

PORT OF NEWPORT MINUTES

April 27, 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, April 27th, 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; Heather Mann, Midwater Trawlers Cooperative; and Dustin Capri, Capri Architecture.

II. CHANGES TO THE AGENDA

0:08

There were no changes to the Agenda.

III. PUBLIC COMMENT

0:15

Heather Mann introduced herself as the Executive Director of the Midwater Trawlers Cooperative, which represents 29 commercial fishing vessels, many homeported in Newport, that fish here and in the Bering Sea. She said she thought it was important to share praise for Miranda, Bretz, Brown, Hewitt, and the Commission. Mann said she met with Miranda, and Mann felt confident the Port is committed to bringing new uses for the International Terminal with minimal disruption to current users. She closed by recognizing Port staff for their accomplishments and thanking the Commission for their dedication to the Port.

IV. CONSENT CALENDAR.....

4:31

- A. Minutes 2021
 - 1. Budget Committee MeetingMar 16
 - 2. Regular Commission MeetingMar 23
- B. Painting of Marina Showers/Rest Rooms in South Beach
- C. Terminal Asphalt

- D. Contract Renewal – IconiPro Security System
- E. Workers Compensation Reimbursement Program
- F. Business Oregon – Rogue Seawall Grant Award
- G. Financial Reports

A motion was made by Lackey and seconded by Chuck to Accept the Consent Calendar. The motion passed 5 – 0.

V. OLD BUSINESS

- A. Items Removed from Consent Calendar

There were no items removed from the Consent Calendar.

- B. Accounts Paid

4:52

A motion was made by Sylvia and seconded by Lackey to accept the Accounts Paid as presented. The motion passed 5 – 0.

- C. Port of Toledo Invoices

5:28

Miranda introduced the Staff Report included in the Meeting Packet. She commented that the earlier disputed bill was for repairs to the small tug used for services around the marina. The work was done to repair the vessel, but not all of the work was authorized. Miranda said she met with the Toledo Port Manager on issues and concerns over a more recent invoice where the same thing occurred. Miranda said the Toledo crew did additional needed work that was not in the original estimate. So that this doesn't happen again, she is working on an MOU with the Port of Toledo that would contain requirements for both parties and a clause that work could only continue up to a certain percentage beyond the estimate. Miranda commented that the Port may have rethought the work on the Mildred C at the time if the estimate reflected the final cost. There was a lack of communication. Miranda agreed to share the cost of the additional work, so the bill was reduced from over \$20K. Interest charges were also removed. Miranda said the more recent work was needed in order to remove the vessel from the marina. She was requesting authorization from the Commission to make the payments as presented. Chuck asked about interest accruing on the earlier bill for two years. Miranda said all interest was waived. She said initially there was a disagreement between the two parties. She had met with the previous manager at the Port of Toledo, and found there were also charges for another vessel that were included in the Port's bill. The agreement between the parties wasn't reached until meeting with the new manager.

A motion was made by Lackey and seconded by Retherford to approve invoices #2303 in the amount of \$9,560.95 and invoice #7139 in the amount of \$14,580.18 as presented. The motion passed 4 – 1, with Chuck dissenting.

Chuck added that these were two public bodies who had not settled the dispute for two years, and it was not good to have this happen again. He added he appreciated the negotiating, but the Port needs to be responsible for tax payer dollars. Miranda said she considered the Port of Toledo a partner and it would be good to have an agreement to prevent this from happening again.

Miranda introduced the Staff Report included in the Meeting Packet. She commented that it had been discussed at the last Port meeting to hire a consultant to get a better building cost estimate. The original estimate was \$2.5MM, which was greater than what was budgeted. Changes had been made after a meeting with the architect, consultant, and Burke to cut down costs without affecting the integrity of the original plan. The proposed building would provide space for existing staff, space for additional consultants needed from time to time, a Commission room, and rentable space. The lowest estimate came down to \$2,084,000, and Miranda felt the Port could not pass up the opportunity at this point. She added that when the building was planned 5 – 6 years ago, the price tag was less than \$800K with not much less of a footprint. As rules change and material costs increase, construction costs go up. She said the interest rate right now is as low as the Port could expect, and she suggests moving forward with the project. Miranda requested the Commission approve finishing the architectural scope of work and the addendum provided by Capri which would include all specifications. Including the specifications with the documents sent out with the Request for Proposals (RFP) for contractors would avoid change orders and additional cost, and they would provide exactly what was requested.

