

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
REGULAR COMMISSION MEETING
Thursday, January 22, 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; Brady Scott, Treasurer; Jerry Hampel, Commissioner; Dan Smith was 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

Media & Guests: Alexander Rich, The World; Bill Russell; Camby Collier; Kerry and Ken Lewis; John Chaney; John Neikirk; Jody McCaffree; Dave Lacey, Our Ocean; Ron Peabody; Jim Pex; Linda Anderson; Ken Messerle, Coast Consulting; Steve Pickering; Marvin Caldera

1. The meeting was called to order at 7:00 p.m.
2. Introduction of Guests: Commission President requested that introductions be made of everyone in the room.
3. **PUBLIC HEARING:** In the matter of the proposed formation of an Export Trading Corporation by the Port of Coos Bay. Mr. Bishop spoke to the reasons for forming an Export Trading Corporation.

1. The Port of Coos Bays is authorized to form one corporation other than the corporate presence as it stands as a municipality, and that is a Trade Export Corporation. The Port needs to be very cautious when it comes to separating the PERS based employees from the Federal Administration's Pension Program. Staff did research on other municipalities who own and operate railroads and they were doing it by fund. In other words, they created a new fund within their own accounting structure. The Port has a lot of employees with many years in the PERS system and we wanted to have as much separation from an accounting standpoint as was possible so that there were absolutely no questions of any employee working on railroad issues on behalf of the Port and having to trigger the FRA Railroad Pension.

2. One of the advantages of having the Railroad owned by another corporate entity is that we could, and we do intend, to approach the legislature about allowing that entity to take on equity investors. There is no statutory method as it stands now for the Port to take on equity investment. Since we wish to have as close to a private sector model for the railroad as possible, we would like the ability to bring on equity investors.

Mr. Bishop then turned the meeting over to Port Counsel, Mike Stebbins to explain what an Export Corporation is, how it is set up and how it works.

Mr. Stebbins said an Export Trading Corporation is a municipal corporation that the Port can form for the purposes, and with the powers, that are in Chapter 777 of the Oregon Statutes. These include among other things, acquiring and providing transportation services like the railroad line. A separate statute expressly authorized the Port to acquire, own, reconstruct, rehabilitate, operate or maintain a railroad line for the benefit and use of its inhabitants, and for profit. A board would be set up for the Export Trading Corporation comprised of three members; each must be a member of the Port Commission also. One of the decisions the Commissioners must make in conjunction with this ordinance tonight is who those members will be. The members will be elected to the Board for three year terms and they will be eligible for re-election. They do not have to step down after the three year term. Once the Board is chosen, it elects its own President, Vice President and Secretary/Treasurer from among its members. Procedurally, an ordinance has been published and made available for those who want to see it. By Port policy a reading, at least by title, on two separate occasions is required. Commissioner McKeown said that she would like to have some details. Below are some of the new rated powers in the statute of the corporation.

- Enter into contracts with any governmental entity or municipal corporation.
- Developing, managing and operating Export Trading projects; those are defined as a transaction or arrangement for the purchase, sale exchange or delivery of goods or services in international trade or commerce.
- Conducting market research, advertising and marketing within and outside of Oregon.
- Purchasing or otherwise acquiring constructing, operating, maintaining, leasing, renting and disposing of warehouses, elevators, terminals, buildings and other necessary or desirable facilities within or outside of Oregon.
- Entering into contracts, joint ventures, brokerage or other agreements with any person for the purchase, sale or distribution of any goods services within or outside of Oregon.
- Levying and collection of rentals, commission fees, storage and other charges for use of facilities or services rendered.
- The Corporation can also borrow money and pledge any of its assets or revenue as collateral as well as issue and sell revenue bonds.

Keep in mind that no obligation of the Export Trading Corporation that might be set up under some of those methods is considered a general obligation of the Port, nor is it considered a charge on any of the revenues of the Port.

The Export Trading Corporation can hire Port Administrative staff to do the Administrative functions that the Corporation would need. This is much like the Port helps the Coos County Urban Renewal Agency with Administrative services. The Export Trading Corporation is not considered a public employee for the purposes of PERS and is also generally exempt from the provisions of the public contracting code. The corporation will be subject to the public records and public laws but there are some additional executive session privileges and record exemptions that aren't available to the Port.

