

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
REGULAR COMMISSION MEETING
Thursday, July 21, 2011
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; Jerry Hampel, Commissioner; Dan Smith, Secretary - ABSENT; Brady Scott, Treasurer - ABSENT

Staff: Jeffrey Bishop, Chief Executive Officer; David Koch, Chief Operating Officer; Donna Nichols, Chief Financial Officer; Kathy Wall, Harbormaster; Elise Hamner, Communications and Community Affairs Manager; Dan Lovelady, Chief Operating Officer – Coos Bay Rail Link; Mike Stebbins, Port Counsel; Donna Scholl, Executive Assistant

Media & Guests: Gordon Young, Channel 14; Tom Shine, Oregon Operation Lifesaver; John Tomlin; Jody McCaffree; Mike Schmid; Marvin Caldera, ILWU; Darrell Smith; Rodger Craddock, City of Coos Bay; Jeff Hill; Robin Koch; Mark Wall; Kaitlyn Wall; Dave Lawrence; Linda Anderson; and Ken Messerle.

1. The meeting was called to order at 7:00 p.m. by Commissioner Kronsteiner.
2. Introduction of Guests.

Commissioner Kronsteiner said that Commissioners Scott and Smith were absent and were excused from tonight's meeting. The Executive Session will be moved to the end of the meeting since there will be no action coming out of the session.

3. CONSENT ITEMS:

- A. Minutes: Approval of the June 16, 2011, minutes
- B. Approval of Invoices through July 8, 2011, totaling \$1,061,032.00

Upon a motion by Commissioner McKeown (second by Commissioner Hampel), the Board of Commissioners voted unanimously to approve the minutes from the June 16, 2011, regular Commission meeting and invoices through July 8, 2011, totaling \$1,061,032.00. Motion carried.

4. MANAGEMENT REPORTS:

A. Chief Executive Officer: Jeffrey Bishop
Mr. Bishop said Mr. Koch had been acting Chief Executive Officer in his absence. He said the port's agreement with Weyerhaeuser has been terminated. It is port staff's understanding that Jordan Cove and Weyerhaeuser have entered into a separate agreement, which means the port officially has no real estate agreement with Weyerhaeuser. The port has an option agreement that was executed with Jordan Cove to acquire an option on two pieces of property that they have deemed to be excess. The port has an exclusive right for the property known as Henderson Ranch and the port has a secondary

interest in the Mill Site. There is supremacy on the part of Jordan Cove for the use of that property but the port has a secondary interest to acquire some of the land in the event there is surplus property. The documents have just been executed and the port is awaiting the final copies from the title company. Once they have been delivered, staff will circulate copies to the commissioners.

Mr. Bishop then began to make a PowerPoint presentation, saying economic development is about the market. The fundamentals of business models have changed very little over the years. While business has changed quite a bit, the actual fundamentals have not. Markets change, but the measure of success continues to be the bottom line. No economic developer can make a business profitable. A developer can only react to, estimate and project market conditions. The port as an economic developer has focused its efforts on marine and transportation sectors, and the North Spit. The South Coast Development Council's primary focus is on countywide recruitment. The port's secondary mission focuses on how to make the most of the opportunities presented to staff. Those are opportunities the port does not recruit but that come as a product of the market. Factors that make a community desirable to business include the ability to make money by lower costs or unique attributes that the market agrees cannot be duplicated elsewhere. That is basically it. Mr. Bishop said in his observations, the most successful rural communities succeed because they are pragmatic. He said, to that end tonight, he was going to discuss the coal industry.

There are many reports in the media regarding the export of U.S. coal, he said. The port recently received a Sierra Club open records request to which the port has completed a response and will circulate. The port strives for transparency and would like to disclose what the port has been doing with regard to coal as a cargo. Coal has been identified as a favorable cargo in the Section 203 process, among other cargos. The process of designing a port to handle bulk commodities does not differ much from commodity to commodity. Most bulk commodities are handled by conveyor through a loading structure. The port knows from analysis that the Coos Bay rail line has a finite capacity and it can only handle so much traffic. In looking at coal as a potential cargo for the port of Coos Bay, staff has taken into account what it thinks is the capacity of the rail line. Staff also has come to the conclusion that due to the high number of ship calls ties to a coal terminal it precludes the port from using the proposed Gateway Slip, which is the proposed waterway and ship berthing area. If any coal terminal is developed in Coos Bay it would have to be in a stand-alone terminal, stand-alone berth due to the volume it would produce. At present, the port has not entered into any contracts other than non-disclosure agreements with potential developers. However, Mr. Bishop said he knows that at some point the opportunity to consider a contract is likely and that is why he wanted to disclose that the port indeed is in discussions with coal developers. He can't discuss any particulars about the project because of the non-disclosure agreements, but he doesn't want anyone to be surprised.

Mr. Bishop said when the decision was made to acquire the Coos Bay rail line, it was based upon the projected volumes that the line has traditionally supported. For discussion, that is about 5,000 cars per year. Anywhere from 2,000 – 7,000 cars per year was considered in the sensitivity analysis. A unit train alone contains 125 cars. If a person were to factor in 30 days of unit trains, it doesn't take too many months before one unit train alone exceeds the rail line volume capacity. Mr. Bishop said that would be very significant for the railroad in the sense that there is a lot of concern whether or not the railroad would be self-sufficient or whether it would require type of subsidy. One unit train per day would create a huge source of capital and a huge source of revenue for the rail line. Given different design levels, staff has calculated that the Coos Bay rail line can handle up to twelve unit trains per day. The port certainly doesn't want to see twelve unit trains per day on the rail line right

away because there is no way humanly possible to be able to handle that. However, one to two unit trains a day on the line would make the Coos Bay Rail Link self-sufficient and go a long way toward preserving rail service to the community for a very long time. Mr. Bishop said, to translate that information into ships, assuming there was one unit train per day with cargo destined to be loaded to a ship, it would translate into 100 ship calls per year. Two unit trains per day would be 200 ship calls per year. Three unit trains per day would translate into approximately 300 ship calls annually. Calculating that and looking at what the traditional peak has been for Coos Bay, the harbor peaked in 1983 with slightly less than 400 vessel calls. Three unit trains per day of any cargo would almost put the port back to historic highs. In evaluating any proposals, port staff's recommendation will factor in employment, investment and versatility for diversity of cargo. Commissioner Kronsteiner asked Mr. Bishop if the governor had been informed, because he had reported in a news article that he wanted to know about these things. Mr. Bishop responded that staff had made their reporting to the governor's office.

