

**PORT OF NEWPORT  
MINUTES  
December 27, 2011  
WORK SESSION**

**I. CALL TO ORDER**

Commission Secretary David Jincks brought the Work Session of the Port of Newport Board of Commissioners to order on Tuesday, December 27, 2011 at 12:00 p.m. in the Port Conference Room, the same being within the boundaries of the Port District.

**Commissioners Present:** David Jincks, Secretary; Don Mathews, Treasurer; Dean Fleck, Assistant Secretary-Treasurer; Walter Chuck, Commission Appointee.

**Commissioner Excused:** JoAnn Barton, President.

**Port of Newport Management and Staff:** Don Mann, General Manager; Patti Britton, Finance Director; Maureen Keeler, Special Projects Manager; Patty Benjamin, Administrative Assistant.

**Others:** Frank Berg, Day CPM; Lee Fries, CM/GC Selection Committee; Peter Gintner, Port legal counsel; Lonn Johnston, lawyer, Macpherson, Gintner & Diaz.

**II. WORK SESSION ITEMS**

**A. Terminal Renovation Project.**

Frank Berg, project manager for Day CPM, provided an update on the terminal renovation project. He noted that the Port had submitted a request in mid-December for a 30-day in-water work extension to facilitate Natt McDougall Company's (NMC's) modified quad-option project schedule, and Berg hoped to have approval of that request by mid-January. The material that was under the Pasley inside the cofferdam had been taken down to silt stone and approved for upland disposal. A total of 5,931 tons of contaminated material had been hauled to the Coffin Butte landfill as of November 30, 2011. Templates were being built for the installation of piles for the west dock, and the piling installation for the east dock had been completed. A diving inspection was conducted to review the condition of the existing piles at the ro-ro dock. Efforts were continuing to review cost savings on the project through the value engineering process. Amendment No. 15 to the CM/GC contract between the Port and NMC would be presented for approval at the regular meeting that evening. Amendment No. 15 covered steel and sheet pile salvage and buy back for a credit of \$320,000. It also recognized savings from specific previous amendments for a total credit of \$2,878,339. Additional savings had been recognized and rolled back into the project budget to create a GMP, as of Amendment No. 15, of \$15,229,069. Berg noted that additional funding in the amount of \$3,880,000 would be needed to finish the project. He said he had requested that NMC look at a cash flow projection for the remaining work that would be covered in future amendments.

Berg added that another action item on the regular meeting agenda would be an amendment to the contract between the Port and KPFF Consulting Engineers for design modifications for the ro ro dock at the terminal, with a fee increase for KPFF not to exceed \$56,300.

**B. Ordinance**

Port legal counsel Pete Gintner and attorney Lonn Johnston had prepared a presentation using visual aids projected onto a screen that showed proposed changes to the Port's Ordinance No. 1 – 1991. The initial changes were in the organization of the document, with new sections specific to each of the Port's facilities and a separate section on definitions and general provisions. Gintner said he and Johnston were reviewing the proposed changes for legal sufficiency but were not familiar with the different procedures and requirements at the sport marina, commercial marina, RV parks, and terminal. He said they were trying to remain consistent and avoid duplication throughout the document, and he encouraged input from Port staff. In answer to a question from Commissioner Jincks, Gintner said that the ordinances for other Oregon ports read the same as Newport's, nearly word for word. A discussion followed about new vessel insurance requirements that are under consideration by the Port; proposed changes to the Moorage License Agreement (MLA); transfer of moorage, which is not allowed; registration requirements at both marinas; assigned slips, which is the policy at South Beach but not on the north side; and enforcement and responsibility issues related to Port policies.

It was the consensus of the commission that the words "daily rate" be substituted for "transient rate", and that "discretion of the Port manager or his designee" should replace "discretion of the

harbormaster” in the ordinance. Those terms would also be included in the definitions section of the document.

A discussion followed about the legal interpretation of the terms “abandoned vessels” and “seaworthy”. Johnston suggested putting together a list of conditions to use in the ordinance that could be applied to vessels to determine if they met the Port’s criterion of “seaworthy”, and the commission agreed.

General Manager Don Mann explained that there were some vessels in the harbor that functioned only as “buying stations” and did not fish, whereas other vessels caught their own product and sold it at the dock. Commissioner Jincks asked if a different MLA was required for boats that were essentially “barges” and Mann said there was not. He added that in the past the boats/barges selling product were required to have a special use permit that cost \$50 but that practice had been discontinued. There was a discussion as to whether the permit requirement should be reinstated, as well a requirement for proof of insurance; whether there should be separate MLAs for working fishing vessels and those functioning as “barges”; and whether the vessels that did not fish should have to meet a list of conditions to prove “seaworthiness”. The commission agreed that those issues would require further discussion.

The last item for discussion was “Placement of Structures”. Referring to the current policy at the South Beach Marina, the General Manager said dock boxes have to fit within a triangle on the dock, but a few of the triangles can’t accommodate boxes because there are electrical facilities in them or a piling running through the center of them. Mann pointed out that the commercial marina doesn’t allow dock boxes at all; however, it is a big issue at South Beach. Commissioner Jincks suggested that the ordinance should stipulate what a “structure” is, define the dimensions of the dock boxes that would be allowed, and require that whatever is stored on the dock would have to fit inside the dock box. No one felt that crab gear or ice chests should be stored on the docks, but Mann said there was an upland area at South Beach that could be designated for gear storage. He allowed that the Port would have to invest some funds into building it, but then could rent the storage areas to moorage holders.

Mann said that the Port had been conducting a survey on vessels with insurance coverage and it turns out that more vessels have it than he would have thought. A discussion followed about liability insurance and what it would cover, and whether the Port should require being covered as an “additional insured” on some specific items. Regarding parking for fishermen, Mann said that both the north and south marinas have parking issues. At the commercial marina, temporary parking stickers are currently being issued for a \$1 fee and new permits will not be ordered until it is clear what changes will occur when a Bayfront Parking District is formed. Commissioner Jincks suggested that a commercial fishing license be required, in addition to a valid driver’s license, in order to receive a permit for the designated fishermen’s parking areas along the waterfront. He added that all crew members have the licenses and parking is available without a permit along the street or in the port office lot during daylight hours.

The January noon work session will cover the commercial and recreational marinas and the RV park sections of the draft ordinance.

### **III. PUBLIC COMMENT**

There was no public comment.

### **IV. OTHER**

General Manager Mann said he had hoped to have the Rogue lease amendment as an agenda item at the regular meeting that evening but Rogue’s attorney had some questions on one section of the amendment. Mann had received an e-mail that morning that the amendment looked acceptable and he was waiting on a phone call from Brett or Jack Joyce to confirm. If that phone call came, he would forward the amendment by e-mail to the commissioners for review and the lease amendment would be an action item at the evening meeting.

### **V. ADJOURNMENT**

The Work Session was adjourned at 1:45 p.m.

**ATTEST**

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JoAnn Barton, President  
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Walter Chuck, Secretary