

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
REGULAR COMMISSION MEETING
Thursday, July 16, 2009
7:00 p.m.

Port Commission Chambers, 125 Central Ave, Suite 230, Coos Bay OR 97420

ATTENDANCE

Commission: David Kronsteiner, President; Caddy McKeown, Vice President; Dan Smith, Secretary; Brady Scott and Jerry Hampel - absent

Staff: Jeffrey Bishop, Executive Director; Mike Gaul, Deputy Executive Director; Martin Callery, Director of Communications and Freight Mobility; Donna Nichols, Director of Finance and Administration; Aaron Simons, Marina Facilities Manager; Mike Stebbins Port Counsel; Andrea Wall, Executive Assistant; Dan Lovelady absent

Media & Guests: Gordon Young, Channel 14; Alexander Rich, The World; Marvin Caldera, ILWU; John Buchanan, customer at Marina.

1. The meeting was called to order at 7p.m.
2. The President asked for introductions from the audience.
3. **PUBLIC HEARING:** FY09/10 Supplemental Budget
 - A. Open Public Hearing: 7:02pm
 - B. Call for Public Comments: There were none.
 - C. Close Public Hearing: 7:03pm
4. **CONSENT ITEMS:**
 - A. Minutes: June 22, 2009 Regular Commission Meeting
 - B. Approval of June/July 2009 invoices totaling \$263,029.25

Upon a motion by Commissioner Smith (second by Commissioner McKeown the Board of Commissioners approved the June 22, 2009 meeting Minutes and the June/July 2009 invoices totaling \$263,029.25.

4. **MANAGEMENT REPORTS:**

- A. **Executive Director:** Jeffrey Bishop

Mr. Bishop said that since Commission McKeown, Kathy Wall and he would be traveling most of August that we skip the August meeting and have the next Regular Commission Meeting in September. He suggested that if needed we could move the September meeting to earlier in the month. The Commission agreed with skipping the August Commission Meeting.

The AAPA conference this year is in Galveston Texas, October 25-29. He encouraged the Commissioners to attend as there will be a focus on the Galveston dredging project which was a

Section 203 project just like ours. He feels there are some lessons learned in that project which are worth taking a look at. Besides, October is a good month to go to Texas.

We have been talking to Union Pacific and they have offered to bring out some of our staff members for training similar to what UP gives to new employees they bring on board. The training would be basically Railroading 101 and then they would give some field tours. Mr. Bishop said he had a tour of their command center which was very interesting to see how sophisticated the communications in railroads are these days.

Starting tomorrow, Mr. Bishop will resume spending at least one day a week in Charleston if possible.

B. Deputy Executive Director: Michael Gaul

On Saturday, Mr. Gaul represented the Port at the 35th anniversary of the South Slough. It was a very nice celebration. He had a chance to meet with Jane Lubchenco the NOAA administrator as well as some of our other elected officials.

Mike Graybill asked Mr. Gaul to offer an invitation to the Commissioners to come down and he would be happy to give you a tour of some of the hiking trails. Mike said one of the highlights of the day for the NOAA group was one of our Commissioners bringing his oyster barge in and taking them on a tour of the shallows.

Mr. Gaul also participated in some Pacific Northwest Waterways Association conference calls trying to extend Section 214 which currently expire December 31st of this year. A bill is going to be offered for a 2-year extension. Then also on PNWA, you were provided information on the last meeting in your packet. If you have any questions, Mr. Gaul is happy to answer them.

C. Director of Communications and Freight Mobility: Martin Callery

Mr. Callery provided a joint report for Mr. Lovelady and himself. Mr. Lovelady was not able to be here tonight because he is working on documents for the Federal Railroad Administration (FRA) which we need to provide in order to start our construction project.

To review, at your last meeting you passed a resolution to award a contract and that contract has been awarded to LRL Construction. There will be a change order on it though because the start has been delayed slightly. There are three flat cars we are getting from Union Pacific which are in the possession of CORP right now and they need to be delivered to the UP yard in Eugene. Then we have to have some of these documents before the FRA before we can get a locomotive to move the flat cars. The change order is so that no one gets dinged because of this delay.

As you are aware, the grant was for \$2.5 million for tunnels 13, 15 & 18 and the bid came in lower, \$1.7 million. We did some lobbying in Salem and got tunnel 20 added to the overall project, scope and some additional work in the other three tunnels so we will be using the full \$2.5 million. We will be replacing some of the timbersets with steelsets inside the tunnels and also work on the drainage systems inside the tunnels. Tunnel 20 is on black arm of 10 mile lake and because of its proximity to

the lake, it gets a lot of standing water. If the drainage system had been maintained it wouldn't be an issue but now the water has caused some of the timbersets to deteriorate.

