

OCEAN HIGHWAY & PORT AUTHORITY



Port of Fernandina

Miriam R. Hill – Vice Chairwoman, District 1
Danny Fullwood – Chairman, District 2
Justin Taylor – Secretary/Treasurer, District 3
Ray Nelson – Commissioner, District 4
Mike Cole – Commissioner, District 5

Monthly Meeting Minutes

October 11, 2023

The Ocean Highway and Port Authority of Nassau County held its Monthly Meeting on Wednesday, October 11, 2023 at the Peck Center, Willie Mae Ashley Auditorium, 516 S 10th Street, Fernandina Beach, Florida 32034.

The meeting was called to order at 6:00 PM by Chairman Fullwood.

The invocation was given by Commissioner Cole. The Pledge of Allegiance was led by Chairman Fullwood. Roll call was conducted by Rossana Hebron, Administrative Office Manager. All Commissioners were present. Also in attendance were David Kaufman, Port Executive Director; Patrick Krechowski, Port Attorney; Pierre LaPorte, Port Accountant; and Matt McPhail, Savage Senior Commercial Director (for Port Operator).

1. Comments - Audience (Comments must be submitted prior to the meeting)

➤ **Chip Ross; Fernandina Beach**

Mr. Ross shared his approval of the Board's choice to work with John Hillman/Cabana Lane on the sale of OHPA properties.

First, he reminded the Board of their fiscal responsibilities. Four of the Commissioners approved selling the only capital asset OHPA has, and they have yet to present a capital plan on what to do with the funds. He perceives that the Board is putting long-term improvements for their short-term political gain. He urged the Board to commit not to sell any property or capital assets until there is a plan. Selling capital assets to fund on-going operation expenses is not fiscally responsible.

Second, he spoke of transparency. There is a public records law. OHPA bought a tugboat with federal tax-payers' dollars. His public records request for the white paper document was delayed because the document was marked "Confidential." There should be transparency in government.

➤ **Catherine Tharin; Fernandina Beach**

Mrs. Tharin echoed Mr. Ross' opinion regarding the sale of OHPA lots. She explained at the September 13th meeting, there was no Board consensus on which lot to sell or do with the income. She encouraged the Board to be thoughtful, deliberate, and have integrity to their actions.

The Chairman thanked both speakers.

2. Approval of Minutes

Vice Chairwoman Hill requested to consider the two meeting minutes separately. The Chairman granted her request.

a. September 13, 2023 Monthly meeting

Vice Chairwoman Hill motioned to approve. Commissioner Taylor second the motion.

There were no discussions.

The Board voted unanimously in favor of the motion.

b. September 25, 2023 Executive (Shade)/Special (Budget FY 2023-24) meeting

Vice Chairwoman Hill requested more time to review the September 25th meeting minutes until the next meeting. She wished to consult with Mr. Krechowski about some specifics that were discussed. The Chairman granted her request.

3. Consent items

a. Tech systems (audio/visual for meetings)

Mrs. Hebron reminded that the Board consented to the purchase of audio/visual systems at the September 13th meeting. At the time, she limited the cost to less than \$300. Since then, she received other suggestions for better audio systems with higher cost than what was consented. The estimated cost was approximately \$1800.

Commissioner Nelson suggested the Board move forward because he received some public feedback of inaudible broadcasting.

Commissioner Nelson motioned to approve the purchase. Vice Chairwoman Hill second the motion.

The Board voted unanimously in favor of the motion.

The estimated cost was not presented to the Board prior to the meeting. Vice Chairwoman Hill motioned to approve the cost not to exceed \$2K for the audio equipment. Commissioner Cole second the motion.

The Board voted unanimously in favor of the motion.

The Chairman read a statement before proceeding with the rest of the agenda.

By now you all have heard from Patrick and seen the letter from David's attorney regarding the employment agreement issue. I have talked with Patrick, read the Employment Agreement again and read the letter from his attorney. As Chairman, I believe we have not handled this well and it has led to confusion and possible litigation – which is the last thing we need. The language of the Agreement is clear and we need to follow it. In my opinion, when we voted on October 3rd to non-renew David's contract, it was too late – the contract had already automatically renewed. In my mind, we have two options: honor the contract renewal for 2023-2024 or give David the proper notice that he is being terminated and will be given 16 weeks of severance. Therefore, I am making a Motion to Rescind the previous Board action taken on October 3rd that attempted to give David notice that his contract was not being renewed. Do I hear a second?

Commissioner Cole second the motion.