Lackey asked what the earliest date the project could go out for bid. Capri said value engineering was added that would reduce costs. It would probably take 2 – 3 months to finalize construction documents, at which point the project could go out for contractors and permitting could begin. Capri said he would discuss the public process with Miranda. The turn around time for the bids to be received may be 45 days. Lackey asked when an interest rate for the loan could be locked in with Business Oregon. Miranda suggested providing the current estimate, which includes furniture, to Business Oregon and work with them to move forward and lock in the interest rate. Capri said the construction industry is a dynamic environment right now with something new every day. For example, when the Evergreen got stuck in the Suez Canal it led to an issue with getting interior doors. He said he hoped it would settle in the fall; this is a demand driven spike and a lot of construction goes on in the summer months.

Burke asked what if the RFP was issued and the proposals came back significantly higher than the estimate. Capri said the previous project was not submitted to the City of Newport for permitting. If the permits are issued and the cost comes back higher, the Port can ask for extensions on the permits. Miranda recommended pausing the project if the price comes in higher than anticipated and hope material prices come down. She said she believed the interest rate with Business Oregon can be locked in for up to a year. Capri added they could also work with the contractor on the specifications to bring the price within reason. The addendum submitted was intended to specify every product and how they would be installed. He suggested it is too much risk for the Port to accept a low bid and then get a chain of change orders. Capri added each section of the plan has alternatives which provides some flexibility to work with the contractor to bring the cost down.

Retherford asked if a geotechnical report had been done on the property. Miranda said yes, and the cost was less than expected. Capri added that GRI, who prepared the original and updated report, found the property consistent with the findings in 2014, so the overall recommendation for the foundation did not change. Sylvia asked about the \$2MM vs. \$1.2MM for the cost of construction.

Capri said the \$1.2MM was based on direct construction costs and did not include soft costs such as permitting, contractor overhead and profit, inspection, etc. Sylvia said it seems like a good idea to lock in the interest rate and see what happens with costs in order to manage risk. Chuck asked how likely it would be to get a contractor who was reputable and had experience building on the coast. Capri said that could be set as a condition on the RFP. He added that building in the fall would open the project up for smaller, local firms to compete who had more coastal experience. Burke suggested if the project could be kept local that could save money.

A motion was made by Lackey and seconded by Retherford to direct staff to move forward with the remaining architectural work, including the additional \$9,000 for specifications and Request for Proposal once the work is completed.

Lackey commented that he has been torn because of the money, but recognizes the current building is not a long term solution, the project looks doable while still working on other projects and planning, and the Port might regret it if it doesn't do this now. In a few months the Commission can discuss before taking the next steps.

The motion passed 5 – 0.

E. Additional Conduit to Benefit PD5 Electrical Project 39:21

Bretz introduced the Staff Report included in the Meeting Packet. Retherford commented that she was impressed with the effort that goes into reports and the work to get pricing down and make the project more efficient; she thanked staff for their efforts.

A motion was made by Retherford and seconded by Sylvia approving the General Manager to authorize Advanced American Construction to proceed with installation of conduit on the pier and docks that will benefit the replacement of marine power pedestals and upgrade to 50 amp electrical service on Port Dock 5, not to exceed \$71,078 with an additional \$7,000 contingency. The motion passed 5 – 0.

VI. NEW BUSINESS

A. Annual Goal Setting 41:55

Miranda introduced the Staff Report included in the Meeting Packet. She suggested in the future the Port plan a goal setting meeting in December before the budget process so that staff has a better idea of what the Commission would like to focus on. She added a lot of work had already been done for goal setting this year. She said her report was based on notes from the consultant who prepared the Strategic Business Plan (SBP), which were in black on the report. She said some things had not changed much but a lot has been updated. Her comments on the report represented a summary of what the Port is doing to follow the SBP. One area of focus on the SPB is the Capital Improvement Plan. She referred to the Capital Improvement Plan Update on pages 101 and 102. Some projects were moved from the original year planned because of things like COVID, limits on funding sources, and permitting issues. Miranda said she had received an email from Retherford on the state of commercial fishing. Retherford said at some point the information on commercial fishing in the SBP needs to be updated to reflect the current state of the industry, which is

expanding rather than consolidating. She added that the Port is flourishing and does not have room for the huge industry that is here in Newport: the local fishing fleet, the Alaskan fleet, and transient vessels. Miranda said that could be reviewed in the next plan update, and the plan could be clarified along the way. Sylvia suggested considering what is happening with West Coast fleets overall when updating the plan. Miranda noted that the State requires an update to the SBP every 5 years. Chuck commented that the Port should continue to look for opportunities to address other items not included in the SBP. Miranda agreed and said she would continue to take in Commission ideas, and if something were not working or needed to get done, staff would bring that to the Commission as well – the SBP is a living document. Burke said the Commission would look to complete an Annual Goal Setting before January next year. Miranda suggested starting in the first couple weeks of December, especially since infrastructure priorities have a big impact on the budget. No action was taken.