OREGON INTERNATIONAL PORT OF COOS BAY

ORDINANCE No. 144

AN ORDINANCE OF THE OREGON INTERNATIONAL PORT OF
COOS BAY TO FORM AN EXPORT TRADING CORPORATION
FIRST READING ON JANUARY 22, 2009
SECOND READING AND ADOPTED ON FEBRUARY 9, 2009
EFFECTIVE MARCH 11, 2009

PREPARED BY:

LAW OFFICES OF STEBBINS & COFFEY

ORDINANCE No.144

AN ORDINANCE OF THE OREGON INTERNATIONAL PORT OF
COOS BAY TO FORM AN EXPORT TRADING CORPORATION.

WHEREAS, the Oregon International Port of Coos Bay (the "Port") is a Port, as that term is defined in ORS 777.760; and,

WHEREAS, the Port, has authority to form an export trading corporation for the purpose of, among other things, developing and facilitating international trade and commerce and the export and import of goods and services through the State of Oregon by furnishing services necessary to international trade; and,

WHEREAS, the Port finds that provision of viable rail service is a necessary transportation service for the development and facilitation of international trade and commerce, as well as the import and export of goods and service, within the Port district and the State of Oregon; and,

WHEREAS, the Port finds that the Port has been authorized to purchase the former Coos Bay Line of the Central Oregon & Pacific Railroad, Inc. (the "Coos Bay Line") by written decision of the Surface Transportation Board dated October 31, 2008 ; and,

WHEREAS, the Port finds that the creation of an export trading corporation for the purpose of operating and maintaining viable rail service along the Coos Bay Line is in the public interest; and,

WHEREAS, the Port finds that a public hearing was held on January 22, 2009, for the purpose of considering the formation of an export trading corporation; and,

WHEREAS, the Port find that the formation of an export trading corporation would promote the purposes of ORS 294.125, 294.316, 646.740, and 777.755 to 777.800;

NOW, THEREFORE, BE IT ENACTED BY THE PORT COMMISSION OF THE OREGON INTERNATIONAL PORT OF COOS BAY an Ordinance as follows:

Section 1. Purpose

The purpose of this Ordinance is to form an export trading corporation, pursuant to ORS 777.763(1), for the purpose of operating and maintaining the Coos Bay Line.

Section 2 Name of Corporation

The name of the Export Trading Corporation shall be: Coos Bay Rail Link Export Trading Company.

Section 3 Initial Directors

The initial directors for the Export Trading Corporation shall be Davis Kronsteiner, Catherine (Caddy) McKeown, and Daniel Smith, who shall each serve a three year term commencing on March 11, 2009.

Section 4 Office Address

The initial office address for the Export Trading Corporation shall be 125 Central Avenue, Suite 300, Coos Bay, Oregon 97420.

Section 5 Registered Agent

The initial Registered Agent for the Export Trading Corporation shall be Mike Stebbins of the law firm Stebbins and Coffey, 745 California Street, North Bend, Oregon 97459.

Section 6 Effective Date of Formation

The effective date of Formation for the Export Trading Corporation shall be March 11, 2009.

ADOPTED AND APPROVED at a meeting of the Board of Commissioners of the Oregon International Port of Coos Bay, Oregon, held this 9th day of February, 2009.

OREGON INTERNATIONAL PORT OF
COOS BAY, OREGON

Dave Kronsteiner, President

Catherine (Caddy) McKeown, Vice President

Daniel Smith, Secretary

Brady Scott, Treasurer

Jerry Hampel, Commissioner

A. Open Public Hearing - 7:15 pm in the matter of the formation of an Export Trading Corporation for the Oregon International Port of Coos Bay.

B. Call for Public Comment:

Jody McCaffree: She has some concerns. She said that she wrote the Port and asked for information when the notice came out and she got one page. Her concerns are that you are forming a private corporation and you are a public entity. She says it is already difficult to deal with the Port Commission because none of you are elected, so she feels it is another layer of bureaucracy to make it more difficult for people to have a say. The other concern is that the railroad goes through several other counties and she feels that there should be a board that is elected by people representing all the counties that this impacts. She would also like more time to review this if there are other concerns.

John Neikirk: Directing question to Mike Stebbins - Mr. Neikirk wanted to know if the same rules of law apply for the public entity or public corporation as the Port of Coos Bay in requiring CORP to give up its land because you can file for eminent domain just like the pipeline is doing. Second, the railroad acquired their land grant in the 1800's and Mr. Neikirk was wondering if the Port looked into that. They received their land on the guarantee that that land was going to serve a railroad which opened the west. Now they are taking the land and all the improvements of basically property of the people and trying to sell it back to us. When someone makes improvements to your land, even if it is leased, you become the owners of the improvements. He feels that the Port has a viable option to pursue these matters to the point of not having to pay twice its assessed value.

