

October 27, 2021
5:00 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 virtually via Microsoft Teams. In attendance were Commissioners Burke, Retherford, Chuck, and Sylvia. Commissioner Lackey was excused. Also in attendance were General Manager Paula Miranda, Operations Director Aaron Bretz, Finance Director Mark Brown, NOAA Facilities Manager Jim Durkee, Administrative Assistant Gloria Tucker, and PR Consultant Angela Nebel.

PUBLIC COMMENT

Public Comment. Miranda reported an email has been sent in reply to a public comment received in September, regarding a liveaboard issue. Sylvia asked what is the liveaboard policy. Miranda replied staff have been working on the internal policy and will send the update to the Commission. She explained the biggest issue is most liveaboards don't take care of their boats. She noted the boats have to be navigable, and insurance has to be up to date. She indicated another issue is that people have a tendency to sell their boats with the idea it's a liveaboard, but the liveaboard does not transfer with the boat. She stated anytime someone wants to have a liveaboard, people are supposed to come to us to apply, but some people sell boats without going through the process. She noted staff are trying to clarify all of that. She added liveaboards create a landlord tenant agreement, and it's a nightmare to get rid of that situation if things don't work out with the tenant.

Sylvia confirmed with staff there is a current liveaboard policy and fees. Brown reported the policy allows the Port to limit the number of liveaboards within the marina. He stated in addition they have to pass background check. He noted an error in the public comment and said the Port did not grant a liveaboard with the Chris Craft. He indicated during the pandemic, when people get behind, the Port can't evict anyone. He added the Port has people who owe a year and a half worth of moorage, and the Port can't do anything about it.

Chuck explained the history of the policy. He noted liveaboards had to dismantle holding tanks and be willing to be inspected. He stated another issue before the Commission approved the policy was that people were renting their boats out as vacation rentals during the Seafood and Wine Festival. He added the Chris Craft had been a liveaboard, but then they sold the boat. Burke requested the current policy to be sent to the Commission.

CONSENT CALENDAR

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

OLD BUSINESS

Accounts Paid. MOTION was made by Chuck, seconded by Sylvia, to approve accounts paid as presented. The motion carried unanimously in a voice vote.

Presentation by USFW. Michele Zwartjes, Field Supervisor at the US Fish and Wildlife Oregon Coast Field Office, reported on the USFW feasibility study on the reintroduction of sea otters. She noted USFW received language from Congress at the end of 2020 to study the feasibility and cost of reintroducing sea otters on the contiguous states of the Pacific Coast, and report back within one year. She explained they are studying three components to feasibility, biological, socioeconomic, and legal. She indicated the Elakha Alliance, a nonprofit organization, has also released a feasibility study looking at sea otter reintroduction in Oregon. She added they had premier researchers work on that and create a population model for reintroduction scenarios.

Zwartjes reported USFW is relying heavily on that study for its biological study. She stated USFW is concentrating on the socioeconomic and legal aspects. She explained USFW conducted stakeholder interviews from California and Oregon. She indicated they will be making a recommendation with regard to further study that is needed, but not on reintroduction itself. She emphasized this is a feasibility study, and not a proposal.

Sylvia clarified the report will go directly to Congress in December. He confirmed there had been approximately 35 stakeholder interviews. Zwartjes reported on of USFW's primary recommendations is to request a very rigorous and comprehensive socioeconomic assessment that goes beyond this report. Retherford asked if any other groups are reporting to Congress or making recommendations. Zwartjes replied no other groups are going to report with USFW. She added Elakha could submit their study to Congress. She noted Elakha is accepting public comments on their study through November.

Chuck stated he serves on the Ocean Policy Advisory Council (OPAC), and the issue of wildlife disturbance was a big issue with them. He explained sea otters do, at times, restrict access to certain areas. He stated as a Port Commissioner at a Port with a lot of recreational activity, he is concerned with anything possibly restricting access, whether that's commercial or recreational. He emphasized loss of access is a big concern for a lot of Port users. Zwartjes asked if those issues have to do with the Endangered Species Act (ESA) protections or the Marine Mammal Protection Act (MMPA) protections. Chuck replied the concerns are mostly MMPA protections. Zwartjes asked if that would be a bigger issue than the area already has with seals or sea lions. She explained a question that has come up is whether sea otters' presence would add much since there are already MMPA restrictions on seals and sea lions. Chuck replied it has a lot to do with enforcement.