B. Rogue Brewery Roof Painting

1:05:35

Miranda introduced the Staff Report included in the Meeting Packet. She said Rogue was interested in painting the brewery roof to show people from out of town where they are located. Miranda added that paint would help maintain the roof, and she had discussed including work on the eaves, which would typically be maintained by the Port. She asked the Commission if they preferred either paint color. Sylvia mentioned the red is more intense and asked if there were any broader aesthetic concerns. Miranda said the City of Newport would have to approve, who usually would want to know if the Port approved first. She commented that typically lease requirements would go to staff for approval, but she was bringing this to the Commission because this may be a more controversial and political concern. Miranda said Rogue also was likely to ask for another sign in front of the former House of Spirits, but this proposal was not yet ready. Chuck offered for historical perspective the reddish roofing in Toledo was initially purchased for NOAA, but there were complaints from people across the bay that they did not want to look at a red roof, so he suggested choosing the grey option for Rogue. Burke said it would be good to have the roof painted and include bargaining on working on the gutter as part of the project. Retherford said she preferred the lighter, grey color, which would blend in with the Port but would still stand out well. In response to Sylvia, Miranda said she is not aware of a Port policy regarding aesthetics, but the Port is a political entity and should care about how this would reflect on the community. Retherford further added that if the red would be too much for the community, it would probably be too much for the City. Burke agreed the red is quite a bit.

A motion was made by Chuck to suggest Rogue paint the roof the grey color and not red.

Lackey said he was still processing and wondered how much the Port should direct Rogue and what would be the City’s opinion. Sylvia suggested the Port postpone deciding on Port approval. Chuck withdrew his motion and suggested soliciting public comments in the next newsletter. Miranda added that painting the roof grey would also require less maintenance as red would show chips more readily. Burke asked staff to discuss the issue further and make a recommendation to the Commission. Miranda said she would also discuss this with City officials. Chuck commented that when the recent mural was planned, Rogue wanted to include their logo in red, which the Port requested be changed, so there is a history of asking the Port what is preferred. No action was taken.

C. MOU with Newport Police Dept. Regarding Sharing of Security Camera Footage 1:24:26

Bretz introduced the Staff Report included in the Meeting Packet. He said he was working with the Newport Police Chief to streamline the process for police access to Port security videos, since there was a shared interest in security on Port grounds. Bretz said the agreement was reviewed by the Port’s lawyer and the City’s lawyer, and shared a screen shot of the recently suggested changes, including changing the title to an Intergovernmental Agreement (saved as a Meeting Packet Addendum.) He said the substance of the agreement was to allow the Newport Police to have access when conducting an investigation when there was reasonable suspicion that a crime occurred, without having to submit a public records request. The agreement was set to go before City Council on May 3rd, pending approval by the Port Commission. Sylvia asked how the police were currently involved in providing security for the Port. Bretz explained that the police frequent the area in South Beach more often than the Commercial Marina or the International Terminal. The Port contracted security company patrols Port grounds after hours. Bretz added that Port properties are relatively open to the public, and the police come in fairly frequently but not as a regular patrol. He said the Newport Police has similar agreements with other larger properties, such as the school district.

A motion was made by Retherford and seconded by Sylvia to approve the Intergovernmental Agreement with the Newport Police Department regarding access to the Port’s security camera footage. The motion passed 5 – 0.

D. City of Newport Street Vacation 1:31:50

Miranda introduced the Staff Report included in the Meeting Packet, and said she was notified by the City Planner that Oregon Statute required approval of a vacation by the Port Commission if it was within 500 feet of a harbor. She said this proposed vacation does not pose any problems to the Port or transportation to the Port.

A motion was made by Sylvia and seconded by Lackey to approve the vacation as requested. The motion passed 5 – 0.

VII. STAFF REPORTS

- A. General Manager 1:33:53
- 1. Director of Finance & Business Services
 - a) March Occupancy Report
 - 2. Director of Operations

Miranda introduced the Staff Reports included in the Meeting Packet. She thanked Heather Mann for her positive comments for Miranda and Port staff. Miranda commented that there are a lot of Finance and Operations team members that do amazing jobs, and Port staff is working hard in COVID conditions while still trying to serve the community.

Miranda said she was looking to get going on the Rogue Seawall grant on Monday. Waiting for the grant has delayed the work a bit, which would be reflected on the budget presented next month as the cost of the project would be shared in the 2020-21 and 2021-22 budgets. Miranda said she was

waiting to hear from Travel Oregon about the grant application for the fillet tables. She added the difference in the costs of the two tables was due to a difference in utilities installation requirements. Miranda said the contract with the Army Corps of Engineers (ACOE) for the feasibility study has already been signed.