We did receive a \$20,000 infrastructure grant from ODOT for line clearing, however they was a delay because of some errors in the contract. Those are all cleared up now and the contract is signed and we are ready to go out to bid so the line clearing can start as soon as possible. Mr. Callery said he did not think there was a problem getting to tunnel 13 but from 13 to 15 needs cleanup so that is where the first part of the money will be spent.

Commissioner McKeown asked if we had to provide transportation for the people doing the clean up or if they provided their own. Mr. Callery responded that they needed to have their own rail mounted equipment.

Jeff, Martin, Donna, Kathy and Dan had a very good meeting with 8 representatives from the Federal Railroad Administration who came from their office in Vancouver Washington they brought one person from the ODOT rail division. We talked in a very broad scope of the things that need to be done. Dan Lovelady, with his 40 years experience was able to ask the correct questions about signals, or a line out of service etc. Mr. Callery felt it was the start of a good relationship. Since that meeting Mr. Callery has received some emails saying when we are ready, they want to talk to us about hazardous materials transport, such as propane cars for the local propane dealers.

Roseburg Forest Products contacted us and Mr. Callery put them in contact with Mr. Lovelady. They want to log an area off of Hwy 126 across the rail line. Mr. Lovelady met them and looked at the site and they figured out a site for a temporary crossing. Mr. Lovelady then walked to site to see what they were taking out. He figured out that if they left a certain line of trees along the rail line on one ridge, they would be exposed to high wind. They contacted UP and told them they wanted to take the trees out. The trees are in the right of way, but in Lane County UP has the timber rights. Its all been worked out and we received approval to take the trees out. We will get the 15% administrative fee for administering the project and UP will get the price for the timber which will be harvested.

Mr. Lovelady has been working with Mr. Bishop on a Cooperative Marketing Agreement which is an ongoing project.

Kathy Wall and Mr. Callery were contacted by the Siuslaw Watershed Association a while back. They have projects both on the main stem of the Siuslaw River and the Siltcoos Lake. They have identified somewhere between 12 and 15 problems which they believe are associated with culverts on the rail line. It could be as simple as cleaning the culvert or may be a failed culvert. We have been working with them on a memorandum agreement. They have access to grant funds for that type of work that is affecting either water quality or fish passage. David Koch looked over the agreement and we got it back to Siuslaw Watershed Association today and their attorney is going to look at it again however, if it works out and they get funds, we can fix some of the culverts that are a problem.

The last item is the Hwy 126 overpass is moving forward. We have an agreement that is going back and forth. HDR is a part of the consortium, the Oregon group that is building an assortment of bridges under OTIA 3 and they will be putting together an agreement between all the parties and the

highway department will be acquiring a small portion of the right-away. We have preserved those portions of the right-away that we need to operate the railroad, both vertical and horizontal clearance including a second track if we need it. There is an acquisition, quick claim deed, now which has been accepted by all parties.

One other thing Mr. Callery had an opportunity to do was participate in a conference with the American Association of Port Authorities. The conference people wanted to use the Coos Bay Acquisition and Rehabilitation as a case study for their annual Public Relations/Communications seminar. We provided a lot of background and then Mr. Callery wrote a situation analysis of the various audiences we believe we need to talk to. Mr. Callery then attended the conference in Detroit. The first two days were for a lot of speakers about communications which was very interesting. There were several speakers from General Motors. Thursday was a ½ day session focused only on this case study of the Coos Bay Rail Line. The group was divided up into five groups and each got a piece of the puzzle and then they spent 2 or 2 ½ hours working on it; what they would do; what audiences; what communication interests etc. Then each came up and they had a panel of six PRSA, Public Relations Society of America professionals who were critiquing it. It was very well done. Mr. Callery said that he would get all of the notes from all five of the groups. Martin sat in as moderator and he made a power point presentation to provide them background about the Port of Coos Bay. The Commissioners commented that it would be fun to read and Mr. Callery said that he hoped to incorporate it into some of our communications plans.

D. Director of Finance and Administration: Donna Nichols

Ms Nichols said she was chosen to serve on the Special Districts Insurance Trust Board. The Commissioners congratulated her.

E. Marina Facilities Manager: Aaron Simons

The only thing Mr. Simons added was that the Marina has been very busy with fishing and the RV Park has been jammed. There is only one or two spaces available – better than last year.

