

PORT OF NEWPORT MINUTES

March 23, 2021

Regular Commission Meeting

This is not an exact transcript. The audio of the session is available on the Port’s website.

This meeting was held virtually by invitation only. The public was invited to view the live stream of this meeting on our YouTube Channel, Port of Newport Meetings Audio. Live chat was not monitored. The public could submit comment through a form on our website no later than 4:00 pm on Monday, March 22nd, to be read into the meeting at the appropriate time.

Agenda Item

Audio Time

I. CALL TO ORDER

0:00

Commission President Jim Burke called the Regular Commission Meeting of the Port of Newport Board of Commissioners to order at 6:01 pm.

Commissioners Present: Walter Chuck, Secretary/Treasurer (Pos. #1); Kelley Retherford (Pos. #2); Gil Sylvia, Vice President (Pos. #3); Jeff Lackey (Pos. #4); and Jim Burke, President (Pos. #5).

Management and Staff: Paula J. Miranda, General Manager; Aaron Bretz, Director of Operations; Mark A. Brown, Director of Finance & Business Services; and Karen Hewitt, Administrative Supervisor.

Members of the Public and Media: Angela Nebel, Summit Public Relations Strategies.

II. CHANGES TO THE AGENDA

0:12

Chuck asked to add discussion of the South Beach commercial fillet policy. Burke added this as new business after Item V(D).

III. PUBLIC COMMENT

0:58

Burke read public comment submitted online by Patrick Ruddiman suggesting the Port hire a Cargo Marketing Manager and reconsider an event center, which is referred to in the budget as expo center. Miranda asked to address these comments with her Staff Report.

IV. CONSENT CALENDAR.....

2:01

- A. Minutes 2021
 - 1. Regular Commission Meeting Feb 23
 - 2. Budget Priorities Work Session Mar 2
 - 3. Commission Special Meeting Mar 2

B. Financial Reports

A motion was made by Chuck and seconded by Sylvia to approve the Consent Calendar as presented. The motion passed 5 – 0.

V. OLD BUSINESS

A. Items Removed from Consent Calendar

No items were removed from the Consent Calendar.

B. Accounts Paid 2:32

A motion was made by Sylvia and seconded by Chuck to approve Accounts Paid. The motion passed 5 – 0.

C. Demolition of Building at 343 SW Bay Blvd 2:56

Bretz introduced the Staff Report included in the Meeting Packet and said this was getting down to the last steps. He said the demolition permit would be turned in to the City tomorrow. Bids for the demolition had been received, and there was \$52K available in the budget. Bretz said the Port does not have the permits needed to pull the pilings; the earliest this could be done is the next in-water work window. Miranda explained that the portion of the property where the pilings are located is leased by the Port from the Oregon Department of State Lands (DSL), so the Port would continue to lease until the Port decides what to do about the pilings. She said the choices would be replace the pilings and continue the same use; remove the decking and change to a log raft lease with DSL; or remove everything and terminate the lease. The lease could not be terminated unless the Port removed the pilings and structure on the leased area. Burke will appoint a committee to work along with staff to consider an outcome of the property. Miranda said the Port still has some research to do and will bring that to the committee.

A motion was made by Retherford and seconded by Lackey to authorize the General Manager to negotiate a contract with Road and Driveway to demolish the building at 343 SW Bay Blvd for a cost not to exceed \$23,160.12 plus a \$2,300 contingency. The motion passed 5 – 0.

D. Temporary Power for South Beach Load Centers 8:26

Bretz introduced the Staff Report included in the Meeting Packet. He said Western States is set to start this week, so there was a need to move forward. Several solutions had been discussed for temporary power and this proposal was recommended as the best solution. Bretz added there is room in the capital budget for this addition to the Western States contract. Miranda added the budgeted funds were a loan from the NOAA fund, which was still less than the original approved

amount but more than the original contract. Retherford asked if there would be a reimbursement if fuel cost less than \$4/gallon. Bretz said the Port would be billed for fuel at the actual rate. Bretz said the generators were quiet and would run 24 hours a day while needed to keep power to the docks. He said that Western States would be responsible for their operation, as they had the expertise as opposed to Port staff on overtime or TCB. Bretz responded to Chuck's question that the plan is to start Wednesday, March 24, with the generators starting to run on Friday, March 26. Lackey asked if there would be any savings on primary energy costs while the generators were running. Bretz said the power bill would be lower but would not offset all of the costs.

A motion was made by Retherford and seconded by Chuck to authorize the General Manager to add to the South Beach Load Centers contract an amount of \$108,344 plus a \$10,000 contingency for the purpose of supplying temporary power to the docks while replacing the load centers in South Beach. The motion passed 5 – 0.

