

MINUTES
PORT OF SIUSLAW WORK SESSION
Monday, February 20, 2017, 4:00pm
100 Harbor Street, Florence, Oregon 97439

Commissioners Attending: Ron Caputo, Terry Duman, Nancy Rickard, David Huntington, Mike Buckwald

Staff Attending: Steven Leskin, Port Manager; Kelly Stewart, Services Lead, Dina McClure, Administrative Assistant

Legal Counsel Attending via telephone: David Coulombe

Commission President Caputo called the meeting to order at 4:00pm.

The purpose of this meeting is to discuss Gordon Owen's moorage account and the auction of his boat, Tenacious, on February 24.

Services Lead Kelly Stewart reviewed Gordon Owen's account history and the staff correspondence regarding late payments and rate changes. Stewart said Owen's receipt from 10/1/15 to 10/1/16 showing payment in full, was an error. Owen's first semi-annual payment was due 10/1/15. Payment was received on 10/13/15. The second semi-annual payment was due on 4/1/16. When payment was not made, Stewart informed Owen he was on a month to month payment plan until 10/1/16. Owen made a monthly payment on 4/6/16. Owen returned on 4/11/16 to make another payment. Stewart was out of the office. A staff member accepted a payment from Owen for the difference between monthly and semi-annual rates which resulted in a receipt showing paid in full to 10/1/16. Stewart mailed a letter to Owen on 4/12/16 explaining the receipt was invalid, he was on a monthly plan, and his 4/11/16 payment only paid moorage until 7/4/16. When no further payment was received, and the contract ended on 10/1/16, Owen's account reverted to a daily/transient rate and Owen now owes \$3,897.16.

Commissioners Duman, Buckwald, and Huntington asked questions about the seaworthiness of the Tenacious, insurance status, and if Owen knew he was being charged the daily rate. Leskin said numerous letters were sent to Owen. **Duman made a Motion to make moorage current at semi-annual rate, and comply with all Port rules and regulations for the opportunity to sign a new contract.**

There was discussion between Commissioners Buckwald, Duman and Huntington about compliance, communication, and giving Owen a break in order to keep his vessel. Huntington said Owen was paid up to 10/1/16 and Leskin said that was not correct. Duman and Huntington disagreed with charging Owen monthly and daily rates, making it impossible for Owen to pay in full. Duman said his Motion stands.

McClure asked Duman to repeat the Motion. **Duman said his Motion was to make moorage current on a semi-annual basis and for further contract consideration, come in compliance in the next 30 days on a monthly contract or he has to leave.**

Huntington asked Coulombe if the Commission could make a Motion to stop the sale of this vessel. Coulombe shared the following information:

- The Board has that authority to stop the sale, but according to Ordinance 4, Section 9.4, moorage fees are required to be paid in advance. In his perspective, it is rational to charge the daily fee to a person who doesn't have a license agreement. If not, you are discounting someone who is mooring illegally.
- There are good policy reasons to enforce the moorage fee at the daily rate as opposed to semi-annual or other discounted fees. As a Port Authority, we are using public funds and if we discount, we are subsidizing Owens with public funds. Would the board treat future situations the same way?
- Suggested Duman change one Motion with two actions, into one Motion for each action.
- Cancelling the sale may come with consequences since the sale has been publically noticed and bids have been received.

There was discussion regarding discounting the amount Owen owes and postponing the sale. Attorney Coulombe said the board must have a rational basis for changing the amount owed because changing the rate on an ad hoc basis can be problematic with concern to reducing public dollars to the Port.

There was discussion regarding the procedures for late payments and who has the authority to remove a customer. Leskin said the manager has the responsibility to administer the procedures that are within the guidelines of the Ordinance. Huntington said the board should be notified prior to an eviction. Leskin said information was provided in his weekly report.

There was continued discussion about the fees, contract term, communication between staff and Owen, and communication between staff and the board.

Staff was asked to identify the fees totaling \$3,897 which included late fees, an impound fee, and attorney fees. Leskin said Owen could redeem the boat by paying amount due in full prior to the sale on February 24. Commissioners Duman, Huntington, and Buckwald continued to disagree with the fees being charged to Owen. Leskin said ORS 87 allows additional fees to be charged and there has been ongoing consultation with the attorney.

Huntington, again, asked the attorney if the sale could be put on hold. Coulombe said the board has the authority to do that but notice would need to be given to the owner and a revised notice to the public posted. This would create additional costs and risk to the Port since the vessel is not seaworthy. Coulombe said he understands that some commissioners want a compromise but cautioned the board not to over-ride the

administrative function of the manager. Coulombe said the manager's decision was consistent with the rules in the Ordinance. Owen did not pay in advance and was, therefore, in violation of the contract terms.

Duman said the Commission is a contract review board. Leskin said the Commission has that authority when they are reviewing purchasing contracts.

Huntington asked, "If Owens pays the balance, and is in compliance, how can you ask him to leave?" Leskin said the board gave him the authority to make those decisions when he was hired. Buckwald said there should have been compassion and conflict resolution but after listening to the attorney, he agrees Leskin followed the rules.

There was discussion about giving Owen the opportunity to stay if he pays the amount owed. Leskin said he would give Owen 30 days to provide insurance and get the vessel seaworthy.

Caputo asked if the board was ready to adjourn. Coulombe said he thought there was a Motion and a second pending. Caputo said there was no second. Duman asked if the board could ask staff to recalculate the fees owed. Coulombe said it would be OK to ask but he suspects they have already done that.

President Caputo the board will allow the sale to move forward and adjourned the meeting at 5:35pm.