F. Rail Operations Manager: Dan Lovelady was absent.

5. PUBLIC COMMENT:

John Buchanan: Mr. Buchanan and his wife own a COI, Certificate of Inspection, small passenger carrier vessel. It has a stability letter for 49 passengers and a crew of 4. He presently has two customers who have come down recently who are very well heeled. They are interested in a variety of business plans including the reconstruction of the vessel in his facility in Empire for a new superstructure and re-qualifying it possibly for a dinner cruise vessel for approximately 100 people, an L class vessel. We are very pleased with the facilities and the power they have been able to acquire with the assistance of the Harbor office however he sadly appears for the third occasion with complaints because of the character of what we are experiencing on an ongoing daily basis he wants to inform the Commission. Mike Gaul, Aaron Simons and Mr. Buchanan are scheduled to meet at the Marina office at 11am on

Monday to reach some kind of recommendation for an meaningful and effective remedy for the circumstances he is going to tell you about.

He has a number of issues he wants to present to the Commission for their possible adoption or resolution in funding. One would be the paving of the distant water dock parking lot that would accommodate a more upscale market and clientele. My two business customers by purchase or lease or joint venture are seeking funding. They have been down 20 or so times and are very serious. The Harbormaster had to respond today and yesterday to a series of break-ins and attempted break-in, trespass numerous time, fish products and chicken products left at or in or near the vessel on a daily basis. Today, he arrived at about 2pm and there were two individuals who had climbed aboard and we in the process of rattling doors and looking through windows and we finally about to break and enter. At the suggestion of the Harbormaster who responded promptly, we called the Coos County Sheriff. They were unable to dispatch an officer and a report will be sent in writing to the Commission as well as to the Marina office. This is the third break-in where people actually went inside the vessel and defecated in buckets. Mr. Buchanan said he has been suffering with this for several years now; loss of vessel property, cutting lines etc. Owing to the location of this dock, the lack of funding for security, in the past he has suggested the Port adopt a resolution for funding some sort of segregating gate to provide for the truly rightful public access for crabbing on the 1,000 ft. pier. This is the only Port on the West Coast that encourages and endorses public co-use in and around a navigational vessel. There were several couples yesterday on the dock using monofilament lines and crabbing between the dock and the boat with the distinct potential of fouling them on Mr. Buchanan's propeller. This is constantly happening around the Marina. There are numerous complaints that have not come to light and police criminal trespass circumstances that go unreported because of lack of enforcement and funding on the county's part. Mr. Buchanan believes it is time for the Commission to adopt some kind of meaningful and effective remedy. The public does have right of access to public shoreline, however there is no port where they are encouraged to come down....there are no waste facilities so they wind of disposing of beer cans and household garbage, dogs running without lease.... we can't possibly convince a customer to come to this Port and engage in a new business enterprise that is based upon bringing tourist money and revenues, which benefits the economy and society in general with this type of conduct continuing to be sanctioned; and tacitly being accrudified lack of action by the Port Commission. We have asked for some remedy on this matter and discussions will occur next week and your staff at the direction of the Commission will act effectively to implement whatever you decide is appropriate. We have never experienced circumstances like this anywhere else in a public or administrated or any other kind of facility. Mr. Buchanan thinks that everyone's interest needs to be served here and we as a Port tenant ought to be served as a meaningful paying customer of the Port. He thinks the separation gate which has been denied in the past is a good remedy, signage works and garbage disposal burdens the staff some but we want to see the Port improve itself.

6. ACTION ITEMS/REPORTS:

A. Resolution FY09/10-1 Adopting a Supplemental Budget and Making Appropriations

During the fiscal year or budget period a governing body may find that an unanticipated condition requires adjustments to the budget. A supplemental budget may be prepared if the conditions meet ORS 294.480. A supplemental budget is required if the change will adjust a current budget fund by 10% or more of the expenditures of that fund or create a new fund.

The Port of Coos Bay was successful in acquiring the Coos Bay Rail Link in March 2009. Funding support came from \$4 million in ConnectOregon funds and \$12 million from the State through two loans; one was a short term loan for \$7.2 million and one was a long term for \$4.8 million. The \$7.2 million was for a Federal Transportation Bill pending in legislation for the redirection of funds from the rail bridge repairs to the acquisition. Not knowing when the Federal Funds would be released and through a budget planning oversight, the debt service for the short term loan was not included in the FY09/10-1 budget.

The funds were received on June 17th, but there was not enough time to reconvene the Budget Committee to request the change to the budget; or re-advertise the Budget Summary before the Public Hearing held on June 22nd.

The Port auditor's recommendation was to complete the FY09/10 budget process and have a Supplemental Budget ready for the July Regular Commission Meeting.