C. Close Public Hearing - Since there was no more public comment, the hearing was closed at 7:20 pm.

President Kronsteiner said he would entertain a motion to elect the Port Commission members who would serve as Board of Directors for the Export Trading Corporation.

Commissioner McKeown made a motion (second by Commissioner Scott) that the initial Directors for the Export Trading Corporation shall be the President, Vice President and Secretary of the existing Port Commission - it was passed by unanimous vote.

Commissioner McKeown then proposed a name, a motion (second by Commissioner Scott) that the corporation be named the Coos Bay Rail Link Trade Export Company - passed by unanimous vote.

4. **PUBLIC HEARING:** in the matter of a Supplemental Budget to purchase the Railroad.

A. Open Public Hearing - 7:23 pm

The Finance Director said that the reason for the Supplemental Budget was that when the budget for July 1, 2008 was put together, we did not know the price of the railroad. There is a railroad Special Revenue Fund for the \$12 million for the rail bridge repairs but the price of the railroad is more than our budget. It affects the budget by more than 10% so a Supplemental Budget is required. The Port's auditor suggested a Supplemental Budget for the entire price of the acquisition and if we buy it, we are covered by part of it in the railroad fund; however if we don't buy it then in June a resolution can be done to reduce the budget back down.

B. Call for Public Comment

Jody McCaffree: Concerns – On December 10th the Port's attorney's sent a letter to the Surface Transportation Board (STB) saying that the price was too much and it should be more like \$7 million than \$16. She said she doesn't know where that stands. Are we going to just go ahead and purchase a railroad that we don't think is worth that price? She has concerns, but she is not against a railroad, she just feels we need to be accountable to the public and the money that is spent. She said she does not see where there is a business plan for operating this railroad or how much it is going to cost to purchase it and operate it etc. She said if you were a private business you would have to do that to get funding and she feels that as a public entity, the Port should have to do that also. She feels if the container terminal was viable, she doesn't think that CORP would have given the line up. She just has questions.

Commissioner McKeown asked to comment on what Ms. McCaffree said. Commissioner McKeown said that the Port had a very lengthy meeting a while ago which included a very in-depth proposal about the business plan for the railroad. There is a very detailed in-depth business plan which has been in the process of being put together for some time.

Mr. Bishop said that because the business plan had very detailed shipper specific information that the shippers regard as proprietary, the business plan was not released to the public. A public version of the plan is available as of today. It won't have specific shipper information; but it will have aggregated shipper information which lumps everyone into one category. This is so competitors cannot determine how much volume any particular shipper is shipping on the line.

Steve Pickering: His comment is directly related to the budgeting that the Port wants to do. He was at the meeting and knows that there is a very sizeable amount of money involved in acquiring rolling stock, and equipment and loans etc that are not a part of this discussion. That brings up a question; he knows we need to purchase the rail line so it will not go away and become a bike path. All we are talking about right now is the purchase. After the Port has purchased the railroad, do you have to operate it immediately in these economic times or can operations be postponed until the economy improves to such a state that we may actually see investors wanting to put in a container port. Can we hold it until such time as it becomes viable?

Mr. Bishop answered not exactly. The law says that the Port has to operate the railroad for a period of three years after it is acquired. That basically means we have to operate it for three years before we are eligible to abandon it in the event that business doesn't appear or that the line becomes inoperable. Converse to that, there is a concept known as the "Common Carrier Obligation". This basically means that when you operate a railroad, you have an obligation to provide service to shippers. The shippers are the ones that can enforce that common carrier obligation against the railroad. It would depend upon what the shippers wanted to do in that situation. If the economy was a factor and if capitol or the lack thereof, was an issue then it would be up the shippers to say whether or not the railroad was meeting its common carrier obligation. Mr. Bishop said that we have had discussions with the shippers and that is part of the information that has yet to be shared with the Commission because it happened yesterday. Mr. Bishop continued and said there is no rolling stock to be acquired. The class ones

provide the rolling stock. When a shipper orders a car from a class one it is called a car hire. That car is hired and you are given a number of days, just like if you rented a car, as part of that rate. That does not apply to power, but as it is our intent to contract out operations and basically be nothing more than a landlord, we would be requiring the operator to provide power. That operator will be an existing operating short line railroad somewhere and will have access to power. Mr. Bishop said that Class Ones own a lot of the power and a great number of the short lines lease it. Finally, the Port is not buying the railroad tonight; they are simply following the statutory guidelines that we have to follow in order to be able to do things in a lawful manner and one of them requires us to amend our budget. Tonight's actions do not complete the transaction; we still have a long way to go.