Burke noted he is familiar with these feasibility studies. He stated one of the concerns from the Port is the possibility of harder permitting with an ESA listed animal in the estuary. He explained the permitting process is already difficult for infrastructure improvements that are critical and, frankly, behind schedule. He asked if reintroduction would have any potential permit roadblocks. Zwartjes replied the restrictions will be different depending on if the source animals come from California southern sea otters which are listed, or northern sea otters which are not. She explained if southern sea otters were reintroduced, they would be reintroduced as an experimental population, which allows USFW to specifically write prohibitions and remove all prohibitions, so people aren't concerned about permitting. She indicated there is nothing USFW can do with MMPA. She added everything the area experiences with seals and sea lions, would also apply to sea otters.

Sylvia noted this Elakha study is about reintroduction in Oregon, and once their study is completed it would probably go to OPAC or the Science and Technical Advisory Committee (STAC). He indicated, ultimately, a decision has to be made in the state. Zwartjes noted there cannot be a reintroduction unless there was a permit application to capture and move those animals.

She stated to get to that stage, an agency has to apply for a permit from USFW, and that would trigger public hearings and the public comment process.

Retherford stated she is curious if stakeholder interviews have brought up issues on disturbance. Zwartjes replied there has not been much discussion of disturbance. She explained the concern is largely for shellfish fisheries, particularly Dungeness crab. She added everyone wants a management plan in place before animals are reintroduced that makes provision for what will be done under particular circumstances, a contingency plan if things don't go as predicted. Retherford asked for clarification on the financial impact of reintroduction. Zwartjes replied the recommendation will be to have a more in-depth socioeconomic study done by expert economists to determine the effect on the economy. Retherford noted issues with sea lions taking up dock space throughout the Port. She asked if sea otters would be similar. Zwartjes replied sea otters do not haul out on docks, and they don't haul out very often. She indicated it is unusual for them to get out of the water. Retherford clarified the study's parameters. Sylvia noted the history and objective of MMPA. Burke added this will be a long road, and there will be lots of time to be involved in this process as it goes forward.

Janitorial Services Update. Bretz reported this increase will buy staff time to finish analyzing how to provide these services. He stated next year costs of cleaning will go up. He noted at the November meeting, he will have a recommendation on what to do after the first of January. Miranda explained the choice of hiring someone will be based on the low bid. She stated if that number is way too high, the Port may consider hiring additional staff.

MOTION was made by Retherford, seconded by Sylvia, to authorize a \$700 monthly increase in cleaning cost for G and K Flooring, retroactive to July 1, 2021. The motion carried unanimously in a voice vote.

Approval of Resolution No. 2021-07, Designated Signature Authority. Miranda reported this policy will allow business to continue at the Port even if, for example, she is out of the office for an extended period. Brown reported this closely aligns with what the state and other organizations do. He stated the amounts can be limited as much as needed, and it gives the Port a lot more flexibility. He noted if this adopted, once he finishes the new fiscal policy, this would be incorporated directly into the manual. Sylvia asked if this policy generates any greater risk. Brown replied the risk comes down to judging if someone is responsible with signature authority, but employees are personally responsible for those funds. He added if he authorized something not legal, he can be charged for a crime.

MOTION was made by Sylvia, seconded by Chuck, to adopt Resolution 2021-07, Delegated Signature Authority. The motion carried unanimously in a voice vote.

Authorization of Contract with First Cascade Corporation and Approval of Resolution No. 2021-08, Transfer of NOAA Contingency. Miranda reported she discussed with NOAA postponement of this project to facilitate with COVID issues and allow prices to lower, and because the Port does not have the entire amount allocated in the budget. She stated they are pretty adamant the Port follow the contract, and the Port has an obligation. Retherford noted while replacing rolled carpet with carpet tiles going forward means the carpet will be cheaper to replace, her concern is if that carpet will still be in stock. She asked if the roll carpet is currently cheaper than tile carpet. Bretz replied staff would buy extra tiles in order to replace them, and tiles are cheaper. Jim Durkee confirmed tiles are cheaper, and over purchase of tiles is recommended.

Chuck confirmed this was for the entire NOAA facility. He asked if they are at full capacity or don't use some offices. Durkee replied they are below capacity, but every office gets used at different times. He noted part of the reason they are pushing to get this done now, is departments are moving their offices and employees are out of the office right now. He added they would like to get this done before people come back into their offices.