As required by law, the Supplemental Budget was published in the local paper 5-30 days prior to the Public Hearing scheduled for the July meeting.

Staff requested and received approval for delay of payment on the loan to the State for 30 days until the budget is amended. A Supplemental Budget is required to authorize the transaction in the new fiscal year. The expenditures associated with the receipt of monies cause the Rail Special Revenue Fund to be adjusted by more than 10% in the Capital Outlay and Resource category.

A resolution is required for the approval and adoption of the FY09/10 Supplemental Budget.

Upon a motion by Commissioner McKeown (second by Commissioner Smith) the Board of Commissioners approved and adopted Resolution FY09/10-1, approving a Supplemental Budget for unanticipated revenues received and associated expenditures.

OREGON INTERNATIONAL PORT OF COOS BAY

RESOLUTION FY09/10 - 1

A RESOLUTION OF THE OREGON INTERNATIONAL PORT OF COOS BAY ADOPTING A SUPPLEMENTAL BUDGET AND MAKING APPROPRIATIONS

WHEREAS, the Oregon International Port of Coos Bay has complied with the provisions of ORS 294.480 providing for Supplemental Budgets including the publication and Public Hearing as required; and

WHEREAS, additional requirements have been determined to amend the budget for loan repayment to the State of Oregon on behalf of the Coos Bay Rail Link

Unanticipated Revenues Received with Associated Expenditures

Rail Special Revenue Fund:

Resources:

Federal Grants \$7,199,200

Requirements:

Debt Service \$7,199,200

THEREFORE BE IT RESOLVED THAT the Oregon International Port of Coos Bay hereby adopts the FY09/10 Supplemental Budget as set forth above, and appropriates the sums as shown above.

APPROVED and ADOPTED by the Board of Commissioners of the Oregon International Port of Coos Bay this 16th day of July, 2009.

David Kronsteiner, President

Daniel Smith, Secretary

7. OTHER:

Mr. Gaul asked to respond briefly to the public comment. There are some issues that have come up in the last couple of days; Mr. Buchanan has some issues; visitors and guests on the dock being harassed; Mr. Buchanan taking ownership of the dock. Mr. Gaul has been contacted by both Mr. Buchanan and the visitors on the docks so staff is working on this problem. There is a meeting scheduled for Monday with Mr. Gaul, Aaron Simons and Mr. Buchanan to address these issues. Mr. Gaul will bring a report back to the Commission.

TransPacific Highway: In June 2008, you approved a crossing agreement with Union Pacific so we could proceed with the agreement. Shortly after that the County approved their piece. At that point we thought we were in the home stretch, but with other issues with CORP the document was never signed. UP has signed the agreement now with a lot of help from Mr. Don Breazeale, but there are a couple of small changes to it. We have it in our hands. County counsel has reviewed it; the changes are actually for the better. We are now going to contract the work out in our bidding process. County counsel feels that we should come back to the Commission tonight for reauthorization for Mr. Bishop to sign the agreement because of the changes and enter into the crossing agreement on Jordon Cove.

Upon a motion by Commissioner Smith (second by Commissioner McKeown) the Board of Commissioners reauthorized the Executive Director to sign the documents and enter into the Crossing Agreement on Jordon Cove.

8. INFORMATION ITEMS:

- A. Letter to Port - Thanks for donation to Charleston Oysterfeed
- B. Letter from Port of Bandon - Thanks for salvage assistance.

- C. Letter - Kudos to Charleston employees
- D. Letter to A. Simons from Dept of State Lands

- 9. **COMMISSION COMMENTS:** No Commissioner comments were given.
- 10. The Commission Meeting was recessed to an Executive Session at 7:40 pm.
- 11. The Commission Meeting was reconvened at 8:30pm

The meeting was then turned over to Mr. Bishop. He said staff would recommend tonight that the Commissioner authorize himself or his designee in the event of his absence, to execute an agreement with the parties to the Jordan Cove Real Estate Transaction the authority to extend said agreements for a period of up to a year within the basic framework that we have already established and in the event that it deters from that framework, that we bring back those particular changes in the form of ratification at your September meeting.

Upon a motion by Commissioner Smith (second by Commissioner McKeown) the Board of Commissioners authorized Mr. Bishop or his designee, in the event of his absence, to execute an agreement with the parties to the Jordan Cove Real Estate Transaction to extend said agreements for a period of up to a year within the basic framework already established. If there are any changes from the basic framework, those changes will be brought back to the Commission at the September meeting for ratification.

- 12. **NEXT MEETING DATE** -Thursday, September 17, 2009
- 13. **ADJOURN:** The meeting was adjourned at 8:35pm