VI. NEW BUSINESS

A. South Beach Commercial Fillet Policy

15:23

Chuck said he had received phone calls from Mike & Vella Sorenson, and Jack Craven. Mike Sorenson said that the \$2MM insurance requirement on the license was more than the insurance they have on their boat. Chuck asked how the license policy would be enforced, and added this would be a busy season in the recreational marina. He also asked if there would be a limited number of licenses issued. Bretz said the idea was to have the commercial filleters spread out so that recreational boaters have room to operate. The Port doesn't designate fillet tables for commercial use, and wouldn't until another table or two was installed. Bretz allowed the filleters are a benefit and keep things moving faster. The fillet tables in the Recreational Marina are primarily for recreational users, for some of whom filleting their own fish is part of the recreation experience. Bretz added if it got to the point where there were so many commercial filleters that recreational users could not get a spot the Port would look to limit the number of licenses; this has not been a problem with the current filleters. Bretz said he had spoken quite a bit with the filleters. The Port would enforce the licensing as best it can. He said the Port was seeking to implement standard insurance requirements throughout the Port, thus the \$2MM liability limit. Bretz suggested that if the Commission was not satisfied with the current enforcement, the Port would need to fund a different solution. More staff time could be used to enforce, but that would mean degrading some other service in favor of that. TCB could possibly be paid to get involved. Miranda commented that the \$2MM was also the requirement for boats. Management is working on compliance and following through for all Port users. Chuck said congestion has been an issue in the past and could be expected this year. He commented he would like to have seen a better plan for enforcement and notification to filleters that this year the Port would begin charging for permits, even though the ordinance has been in place for a long time. Chuck suggested getting the Recreational Marina users group going again and involved in the decision making process, and requested a meeting before summer. Bretz remarked that last year the filleters applauded the Port's outreach toward the end of last summer. He has been talking all year with the filleters about the

plan to implement the license. Bretz said at a certain point the Port needs to act on what it decided to do. Now the process would be fairly implemented. Bretz said there certainly will be challenges which will be addressed when they arise.

Chuck asked what the penalty would be for not having the license. Bretz said it would be a Class C offense and signs will be posted. The monetary penalty would be enough of a reminder to comply. If the Port ends up pulling a license, that will have the real punitive impact. Bretz commented the goal is compliance. Bretz said the signs are expected to be in this week and will be conspicuously posted at each station. Miranda said she, Bretz and Brown have been reviewing Port codes and policies, and are finding a lot of things that get violated on a regular basis or never enforced. Staff is trying its best to start enforcement. The insurance requirement for boats is straightforward and is in the Marina License Agreement signed by moorage holders. Miranda commented she has heard Bretz in discussions with filleters for a year or so. She added that if the Port cannot do a better job of enforcing codes and policies, those policies and codes should be removed. A lack of enforcement can get the Port in trouble with insurance. Chuck asked what the permit would allow. He asked if the commercial filleters would have to move if recreational users wanted to use the table. Bretz said Miranda wrote into the license that space was not guaranteed; this was a right to an activity not any ownership or lease of a table spot. Bretz said the idea to have the table used on a first-come first-served basis.

Sylvia suggested there be a conversation with the Commission about what policies are not enforced and what may need to be restructured. He said this is the first he has heard of what is apparently a long running issue, and he asked what the commercial filleter license fee was. Bretz said the fee is \$200, and the licensee has to demonstrate insurance with the Port named as an additional insured. Sylvia asked if a commercial filleter would have to step back if a recreational user wanted space at the fillet table. Bretz said that the public and the licensed filleters would have the same rights. Sylvia suggested a commercial filleter might have several customers in a row, but would step back when they didn't have a paying customer. Bretz agreed, but said it was debatable if that was done consistently. Bretz said he would like to get more fillet space added specifically for commercial filleters, which would also reduce their business uncertainty. He noted that a lot of people may balk at the insurance requirements, but if they get quotes it is not terribly expensive to get liability insurance. The Port's insurance company suggested the filleters may be able to add the coverage to their boat policy. Sylvia commented that it is good to live at a port where people catch fish, but when recreational users return from fishing, they don't want to fight over a spot to fillet their catch.

Chuck suggested Burke appoint two Commissioners to serve on the South Beach Users Group, which had been going on for 10 years. Miranda proposed discussing this users group as part of the Goal Setting meeting. Chuck and Sylvia volunteered to serve on the group. Chuck suggested holding a two-subject meeting in the next month or so if staff had time. He said he would look at past emails for attendees. Miranda said that for previous committees she worked with, people volunteered and then names were brought to the Commission for approval as committee members. Chuck said for this group in the past an agenda would be sent out for anyone interested to attend rather than establish committee members. Miranda said she would work with Chuck on a date and

can send out invitations. Burke commented this would be good to get ahead of issues with more boats transferring from the Embarcadero and more charter boats.

