

**PORT OF NEWPORT
MINUTES
February 12, 2009
SPECIAL MEETING**

I. CALL TO ORDER

Commission President Ginny Goblirsch brought the special meeting of the Port of Newport Board of Commissioners to order on Thursday, February 12, 2009, at 3:00 p.m., in the Port Conference Room, the same being within the boundaries of the Port District.

The purpose of the special meeting was to discuss the Joint Permit Application (JPA) for the Terminal Renovation Project.

II. INTRODUCTIONS

Commissioners Present: Ginny Goblirsch, President; Dean Fleck, Vice-President; JoAnn Barton, Secretary; and David Jincks, Assistant Secretary-Treasurer.

Commissioners Excused: Don Mathews, Treasurer

Port of Newport Management and Staff: Don Mann, General Manager; Maureen Keeler, Special Projects Manager; Pete Dale, Project Manager; Kent Gibson, Port Operations; and Patty Benjamin, Administrative Assistant.

Others: Yale Fogarty and Rod Worman, ILWU Local 53; Lee Fries and Larry Johnson, Newport residents; Wayne Hoffman, Midcoast Watershed Council; David Shellshear, Friends of Yaquina Bay; and Grant Snyder, Wiggins Towboats.

III. TERMINAL RENOVATION

A. USACE/ODSL Joint Permit Application

Commissioner Goblirsch briefly reviewed the steps that had been taken in the permit process, since last year when the initial JPA had been submitted to the Army Corps of Engineers (ACOE) and Department of State Lands (DSL). Since that time, meetings had been held with people from various agencies in an effort to learn what sort of information the agencies would require in the amended and final JPA. The most recent all-agency meeting, held on February 6, 2009, was attended by Commissioners Barton, Goblirsch, and Jincks; General Manager Don Mann; and Port staff. After the meeting, Goblirsch said it was clear that it was time to submit the revised JPA with a view to meeting the next in-water work window, which would open in November.

Comments on what should be included in the amended JPA had been solicited from the commission, staff, KPFF Consulting Engineers, and Kirk Jarvie of DSL. Commissioner Goblirsch summarized an outline of those suggestions and comments, which included a tentative submittal date on or around March 9, 2009. She noted that KPFF Consulting Engineers was comfortable with the March 9 date, while environmental consultant Kim Gould was not completely comfortable with it, since his research was dependent on receiving information from others, so a submission date will have to be confirmed. The outline also listed alternatives, analyses, and documents that the agencies would require to be included in the JPA. She said it was expected that a true preferred alternative would become clear, once all of the information had been gathered, and that the Port would have to build a legally defensible case for the alternative that was chosen. She said habitat mitigation remains the biggest challenge for the Port and its consultants. Kirk Jarvie of DSL had clarified for the Port the stand that National Marine Fisheries (NMFS) and Oregon Department of Fish & Wildlife (ODFW) take on habitat, which is that those agencies will not support mitigation that involves the removal of one aquatic habitat to create another habitat. She said that stand would create a "Catch-22" for Port if some deep water habitat impact cannot be practicably avoided. Jarvie said that DSL feels that this project is permissible without ship removal, and post-action mitigation would be possible as long as it's done in a time frame that minimizes the temporal loss of the affected habitat. Goblirsch added that that could be dangerous for the Port, since there would be no way of knowing what would be required and what it might cost; however, in an emergency there would be some maneuvering room to take care of the Pasley. Goblirsch said the Port needs to do a better job of stating what standards are being used to determine adequate cleanup of contaminants, and the Department of Environmental Quality (DEQ) has provided language to do that.

General Manager Don Mann will send a letter to the agencies attaching the Lincoln County Emergency Declaration and copies of his testimony to the House Veterans and Emergency Services Committee about the dire condition and increased movement of the Pasley. The letter would also notify the agencies as to when they can expect the final JPA.

Commissioner Barton asked if there was a contingency plan for a worst case scenario if the amended JPA takes longer than anticipated. A discussion followed about resources that were available from state emergency services, which were a 0% interest loan up to \$250,000 and deployment of the National Guard if a catastrophe occurred. The General Manager said a declaration of emergency from the state could mean that the agencies could allow the Port to start in-water work prior to the November work window.

