

PORT OF NEWPORT MINUTES

1/26/2016

Regular Commission Meeting

I. CALL TO ORDER

Commission President Walter Chuck called the Regular Commission Meeting of the Port of Newport Board of Commissioners to order at 6:00 pm at the South Beach Activities Room, 2120 SE Marine Science Drive, Newport, Oregon.

Commissioners Present: Walter Chuck (Pos. #1), President; Ken Brown (Pos. #4), Vice-President; and David Jincks (Pos. #2), Secretary/Treasurer, Stewart Lamerdin (Pos. #3); and Patricia Patrick-Joling (Pos. #5).

Management and Staff: Kevin Greenwood, General Manager; Stephen Larrabee, Director of Finance; Rick Fuller, Director of Operations; and Karen Hewitt, Administrative Assistant.

Members of the Public and Media: Mark Miranda, Newport Police; Wayde Dudley; Barb Dudley; Yale Fogarty, ILWU; Pat Ruddiman, ILWU; Lee Fries; Doug Cooper, Hampton Affiliates; Ed Cortes, Ardor Adventures; Kiera Morgan, KYTE; Jim Cline, Rogue Ales & Spirits.

II. CHANGES TO THE AGENDA

There were no changes to the Agenda.

III. PUBLIC COMMENT

Chief Miranda passed out Emergency Preparedness calendars to the Port Commission and staff, which include tips for how to prepare for an emergency. Miranda encouraged being prepared for the “big one.” The calendar includes a 72 hour kit instructions, but Miranda recommends 2 weeks because it may take that long or longer to get help. There were no questions for Miranda.

IV. CONSENT CALENDAR

- A. Minutes: Regular Commission Meeting 12/15/2015.
- B. Financial Reports
- C. Award of Personal Services Contracts for Annual General Liability, Earthquake and Vessel Insurance.
- D. Scope of Service and Proposal provided by Pacific Habitat for NOAA berth deepening (\$9,936).
- E. Budget Committee, Officer and Calendar.
- F. Special Use Permit, Visual Thinking.

Patrick-Joling asked, on item C, if the insurance contracts went out for bid. Greenwood said the Port was in an SDAO group for Liability, and was satisfied with the current insurance agents, Payne West and John Russell. The Port has not recently gone out for bid on insurance.

A motion was made by Patrick-Joling and seconded by Jincks to approve the Consent Calendar. The motion passed 5 – 0.

V. CORRESPONDENCE/PRESENTATIONS

There were no correspondence or presentations.

VI. OLD BUSINESS

A. Items Removed from Consent Calendar

There were no items removed from the Consent Calendar.

B. Special Use Permit – Ardor Adventures Resolution Run & Polar Bear Plunge.

Greenwood invited Ed Cortes to speak with the Commissioners, to introduce himself and speak about his events. Greenwood advised the Special Use Permit on the agenda for the Resolution Run & Polar Bear Plunge was one of Cortes' events, and Greenwood was looking to have the Commissioners ratify the permit. Cortes thanked Greenwood for inviting him to the meeting, and said that the events were growing. There are three events that are hosted at the Port. The Newport Turkey Trot had 350 participants this year; in the first year there were 75. The Resolution Run & Polar Bear Plunge has grown from 95 to over 150 participants. The third event is coming up on March 12th, and Cortes expects 150-200 runners. Chuck asked if these events benefitted local causes. Cortes said yes. For some background, Cortes said he had been in Newport since 2005. He started these events as a passion, and these are growing as community based events. Most of the proceeds go to local non-profits and charities; \$8,000 has been donated over the past couple of years, including donations to the Food Pantry. Each run contributes to a designated group. The Turkey Trot benefitted local elementary schools. The Resolution Run benefitted the local High School Swim Team. The March event will benefit Toledo Elementary School. Other events not held at the Port have benefitted Children's Advocacy and NOW. Cortes said he is proud of the events and how they benefit the community. Local High School students participate as volunteers and as runners. There are a lot of active runners with about 85% from out of town which benefits local businesses. Cortes said he thanks the Port and hopes to continue. Chuck said the Port always supports local causes and just wants to make sure the Port is mentioned favorably. Cortes said he is a runner first; it is a learning experience setting up events. He is learning how to seek sponsors and provide exposure. Greenwood said the fees were waived because of the community impact, and the Port will work with Cortes regarding public relations. Jincks commented that Greenwood had made a great improvement in the Special Use Permit process. Greenwood acknowledged Hewitt for her work organizing the permitting.

A motion was made by Patrick-Joling and seconded by Brown to ratify the Special Use Permit. The motion passed 5 – 0.