Discussions:

Vice Chairwoman Hill inquired about the rationale for rescinding the notice not to renew. Chairman Fullwood explained the Board did not do it properly. The Board was under contract, and the Board violated that contract. She recalled the actions taken at the June 14th meeting that the Board provided verbal notice to Mr. Kaufman not to auto-renew his contract. She recalled Mr. Kaufman acknowledged by saying "I'm not worried about it." In retrospect, she explained the Board should reach a consensus and vote on the matter. It was brought to the Board's attention again on the June 28th meeting (budget workshop). Again, Mr. Kaufman acknowledged the non-auto-renew. Both instances were written in the meeting minutes. Mr. Kaufman believes his contract did auto-renew and deserves the 60-days and 16 weeks as required by Florida law. She clarified that it is not required by Florida law but the maximum in Florida law. She believes the Board gave notice, Mr. Kaufman heard and acknowledged the notice. It was in bad faith that Mr. Kaufman intentionally waited until his contract "renew" before presenting his claim despite multiple public discussions. She would not support the motion.

Chairman Fullwood reiterated the contract required a written notice but the Board did provide said notice. Therefore, the Board violated the contract.

After watching the video of the last meeting, Commissioner Taylor concurred Vice Chairwoman Hill discussed the auto-renew clause. The 60-days notice was confirmed. He wondered who was responsible for preparing the written notice.

Mr. Krechowski qualified the letter from Mr. Kaufman's attorney indicating litigation. He recalled he was not present at the June 14th meeting. He explained had he been directed to provide a written notice; he would have confirmed the Board's vote. There was no Board approval vote nor was he asked to prepare a written notice. He explained a mere Board consensus on the matter was not sufficient. The Board needed to take action.

Commissioner Nelson suggested the Board needs to do the right thing. He proposed to give the 60-days notice and 16 weeks severance pay.

Commissioner Cole asked Mr. LaPorte if the ARPA funds would reimburse the severance pay. Mr. LaPorte explained it needs to stay in the payroll system as part of employee wage.

Chairman Fullwood restated the motion. Vice Chairwoman Hill confirmed just to rescind the action and not any other action because Mr. Kaufman was paid some of the funds out in salary. Mr. Krechowski confirmed the motion is to rescind the previous action of the Board. It was a proper way to rescind a previous action taken by the Board. She asked the Board to formulate a plan before rescinding.

The Board voted 4 to 1 in favor of the motion with Vice Chairwoman Hill dissenting.

Commissioner Taylor asked what the next Board action would be concerning Mr. Kaufman's role in the interim.

Mr. Krechowski explained the options; the Board can honor the first auto-renewed contract for a year and not renew or exercise the Board's rights under section 6 of the contract to provide 60-days written notice of termination with 16 weeks of severance.

Commissioner Nelson motioned the Board provide 60-days notice with the 16-weeks of severance. Commissioner Taylor second the motion.

Discussion:

Mr. Krechowski read a portion of section 6 of the contract per Vice Chairwoman Hill's request. It was reiterated the 60 days would start tonight and 16 weeks of severance thereafter.

Commissioner Nelson suggested to utilize Mr. Kaufman to make the transition.

Vice Chairwoman Hill read a portion of the contract:

...termination due to Employee's personal dishonesty, incompetence, willful misconduct, gross negligence, any breach of fiduciary duty, intentional failure to perform stated duties, willful violation of any law, rule or regulation (other than traffic violations or similar offenses) or material breach of any provision of this Agreement.

She stated it does not include failure to meet the stated objectives of the role which the Board communicated throughout his employment.

There was confusion with the vote. Mr. Krechowski suggested a poll vote.

**Nelson – Yes
Taylor – Yes**

**Cole – No
Fullwood – No**

Hill – Yes

The motion carried by a vote of 3 to 2.

The Chairman directed Mr. Krechowski to prepare the written notice and proceed with the proper action.

4. Port Attorney Report

Mr. Krechowski submitted a written report included in the meeting packet. He added he and the Chairman met virtually with the Savage team to discuss some items including the on-going litigation. He offered to discuss with the Board individually. All other matter on the report is self-explanatory.

There were no questions from the Board.

5. Port Accountant Report

a. Financial report – September 2023

Mr. LaPorte submitted a written report included in the meeting packet. He reported this was the end of fiscal year and the last report for the period. He expects the auditors the first week of November and is preparing the FY 2022-23 financial reports.

There were no unusual activities for the expenses, Customs House, and account balances reports.

b. ARPA reimbursement update

Mr. LaPorte reported every three months he submits the payroll reimbursement to ARPA.

