

OREGON INTERNATIONAL PORT OF COOS BAY

Coos Bay, Oregon

COMMISSION WORK SESSION MEETING

10:00 a.m., Tuesday, June 6, 2023

Port Commission Chambers, 125 Central Avenue, Suite 230, Coos Bay, Oregon 97420

ATTENDANCE

Commission:

Eric Farm, President; Brianna Hanson, Vice President; Kyle ViksneHill, Treasurer; Kyle Stevens, Secretary; and Nick Edwards, Commissioner.

Staff:

John Burns, Chief Executive Officer; Lanelle Comstock, Chief Administrative Officer; Mike Dunning, Chief Port Operations Officer; Megan Richardson, Director of Finance and Accounting; Margaret Barber, Director of External Affairs and Business Development; Rick Adamek, Director of Asset Management; Steve Bawn, Charleston Marina Manager; and Laura Fortin, Administrative Assistant.

Media & Guests:

Ross Williamson, Local Government Law Group

1. CALL MEETING TO ORDER

President Farm called the meeting to order at 10:02 a.m.

2. INTRODUCTION OF GUESTS AND PORT STAFF

3. PRESENTATION

A. Board of Commissioners Training by Local Government Law Group

Mr. Williamson, an attorney from the Local Government Law Group, introduced himself and gave an overview of his background and legal training. He provided information about the Local Government Law Group and the types of legal services they provide. Mr. Williamson then proceeded with a PowerPoint presentation on the Board of Commissioner's authority, roles, and responsibilities; public meetings; public records; and ethics.

Slide 2: On the Job Training

Mr. Williamson encouraged the members of the Board to have a good understanding of the Port by touring all of the Port's properties, and researching goals, challenges, and decisions past Boards have dealt with.

Slide 3: Oregon Government 101

The State of Oregon has both General Authority Governments and Special Authority Governments. General Authority Governments, such as Cities, Counties, and Charters, have authority unless statute says they do not. Special Government Authorities, such as Port Districts, Fire Districts, and Irrigation Districts, only have the authority stated by statute.

Slide 4: Board Authority

All five members of the Board, when together, create “Board Authority”. ORS Chapter 777 states the authority of the Board and the powers delegated to the Port. The Board has also adopted the Port Policy Manual which is an expression of the statute that delegates and gives authority to the Board. President Farm asked Mr. Williamson to review and update the Port’s Policy Manual in the near future.

Slide 5: Board Authority

Board authority requires both legal authority (by statute, ordinance, or policy), and majority vote of the Board. Mr. Burns asked if a public meeting is held, and three out of the five Commissioners are present for a quorum, are two or three votes needed to pass a motion. Mr. Williamson explained according to Chapter 198, three votes are required to pass a motion. Commissioner ViksneHill asked if this changes in the case of a Board vacancy. Mr. Williamson said it does not; three votes are required.

Slide 6: Commissioner Authority

There is no authority as an individual Commissioner to act on behalf of the Port without prior authorization via law or Board action through ordinance, resolution, policy, or specific action. If a Commissioner is asked to represent the Board in another setting, specific instruction must be provided on what authority the Commissioner has (to attend, speak on behalf of, vote on behalf of, etc.). President Farm asked if staff has the authority to speak on behalf of the Port. Mr. Williamson explained per the Port Policy Manual, the CEO has been delegated authority by the Commission to act on behalf of the Port.

Slide 7: Board Duties

All five Commissioners must work together in Port goal setting and policy making, seeking public participation and transparency, managing the relationship with the CEO, oversight and risk management, and intergovernmental relations.

Slide 8: Board as Employer

The Board is the direct supervisor of the CEO. It is common practice for the President to act as the point-person for the Board in its role as a supervisor to the CEO. The annual review process is a formal way to supervise the CEO, but supervision should be provided throughout the year by the Board. The Port Policy Manual delegates operational powers to the CEO and to hire and supervise Port staff. There is no direct line between the Board and Port staff other than through the CEO.

Commissioner Hanson asked how information or emails should be shared to Commissioners outside of meetings. Mr. Williamson explained that this is a public meetings issue, and best practice is for information to be shared one way. The CEO can share information to all Commissioners; however, any comments should be saved until the next scheduled meeting. The “reply all” button should not be used in any circumstance.

Mr. Williamson reminded the Commissioners to “stay in your lane.” He said if Commissioners stay within their scope of authority, then it’s a lot harder to “get in to trouble”. If a Commissioner does get into trouble, insurance will cover Commissioners who are acting within the scope of their authority.

Commissioner Hanson asked for some examples of typical actions people do that are outside of their authority. Mr. Williamson answered, walking into Port offices, and directing staff to do anything is not in a Commissioner’s authority. The chain of command is to go through the CEO.