C. Accounts Paid

Lamerdin asked about an apparent discrepancy between the HIPPO expense and the payment. Larrabee explained the Chase payment included other items. Patrick-Joling asked about the 3-D model bill. Greenwood explained that was for the International Terminal Shipping Facility posterboards and that this was the last payment on that contract.

Ken Brown declared a conflict of interest because of payments made to Les Schwab. A motion was made by Jincks and seconded by Patrick-Joling to accept the accounts paid. The motion passed 4 – 0.

D. Letter of Understanding (LOU) with Rogue for Brewery Expansion

Greenwood thanked Jim Cline for being here as Brett Joyce was out of town. Rogue has been working with the Port over the last 18 months. The most pressing issue is the will of the Port to limit expansion in South Beach. Brown and Jincks expressed a desire to restrict future development in, so this would be the last major expansion in South Beach. Jincks handed out supplemental information with his suggested necessary changes to the LOU, which has been attached to the packet. Jincks commented that Lamerdin and Patrick-Joling were not at the Commission Meeting in December so he had included the floor plan and elevation plan in the supplemental information. Jincks added that there had been changes to the square footage in the LOU from the initial proposal, so he wanted the square footage changed per his calculations reflected in the LOU, from 40,250 sq.ft. to 43,370 sq.ft. He also requested a language change to item 14 in the LOU stating there would be no more expansion in the Multi-Use Area, and no further expansion in South Beach. Jincks said there are serious problems with parking and the RV Park, which is a concern for recreational marina users. He referred to the marked RV Park/Marina map wherein a black dotted line showed the foot print of the Marina only, the yellow line showing the fill area, and the blue line showing remaining developable marina property. Recreation will continue to grow. The Port's RV Park and moorage are where the Port is making its money. In the Vision Plan, this is the only area left for recreation. Patrick-Joling asked why there is a discrepancy in the square footage. Greenwood said there have been a few variations in the site plans, for example the truck loading area. Items 2, 3 and 16 can specify the square footage in the lease amendment which will be brought before the Commission next month. Jincks asked if there would be any changes. Greenwood noted that the square footage in the LOU can be approximate as the final dimensions will be included in the lease addendum. Jincks commented that this would be an amendment to the 2012, which sets the footprint, which was why the footprint was included. Jincks added the requirement that the outside storage be fenced was part of the original lease and needs to continue to be required.

Patrick-Joling referred to the cost allocation matrix, p 57/109 in the packet. Greenwood explained that the 19 work items were identified as either Rogue's sole responsibility, the Port's sole responsibility, or shared responsibility. Patrick-Joling asked in particular about the parking lot striping as this was an expensive task. Greenwood said the Port has discretion as to when to complete the Port's items and will be discussed and budgeted in the future. Lamerdin asked about the mural, and if this was mutually agreeable. Greenwood said the Rogue version previously presented to the Port was seen as more of an advertisement for Rogue, so the Port will design the mural and Rogue will have it painted. Brown added this will allow for more public input on the mural.

Greenwood asked for clarification on the changes proposed to the LOU; the only change needed to item 14, with items 2 and 3 to be refined in the lease agreement. Jincks requested these changes also be made to the LOU. Greenwood referred to the email from Brett Joyce. Jincks thought there may be problems if the other amendments were not made to the LOU. Jincks said the previous item 16 was dropped; outside storage was discussed in the lease. He was submitting the supplemental information tonight to be incorporated in the LOU. Greenwood said Joyce agreed to the change in the LOU with item 14 modified, with items 2, 3, and 16 to be refined as part of the lease addendum, to be approved by the Commission. Jincks said he wanted the square footage corrected even though it was approximate. Greenwood said he will be meeting with Joyce over the next month, and recommended adoption of the LOU in the packet and adjusting the square footage over the next month's discussions. Greenwood added he does not wish to submit an agreement to Joyce that differs from his understanding. Jincks asked why Greenwood did not recommend adopting the supplemental information tonight. Greenwood said Rogue was seeking land use approval with the City. Brown said he saw no value in bring Joyce in. Lamerdin added that the wording of "approximate" square footage gives the Port protection. Jincks said he cannot accept the LOU without incorporating the changes he proposed. He said there is a history as far back as the Pink silo of controversy with Rogue. The LOU has legal standing and he was trying to alleviate problems that had

occurred in the past. Patrick-Joling said that the wording “deal with” usually means changes will be made. Greenwood advised the Commission that the LOU is not the final document. The lease addendum will address items 2, 3 and 16. Lamerdin said this would require the numbers being reconciled prior to signing. Greenwood confirmed that those numbers would need to be identified because they determine rent. Jincks added that in the past that Rogue had not consulted the Port with changes. He was concerned that the Port would not be dealt with satisfactorily. Chuck thanked Jincks for the background information and work over the years ensuring that the Port gets the best outcome. The “approximate” square footage would be addressed in the lease addendum. Greenwood offered an amendment to the LOU as addressed in Joyce’s email regarding the prohibition on future expansion, and recommended the Commissioners authorize the LOU as amended. Patrick-Joling confirmed that additional changes could be made before the lease was signed. Jincks said he would not approve because he sees the LOU having more legal standing than is being considered.