The land grant issue was considered quite extensively. The Port made several arguments that because a portion of the line was land grant, it therefore had no fee interest value. The STB, which is the federal body that adjudicates these matters, determined the railroad had free and clear title to the property.

The other question was the motion to reconsider on the price. Again, the Port is following procedures. The STB has very explicit rules on how things are handled. In the event that they have not ruled on our motion before February 18, 2009, we still have to either a) buy the railroad under their terms and conditions of their order on October 31st, or b) file for an extension on the closing date which the Port may or may not do. Depending on how the STB treats that matter, we will not be able to adjust our offer or anything that we do until the board rules.

Mr. Bishop said that it is certainly not an easy process working with the STB and he would say that it was probably slightly more complicated than working with FERC.

There were no more comments.

C. Close Public Hearing - 7:35 pm

5. **CONSENT ITEMS:**

- A. Minutes: November 20, 2008 Regular Commission Meeting and December 17, 2008 .
Special Meeting Minutes
- B. Approval of December 08/January 09 invoices totaling \$ 1,343,206.98.

Upon a motion by Commissioner McKeown (second by Commissioner Scott) the Board of Commissioners approved the November 20, 2008 Regular Meeting Minutes, the December 17, 2008 Special Meeting Minutes and the December 08/January 09 invoices totaling \$ 1,343,206.98.

6. **MANAGEMENT REPORTS:**

A. **Executive Director: Jeffrey Bishop**

Mr. Bishop said that he had nothing more to add except he requested an Executive Session after this meeting and there may well be an action item afterwards in open session.

B. Deputy Executive Director: Michael Gaul

The North Jetty repair is still ongoing. Kerr Construction continues to haul rock to the BLM staging area and tomorrow they will start hauling rock to the jetty for the actual repair work. The Foredune Road is closed and Kerr will be working weekends. Right now they are on schedule to be completed by March which is what the contract reads.

The Charleston Advisory met on January 8, 2009 with a very full agenda. There is a copy of the agenda in the packet. Two items drew a lot of attention.

1. Marine Reserve Committee process, which is an agenda item later in this evening.
2. An update to the Port's business license policy which is in need of some work. Staff is working with Port Counsel and will bring a recommendation to the Commission after they meet with the Advisory Committee. A schedule for that meeting has not been set yet.

In Aaron Simon's report, he mentioned work at the ice dock. There has been a lot of effort from Aaron and his crew to insure that the commercial fishing fleet has ice. The ammonia compressor has failed and right now the plant is not operational. Aaron has been working with a company that has found a compressor for us and they plan on being on site in late February. Hopefully the plant will be back up again the first week in March. At the same time, staff is going to take this opportunity to replace some relief valves that are a safety issue. With the compressor out of the way, staff can do some safety upgrades to the facility. This was an unplanned or unscheduled work item; we are funding it through the maintenance line item at this time but the project is expected to take \$20-25,000 to complete. That will put a big dent in that line item so Mr. Gaul may be back later in the fiscal year with a request for additional maintenance money if we have more problems than we anticipate during the rest of the year.

Staff is also seeking about \$350,000 in Federal money to replace the ammonia system with a new modern system. That dollar figure was based on a purchase that the Port of Siuslaw just made recently.

Mr. Gaul continued his report and said that in February he would bring some recommendations for committee positions before the Commission. There is one position on the Technical Advisory Committee and four positions on the Charleston Marina Advisory Committee that are due to expire.

The Port has entered into a lease agreement, month to month, with Oregon Sea Grant in the Marina Complex so the fisheries portion of Oregon Sea Grant can be closer to Charleston and the community fishing fleet. They will be with us probably until the renovations are made at OIMB and Mr. Gaul will be reporting more on that later tonight.

Mr. Gaul met last week with Greg Aldridge of CEDCO and Dave Chermey of Marine Consulting International to commence the next phase of the Mill Casino Marina study. We entered into an IGA Partnership with CEDCO last year to complete due diligence regarding a proposed marina at the Mill Casino. The sediment sampling has been completed by CEDCO and there have been some discussions at the Marine Board regarding conceptual design and now we are moving forward with Dave Chermey who will really do the due diligence and market study to see if it makes good common sense. That process will start soon.

The last item of Mr. Gaul's report is that Legislature is in session which means that your staff will be making many trips to Salem to advocate for Port related needs.

Commissioner McKeown asked what the source of the rock for the jetty project was. Mr. Gaul said they are working at a number of rock quarries in Springfield, Bandon, Gold Beach; they have been testing at eight different quarries, about four have passed the test. There three classes of rock to be used and they are drawing from about four different quarries.