B. Chief Operating Officer: David Koch

Mr. Koch said he wanted to give an update on the marine reserve process. In 2009, based upon a request from the Ocean Policy Advisory Council (OPAC), the port agreed to sponsor a stakeholder-driven process to continue the community discussion of whether a marine reserve/marine protected area could or should be in the Coos Bay region. The port established a Marine Reserves Recommendation Committee that held its first meeting on May 27, 2009. The process established by the port called for the committee to determine whether an area should be proposed, and if it should, where the proposed location should be. The process contemplated that the Port Commission would then review the recommendation before deciding whether to: (1) forward the recommendation to OPAC; (2) forward a modified recommendation to OPAC; (3) direct further evaluation and study of one or more proposals; or (4) take other appropriate action based on what came out of the committee.

Mr. Koch said the Recommendation Committee that the port established comprises 34 voting members representing fishing, recreation, business, conservation, education, government, Tribal and community interests. Through a committee-established proposal process, the port hired consulting planner Crystal Shoji to serve as a facilitator of the committee's meetings. The committee met 17 times, between May 27, 2009, and January 19, 2011, and held three town hall meetings to receive public input on four proposals. Comments also were accepted in writing and by email with the assistance of staff at the Oregon Department of Fish & Wildlife.

There were four proposals as follows:

- Proposal A - Simpson Reef Great Kelp Study Area – Marine Reserve
- Proposal C – South Cove Study Area – Marine Reserve & Marine Protected Area
- Proposal G – Gregory Point Study Area – Marine Protected Area
- Proposal H – No New Marine Reserve/No New Marine Protected Area
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Mr. Koch showed the proposed locations on a map and pointed out that there are already existing research reserve areas that have been set aside at Gregory Point and along the shoreline.

He said on January 19, 2011, a majority of the committee members decided to hold a vote on each of the four proposals at the March 16, 2011, meeting to determine whether any of the proposals would receive approval from two-thirds of the members. Earlier in the process, the committee had established the two-thirds majority criteria for a "pivotal vote" (defined as a vote of yes or no, and if yes, where).

The vote tally for each proposal was as follows:

- Proposal A (Simpson Reef Great Kelp Study Area Marine Reserve): 7 yes votes, 27 no votes with NO two-thirds majority met.
- Proposal C (South Cove Study Area Marine Reserve and Marine Protected Area): 10 yes votes, 24 no votes, with NO two-thirds majority met.
- Proposal G (Gregory Point Study Area Marine Protected Area): 9 yes votes, 25 no votes, with NO two-thirds majority.
- Proposal H (No New Marine Reserve/No New Marine Protected Area): 23 yes votes, 11 no votes, and the only proposal to receive two-thirds of the majority vote.

Following the vote, port staff requested that the committee prepare two reports reflecting the majority and dissenting opinions of the group with respect to the “No Marine Reserves” proposal. Draft reports have been prepared, but have not yet been vetted or approved by all of the committee members who voted on the proposals.

The port’s process was stalled for several months by the introduction of House Bill 2009 during the 2011 Oregon Legislative Session. The language of that bill called for the committee’s recommendation to be submitted directly to OPAC, bypassing Port Commission review. As a result, the port had conversations with the Coastal Caucus and legislative delegation with Ken Messerle representing the port’s interest during those discussions. The port alerted legislators about the language and wanted to make sure they understood what was happening through this bill and that they were cutting the Port Commission out of the process. An amendment was proposed that would have retained the Port Commission as part of the process. Port staff also raised concerns that the bill failed to adequately address the anticipated socio-economic impacts of marine reserves. HB 2009 ultimately failed to move forward and ended up dying at the end of the session. With the end of the 2011 Legislative Session, the port is now able to continue its process as it was originally envisioned. Port staff has scheduled meetings over the next few weeks with the authors of the draft reports and other committee members who participated in the discussions at the committee level and in the votes. Staff will work with them to offer suggestions on revisions that may be necessary for them to achieve consensus among the organizations those reports are intended to represent. Mr. Koch said he cannot anticipate how long the process will take but port staff will work with the committee members to help them achieve the consensus necessary. It may require additional full committee meetings as the process is moved forward. Mr. Koch said he hoped within the next six to nine months to have a recommendation to bring to the commission. Mr. Koch said he wanted to be sure it was a deliberate and thought-out process and that the reports represent the best of the majority and dissenting positions moving the process forward. Commissioner McKeown asked what Mr. Koch anticipated as being the outcome once the process was finished and then came to the commission for deliberation. Mr. Koch said staff has heard discussion that the governor’s office may be involved in reviewing this for executive order. There has been a recent announcement from Rep. Arnie Roblan’s office and the governor’s office indicating that they are moving forward with the three designated marine reserves. He said he didn’t anticipate that any of that would affect the Coos Bay process. The path that the port is on right now is to get consensus majority and minority reports, from which staff will develop a staff report to bring before the Port Commission with recommendations on moving the process forward. Mr. Koch said he anticipated that port staff’s recommendation will either be to move the recommendation directly forward to OPAC as it came out of the recommendation committee with the two reports. It also may be that there are some modifications staff might recommend. It may be that port staff will want to do further study or analysis once the reports are reviewed. Mr. Koch said he

didn't want to prejudge the outcome until he had a chance to review the final reports with the committee members.

Mr. Koch said there were several items on the agenda tonight that deal with rail issues. He wanted to give the commission and the public an overview of the rail line rehabilitation.

Mr. Koch said there were economic opportunities that became known to the port for quickly reopening the line on an interim basis at accepted service, which means that trains would operate at 10 mph. There was an emergency declaration by the chief executive officer that the Port Commission adopted in April that is back before the commission tonight for declaring a continuing emergency. Mr. Bishop added for clarification that none of the expedited processes were in response to the developments that were referred to in his coal report nor is any of the work being done or proposed to be done having any impact on the ability of the line to increase its capacity. All repairs and all of the work currently proposed will do nothing more than alleviate the deferred maintenance so the rail line can function at its designed parameters.