Burke said he would like to be involved with reviewing 343 Bay Blvd. Lackey will join him. Burke asked Miranda to send out invitations to the appropriate parties. Miranda said for now Zoom meetings will continue, but the Commission should talk about when to go back to live meetings. Burke said that would be revisited at the next Commission Meeting.

VII. STAFF REPORTS

- A. General Manager 45:48
 - 1. Director of Finance & Business Services
 - a) February Occupancy Report
 - 2. Director of Operations

Miranda began by responding to the public comment submitted by Ruddiman. She clarified that the Expo Center did not involve the City, and had also been in the previous budget. She said it was a good time to revisit the idea, which had nothing to do with the City. This would be a covered outdoor building. Miranda understood a concern with the event center proposed in the past was that it would compete with hotels. The current conversation began with the Chamber about the cost of putting up the tent for the Seafood & Wine Festival every year. The Expo Center may be a chance to have space for the Seafood & Wine Festival as well as other events. The budgeted item is a study that would include a cost/benefit analysis. The Port will look for grant money to cover the study cost.

Miranda said now would not be the right time to hire a Marketing Manager, nor would it be sustainable in the budget. She added it was at times difficult filling current staffing needs. Also, the Port does not have much property to market. Miranda said that last year’s cargo issues were COVID related. She said she has been talking to prospects, including one last week. The Port is now working on a grant for a marketing plan to expand on what’s in the Strategic Business Plan and look specifically at NIT. Miranda said a grant application has been sent to the USDA, and she is also looking into Business Oregon. Miranda said she has experience working on marketing and negotiating properties at previous ports, but if it is not working, the Commission could look into this in the future.

Sylvia asked more about the Expo center plan. Miranda said it was a simple plan looking at South Beach sites that would make sense, what money would be needed to make up for the use of the space, a sustainable design, and a market for the space. Although Ruddiman suggested such a center doesn’t make any money, this would need a professional consultant to review. Possible events would include items related to the Marina and RV Park and other Port businesses, such as boat shows, RV shows, Rogue October Fest and the Seafood & Wine Festival. Sylvia said it was important to understand the Port would not make a move on the project unless it would significantly pay for itself and was a benefit to the Port and Port District. Miranda suggested if it

were a good thing for the Port, she would pursue further discussion with the City, County, and stakeholders. The idea is not to steal events from the fairgrounds or hotels. Burke noted that this was low on the budget priority list and was about seizing opportunities for revenue if they exist. Chuck said in the past the community expressed concern about the Port industrializing South Beach and taking away from the Marina. He said it was important to reach out to the community first to make sure they understand, and the Port has their support going forward; a past mayor was recalled over this issue and there are sore feelings. Chuck suggested reaching out through Facebook or the newsletter to gauge community acceptance. Miranda said at the same time it would be nice to get a buy in from the City and County, and getting the community behind it is a must. Chuck suggested reaching out to the community first.

Miranda introduced the Staff Report included in the Meeting Packet. She spoke about the past week's virtual PNWA Mission to Washington, where she got to hear from every legislator from Idaho, Washington, and Oregon. She said that attendees had the opportunity to ask questions and raise issues of concern in the region for ports and infrastructure, as well as permits. Miranda also moderated a meeting with Congressman Schrader. Overall, the event, which was a series of separate Zoom meetings, was valuable. She commented she hoped to be in Washington DC for the event next year so there would be an opportunity to meet with other agencies. Miranda said she did have meetings this week with other federal agencies in DC, such as the Office of Management and Budget (OMB) and the ACOE, and appreciated Bretz joining her in meeting with the Army Corps of Engineers (ACOE). Miranda said she is working with Business Oregon on a grant for the Rogue Seawall evaluation and expects to see an approval letter next week. With the Lincoln County grant in addition to Business Oregon, the Port may only have to put in about \$2,000. The contractor is currently scheduled to begin April 1st. Miranda said Travel Oregon is asking for a quick turn around on grant funds available, so she is working to swiftly get applications out for the RV Park Annex plan and/or a South Beach fillet table. The Travel Oregon grant project limit is \$100,000; she is working with the grant consultant. Miranda said documents for the ACOE Commercial Marina Dredging Feasibility study are expected April 9th; the Commission has already approved payment. Staff is still waiting for a revised estimate from the consultant for construction of an Administration Building. The loan application with Business Oregon is on hold for an amount confirmation. Miranda said she would confirm there is not an anticipated increase in the loan interest rates. Miranda said work on the Port Dock 5 Pier was currently taking place off site and is moving forward, and the project is expected to be completed on or before schedule. She offered kudos to Bretz for his work on this project and the Port Docks 3 & 5 electrical engineering which is now completed. The Port is now working on proposals for the Port Docks 3 & 5 electrical construction with the intent to have the project underway in September.