Commission President asked Mr. Gaul about a milestone and if it was met or if it was a requirement of the contract. Mr. Gaul said that they were on schedule; the milestone was to get started tomorrow hauling rock and they will start tomorrow hauling to the jetty. The contract date was March 16th. The first thing they need to do is replace shale so they can get the trucks out there. The company is also having a meeting tomorrow to lay out the steps of the work. We should see a lot more happening soon.

C. Director of Communications and Freight Mobility: Martin Callery

In December Mr. Callery reported that staff had been working on a request for proposals (RFQ) for engineering services, coordination and project management for rehabilitation of the Coos Bay Rail Line. It is being done ahead of time so the Port is prepared when and if we take ownership to move forward with engineering and to take advantage of some funding opportunities that we anticipate. We received seven very solid proposals and interest from another half a dozen major engineering firms; those firms were not able to provide a full proposal at that time. These firms continue to contact us and say that they are still interested in doing work on the railroad. There are interviews next week with the three top candidates. Staff will come back to the Commission with a contract after the interview, maybe shortly after the February meeting.

Back in March 2008, Mr. Callery talked to the Commission about a wind energy project on the North Spit. The interested parties at that time were the Oregon State University and a private firm. There were some issues with the two or three sites we wanted to pursue doing a one year analysis of wind energy. The Port was contacted again last week by one of the consultants. Kennedy Jenks has taken over a different role; they were not involved initially. They are now involved with Oregon State University and with Energy Trust and want to move forward with the project. In a letter to the Port they said that they would put up two test facilities and would work through the process. The Port would pay for the permits which at this time is the only expense for the Port. Everything else would be covered by the Energy Trust and Oregon State University. The facilities would be put in and data would be gathered for at least a year. If after all the testing is done and the data is there to support wind energy, there would be a proposal to build an eight turbine system that could contribute up to 2 mega watts of renewable electricity when it is fully operational. Staff is continuing to work through this process. One of the sites has a DEQ issue and would need a permit and that is something that will have to be worked with Weyerhaeuser. This project has some potential and there may be a chance to provide energy on the North Spit for industry.

Mr. Callery was at the Oregon Freight Advisory Committee; he chairs the Policy and Projects Sub-Committee. Mr. Callery said for about the seventh time since there has been discussion about federal stimulus dollars, the ODOT Federal Affairs consultant reported back that Oregon Department of

Transportation may get \$350 million in additional road and highway bridge funds. Mr. Callery's committee, as well as others around the State, has come up with a list projects worth about \$179 million. Once this funding package leaves Congress, is approved by the President, and the money is delivered to the State, the current thinking is that projects need to be under contract within 120 days. The other half of the \$350 million will sit for up to two years while other projects are brought to shovel ready contract status.

Mr. Bishop said he wanted to make a disclaimer on the "stimulus package version du jour". There is still no clarity on exactly how that money, if any money comes, will be done. There are a number of agencies that think they will participate in it, but we have tried to get on every single list that we could. He just wants to caution you that there is no set stimulus package yet and until Congress passes it and the President signs it, it will be very difficult to predict exactly what it will look like. Mr. Callery said that there is a lot of discussion going around besides what we hear from the ODOT Federal Affairs person. We have also heard that there is going \$1 billion going to the Federal Rail Association; however that is supposed to be dedicated to passenger rail. There are discussions of other funding packages going to other federal agencies which would eventually trickle down to the appropriate state agencies, but it is still very difficult to determine how it will play out. One of the most striking needs that have come out is the need for wastewater facilities and it looks like EPA will get a funding that will go to agencies like DEQ but it is still too soon to determine how it will work.

President Kronsteiner asked Mr. Callery what he thought about Peter Friedmann's comment that less than 10% of the funding would go to infrastructure. Mr. Callery said that if you look at the total numbers, he is very accurate right now. Mr. Callery continued and said that there was a big debate regarding how to define infrastructure. We would say that transportation infrastructure would be on top but others have other ideas according to what they need. There was a question about how do you deliver funding to the Marine industry. The only mechanism right now is the Army Corps of Engineers. There is not another entity that can deliver funding to ports although they are talking about trying to funnel it through some other appropriate agencies. They are working on the funding; they have a long list of projects from Oregon; however, they have a list from every state, city, county all over the nation. The need is very great, but how far the stimulus package will go is undefined.

Commissioner Scott asked where Peter Friedmann thought the other 90% would go. Mr. Callery said that he speculated on Healthcare, Education, some tax cuts.