Mr. Koch said he reviewed the contracts awarded by the port before the emergency declaration that were part of the plan to get the rail line back into service by October 1. Following is a list of recent contracts awarded by the port prior to the proposed resumption of interim service:

- Rail Flaw Detection – awarded to Sperry Rail of Danberry, Connecticut, on the basis of competitive quote pursuant to the port's contracting rules. The work was performed in February 2011 at a cost of approximately \$30,000.
- Brush Cutting and Mowing – awarded to Reforestation Services Inc. of Salem, OR, on the basis of competitive quote in compliance with the port's public contracting rules and state law. The work was performed in March and April 2011 at a total cost of less than \$150,000.
- Vegetation Spraying – awarded to Reforestation Services, as a separate contract through a competitive quote process. The work was performed in May 2011 at a total cost of \$45,000.
- Phase 3 Tunnel Repairs – awarded to LRL Construction of Tillamook, OR. This is the only contract on the list that was actually awarded under the authority of the emergency declaration. The other contracts were awarded on the basis of a competitive quote process because of the dollar amounts and the type of work that was involved already allowed for a streamlined competitive solicitation process. The tunnel repair work was awarded under the emergency declaration. LRL Construction had been a successful bidder through a competitive bid process performing Phases 1 and 2 of the tunnel repair work completed in October 2010. The direct award to LRL in this case for the emergency Phase 2 tunnel repairs was based on the same time and material rates as previously bid under the prior competitive bid process and under the same terms and conditions. That work started in June and should be completed in early September. Total cost for this phase of the tunnel work, which is the last of the tunnel work that will need to be completed under the rehabilitation plan, is \$690,000.
- Geometry Testing – awarded to ENSCO of Gettysburg, Pennsylvania, on the basis of competitive quote. The work will be performed in August at the total cost of \$40,000.

Mr. Koch said there are additional contracts the port is getting ready to award prior to resuming interim service. One of those contracts, the emergency track repair, was on the agenda tonight but it was pulled because it wasn't ready for award and will probably be awarded early next week. The chief executive officer will have authority to award if the commission adopts the continuing emergency declaration this evening. The bid opening for the emergency track repair was Tuesday.

Port staff is reviewing the qualifications and experience of the two lowest bidders to determine which bid will be in the best public interest.

Other work includes signal repair and reactivation, sand removal, Umpqua Bridge mechanical and electrical repairs, and frog and switch-point welding, which will be awarded on the basis of competitive quotes in accordance with the normal public contracting procedures. None of these repairs rely on the emergency declaration to be awarded and are anticipated to be completed in August and September.

Mr. Koch said there is a significant amount of work remaining to be done on the line. The contracts that have been and will be awarded utilize less than 20% of the rehabilitation money available. The bulk of the money will be spent after October 1 on the long-term rehabilitation. All of these bids and contracts will be awarded through the formal competitive bidding process or competitive quote process. None of these rely on the emergency declaration, so there will be full competition for all of these processes. The port has let the invitation to bid for the wooden crossties. There is a competitive bid going out for the ballast rock. The port is supplying the materials for the rehabilitation contractor and will go out for competitive bid on the rail structures that need to be replaced. There will be separate competitive bid contracts for the swing span bridge, as well as for the wooden and steel trestle bridges. There also will be a competitive bid process for the pre-emergence spraying of vegetation, which is the final maintenance activity before turning the line and full maintenance responsibility over to the interim operator ARG Trans. Mr. Koch said he would talk a little later in the meeting about the interim operator agreement and how the responsibilities are divided between the port and the interim operator.

C. Chief Commercial Officer: Martin Callery - ABSENT

D. Chief Operating Officer – Coos Bay Rail Link: Dan Lovelady

Mr. Lovelady didn't have anything to add to his written report. Commissioner McKeown asked about the hy-rail vehicle. Mr. Lovelady responded it would be here next week. It will be brought to Coos Bay where port staff will receive a demonstration on how the equipment works. Commissioner McKeown asked Mr. Lovelady what his biggest overall challenge was at this time. He responded it was the bid packages because all of the packages have to follow certain guidelines based on the various funding sources. He said the port is working with attorney Jim Coffey on a daily basis trying to get the packages together and released. Commissioner Kronsteiner said he was surprised at the depth of the bid package requests and the required number of pages.

Mr. Lovelady introduced Elise Hamner who was going to do a presentation on Oregon Operation Lifesaver, which is a railroad safety awareness program. Ms. Hamner said she and Mr. Callery, along with volunteer Tom Shine, traveled to Klamath Falls last month to participate in Oregon Operation Lifesaver's annual training program. All three are now trained to put on safety presentations related to railroads. The training was a two-day process with a test at the end. She said they are not fully certified yet because they each need to do a presentation that is evaluated by one of the certifiers. Ms. Hamner said she hoped that Mr. Shine would do the port staff presentation. She said as part of the training they learned about railroad safety. There will be PowerPoint presentations they can provide to groups in the community, schools and trucking companies. She said the message is for everyone. A lot of people think that children are the most important group to educate about railroad safety. Children younger than 12 tend to be very good about sharing the railroad safety message. They love trains, it's exciting and they want people to be safe, so they are very good about educating parents.

Teenagers and young adults tend to be a higher-risk group. They talk on their cell phones a lot, tend not to pay attention and are risk takers. Ms. Hamner said they hope to talk to local police agencies, fire departments and EMS personnel. She said a lot of times if those agencies are responding to an accident, personnel may not understand all of the issues related to safety when they are working near railroad tracks, and the port wants to be sure they are on board, too. She said the trains will also run through the Oregon Dunes National Recreation Area and it's imperative to educate ATV riders and staff will be brainstorming with Operation Lifesaver on how to reach those groups. She said a lot of them are tourists and are not here year-round so they won't be impacted by the port's usual advertising. Ms. Hamner said one of the things that people don't understand is how long it takes a train to stop. A typical car driver can jam on the brakes and stop within two hundred feet. Freight trains are heavy and can't swerve, so if a car is stalled on a railroad crossing and a train engineer needs to stop it takes a mile to completely stop a train.