Miranda highlighted an issue with the DSL lease on the Port Dock 1 structure. Miranda commented that issues often happen with ports who have property that was owned long before DSL was created. She explained the Port approached DSL regarding the waterway lease at Port Dock 1 when working with Steve Webster on configuring the property, but it turned out the Port did not have a DSL lease. When the property was sold to the previous owners, who then sold to Clearwater, the Port retained the rights to lease with DSL for the dock, but the State does not recognize that. DSL

said they had to offer rights first to the upland owner, Hans Goplen of Clearwater Restaurant, and/or then to the highest bidder. Miranda said she reached out to Representative Gomberg about how state agencies should be working with ports, specifically Newport, which is named a deep water port, as stated under ORS 777.065. She commented the issue was not the people at DSL but the rules and a structure that has been owned by the Port for over 100 years. Gomberg's staff did contact DSL, and may have found a way DSL can possibly allowed the upland owner to assign the lease to the Port, instead of just subleasing it. Miranda said she spoke with Goplen who wants to keep the property as is and have someone to continue to maintain the dock. Miranda said if the Port does not use the property as a commercial dock there won't be money for maintaining it. Miranda said she will have a further conversation with DSL, and hopefully will have a better answer after that meeting. She said she would like to do the transfers and sublease simultaneously if all goes through.

Miranda said she told DSL this solution still doesn't address the issue of how ports are treated. She has also spoken with the Oregon Public Ports Association (OPPA) about the issue. She would like to continue working with Representative Gomberg and Senator Anderson to look at bringing legislation to provide ports with some preferential and grandfathered rights. Miranda commented she's seen DSL issues at three ports, but this is the ugliest issue ever, as the Port could literally have lost the rights over Port Dock 1. Sylvia suggested it could be different interpretations of statute. Miranda said statute already says ports should have some priority considering economic opportunities. She would like to see the DSL rules addressed. Usually rule changes go through committee, which include the School Board who is generally the beneficiary of DSL fees. She proposed legislation could address certain issues.

Miranda said she hoped the Commissioners had received and enjoyed the recent Port newsletter. She said the plan was to have a second newsletter this year, possibly in the fall. She mentioned the City of Newport has approached the Port about a permit for 4th of July fireworks this year. A challenge may be keeping social distancing. Miranda said the Port's finances are looking pretty good. She will send out a survey for scheduling a Goal Setting meeting. Miranda would like to do goal setting next year in January before the budget process. The Goal Setting meeting would be an opportunity to recap where the Port is in the Strategic Business Plan, where it's going, what's been done, and what to prioritize for the future.

Lackey asked what the money would be used for if the PD7 insurance claim was approved. Miranda said the insurance company tried to deny coverage because of what they thought was the cause of the damage. She and staff met with the insurance company last week, and they are trying to make sure the Port has the proper insurance to cover the assets there. The money may be used for matching funds for grants for PD7 planning or for some repairs at the dock. Bretz added the insurance company initially denied coverage because the policy does not cover damage caused by water – that would be through a flood policy. Bretz explained the damage was not caused by water but by high winds that caused the boats to lean hard against the dock. The insurance company is still adjusting the claim but there will be some coverage. Bretz said he met with the insurance

1:26:42

company and believes the port is pretty well covered. Most damage of this type would be likely wind related, but Bretz also thinks the Port still has an appropriate level of flood coverage.

VIII. COMMISSIONER REPORTS/COMMENTS

Chuck commented that the Commission needs to do Miranda’s performance review, and suggested the forms be redone to make them current. Hewitt will send last year’s form to Chuck and Burke to review and revise.

1:29:02

Burke said he has been approached over the last few months by commercial moorage holders with concerns about transparency and policy for moorage. The Commission can follow up at a later date, and as public comment is submitted.

1:29:14

IX. CALENDAR/FUTURE CONSIDERATIONS

2021
Budget Hearing & Regular Commission Meeting Apr 27

1:29:19

There were no changes to the Calendar/Future Considerations.

X. PUBLIC COMMENT

There was no Public Comment at this time.

XI. ADJOURNMENT

Having no further business, the meeting adjourned at 7:30 pm.

ATTESTED:

James Burke, President

Walter Chuck, Secretary/Treasurer