D. Director of Finance and Administration: Donna Nichols

Ms. Nichols said she didn't have anything to add to her report, but she wanted to highlight the SDAO safety grant. It is a grant that the Port has taken advantage of three times. The third one has just been applied for, but one of the grants was used for surveillance cameras in the Marina and Shipyard; one was used for life rings in front of each dock and the flotation vests that our security personnel wear.

E. Interim Marina Facilities Manager: Aaron Simons

Aaron Simons updated the Commissioners saying that he has about 95% of the F-Dock project installed. He hopes that the electricians will start their portion next week to finish the project.

7. **PUBLIC COMMENT:**

Jody McCaffree: Ms. McCaffree thanked the Commissioners for their efforts on the Wind Energy. She supports renewable energy. She brought some names to give to Mr. Bishop on Solar. She also had a copy of a dissent from the FERC website from John Wellingshoff which she feels has relative information.

Mr. Bishop added that this year for the merit pool, one of the goals was a renewable energy policy for the Port and also three demonstration projects so not only are we interested in it, the employees merit pool will be based upon their successful completion of those two goals (2 of 10).

Ms. Nichols said that she didn't explain what the third Safety Grant was for, but it is a solar light for the Shipyard. It is a partial grant program and if it works, we are planning on doing more. Mr. Bishop added that the lights on the Railroad Bridge are solar powered also.

John Neikirk: Mr. Neikirk also wanted to discuss Solar. He wants to make the Commission aware that there is a new development with black silica in photovoltaic collectors. This new company has a process that puts out 10 times what older photovoltaic collectors do. He thinks the Port should approach the company and say "we have the land, labor and silica in this area". There will be a lot of by-products coming from the mining in Whiskey Run area and one of those is black silica.

Dave Lacey: He thanked Mike Gaul and the Port for their work with the process for the Marine Reserves which is being proposed. He wanted to pledge his support and assistance if possible. He wanted to make one suggestion. With a committee this large, he feels it would be good to have a facilitator to get all the ideas consolidated.

8. **ACTION ITEMS/REPORTS:**

A. **Insurance Report**

Mr. John Chaney asked that the Commission go through the packet on the insurance that Ms. Nichols distributed to them. Then he went on to say that Special Districts Association of Oregon (SDAO) gave a refund of \$22,000 back to the Port which is pretty substantial. That refund is attributed to the wonderful risk management practices that the Port has in place, and has had for a long time, and the lack of claims. SDAO has put together a longevity claims formula that determines what money you get back due the premiums going in. They gave out about \$2 million this year to districts that have signed up and participated in the plan. Mike Gaul, Donna Nichols and Mr. Chaney work on it constantly and he says that the Port's loss ratio for the last four years is about 6% which is phenomenal for the size of this entity with all the property and liability risks. Everything is working well. He and Port staff have been working on insuring the railroad bridge and what is going to happen if the Port takes over the rail line. His suggestion is that the Port will be land owners only and be an additional insured on whoever will be operating the line.

Mr. Chaney shared that Special Districts is extremely well off right now. The re-insurers that are backing the excess which Special Districts handles are all A+ and solid as a rock. We are carrying \$5 million liability and could go up to \$10 million, but it depends on what the railroad comes up with; the Port could have some circumstances which require higher limits. We will dictate to the railroad company what we will do with liability.

Commissioner McKeown said that we should also thank the very capable staff for keeping the claims low. Kudos to all and she asked Aaron to pass that along to the Marina staff.

B. Personal Services Contract between the Port and ECONorthwest

This project is an attempt to analyze what economic benefit recreational fisheries bring to the Bay Area. The study will examine the economic benefits that would occur by increasing hatchery production in Coos Bay and it will be used to determine what the economic impact decisions made by ODF&W will have on the Bay Area. It will also serve as a tool to aid investment decisions. The cost of the study is projected to be \$30,000. Mr. Bishop said that he is in the process of pursuing other funding options and that a contract would not be entered into until those funds become available.

Upon a motion by Commissioner Scott (second by Commissioner Hampel), the Board of Commissioners approved the Personal Services Contract between the Port and ECONorthwest and authorization for the Executive Director to execute the contract when funds become available.

C. Resolution 08/09-5 F-Dock loan approval

The F-Dock rehabilitation project is included in the approved current year budget in the Marina cost center within the General Fund. It will rehabilitate and replace those components of F-Dock. The dock is used primarily by commercial fishermen and there are 57 vessel slips available for use. The budgeted price of the project is \$180,000. Most of the required components have been ordered, including floats, piling and electrical work and replacement pedestals. Including staff time, Aaron Simons is planning for the project to come in under budget.