Ms. Hamner said that Operation Lifesaver has two messages. The "look, listen and live" message is for everyone in the community and the port wants people to think about that every time they are near the tracks, especially in Coos Bay, North Bend and Reedsport where the tracks run right through town and people have become complacent because we haven't had trains for several years. The other message is that it is illegal to go on the railroad tracks. It is a federal law and it is private property. A lot of people in downtown Coos Bay jog along the tracks and the port will have an education process there to remind people. There will likely be one to two trains per day running through Coos Bay. Ms. Hamner said she hoped groups will contact the port for safety presentations. Next month she will be sending out letters to organizations and school bus drivers to let them know the presentations are available. There are some trainers in the Eugene area who hope to help get the message across in the Veneta area and the communities west of Eugene.

Ms. Hamner introduced Tom Shine. Mr. Shine said he has a background in safety. He worked for hospitals and was the safety director as part of his role in human resources. Mr. Shine said he was very excited about the opportunity to participate and was looking forward to helping. He said he was particularly interested in educating children because he felt most of them had no experience with trains, especially if they were under the age of nine when the trains stopped running. Mr. Shine felt this was a good public relations opportunity for the port and for the rail line to get out and actively tell the story in a positive way. Commissioner McKeown thanked Mr. Shine for his willingness to help.

Commissioner McKeown asked Ms. Hamner if she had an opportunity to contact the local school districts and if she had an opportunity to use them as a vehicle for reaching more children. Ms. Hamner responded she was planning next month to talk to the school districts. She said she has talked to Reedsport School District and previously invited them to one safety program but they were unable to attend. The school bus drivers go through training next month. Ms. Hamner said she wasn't sure if Mr. Callery, Mr. Shine or herself would be providing the training to the bus drivers but may instead have Operation Lifesaver specialists come in and work with them. Ms. Hamner felt it was better to get the message across to smaller than larger groups, such as through individual classroom presentations. Ms. Hamner said they are required to do four presentations a year and they expect to do a lot more than that. Mr. Shine said they had met some wonderful people at the training and some of them were students learning the program and they were. One was a retired police chief, and from the standpoint of approaching law enforcement and emergency services, he has offered to come and make presentations. Commissioner McKeown talked about the "safety town" program that has gone

on for years on bike safety and if a program like that could be replicated so that the port is reaching large groups of children.

E. Chief Financial Officer: Donna Nichols

Ms. Nichols said she had attached a graph to her report showing the expenditures on rail projects. She said she is watching the timelines of when the money comes in and when the port turns it around. The port is applying to the state for two large loans with small interest rates for cash flow during the rail rehabilitation projects. The second graph she included was for ice dock sales. Sales have far surpassed last year's sales. She said the average is approximately \$36,000 a month for the first two and a half months, with two additional peak months to go plus the shellfish season. She said customers are happy with the ice. Commissioner Hampel also commented that customers were very happy with the ice.

F. Harbormaster: Kathy Wall

Ms. Wall said today the South Slough Management Commission was in town and during part of its meeting took the opportunity to look at projects including the new paddlecraft launch at the port's distant water fleet parking lot in the Charleston Shipyard. Ms. Wall thanked Commissioner McKeown for coming. She said after a brief overview the Management Commission boarded a big canoe and paddled up South Slough for a look at some more projects. Marina staff has seen good activity at the launch facility and are hoping as more people realize it is there, they will see some additional paddling activity in the area and in South Slough. Ms. Wall said Marina staff has also been listening to fishing reports and heard that tuna is offshore between 12 and 20 miles with good quantities of catch and nice-sized fish. Prior to the next commission meeting, the Marina will host the Charleston Seafood Festival on Saturday and Sunday, August 13-14. The following weekend the Oregon Tuna Classic will host its tournament at the Marina on Friday and Saturday, August 19-20. Proceeds and tuna caught during the event are donated to local food banks. Commissioner McKeown said she wanted to compliment Ms. Wall on the paddlecraft launch ramp. She said it is a wonderful addition and word has it on the street that since the ramp went in, canoe and paddlecraft sales are increasing as people are getting the word out it is a great place to go. She commented it is a great opportunity for recreation and a healthy and fun activity.

Commissioner Hampel asked Ms. Wall what people thought about the improvements to the maintenance area and asked Commissioner McKeown if she had looked at the area today. Ms. Wall said Commissioner McKeown was not allowed through the fence today. Commissioner Hampel said great improvements have been made to the industrial complex. Commissioner McKeown said next time she is out at the shipyard she would look at those improvements. Ms. Wall said Commissioner Hampel was referring completion of the utility undergrounding project. There is now good compaction and a good gravel base. Ms. Wall said it has done a lot for cleaning up the area. Commissioner Hampel said there have been a lot of positive comments about it. Commissioner McKeown said she had also learned today there are paddlecraft available for rent in the Charleston area. Ms. Wall said they are available for rent at Pacific Waves Seafood Market. They have two tandems and one single kayak available for hourly rentals. Commissioner McKeown said the South Slough canoe is an eight-man canoe. It is another wonderful recreational and educational opportunity.

5. PUBLIC COMMENT:

Coos Bay City Manager Rodger Craddock said he wanted to talk about two topics, one being the Eastside boat ramp. He said the city operates and manages two boat ramps, one in Eastside and one in Empire. The Eastside ramp is of particular concern due to the use of the facility. The port owns the

property but through an Intergovernmental Agreement that was established in 1996 between the city and port, the city developed the property and maintains it. He said the property is currently at peak capacity during the fishing season, which is good and bad. It's good a publicly operated service is being well used, but bad because when it is overcapacity people tend to park their vehicles in the residential zone. That has caused some conflicts that at times reach the attention of the police department. Port staff and the city have been contacted by STEP program members who advise they are hoping for a larger return of salmon, which will cause an increased use of an already full facility. The group has asked the city to look at opportunities to expand the parking area. The property where the ramp is located belongs to the port so does the surrounding property. Mr. Craddock said he had spoken to Mr. Bishop and port staff was kind enough to engage Stuntzner Engineering to look at areas for expansion. The parking lot is surrounded by wetlands, which makes it challenging. He said a couple of areas were identified, one for vehicles and trailers, and the other just for vehicles. The season is nearly here, so the city contacted the Oregon State Marine Board for funding since this was not a planned project. The Marine Board is not in its grant phase so there are no funds available. Also, the city's own development standards require a paved parking lot. The city can probably expand one area this year but it would have to be graveled. Mr. Craddock said he approached the City Council last week about moving forward in an attempt to obtain a variance from the Planning Commission, with the idea to cut costs and have city staff do the grading, grubbing and graveling to prepare the site with the intent to pave next year. However, there's concern the city might not get a grant next year, because the estimated total cost to develop both parking areas is approximately \$148,000. Given these circumstances, the City wants to move forward with the hope of getting a grant. If it doesn't, it would like to partner with the port on paving. The city is going to ask the Planning Commission for a two-year variance, which will give the city more opportunities to pursue grants. The Planning Commission meets on August 9. Mr. Craddock said additionally, with the port, the city will host a meeting at 6 p.m., July 28, at Millicoma Intermediate School cafeteria with the neighbors to advise them of the plans and listen to their concerns and suggestions.

