylvia had concerns about liability. She stated the attorney's comment is as long as the Port uses language referring to ODFW's requirements, there should not be any liability concerns. She pointed out the permit is included in the packet. She indicated she would like to charge \$500 for the permit. Sylvia confirmed with staff this would apply to all sellers of fish. He asked how many vessels sell fish. Miranda replied there is one in South Beach and three or four in the Commercial Marina.

MOTION was made by Chuck, seconded by Retherford, to adopt Ordinance No. 2022-02 Regarding Code Changes by title only. The motion carried unanimously in a voice vote.

Authorization to Increase the Federal Cost Share Agreement, Commercial Marina Army Corps Project. Burke introduced the agenda item. Miranda reported this agreement is related to the commercial navigation channel project, which Commission already approved. She explained this is a long, arduous process, and the Port recently ran into the possibility of mudstone in the area. She noted this sampling also applies to Port Dock 7 and includes contingency. She indicated sediment sampling is typically after the fact, but that would have caused a lot of uncertainty, meaning the project may not move forward. She added doing the sampling now adds another \$400,000 to the project.

Sylvia confirmed with staff the Army Corps is looking at more environmental risk and adding that to their internal models, and this was not foreseen. Miranda explained they analyze all the risks, and once they decide to move forward with the project, most of the cost will be on them. She stated they can spend up to \$10 million on this project, and they will maintain it in the future. She indicated they will give the Port several years to pay off its 10 percent match. Sylvia asked if there is mudstone, and if it will release petroleum hydrocarbons. Miranda replied there is a good chance there is mudstone. She stated the question is how much and how to mitigate it.

Burke asked if the Army Corps defines the sampling scope. Miranda replied the Port works with the consultant within the guidelines of the Army Corps. She noted they may hire outside consultants as well. Chuck asked if the project is dredging deeper than before. Miranda replied yes, and they are looking how deep they can dredge.

Chuck asked if there would be any issues with mudstone when the Port pulls or drives pilings for Port Dock 7. Miranda replied that is a good question, and the sampling will help address that. Sylvia stated his concern is who sets the rules/standards. He asked if some petroleum hydrocarbons are released, but is it tiny, should society be concerned. Miranda noted the Army Corps still follows NMFS, ODFW, and DEQ rules as well. She stated they have to make sure they don't reach the project cap. Sylvia stated he worries about risk adverse officials at every level multiplying their risk aversion and significantly increasing costs. Discussion ensued on regulation challenges. Retherford confirmed with staff the testing can be used for the Port Dock 7 project.

Burke confirmed with staff the sampling is not restricted to the in-water work window. Lackey thanked staff for the report. He stated in thinking about more expensive and impactful projects, the Commission may want more time to consider. He added the higher the price tag, the more information in advance would be better for future projects. Miranda replied staff will try their best, but they are often waiting on information from others. She noted there has been situations where she held back items because didn't want to throw them out in the last hour. Retherford suggested adding work sessions. Miranda suggested tabling items.

MOTION was made by Sylvia, seconded by Lackey, to authorize the General Manager to amend the Federal Cost Share Agreement with the Army Corps of Engineers for this project not to exceed \$675,000 for the Port's share. The motion carried unanimously in a voice vote.

NEW BUSINESS

Employee Recognition – 7 Year Anniversary – Mark Harris. Burke introduced the agenda item. Miranda recognized Harris for his years of service. The Commission thanked him.

Approval of Oregon Paid Leave Policy. Burke introduced the agenda item. Brown reported the Legislature passed Paid Leave Oregon, an insurance benefit. He explained the employer contributes a portion, and the employee contributes a portion. He stated the Port decided to use the state as its insurance provider for the benefit, which was the least expensive option for the Port. He indicated the policy will run Oregon Family Leave, Federal Family Leave, and Paid Leave concurrently, constricted to 12 weeks. He added the Port can't require staff to use PTO anymore; it's an option.