Additionally, he reported FDOT completed its audit of OHPA's grant process that started approximately 6 to 8 months ago. They found no issues with OHPA's grant process and payments. Their only recommendation was for OHPA to prepare a written procedure. Mr. LaPorte will seek guidance from FDOT and other ports to prepare the document in response to FDOT's request.

Vice Chairwoman Hill thanked Mr. LaPorte for the update and report on the matter.

There were no questions for the Port Accountant.

6. Port of Fernandina Report (Operator)

a. Tonnage report – September 2023

Matt McPhail, Savage Senior Commercial Director, submitted a written report included in the meeting packet. He reported September was a better month than August. More in line with the June and July tonnages.

There were five vessel port calls, nearly 20K tons of breakbulk, and over 500 containers. They continue to see positive throughput of the KLB exports and expects similar volumes in October.

Mr. McPhail reported that he and Kyle Clark, Port General Manager, performed sales calls in Atlanta and attended the breakbulk conference in Houston, Texas.

Vice Chairwoman Hill inquired about the recent tugboat issues and its impact on Port operations. Mr. McPhail explained the tugboat is scheduled for its inspections but was unsure of the exact date. He reported receiving one positive feedback on the team's performance. He added the opportunity to select a tug rest between the vessel and the agents. The agents, in turn, will source the tugs from Jacksonville or Savannah. Vice Chairwoman Hill stated the tug business is competitive. One of the complaints from the Port customers was the high fees from certain operators but may not be the case for all operators. Mr. McPhail replied the matter is not in his purview. He did not know if a list of preferred providers is offered. Vice Chairwoman Hill ensured, per the Charter, that the Port tariffs and services offered are competitive. If not, the Board is required to take actions to mitigate. He explained the issue is with the other tugs and not the Fort Clinch that is priced competitively. Tug requirements vary and are specific to certain situations (tug and vessel size, tidal conditions).

Commissioner Nelson restated the concern was the mobilization of the tugs. The tug operator knows the cost to operate a tug per hour and how long. There are only three tugs within the area readily available; Cross State, Moran, and McAllister Towing. Issues arise without advance planning. He also reported that mid-morning on September 26th, the tug was given a greenlight to take the tug to Jacksonville for inspections. Documents are still required and pending. There is a two-week lead time. He warned Savage to be careful with the two-tug situations and prepare in advance. Per Brain Seauter, Harbor Pilot, safety will not be compromised. The tug crew are employed by Savage. Vice Chairwoman Hill asked Mr. McPhail to provide updates on the tug as part of his reports.

Chairman Fullwood clarified the two main contacts at the Port, replacing Butch Gilbert, former Savage Director, are Matt McPhail and Kyle Clark. Greg Haehl, Savage Vice President, is available via phone call and is based in Utah.

7. Old Business

a. Customs and Border Protection facility

Mr. Kaufman reported a meeting with Director Bradshaw will be scheduled either the mornings of October 24th or 25th. The afternoon of the 25th is the FSTED allocation meeting for the \$25K fund. Per Chairman Fullwood, he and Mr. Kaufman will meet with Director

Bradshaw. The meeting cannot be a public meeting per CBP requirements. Per Commissioner Nelson, Eric Blair will replace Steve Parrott in the interim while he completes training out of town as the contact pertaining to CBP matters.

b. OHPA Code of Ethics

Vice Chairwoman Hill presented a draft Code of Ethics and procedures for Board consideration included in the meeting packet. She suggested to update the 2015 document. She specified adding the 7-day posting of the agenda, reference to the Ethics Code, and training requirement (Sunshine Law and Ethics). She encouraged the Board to add items on the proposed procedures as they see fit. Chairman Fullwood disagreed leaving the acknowledgment of State representatives and other official dignitaries present at the meetings. He suggested the Chairman may do so as needed. She proposed to table this item until next meeting for a vote to give the Board more time to review. The Chairman granted her request until the next meeting.

c. Insurance coverage (FMIT proposals)

Mrs. Hebron reported requesting FMIT to provide a revised proposal to exclude the salary of the Port Director for the Workers Compensation coverage. Mr. LaPorte explained the revision will be submitted 60 days from now per the Board's decision tonight regarding the Port Director's position.

d. Fort Clinch Tugboat (Haul-out inspection update)

Discussed under Port Operator report.

8. New Business

a. Real Estate listing agreement (John Hillman/Cabana Lane)

A copy of the draft listing agreement was included in the meeting packet.