Commissioner McKeown asked what the cost of graveling was as opposed to asphalt. Mr. Craddock said using city staff it would cost \$18,000. If it were contracted out, it would be around \$36,000. Commissioner McKeown asked if it were just an informational meeting for the neighbors. She felt it was an important idea and thanked Mr. Craddock for having the meeting. Mr. Craddock said he felt the neighbors would accept it as a project because it mitigates some of the problems that are occurring in their neighborhoods. He thanked the port for the opportunity and felt it was a win-win partnership. Commissioner McKeown asked by how much the capacity would be increased. Mr. Craddock said there will be 22 new spaces for vehicles with trailers. He said they would not be expanding the vehicle only section this year but would wait for grant funds. Commissioner McKeown said it sounded like a great project. Mr. Bishop commented that during the salmon run, there are trailers parked everywhere and fishermen must get there early to get a parking spot. He said staff would most likely be bringing an action back to the commission with a positive recommendation prior to the project. Commissioner McKeown said she appreciated the sensitivity to the neighbors because they have had concerns about projects like this.

Mr. Craddock said the second matter he wanted to discuss was about safety and concern about people trespassing on the railroad property. He said the rail yard inside the city limits of Coos Bay and in close proximity to the boardwalk and the dike is somewhat inviting for people to cross over. The city will be bringing port staff an idea that may help mitigate that and help direct people around and not across the rail yard. He said he hopes to bring the idea to the commission and talk about funding

options or ideas. He said it is a project the city believes will help make the dike area more aesthetically pleasing as well.

Jody McCaffree

Ms. McCaffree said the last time she gave public comment she gave information on Freiberg, Germany. She said she was told that Mr. Bishop had gone to Germany and was hoping the public would be enlightened on what was discovered there. Commissioner McKeown commented that the trip to Germany did not include a visit to Freiberg but to Bremerhaven. Ms. McCaffree gave the commission a brochure on Freiburg and said the reason she brought it up is because that city revolutionized its area. She felt it was interesting because the things they did are similar to the SDAT report recommendations to develop renewable energy and jobs based on that. Ms. McCaffree said she was working with the Coos County commissioners to form a group that will be called Coos New Energy Work Group or C-NEW. Its mission is to explore, expand and create alternative renewable energy opportunities to ensure a sustainable future for the citizens of Coos County and Oregon. She said it has had several meetings. They will be limiting the number of committee members but not limiting who can come and have say. The meetings will be open to the public. There is some discussion on how the committee will be formed to ensure an open and thorough process to get ideas from the public on issues such as solar, wind, recycling programs, bio-fuels and biomass. She said there are a lot of opportunities, including for the solid waste facility. The group is looking at the possibility of a field trip to Oregon State University. She said people wait for some of these things to come here and people need to be pursuing what the community wants. She said Freiberg brought in people to educate citizens and the group would like to be doing that with the port's help. She said she had approached the Coos Bay Planning Commission because it has a moratorium on wind development in the city, and there are concerns that need to be addressed so the community is open to developing wind and it doesn't appear Coos Bay is against development. She said the planning director felt the committee should bring in a wind consultant. She hoped that the port might be interested in working with them on that, too.

Ms. McCaffree said she had another question on the railroad because the port is so involved in doing the rail work. She asked whether the port is considering the problems Central Oregon & Pacific Railroad had with derailment and landslides and how those issues might impact things. She wanted to make sure the port is considering this and the cause of that and the potential delays. She said if it hasn't been addressed she hoped the port was considering it, so the community doesn't get stuck with attracting someone here and then having the business upset because the rail is not operating.

Mr. Bishop said that landslides in this area are considered an act of God and there is no railroad in the Northwest immune from the effects of Mother Nature. Even Union Pacific had a massive landslide on its mail line, which is the most highly developed track in the country. He said the issue of derailment is usually a function of the speed of the train and quality of the track and those are all standards that have to be met with the Federal Railroad Administration. Every railroad has its own cases of derailment. Even the highest quality rail lines on occasion have derailments. The port will be addressing it as a function of the class of railroad rating. The operator will have an understanding of what it has to work with that will determine the speed of trains through different areas. Mr. Bishop said there would probably not be a specific report but it is part of due diligence that any developer would go through with looking at the condition of the rail and making assessments of what it think the risk is of an operator bringing cargo through the port. As those reports become available and are not regarded as proprietary or covered by a non-disclosure agreement, then they will certainly share those with the public.

Mr. Bishop responded to Ms. McCaffree's question about his trip to Bremerhaven and said there is a non-disclosure with the client and unfortunately he is not able to share details with the public. However, as he has offered Ms. McCaffree in the past, she could sign a non-disclosure agreement with the port and he would be more than happy to provide Ms. McCaffree with a detailed briefing on who the client is and what the project is. Ms. McCaffree asked if it was just kicking tires or was there more beyond that. Mr. Bishop responded that he couldn't comment. He repeated that the offer still stood to her to be briefed, especially since it had a nexus with issues she's pursuing in Coos County.

6. ACTION ITEMS/REPORTS:

A. Approval of Resolution No. 10/11 – 9 for Transfer of Material & Services Appropriation to Personal Services in General Fund

Ms. Nichols said the action was for approval of Resolution No. 10/11 – 9. The FY 10/11 budget reflects personal services in the general fund by cost center as well as material and services appropriations by cost center. During the year, the port made personnel changes and new hires, which caused the general fund's personal services category to be over budget. The position of chief operating officer was not included in the FY 10/11 budget and was filled in September 2010, which caused the overall personal services category to be over expensed by \$70,000 at year-end. There are enough funds in the material and services category to amend the budget to increase the personal services and reduce the material and services category. A resolution transfer is a way to move appropriations from one existing category to another within the same fund during the fiscal year. Oregon Budget Law requires the governing body to pass a resolution that states the need for the transfer, the purpose of the expenditure and the amount to be transferred. Ms. Nichols said the action required is a motion to approve Resolution No. 10/11 – 9, authorizing the transfer of \$70,000 from the general fund's material and services category to the general fund's personal services category.