Miranda said that the removal of the building at 343 SE Bay was complete. The property issues were complicated; she is still working with the OR Department of State Lands (DSL) and would like to contact the adjacent property owner. Lackey said the information provided at the committee meeting by Miranda and Bretz was thorough, and Burke commented he appreciated Bretz's presentation. Miranda said Bretz has done a lot of research and staff was looking at all options. Miranda said there may be some hiccups in the timeline for materials for the Port Dock 5 project, and a design for additional work on the landing and flotation under the landing will be shared with the Commission when finalized. Bretz said a challenge for the new float with less of an incline was to have the needed buoyancy while staying in line. Bretz said the contractor submitted plans had been worked out and added the shallower angle would be better for users.

Miranda said the South Beach electrical load centers project was mostly complete. The Port was waiting for a contractor estimate for additional circuits that were needed, which may be brought back to the Commission for approval. She said staff was working to identify boats that may have issues with amperage not matching so they can be contacted to fix any problems. Miranda stated she was still waiting for feedback from Clearwater on an MOU regarding Port Dock 1. The issue was there was not an existing Port lease of the dock area from DSL. The property deed when sold to Clearwater from the previous owner included the Port's reservation of rights to the lease with DSL, but DSL does not recognize that right. Miranda said she has included legislators on this issue. She is preparing documents for Clearwater to receive the lease from DSL and assign it to the Port, but there is still some language to clarify. She commented the Port had the pier there prior to the existence of DSL and should not have to go through this process. Miranda will continue to work with the Oregon Public Ports Association and the Oregon Legislature, and has involved the Port's attorney.

Miranda said she had been discussing having a joint meeting with the Port Commission and the Newport City Council, maybe in June. Burke commented it would be good to try to have this as a live meeting. Miranda suggested holding this in City facilities. Miranda will contact City Manager Spencer Nebel regarding scheduling and possible topics of joint interest, and she asked Commissioners to contact her with any suggested topics. Miranda said she had also spoken with Lorna Davis, Port Manager for the Port of Toledo, about having a joint meeting in July or August when the new MOU was presented.

Miranda said Port Finances are looking good and Brown continues to find ways to save money. An RFP for Financial Systems Software is out, and a proposal should be brought to the Commission soon.

Retherford mentioned Sara Skamser's comment on the Port's Facebook page about whether there would be a ribbon cutting for the Port Dock 5 Pier when complete. Miranda said she is considering that and will plan as the project gets closer to completion. She said this could be discussed at the May Commission Meeting, and perhaps would include invitations to federal and local legislators.

VIII. COMMISSIONER REPORTS/COMMENTS

1:53:39

Chuck said that he and Sylvia had attended the South Beach Users Meeting, which was very informative and a good opportunity for feedback. He added that South Beach was bracing for a very busy summer. Sylvia added that a take-away was the concern that the Port consistently enforce policies. Retherford asked if there were policies and rules that needed to be reviewed. Sylvia said that staff has more information, but the ordinances and rules about insurance, parking, and fillet permits were discussed. He added there will be future South Beach Users meeting, perhaps once a year. Miranda remarked there were a lot of ordinances and regulations that have been approved by the Commission over time and it would be good for staff to review these periodically. Brown commented that financial and human resources policies now match current requirements. Miranda said there was discussion at the users meeting about the insurance requirements, and staff is talking with the Port’s insurance agent and attorney about possible grouping and what should be required. She suggested if a user asks for an insurance requirements variance that this would be presented to the Commission with the insurance agent and attorney recommendations for Commission review and possible approval. Miranda added that the requirements are not new, but the Port now has enough staff to work on enforcement. Chuck commented that the enforcement of the Charter Boat policy was also discussed. He said this was very important with small trailer boats bringing customers to the Port who could potentially sue if injured.

IX. CALENDAR/FUTURE CONSIDERATIONS

2:02:35

2021
Executive Session – GM Evaluation..... May 3
Budget Hearing & Regular Commission Meeting..... May 25
Memorial Day, Port Office Closed May 31

There were no changes to the Calendar/Future Considerations.

X. PUBLIC COMMENT

There was no public comment at this time.

XI. ADJOURNMENT

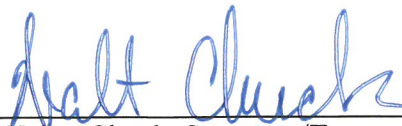
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Having no further business, the meeting adjourned at 8:04 pm.

ATTESTED:

james m burke Digitally signed by james m burke
Date: 2021.05.28 16:14:08 -07'00'

James Burke, President



Walter Chuck, Secretary/Treasurer