Staff requested quotes from various funding sources for the best loan package. U.S. Bank provided the lowest interest rate and loan fee with an acceptable term. Staff estimates that this dock provides approximately \$75,000 in annual moorage fees. Annual debt service will be \$22,492, paid in quarterly installments. The loan requested is for \$180,000 with 4.67% interest and a ten-year term with quarterly payments. A resolution is required to complete the funding package.

Upon a motion by Commissioner Scott (second by Commissioner McKeown), the Board of Commissioners approved Resolution 08/09-5, U.S. Bank Loan for F-Dock Project and authorization for the Executive Director to sign required and associated documents.

OREGON INTERNATIONAL PORT OF COOS BAY

Resolution No. 5

**A RESOLUTION APPROVING A BORROWING TO FINANCE THE F-DOCK
REHABILITATION PROJECT IN THE CHARLESTON FACILITIES.**

WHEREAS, the Board of Commissioners is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance or refinance real or personal property which the Board of Commissioners of the District (the "Board") determines is needed; and,

WHEREAS, the District has identified a need for the rehabilitation of F-Dock, and

WHEREAS, the Board of Commissioners hereby determines that the project is needed, and that it is desirable to finance the project pursuant to ORS 271.390; now, therefore,

BE IT RESOLVED, by the Board of Commissioners of the Oregon International Port of Coos Bay, Coos County, Oregon, that:

Section 1. Loan Agreement Authorized

Section 2. The Port is hereby authorized to enter into a loan agreement in an aggregate principal amount of not more than \$180,000 (the "Loan Agreement"). Loan proceeds shall be used to finance the Project and to pay costs associated with the Loan Agreement. The Executive Director is hereby authorized, on behalf of the Port and without further action by the Board, to:

- (1) Approve the final principal amount (\$180,000), interest rate (4.67%), prepayment rights and all other terms of the financing;
- (2) Execute and deliver the Loan Agreement with U.S. Bank (the "Loan Agreement") to finance the Project pursuant to ORS 271.390. Subject to the limitations of this resolution, the Loan Agreement may be in such form and contain such terms as the District Official may approve;
- (3) Covenant for the benefit of the lender to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest paid under the Loan Agreement to be excluded from gross income for federal income tax purposes; and
- (4) Designate the Loan Agreement as a "qualified tax-exempt obligation" pursuant to Section 265(b) (3) of the Code; and
- (5) Execute and deliver any other certificates or documents and take any other actions which the District Official determines are desirable to carry out this resolution.

Section 3. Security

The Loan Agreement shall constitute an unconditional obligation of the District, which is payable from all legally available funds of the District. The District Official may pledge the District's full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution, and any and all of the District's legally available funds, to make the payments due under the Loan Agreement.

Section 4. Reimbursement

The District anticipates incurring expenditures to finance the costs of the Project, and wishes to declare its official intent to reimburse itself for any expenditure the District may make from its own funds for the Project from the proceeds of the loan.

APPROVED and ADOPTED by the Board of Commissioners of the Oregon International Port of Coos Bay this 22nd day of January 2009.

David Kronsteiner, President

Daniel Smith, Secretary

D. Resolution 08/09-6 Opening Savings Account at US Bank

Port staff requested quotes from various lending agencies for the best loan package for the F-Dock project. U.S. Bank provided the lowest interest rate and loan fee with an acceptable term of 10 years. The loan of \$180,000 will be deposited into an interest earning Money Market checking account at U.S. Bank and funds will be disbursed out of the account as needed. The monies could be disbursed directly to the Port in check format but the opening of a new account provides expansion to the Port's banking relationships.

The Port currently has their payroll generated from an established checking account at U.S. Bank through Automated Data Processing (ADP).

Upon a motion by Commissioner McKeown (second by Commissioner Scott), the Board of Commissioners approved Resolution FY08/09-6, signature authorization for a new Money Market Checking Account at U.S. Bank in support of a loan borrowing.

**OREGON INTERNATIONAL PORT OF COOS BAY
RESOLUTION FY08/09 – 6**

Resolution approving the signature authorization for a new Money Market checking account to be established at US Bank in support of a loan borrowing.

WHEREAS the Oregon International Port of Coos Bay has designated US Bank under the terms and conditions of US Bank, as an additional bank and depository for funds of the Port, which may be withdrawn on checks, drafts, receipts or advices of debt given or signed in the Port's name by any two of the following persons on behalf of the following account.