Slide 9: Commissioner Roles

“What hat are you wearing? What hat does the audience think you’re wearing?” It is imperative for both the Commissioner and the audience to understand if the Commissioner is speaking on behalf of the Board or as an individual. The Commissioner’s individual role is to be mindful of authority. Speaking on behalf of the Board in any situation (at other meetings, politicking, to the media, etc.) must be authorized; speaking as an individual the Commissioner must recognize the impact that may be caused to the Port or Port staff. Regardless of what hat is being worn, speaking about union matters should be avoided.

Commissioner Edwards asked for better clarification when a Commissioner is reaching out to staff as an individual. Mr. Williamson said because the audience knows the individual as a Commissioner the conversation must clearly be delivered and stated that it is coming from an individual and not as a Commissioner. His suggestion was to work with Mr. Burns on a process. President Farm shared that it is a good practice to be sure the persons in authority are included in communications.

Slide 10: Port and Commissioner Liability

If harm is caused by a Commissioner's actions, the Commissioner will be insured if acting within their authority. The Port has an obligation to defend and indemnify Commissioners if acting within their authority.

Slides 12-19: Public Meetings

The Public Meeting Law (ORS 192.620) requires an informed public to be made aware of all deliberations, information, and decisions in an open forum. A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 or ORS 192.690.

Commissioner Hanson asked how to attend a site visit as a fact-finding mission as a group. Mr. Williamson said this situation could potentially be a public meeting. Perception should also be considered when meeting with fellow Commissioners outside of public meetings. Individual meetings between Commissioners could also share and exchange too much information which should be conducted in a public meeting.

Mr. Williamson advised the Commissioners to avoid replying to all Commissioners in e-mails when Port business information is shared, to avoid conversation both in person or via e-mail between Commissioners where the views of fellow Commissioners is shared, and to avoid sharing firm opinions or views on items the Board would need to vote on.

Practical tips for public meetings include setting a realistic agenda, circulating materials/minutes in advance, keeping it formal, have simple rules, public participation does not mean public conversation, understand limits of "controlling" public, and get comfortable having discussions in public.

Slides 21-25: Public Records

A public record is any writing that contains public business information that is prepared, owned, used, or retained by a public body regardless of physical form or characteristics, including text messages, notes, and e-mails. Commissioner ViksneHill asked if meeting notes taken by the Commissioners are public record. Mr. Williamson said notes taken about the meeting are public record.

The Records Manager is the Records Custodian, and the Board must cooperate with the Records Manager in matters related to public records. Practical tips for Public Records include using Port email for Port business, using private email for private business, avoid texting for Port business, limit creation of public records, and respond promptly to staff requests.

Slides 26-45: Ethics

The Oregon Government Ethics Commission sets the ethics rules of public officials. A public official is an elected official, an appointed official, an employee, or a volunteer of a public agency.

Ethics complaints are an individual's matter. If an Ethics Commission complaint is filed against a Commissioner, the Commissioner is responsible for hiring their own lawyer. \$2,500 of reimbursement insurance (provided to the Port by SDIS) is available for ethics complaints against public officials.

Ethic Rule 1: Don't use your position for personal gain. A public official cannot use their position to get money or to avoid losing money for themselves, a relative, or a member of the household if the opportunity

would not be available BUT FOR their position. This rule does not include compensation or reimbursement for work related activities.

Ethic Rule 2: Gifts are limited to \$50 per year, per giver. The Gift Law 244.020(5) states a gift is something of economic value given to a public official, the official's relative or member of the official's household without receiving value back and NOT given to the general public on the same terms. The public official, a relative or a member of the household cannot ask for or receive gifts over \$50 from any single source in one year if the source has an interest in official actions such as a decision or a vote.

Ethic Rule 3: Confront conflicts of interest. An actual conflict will happen vs. a potential conflict could happen.

- An actual conflict is an action, decision, or recommendation by a public official that *will* result in a financial benefit or detriment for the public official or a relative or business associated with the official or relative.
- A potential conflict is an action, decision, or recommendation by a public official that *could* result in a financial benefit or detriment for the official, a relative or business associated with the official or relative.

When an actual or potential conflict of interest does occur, the official must make record of the conflict by publicly stating the nature of the conflict, before voting or discussing the matter, at each meeting the issue is discussed. For actual conflict the official must state the nature of the conflict and then have no further participation, talking, or voting on the matter. It is not a conflict if the voting official is a member of a class (a large distinguishable group of citizens that the Commission determines is a class) that would be financially impacted.

President Farm thanked Mr. Williamson for the presentation saying the information was very helpful and informative. Mr. Burns commented that the information is valuable, and it is always good to have a refresher.

4. **NEXT MEETING DATE** – Tuesday, June 20, 2023, 10:00 a.m.

5. **ADJOURN**

President Farm adjourned the meeting at 12:30 p.m.