John Hillman, Cabana Lane Realty, joined the meeting via phone. Mr. Krechowski reported he reviewed the draft listing agreement and provided some comments to Mr. Hillman. He encouraged the Board to provide feedback and comments (expectations, requirements, dollar amount). The one concern he had was the year-long clause on the agreement which the broker responded and explained via email. He also reminded the Board initially discussed approval of the selection of the particular broker, negotiation of a listing agreement, no approval to accept/to settle/to impose deed restrictions. Only the listing agreement was under consideration tonight for Board discussions and vote; thus, no directions from the Port Attorney.

Exhibit A listed the pricing for each lot/parcel, included the deed restrictions, surveying, and design.

Commissioner Taylor emphasized he supports selling only one property. He appreciated the effort and details Mr. Hillman included in his proposal. He encouraged the Board to select one property and base the agreement on said property.

Mr. LaPorte urged the Board to read the agreement carefully specifically section 8d that stipulates a broker's fee is still due if the Board rejects a full-priced offer. Moreover, section 11 requires OHPA payment for any direct expense incurred for marketing if the Board mutually terminates the agreement. He recommended to make changes or not accept said terms.

Vice Chairwoman Hill read a statement:

Over a year ago we tasked our former Executive Director with identifying revenue for OHPA [because, per our Charter, his position is required to be funded by Authority Revenue]. Along the way, and after exploring several unviable ideas, the idea was presented that OHPA should evaluate potential uses of its property. We all supported that idea. We issued an RFP for that purpose but also solicited a proposed listing agreement. Without evaluating the potential [revenue-generating] uses of the land by OHPA, the board is now considering selling 3 parcels of land. Parcels which have been owned by OHPA for over a decade. Our Charter requires that we use our powers for Public Purposes to the benefit of the Citizens of Nassau County and the State of Florida. Currently this land is entrusted to OHPA for the benefit of the Citizens. This Public Land serves as a buffer to the community, and could serve other purposes that benefit the Citizens of Nassau County and the State of Florida. Any sale of Public Land must include a plan and restrictions that demonstrate how this sale and its proceeds will benefit the Citizens of Nassau County and the State of Florida. Chairman Fullwood has said OHPA intends to buy land in West Nassau. Commissioner Cole has mentioned buying land near Crawford Diamond. But no firm commitment has been made to commit the proceeds only for that purpose, and no specific parcel or plan has been identified so that OHPA can evaluate the project and weigh the relative benefits of owning the current parcels with costs and benefits of acquiring new parcels and determine whether the plan serves the Citizens of Nassau County and the State of Florida. For these reasons I will not be voting to sell any Public Land.

Commissioner Cole clarified that his comment on buying property at Crawford Diamond was a suggestion and not the Board's intent.

Commissioner Nelson concurred all along with Commissioner Taylor. He supports selling only one property. Selling all three would not be a

wise decision. Nevertheless, he encouraged to carefully review the listing agreement considering the issue with the other contract (Port Director) discussed earlier in the meeting. It is important to make a decision that will benefit the Port and the people. He added selling one property will alleviate some of the issues at the Port, in particular, the warehouse roofs and canopy. He understood the Port Operator is only responsible for the first \$15K of repairs and the rest falls on OHPA. Chairman Fullwood believes it is necessary to sell two properties to address the issues.

Vice Chairwoman Hill motioned to table the matter until the next meeting to allow the Board to review, revise, and determine the use of funds from the sale of the properties. Commissioner Cole second the motion.

Discussions:

Commissioner Cole suggested selling a portion of a parcel not as a whole. Commissioner Taylor concurred but only sell one whole parcel. Chairman Fullwood stated selling one whole lot, and parcel A is the best choice.

Mr. Krechowski clarified the listing agreement was placed in the agenda for discussions and review, not a recommendation to approve. There are elements in the agreement he does not agree. He did not receive any feedback from any of the Commissioners on the agreement itself.

Vice Chairwoman Hill suggested removing paragraph 1 on Exhibit A. As she understood a portion of the paragraph, it indicates upon receiving an offer for a property, that property is considered sold without Board approval and without the opportunity to keep said property on the market for other offers. She suggested striking that element from Exhibit A.

The Board voted unanimously in favor of the motion.

Mr. LaPorte clarified that the Port Operator is indeed responsible for the initial \$15K for repairs. Additionally, the Port Operator is responsible for maintaining the Port regardless of funding. If OHPA does not have the funds above the \$15K, the Port Operator is still responsible for maintaining the Port. For example, the Fort Clinch was funded by the Port Operator because it was a necessary asset for the Port. Safety issues/liabilities need to be addressed by the Port Operator. There are funds in the capital improvement account available. Commissioner Nelson understood and inquired Savage to explain the delays in repairs. Mr. McPhail was not prepared to respond.