Upon a motion by Commissioner Hampel (second by Commissioner McKeown), the Board of Commissioners voted unanimously to approve Resolution No. 10/11 – 9 for transfer of Material and Services Appropriation to Personal Services in the General Fund. Motion carried.

B. Approval of Port Auditor

Ms. Nichols said the second action item was the appointment of the port's auditor for year ending June 30, 2010, with the action for approval of the appointment. Port staff advertised for auditing services in the local newspaper, as well as in the Register-Guard and on the port's website. Only one submittal was received. Port staff extended the timeline for response and advertised in the Oregonian, from which two submittals were received. Criteria for auditor selection were based on 60% technical and qualifications and 40% price.

The audit firm will work with port staff as well as Scoville & Rieber PC as consultants to complete the year-end report. Because a lot of the financial statements and other supplementary information will be completed by port staff and the consultants, the auditing services should cost less. The responses reflect lower overall auditing costs. Following is a summary of responses and costs to the audit RFP:

Wall & Wall CPA Pauly Rogers & Co. PC

- FY10/11 \$29,865 \$24,000 + \$3,000 for single audit
- FY11/12 \$31,885 \$24,800 + \$3,100 for single audit
- FY12/13 \$32,895 \$25,800 + \$3,200 for single audit

- FY13/14 \$33,965 \$26,900 + \$3,300 for single audit

Ms. Nichols said that Wall & Wall's costs were higher than Pauly Rogers & Co. and Pauly Rogers separated costs by regular audit and then added the difference for single audit. Wall & Wall's quote did not quote separate Single Audit costs but stated an all-inclusive price. Ms. Nichols said it appears that Wall & Wall has a staff of 4-5 people whereas Pauly Rogers & Co. has a staff of 36, plus resources for additional services, and expertise outside traditional audit functions. Based on the submittals it appears that Pauly Rogers has more overall municipal experience, technical capabilities and additional qualifications and services over Wall & Wall. The action requested of the commission is a motion to approve appointment of Pauly Rogers & Co. for the port's auditor for fiscal year June 30, 2011 with succeeding year's contingent on the successful completion of the first year of the contract determined by the port.

Commissioner McKeown asked where Pauly Rogers was located. Ms. Nichols replied they were out of Salem and one of their accountants has family in Coos Bay. They do audits for the cities of Coos Bay and North Bend, and the Southwest Oregon Regional Airport.

Upon a motion by Commissioner McKeown (second by Commissioner Hampel), the Board of Commissioners voted unanimously to approve Pauly Rogers & Co. as the port's auditor for the fiscal year ending June 30, 2011. Motion carried.

C. Award of Railroad Crosstie Bid

Mr. Koch said this was one of three projects coming before the commission tonight. It is the bid award for the railroad crossties that will be used for the long-term rehabilitation work. Staff wanted to have good lead time on ordering because of the amount of time it's going to take to process the ties, making them available for the contractor that will eventually be hired to do the work. The Oregon International Port of Coos Bay/Coos Bay Rail Link sought firms to manufacture 72,000 (+/- 25%) treated Coastal Douglas-fir wood railroad ties for the 2011 Track Rehabilitation Project for Lane, Douglas and Coos counties. Requests for bids on five lots of 14,400 ties each, including an alternate bid for delivery of each lot to a different location along the rail line, were due to the port by Tuesday, July 12, 2011.

Mr. Koch said a total of three companies responded as follows:

- Bridgewell Resources LLC, Tigard, Oregon
- Gemini Forest Products, Los Alamitos, California
- Conrad Forest Products, North Bend, Oregon

Conrad Wood Preserving Co., dba Conrad Forest Products, was the low bidder for each bid lot and alternative that called for delivery along the line and was the only company to provide a bid response for each lot and alternate. They were bid as alternates with the expectation that there might be one or more firms as a low bidder on any given lot and that the contract might be awarded to multiple companies to produce ties given the quantities we were having produced.

The bid ranges were as follows:

Price Range per Unit

FOB Plant FOB Railroad

Bridgewell \$41.95 \$42.75

Gemini \$41.21 - \$42.28 \$42.20 - \$43.40
Conrad \$36.15 - \$36.45 \$36.78 - \$37.27

Port staff evaluated the proposals and it is the recommendation the port award the contract to Conrad Wood Preserving Co. in the total amount of \$3,331,080 based on a total order of 90,000 delivered crossties on the line. The 90,000 comes from the port's right to modify the order quantity plus or minus 25% given the amount of the bid. There is sufficient room within the budget for the purchase of crossties to maximize the order under the bid. Mr. Koch thanked Conrad Forest Products for the bid. It allows the port to purchase 90,000 ties along the line and will allow replacement of more than 650 ties per mile, which is significant in terms of the improvements we will be able to accomplish getting us closer to the goal of getting up to Class Two and in some cases Class Three service on the line.

Delivery will be scheduled in coordination with the contractor to be hired for non-emergency rehabilitation work expected to begin approximately December 2011.