A motion was made by Brown and seconded by Lamerdin to authorize the Letter of Understanding with Oregon Brewing Company as amended. The motion passed 4 – 1, with Jincks dissenting.

E. International Terminal Shipping Facility Update

Greenwood referred to the update in the meeting packet, which summarizes activity on the project. Grant approval information is not yet available. Chuck added that the presentation was well received in Lincoln City. Patrick-Joling asked about the Port’s payment for Department of State Lands (DSL) fees. Greenwood advised that some of the sand in the Port’s possession belongs to the State of Oregon, so the Port pays \$0.80 per cubic yard for sand that is moved off site. There are no details yet, but the issue is an exchange of clean, non-buildable material for good material. Previously, the city was not willing to take non-buildable material, but now this can be included in bid documents allowing for calculation of trucking costs. The IGA related to this will be considered by the Commission at a future meeting.

Lamerdin asked if Greenwood had heard concerns from people when presenting the project. Greenwood said there was some concern about wetlands mitigation, but we do have the biological approval and permits. There had also been some concern about how the trucks queue up, but now the plan was to queue off of Bay Blvd. Chuck added the traffic pattern had been redesigned. Lamerdin asked if this information was out in the public attention. Greenwood said the Lincoln City presentation would be on local cable television. Lamerdin suggested a link to the video on the Port’s website. Brown asked if Rondys had received a building permit. Greenwood said that he had not yet received confirmation.

F. General Manager Annual Performance Evaluation

Greenwood said the resolution was included in the packet for background on the process. Also included was a compilation of the five evaluations submitted by the Commissioners, which would be discussed in an Executive Session following the Regular Meeting. The Commissioners had no questions at this time.

VII. NEW BUSINESS

A. Contract Amendment with TCB for Additional Collection Services.

Greenwood advised that the Port has been issuing quite a few citations for parking, with TCB writing the vast majority. The Port has not done a good job of collecting on the tickets. TCB has a similar relationship with the City of Newport to collect on unpaid citations. TCB already can use their system to identify repeat offenders and can escalate consequences, perhaps eventually a boot. The citations could still be appealed to the General Manager and Commission. It is important to have a fair method of

collection, with additional penalties for repeated offenses. Larrabee added the value of this service is not to increase revenue but to increase compliance, which was also the goal for the city. Patrick-Joling asked if TCB was a licensed collector, since that is a requirement of the State of Oregon. Larrabee will follow up to check. Jincks asked for a breakdown of the violations that have occurred. Larrabee responded that in 2015, 341 citations were issued for \$8,000 in fines, of which only \$2,000 was collected. Greenwood said that the majority of the violations are parking. Patrick-Joling also suggested clause C in the proposed contract relating to mediation could be firmed up. Jincks asked if TCB has a plan in place, and he would like to see that. Brown also asked to see the city's agreement. Lamerdin suggested that the standard operating procedure needs to be clear and transparent so that people will know what will happen, and that this information could be posted on the Port's website. Larrabee said the Port would come back with more details for the Commission next month. No motion was made at this time.

B. Issuance of Credit Cards to Directors of Operation and Finance.

Greenwood referred to the information in the meeting packet, and said the current situation was researched by Larrabee with help from staff. Currently, the Directors of Operation and Finance do not have credit cards in their names. Jincks said that twenty years ago, all credit cards were removed from the Port due to abuse. Lamerdin added that this is a sensitive issue requiring guidelines as to what is appropriate or inappropriate. The guidelines for use would need to be clear and signed off on by the Directors. Greenwood acknowledged that the personnel manual needs to be updated where many of these policies would reside. For now, the Port staff defers to IRS guidelines, which are generally accepted practices, and the expenses are reviewed as part of the yearly audit.

A motion was made by Patrick-Joling and seconded by Jincks to approve the issuance of two new credit cards, one in the name of the Director of Operations and one in the name of the Director of Finance with each new card having a maximum limit of \$2,500, and to lower the maximum limit of the original card in the General Manager's name to \$12,500. The motion passed 5 – 0.