Chairman Fullwood requested Commissioner Nelson provide a list of repairs to complete at the Port.

Vice Chairwoman Hill motioned to provide the list to Mr. Krechowski to send to Savage for attention. Commissioner Nelson second the motion.

The Board voted unanimously in favor of the motion.

Mrs. Hebron noted for the record that Mr. Hillman wanted to comment but he disconnected from the call.

b. Budget Resolution 2023-R01

Mr. LaPorte explained the new fiscal year started October 1st; therefore, the Board needed to approve the resolution and apply the amendment thereafter based on the Board's decision on the Port Director's position/salary.

Commissioner Taylor motioned to approve Resolution 2023-R01. Commissioner Cole second the motion.

The Board voted unanimously in favor of the motion.

c. MARAD

Mr. Kaufman reported MARAD reviewed the white paper submitted b Savage. They requested an OHPA response, deadline is October 13th. Mr. Kaufman will collaborate with Mr. McPhail to prepare a response.

9. Commissioner Reports and Comments

Commissioner Nelson reported areas of concern and in need of immediate attention at the Port:

CBP Facility:

Commissioner Nelson spoke with Steve Parrott on the status of the IT project. Mr. Parrott advised that the parts for the project are arriving daily. Once enough parts are received the tech will start assembling them and call for additional people to assist. No other issues were noted at the time of this report. **Special Note:** Mr. Parrott will be in Jacksonville for the month of October through December for training. CBP agent Eric Blair will remain at the Port of Fernandina.

Security:

He spoke to the security site supervisor and advised there were no issues to report at this time.

Tug Boat (Fort Clinch):

He spoke to the Tug Captain today (10/11/2023) and was advised the Tug had been delivered to the shipyard in Jacksonville at 1410 hours. The inspection will take approximately two weeks to complete.

Container Crane # 9:

Load tested and certified. The crane is in-service with minor maintenance continuing on various components.

Container Crane # 10:

No issues at the time of this report.

Liebherr Mobile Harbour Crane:

Savage Maintenance department continuing to replace hydraulic hoses on the crane. Hose Power will replace the hydraulic hoses on the boom.

OHPA Trucks:

619, 620, 621, 622, 623, and 624. No maintenance issues at the time of this report.

Warehouse # 3:

Roof Panels heavily corroded. Roof panels being patched - Patches on Patches. Roof panels need to be replaced. Failure to replace will result in cargo damage.

Rail Dock Canopy:

NO ACTION TAKEN TO REPAIR SINCE THE STORM DAMAGED OCCURRED IN JANUARY 2023. THIS IS A SAFETY ISSUE AND REQUIRES IMMEDIATE REPAIR. THIS ALONG WITH OTHER MAINTENENCE AND REPAIR ISSUES WERE EMAILED TO THE OHPA ATTORNEY AS WELL AS THE BOARD OF COMMISSIONERS.

Vice Chairwoman Hill recalled from past meeting that she suggested creating an advisory board to assist OHPA with community outreach/matters. She encouraged each Commissioner nominate individuals from their districts or the community. She will prepare a charter to present at the next meeting. The position is voluntary, Nassau County resident, interest, and willingness to serve as a start. This is an opportunity to allow the public to participate in local government. A five-member board was recommended. Mr. Krechowski clarified that an advisory board does need a quorum, no official actions will be taken by the advisory board.

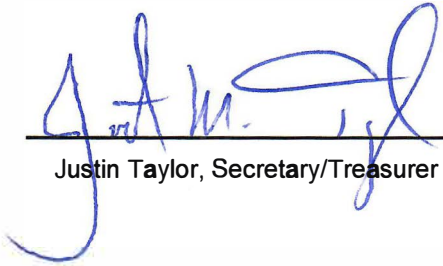
Vice Chairwoman Hill also reported from the last TPO meeting, there was discussion of the clean fuel initiative. She encouraged the Board to inform other agencies, grants are available. Information is on the TPO website. Mr. Kaufman added there was interest from the Port Operator to pursue the idea. Vice Chairwoman Hill requested that Mr. McPhail provide updates at the next meeting.

10. Administrative Office Manager Report

Mrs. Hebron submitted a written report included in the meeting packet. There were no questions from the Board. She reminded the Board there will be new officers' election at the first November OHPA meeting.

Adjournment

With no other questions brought before the Board, the meeting was adjourned at 7:32 PM.



Justin Taylor, Secretary/Treasurer

11-08-2023

Date