Brown reported he tried to minimize risk to the Port. He explained it changes how the Port calculates leave time. He further explained concurrent. He indicated his concern is day one, something could happen, and employees qualify for the 12 weeks. Chuck confirmed with staff the state pays the employees. Brown replied the state makes the decision on whether employees

qualify. He explained staff have to apply to the state for the benefit. Chuck asked what happens to employees' PTO. Brown replied it does not affect PTO, if employees chose it not to. Sylvia clarified with staff the .006 percent in the report. Brown added employees will be eligible this fall.

MOTION was made by Chuck, seconded by Retherford, to approve the Paid Leave Oregon Policy. The motion carried unanimously in a voice vote.

STAFF REPORTS

General Manager. Miranda reported the Port did get a variance for dredging at NOAA. She explained she sent a letter to ODFW to try to regain the 15 days to the in-water work window. She noted their answer was they will work with the Port, but they have shown they are not very willing to give variances. She emphasized it's problematic. She indicated they said they don't have to give more notice, and those types of things are very concerning. She added she is concerned this will be ongoing.

Miranda provided an update on HB 3382 status. She explained after many modifications, the bill only gave certain rights to the Port of Coos Bay because they have a big container project. She noted, unfortunately, the Port and many others were left out. Sylvia agreed ODFW's response was not good. He stated the letter was very bureaucratic and not transparent. He noted their mission is to advance the benefits to the people of the state of Oregon. He emphasized they can't ignore the impacts to economics. Miranda stated she has included legislators in the communication, and she may bring it to the coastal caucus. She indicated the conversation should not stop at HB 3382; a lot of agencies are working in silos and making decisions that only focus on one aspect. She added it is not going to get any easier for ports, or anyone trying to construct near water.

Lackey asked are there any ways to make in-roads on the in-water work window. He noted fish processors are going through a similar nightmare with DEQ. He asked if it would help to use legal avenues or meet face to face. Miranda replied efforts must be collective. She stated this issue will have to be resolved on the legislative level. Discussion ensued on DEQ. Chuck noted the Yaquina Bay estuary is highly developed, but federal agencies try to apply standards as if the estuary was pristine. He explained past examples where the standards have been taken too far for the Port.

Miranda reported there is good news for the RORO Dock; the earmarks through Congresswoman Val Hoyle were approved through the Committee. She noted staff researched fees for wave energy services. She explained staff want to clean up the tariff, and then bring it to the June meeting with the new rates. Discussion ensued on FEMA flood maps and the impact of climate change on the Yaquina Bay estuary plan. Miranda added the Yaquina Bay estuary plan will be presented at the June meeting. Chuck suggested the Commercial Fishing Users Group join the meeting. Miranda replied they will be invited, but a joint session may not be needed. She noted the parking work session with them will likely be in August since the city is not ready yet. She reminded Commissioners to complete their SDAO emergency planning training through Vector Solutions.

COMMISSIONER REPORTS

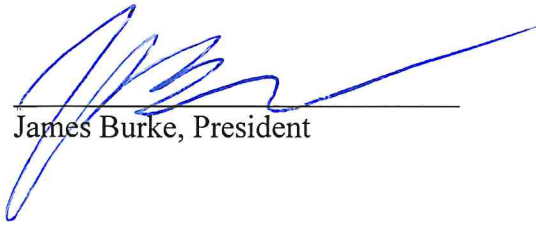
Chuck reported he is a grandfather. He overviewed the OPAC meeting he attended. He noted he toured the Port of Brookings. He stated they can't spend \$7 million in grants because can't find staff. He indicated they instated a landing tax because processors are on their property.

Sylvia asked how the landing tax worked. Brown explained it is like wharfage. Discussion ensued on processors in the region. Retherford suggested looking into how to support processors on the regulation issue.

ADJOURNMENT

Having no further business, the meeting adjourned at 7:26 p.m.

ATTESTED



James Burke, President



Walter Chuck, Secretary/Treasurer