MOTION was made by Chuck, seconded by Retherford, to authorize the General Manager to enter a contract with First Cascade Corporation for up to \$275,000 to complete the tenth-year recarpeting, concrete finishing, and tile work at the NOAA facility.

MOTION was made by Sylvia, seconded by Chuck, to adopt Resolution No. 2021-08, Transfer from NOAA Contingency to NOAA Capital Outlay. The motion carried unanimously in a voice vote.

STAFF REPORTS

General Manager. Miranda reported the Port received the PBS Engineering report on the Rogue seawall. She stated it is close to what she expected. She offered to share the report. She explained the bottom line is the seawall is in pretty bad shape. She noted she shared a copy of the report with Rogue. She indicated from what she understands, should one piling fail, not everything will collapse. She added there will slow sectional (domino) effect.

Miranda reported the seawall has reached its end of life, and it should be replaced or completely refurbished. She stated refurbishing is the best option at this point. She noted to replace it will gain 40 years, but it would cost millions of dollars and to refurbish will gain 20 years. She indicated refurbishing would not cause any issues with the tenant. She added the first option for refurbishment costs \$1.4 million, and the second costs \$2.5 million. She explained the higher cost option does not give extra years of life.

Miranda reported she had a conversation with Business Oregon and the USDA, on some options. She stated, unfortunately, USDA does not have available grants at the moment, but offers 100 percent loans with a 2.15 interest rate. She noted Brown put together a cash flow to see how the Port can afford this, because right now the Port is working on the admin building. She indicated this is a priority because of the liability involved. Brown reported he put together some numbers and started looking at next fiscal year. He stated based on beginning cash, the Port would have about \$1.4 million to work with.

Miranda reported she is still looking for grants with the Port's grant writer. She stated she has an EDA conversation upcoming. She noted she believes the seawall will be OK to wait until next fiscal year. She indicated the engineer stated this project has outlived its life expectancy but does not have to be rushed, and the seawall should be OK for a little while.

Sylvia asked how long is a little while. Miranda replied she will look for grants until next fiscal year. Sylvia asked if this cost has to be internalized or if there can be revenue made back. Miranda replied the revenue could come from the Rogue brewery lease and increasing dockage next to the wall. She stated she had a meeting with Oregon State Marine Board (OSMB) to see if they would be willing to help fix that wall in order to add to dockage. She noted they were not interested. She added Business Oregon may be able to put some funds into the wall. She explained she will be meeting with Rogue on it.

Retherford asked how long the USDA guarantees the interest rate. Miranda replied it is based on when the Port applies. Burke asked if there is any chance Rogue will pay for some of this. Miranda replied it is always worth asking. Chuck suggested adding this (engineering) report

to the packet. He stated he is concerned that the Port is taking out a lot of loans. He noted in years past the Marine Board was interested in a sea trail as part of redoing the seawall and docks there.

Bretz reported there is an access on the west side, a kayak trail. He stated adding a walking trail around that and tagging the area as only transient space will give the Port a lot more transient space than needed. He emphasized the Port needs space for moorage holders. Miranda stated they (OSMB) were a bit hesitant of a combined space where private and public dock. Bretz added there is a grant for large transient vessels, 36 feet and above sailboats and yachts, but he is skeptical the Port would be a big draw for that.

Burke clarified the bid process for the admin building. He asked if the Commission would need a special meeting to approve the contract and if building would start immediately. Miranda replied this could be taken to the November 16 meeting, and that the Port put immediate construction start out there, and some contractors had issue with that. She stated the Port extended the timeframe to 90 days in an addendum. Burke confirmed there would be a guaranteed maximum price.

Miranda expressed appreciation for Kent Gibson's service to the Port and congratulated him on his retirement. She also noted Clay Moore, longtime volunteer, has resigned. She thanked him for many years of being a host at the RV park. She added the Port of Toledo and Port of Newport will have a joint booth at the Pacific Marine Expo.

ADJOURNMENT

Having no further business, the meeting adjourned at 6:23 p.m.

ATTEST:

James Burke

James Burke (Nov 17, 2021 15:38 PST)

James Burke, President

Walter Chuck

Walter Chuck, Secretary/Treasurer

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