C. Resolution Setting Rates, Fees and Charges (ORS 294.160).

Greenwood advised this is a several month process for review. In the report, Greenwood highlighted what manager's had reviewed and provided comments. Patrick-Joling expressed that her biggest concern was ensuring that fees are covering the Port's costs. Jincks said the Port was moving toward this goal. Greenwood added that, for example, labor charges had been pulled out of equipment service fees to more closely reflect actual costs. Lamerdin asked about the tug fees listed in the report, and whether our insurance would accept operating the tug without a licensed captain. Fuller responded that the tug can only be operated within the Port marina. Jincks said the vessel was not really being used as a tug, and Lamerdin suggested changing the name to "work boat." Brown asked if the service rates in Section 1 applied to the International Terminal (IT) gear shed. Greenwood referred to the report that this was not happening at the IT. One possibility was to prohibit outside equipment use unless it did not complete with Port equipment. Jincks acknowledged that outside equipment use does happen in the case of emergency. Fuller said the difference between charges at the Commercial Docks and at the IT needed to be firmed up. Larrabee added there is also an insurance component. Jincks said that most of the IT users carry insurance. There are 3 non Port forklifts and boom trucks at the IT, and specialized equipment the Port cannot provide. Perhaps a one-time use license would work. If the rules were too strict, it may be difficult for boats. Chuck recommended Jincks and Fuller work together on this issue. Greenwood added that the Resolution is on the agenda so that the public also has an opportunity to comment. The Resolution would be adopted in May or June.

D. 2016 Annual Report (ORS 777.14)

Greenwood recommended that a motion be made to accept and sign the Annual Report.

A motion was made by Patrick-Joling and seconded by Jincks to accept the 2016 Annual Report. The motion passed 5 - 0.

VIII. DEPARTMENTAL REPORTS

A. Director of Finance

Larrabee said there was potential to refinance the IT GO bonds, which would lead to almost a \$1MM in savings to the district's tax payers. He will keep the Commissioners updated. Lamerdin commented on the nice consistency in the South Beach numbers.

B. Director of Operations

Chuck commented that he enjoyed the compiled report. Brown asked about the sink hole referenced. Fuller said that galvanized pipe was failing where stormwater exits into the Bay, which was causing washout and sinkholes. It started at the North side, but there have been three sink holes moving toward the manhole cover. Until the line can be replaced, which would be costly, this is filled with gravel, keeping in place, and asphalt. This is a band-aid only, and the Port needs to get bids. There is another affected line from the Marina and by Rogue. The staff is trying to keep the price down. Fuller praised Chris Urbach for taking care of this so that it is not an emergency situation. For now, the patches are working.

C. General Manager

Greenwood said that the Coast Guard bill was not yet signed because the storm had stopped activity in DC, but he was hopeful it would be signed next week. He thanked Chuck for planning to attend the SDAO Conference to support Clay Moore's award as SDAO Volunteer of the Year. Greenwood said that it was critical that a Port representative attend the PNWA Conference. The Commission agreed Greenwood's attendance this year was sufficient since there were no critical issues this year. Lamerdin asked if there had been any impacts of the filming done at the Port. Greenwood said he has not received any complaints, and some locals were hired for work.

IX. COMMISSIONER REPORTS

Brown said he had attended Wyden's Town Hall Meetings. Chuck attended two Council meetings for Newport and Lincoln City, and had met with the DulseEnergy seaweed people regarding their "bacon" seaweed. Patrick-Joling reported she was on the Visioning Committee for the City of Newport. The Committee was asking each organization to present historical data. Patrick-Joling asked staff to see if the Port had data to provide. Greenwood said he would talk with Patrick-Joling about what is needed.

X. CALENDAR/FUTURE CONSIDERATIONS

Patrick-Joling advised she would be in Washington on February 23rd, so she was requesting the Commission Meeting be moved to the 16th. Jincks asked if the Rogue lease would be ready by the 16th, and suggested a work session would be used to discuss the lease. The Commission agreed to change the Regular Meeting to 6 pm on February 16, 2016, with a possible work session at noon.

XI. PUBLIC COMMENT

There was no public comment at this time.

XII. ADJOURNMENT

Having no further business, the meeting adjourned at 7:40 pm.

XIII. EXECUTIVE SESSION

Commission President Walter Chuck stated for the record that the Commission would be entering into Executive Session pursuant to ORS 192.660(2)(i) for the performance evaluations of public officers and employees to evaluate the General Manager's annual job performance. Chuck noted that no decisions would be made in Executive Session. The session was called to order at 7:47 pm.

Commissioners Present: Walter Chuck (Pos. #1), President; Ken Brown (Pos. #4), Vice-President; and David Jincks (Pos. #2), Secretary/Treasurer. Stewart Lamerdin (Pos. #3); and Patricia Patrick-Joling (Pos. #5) were absent.

Management and Staff: Kevin Greenwood, General Manager.

A Summary Report of the evaluation will be produced for Commission review and adoption at the February meeting.

Having no further business, the meeting adjourned at 8:17 pm.

ATTESTED:

Walter Chuck, President

David Jincks, Secretary / Treasurer

-###-