Commissioner Barton said she was thinking more in terms of steps the Port could take, rather than the agencies, to stabilize the vessel. She suggested driving some substantial pilings adjacent to the hull and implementing a tie-back system to stabilize it. The General Manager said the team had been trying not to spend project money on quick fixes, so there would still be enough money left to complete the project when the permit came through. Commissioner Barton said the pilings might not be a permanent fix but would fulfill the Port's responsibility to take action. She said it would be a good faith move on the Port's part and would give the commission and the community more peace of mind. She suggested there might be county funds the Port could qualify for to do the stabilization and added that it would be easier to get a permit to drive pilings than for sheet pile.

Commissioner Jincks said he agreed with Commissioner Barton. He said his concern was that there was no way to adequately put an oil boom around the Pasley because of the tides, so if there were a spill there would be no way to contain it. If pilings were drive outside of the Pasley, an oil boom could be wrapped around them.

General Manager Mann said he would discuss the piling stabilization approach with the engineers and find out what it would cost to drive the pilings and remove them, and would also get a confirmed date for submitting the JPA. It was the consensus of the commission that they did not need to have the cost estimates for the piling before submitting the permit application.

Commission Barton said that even if the stabilization procedures would not be reusable in the final design, it would be worth it; however, if some parts could be incorporated that would be great.

A discussion followed about the public scoping process and whether the public meetings the Port had regarding the terminal project and permit application met the requirements of the National Environmental Policy Act (NEPA). Special Projects Manager Maureen Keeler said it was her understanding that public notice posted by the ACOE after the JPA is received meets the federal requirements, and that the public notice posted by DSL meets the state requirements, but she would confirm that.

IV. PUBLIC COMMENT

Wayne Hoffman, Midcoast Watershed Council: I am pleased that you're looking at a temporary stabilization. I think it's a good idea to take care of the potential for catastrophe while you're working through the process for a permanent solution. And if it costs a little bit, it's insurance.

Kent Gibson, Port Operations: One thing I don't think anybody has thought about is that the back half of that ship isn't sitting on the bottom so if you put piling on the outside of it and brace it up with cables, it could still theoretically drop straight down.

Commissioner Barton: Is that the way the motion is going?

Gibson: It goes out and down.

Pete Dale, Project Manager: The engineers have said that if you try to correct one movement, it will move another direction.

Gibson: You might not get the full roll over, but you could still get breakage of the pipes and oil release, and pilings aren't going to contain any oil.

David Shellshear, Friends of Yaquina Bay: I think preventative measures are long overdue, especially considering the comments at the City Hall meeting from DEQ that without question the Port is liable if we have a problem.

Commissioner Barton asked if there was more remediation that could be done under the oversight of DEQ to remove more oil. The General Manager said no, not until the hull was stabilized, because it was too dangerous to move equipment onto the vessel. Mann passed around a sealed jar of Bunker-C that had been taken from the Pasley as an example.

Shellshear: From some of the graphic pictures that have been thrown around, given that the hull was shifting outward, there was quite a sizeable and heavy amount of concrete in a small retaining wall that was built to level that out originally, on the waterborne side of the ship causing leverage outward. Is there any possibility of bringing that back in a front loader and getting it back onto the hull?

Dale: We tried that two years ago using the largest excavator available and couldn't move it.

Commissioner Fleck asked Dale if a local pile driver could drive piles to stabilize the hull, and Dale said he didn't think they were set up for heavy enough driving. He said there is a shelf where the stern of the Pasley is, so an extremely large diesel hammer would be required and a pilot hole would have to be driven first. He said West Coast Contractors would have equipment large enough to do it, and added that another consideration would be procurement of the pile.

V. OTHER

The commission discussed an all-day commission training session scheduled for March 18, 2009. General Manager Mann said he would get back to the commission with training options available through Special Districts of Oregon. Since the commissioners had specific topics they wanted the training to address, the session would not qualify for the Special Districts discount. Mann said he would talk to Port legal counsel Pete Gintner about helping with the training session.

VI. ADJOURNMENT

There being no further business to come before the Special Meeting of the Commission, the meeting was adjourned at 3:45 p.m.

ATTEST

Ginny Goblirsch, President

David Jincks, Asst. Secretary-Treasurer