Mr. Koch said the money for the purchase of the bulk of the ties is coming from the \$2.5 million SAFETEA:LU grant the port received with the help of Congressman Peter DeFazio. That grant required the port specifically to purchase the type of pressure-treated tie put into the bid specification documents. The port was not allowed to purchase creosote treated ties. They had to be Chemonite ACZMA treated ties. Staff used all of the SAFETEA:LU money plus some Tiger II money to purchase the ties. Even with ordering the additional ties, the bid still came in significantly under budget, which allows the additional money to be used for other portions of the rehabilitation along the line. Mr. Koch said it was a win-win for the port and he hoped for Conrad as well. Mr. Koch said the motion is for approval to award the wooden railroad crosstie bid to Conrad Forest Products with signature authority for the chief executive officer to execute the contract. Commissioner McKeown asked what the criteria was for using coastal Douglas-fir and why that was critical. Darrell Smith from Conrad Forest Products responded there were two types of Douglas-fir, one of which is on the western slope of the Coast Range and the other is on the eastern side. The eastern side fir grows slower and is harder to treat because it is denser. Mr. Smith said the specification under the AWP standards for preservative treatment in the United States requires use of coastal Douglas-fir. He said most preservatives recommend coastal Douglas-fir. Commissioner Kronsteiner said he was delighted that the rail line is using ACZMA as a treatment and it is something his company has used for 25 years. He said it outperforms creosote, but it has been a hard battle to get it accepted by railroads. He felt it was important that the port was going in that direction. Mr. Koch said the U.S. Department of Transportation appreciated the port using this product and it is a pilot project for that agency, which is why the port is able to receive the additional \$2.5 million for the tie purchase. Mr. Smith added the ACZMA preservative is a great preservative and has been used in a marine environment for quite awhile. He said it has a lot of aspects of fixation of the chemical, it is fire resistant and you can handle it, whereas creosote can cause skin burns. ACZMA is a water-borne preservative. Commissioner Kronsteiner thanked Conrad Forest Products for its perseverance in dealing with the port's lengthy bid document. Mr. Smith said he had asked a lot of questions and that Ms. Scholl, Mr. Lovelady and Mr. Coffey went overboard to answer them and he wanted to thank them.

Upon a motion by Commissioner Hampel (second by Commissioner McKeown), the Board of Commissioners voted unanimously to approve awarding the railroad crossties bid to Conrad Wood Preserving Company in the amount of \$3,331,080.00, for all 5 lots of 18,000 crossties

each (total 90,000 crossties), with delivery to designated locations on the rail line and signature authority for the Chief Executive Officer to execute the contract. Motion carried.

D. Approval of Resolution No. 11/12 – 1 for Declaration of Continuing Emergency for Certain Railroad Rehabilitation Work

Mr. Koch said the action was for approval of Resolution No. 11/12 – 1 for declaration of a continuing emergency for certain railroad rehabilitation work. The Board of Commissioners acting as the Local Contract Review Board (LCRB) declared the existence of an emergency and authorized entry into emergency procurements for certain public improvement and personal service contracts for limited repairs to the Coos Bay rail line, pursuant to Resolution 10/11 – 4 at the April 21, 2011, commission meeting. Under Oregon law and the port's local public contracting rules, the emergency declaration approved at that meeting requires any emergency contracts to be awarded within 60 days of the emergency declaration. Mr. Koch said the delays have been due to the challenges of getting massive bid packets together, the size of the bid documents, and working with the engineers and the attorneys to get something out the door. Considering a 300-page solicitation document and because of the terms and conditions of the grants and specifications for the work, the bids have not all been completed during the 60-day period. Mr. Koch said subsequent to the adoption of that resolution, port staff awarded the contract for emergency tunnel repairs, as well as several non-emergency contracts for additional work to prepare the line for reopening. He said additional emergency contracts will be needed for limited crosstie, ballast and rail replacement. There are additional contracts needed for repairs to the train detection electronics, repairs to signals that were damaged by vandalism, and electrical and mechanical repairs. The first emergency rehabilitation work will need to be awarded under the emergency basis because of a streamlined request for quote process for the work rather than a formal invitation to bid. The quote will be awarded next week if the declaration of continuing emergency is continued. Emergency contracts allow the port to save time by utilizing a streamlined solicitation process such as direct solicitation of written quotes rather than the formal advertisement for sealed bids. Mr. Koch said only LRL has received a direct award for a contract under the emergency and all others are following some type of competitive process and in most cases a competitive quote process rather than a formal bid process. Mr. Bishop added that even LRL was originally contracted with the port under a competitive bid.

Mr. Koch said the scope of work for the emergency contracts are limited to the minimum amount of work port staff has identified as necessary to immediately resume freight service between Eugene and Coos Bay, i.e. Danebo and Cordes. Non-emergency contracts are also being awarded for smaller work as it qualifies for the competitive quote process. The main focus is the minimum amount of work necessary to get the rail line reopened by October 1, while continuing to work ahead as time permits in getting the bid packets together for the long-term rehabilitation starting this winter. Mr. Koch said the chief executive officer's continuing declaration of emergency describes continuing economic emergency that requires the port to solicit and award additional emergency contracts to permit the rail line to open and be ready for use no later than October 1, 2011. The motion is for approval of Resolution No. 11/12 – 1, ratifying the continuing declaration of emergency by the chief executive officer for emergency repairs to the Coos Bay rail line exempting a series of contracts for emergency repair to the line from strict conformance with the competitive bidding requirements and ratifying the solicitation of bids, quotes and/or proposals for the repair projects by port staff.

Commissioner McKeown asked if there was a difference between the Coos Bay Rail Link and Coos Bay rail line. Mr. Koch said the Coos Bay Rail Link is the official designation of the operating entity

that is on file with the Surface Transportation Board. The Coos Bay rail line is the designation for the rail line corridor itself. Link is an entity and line is the infrastructure. Commissioner McKeown asked Mr. Lovelady about the October 1 reopening and whether it will be from north of the Coos Bay Rail Bridge to the Willamette Valley, and if that is the case, how long did he anticipate before the Coquille line would be activated. Mr. Lovelady said the port was hoping to have the entire line open before the end of the year. Mr. Koch said he anticipates reopening in phases even before October 1, and the port may be able to resume some service on the non-embargoed portion of the line in the area just west of Veneta, with reopening to the North Spit by October 1. He said the hope is to reopen at least as far as the Georgia-Pacific mill before the end of the year before reopening all the way to Coquille. Mr. Bishop said he felt it was important to understand why the port is anxious to get the section of the line near Veneta that was non-embargoed back in service, because the port is currently subsidizing trucking for one of the former users in order to satisfy the common carrier obligation. As soon as the port can get the interim operating agreement in place and the railroad can start serving that customer, the port can stop paying that subsidy and the customer can have the benefit of rail service at that point. Commissioner Kronsteiner asked if it was more cost effective to use rail as opposed to providing trucking. Mr. Bishop responded at that point it would be a function of the rail operator's decision as to whether or not it is more cost effective for them to look at trucking rather than rail service.

Upon a motion by Commissioner McKeown (second by Commissioner Hampel), the Board of Commissioners voted unanimously to approve Resolution No. 11/12 – 1 for Declaration of Continuing Emergency by the Chief Executive Officer for emergency repairs to the Coos Bay rail line exempting a series of contracts for emergency repair to the line from strict conformance with the competitive bidding requirements and ratifying the solicitation of bids, quotes and/or proposals for the repair projects by port staff. Motion carried.

Commissioner Kronsteiner said the Award of the Emergency Track Repair contract has been pulled from discussion at tonight's meeting. Mr. Koch said under the emergency declaration, the chief executive officer has the authority to make the award. He said unfortunately with the bid opening this past Tuesday, port staff has not had time to finish evaluating the qualifications of the bidders so the decision will need to be made next week.

E. Public Non-Highway Overpass Crossing Agreement

Mr. Koch said staff was seeking approval from the Port Commission of the Public Non-Highway Overpass Crossing Agreement with Coos County. At the November 18, 2010, meeting, the commission approved a crossing easement in favor of Coos County to facilitate the county's construction of an off-highway vehicle/pedestrian/equestrian bridge over the Coos Bay rail line as part of a project by the county to connect Riley Ranch County Park to the Oregon Dunes National Recreation Area. The granting of an easement was necessary for the county to obtain a special use permit from the U.S. Forest Service for ingress and egress to the bridge since they don't actually own the property on either side of where the bridge would be constructed. The easement called for the subsequent negotiation of a Right-of-Entry Agreement to facilitate the actual construction of the county's bridge. Over the past several months, port and county legal counsel have developed a new form of agreement that will replace the easement. As before, the agreement requires the county to reimburse the port for legal and engineering expenses related to the negotiation of the crossing agreement, reviewing the work plans, and any construction inspection work. The Public Non-Highway Overpass Crossing Agreement has been prepared and approved by port railroad legal

counsel and was approved by the Coos County Board of Commissioners on July 12, 2011. The agreement is being presented tonight for Port Commission approval. The motion is for approval of the Public Non-Highway Overpass Crossing Agreement between Coos County and the Oregon International Port of Coos Bay to replace the easement granted to the county at the November 18, 2010, commission meeting and to authorize the chief executive officer to execute the agreement and all related documents. Commissioner McKeown said this item has been before the commission a couple of times so she was very familiar with it. Mr. Koch said port staff would not typically be bringing crossing agreements before the commission because the service is contracted to a management company due to the high number of crossing agreements are on the line. This was a special case because the port was actively working with the county on this project and had previously issued an easement that required Port Commission action. This agreement will replace that easement.

Upon a motion by Commissioner Hampel (second by Commissioner McKeown), the Board of Commissioners voted unanimously to approve the Public Non-Highway Overpass Crossing Agreement between Coos County and the Oregon International Port of Coos Bay, which will replace the easement granted to the County on November 18, 2010, and authorization for the Chief Executive Officer to execute the agreement and all related documents. Motion carried.

F. Approval of the Interim Operating Agreement with ARG TRANS for the CBRL

Mr. Koch said the port published a request for qualifications for the selection of the Coos Bay rail line operator in July 2010. Port staff, working with rail consultants and shippers, evaluated the initial responses and invited five firms for an interview. The interview phase was concluded the last week of January 2011 with participation by ODOT Rail Division. After the interview staff narrowed the process to two firms solicited for formal business proposals. This resulted in the selection of ARG TRANS as the rail line operator and authorized port staff to begin negotiations. Port legal counsel and counsel representing ARG TRANS recently finalized terms of an interim operating agreement for operation of the Coos Bay rail line. The agreement covers the initial start-up period while the port completes the rehabilitation work on the rail line. The port has retained the authority and obligation to spend a combination of state and federal grant funds received to do the rehabilitation work and as the work is completed ARG TRANS accepts the work and agrees to maintain the track for at least that level of service and that level of condition for the line. With execution of the agreement, the company also is required to provide service as a common carrier on the line taking over that role from the port. Mr. Koch said this is the next step in order for them to be able to resume operations on the line. The agreement also requires, as sections of the line are ready to reopen, the port consult with them and they agree that it is in a condition that they can begin operations on the line. The port has given the company notice to proceed, which it counter-signs, and at that point people can expect to start seeing traffic on the line. Mr. Koch said the interim agreement will be terminated when the port's rehabilitation program is completed and the parties have executed a long-term operating agreement that will replace the interim agreement or on March 31, 2013, whichever occurs first. The port hopes and expects it will complete the rehabilitation program before the end of 2012, but has a built-in contingency period just in case. He said staff is asking for a motion to approve the interim operating agreement for ARG TRANS for operation of the Coos Bay rail line.

Upon a motion by Commissioner McKeown (second by Commissioner Hampel), the Board of Commissioners voted unanimously to approve the Interim Operating Agreement with ARG TRANS for operation of the Coos Bay Rail Line. Motion carried.

7. **OTHER:**

8. **INFORMATION ITEMS:**

A. July Business Center Newsletter

9. **COMMISSION COMMENTS:**

Commissioner Hampel asked Mr. Koch how many contractors had pre-registered for the small works roster and if there had been good response. Mr. Koch said Ms. Wall had been working on the project. Ms. Wall responded she didn't have the exact number but had been receiving 5 – 10 applications a week for the last few weeks. She thought there were at least 30 applications. She and Ms. Hamner will be evaluating the responses and look for additional news release opportunities to make sure the word is out and that the port is getting the appropriate responses.

Commissioner McKeown commented that as commissioners it is their responsibility to oversee this organization and she recognized it was a time that port staff is heavily burdened with many projects. She wanted to personally acknowledge all of the work port staff was doing every day and knew it was a particularly difficult point in time with all of the projects culminating, bid packages going out, and businesses that were interested in coming to the port looking at this area as a potential location. She said she wanted to thank port staff for all of the work they do. She knew it had been tough and difficult and that everyone was really stretched. She said she for one really appreciated what staff was doing. She asked that the thanks be passed along to the rest of the staff on behalf of the commissioners because they don't always get out every day to let staff know they appreciate what is being done. Commissioner Kronsteiner thanked Commissioner McKeown for her comments.

10. **NEXT MEETING DATE:** August 18, 2011

11. **ADJOURN:**

Commissioner Kronsteiner adjourned the regular meeting to Executive Session at 8:31 p.m.

By: _____
David Kronsteiner, President

By: _____
Dan Smith, Secretary