Money Market Checking Account

Michael F. Gaul
Donna Nichols
Holly Tavernier

Deputy Executive Director
Director of Finance & Administration
Fiscal Support Specialist

And that said Bank shall be and is authorized to honor and pay the same whether or not they are payable to bearer or to the individual order of any person or persons signing the same.

APPROVED and ADOPTED by the Board of Commissioners of the Oregon International Port of Coos Bay this 22nd day of January 2007

David Kronsteiner, President

Daniel Smith, Secretary

E. Resolution 08/09-7 Approval of Supplemental Budget

During the fiscal year or budget period, the governing body may find that an unanticipated condition requires adjustments to the budget. If the condition meets the requirements of ORS 294.480, the governing body may prepare a supplemental budget. 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.

Port staff filed a Feeder Line Application to the STB on July 11, 2008 for acquisition of the Coos Bay railroad line. The STB delivered the final decision on Net Liquid Value of the line and set a price of \$16.6 million and a closing date of February 18, 2009. The Rail Bridge Special Revenue Fund is the fund that is being used for railroad transactions. Staff budgeted \$12 million for the Rail Bridge Phase II repairs. The Port received approval to the scope change of \$4 million in ConnectOregon funds toward the acquisition. The additional \$8 million in a Federal Transportation Bill is pending in legislation for the redirection of funds from bridge repairs to the acquisition. Port staff is working on funding the remaining \$4.6 million. The additional requirement of the \$4.6 million requires a Supplemental Budget. Staff recommends increasing the entire Rail Bridge Special Revenue Fund by \$16.6 million to accommodate the cost of acquisition as well as potential rehabilitation that may begin prior to the end of the fiscal year. The Port's auditor suggested that if no repairs begin until the next fiscal year, staff can request a resolution in June to reduce the fund total. A supplemental budget is required to authorize the transaction in the new fiscal year. The expenditures associated with the receipt of monies caused the Rail Bridge Special Revenue Fund to be adjusted by more than 10% in the Capital Outlay and Resource categories of the fund. A resolution is required for the approval and adoption of the FY08/09 Supplemental Budget.

Upon a motion by Commissioner Hampel (second by Commissioner Scott) the Board of Commissioner approved and adopted Resolution FY08/09-7 approving a Supplemental Budget for unanticipated revenue received and associated expenditures.

OREGON INTERNATIONAL PORT OF COOS BAY

RESOLUTION FY08/09-7

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 resources and requirements have been determined to amend the budget for anticipated acquisition of the Coos Bay railroad line as follows;

Unanticipated Revenues Received with Associated Expenditures

Rail Bridge Special Revenue Fund:

Resources:

Grants	\$16,600,000
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Requirements:

Capital Outlay	\$16,600,000
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THEREFORE BE IT RESOLVED THAT the Oregon International Port of Coos Bay hereby adopts the FY008/09 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 22nd day of January 2009.

David Kronsteiner, President

Daniel Smith, Secretary

F. Approval of State Grant Contract – Railroad Support

The State of Oregon has worked very closely with the Port of Coos Bay in finding the best option for retaining freight rail service for the south coast region. The Port's proposed acquisition of the Coos Bay rail line through the STB Feeder Line Application process presents the best potential for acquisition of the line and restoration of service. Restoration of freight rail service will help retain more than 700 existing jobs and has great potential for creating new jobs associated with rail-served industrial and commercial sites available on the rail line. A grant in the amount of \$350,000 is being awarded toward this project. Commission approval is required for the Executive Director to sign the agreement.

Upon a motion by Commissioner McKeown (second by Commissioner Scott) the Board of Commissioners approved a grant award in the amount of \$350,000 from the State of Oregon in support of retaining the Coos Bay Rail Line and approval for Executive Director to sign the Agreement.

G. Oregon Solutions

In May of 2008, the Board of Commissioners authorized staff to enter into an Intergovernmental Agreement (IGA) with Portland State University Oregon Solutions program as a partner in the Charleston Coastal & Ocean Life Center project. The project co-conveners are Senator Verger and Representative Roblan. The project is managed by Steve Bryant.

The project partners include: The University of Oregon (UO), Oregon Institute of Marine Biology (OIMB), South Slough, Oregon Department of Fish and Wildlife, Coos Watershed, Charleston Merchants, Charleston Community Enhancement Corp, Coos County, Oregon Parks and Recreation, Confederated Tribes, BLM, Oregon Sea Grant, Governor's Economic Revitalization Team, U.S. Coast Guard and the Port of Coos Bay.

The project was originally divided into three phases. Phase I is the remodel of the existing OIMB facility located on property leased from the Port. Phase II would include the identification of a property site and the construction of a facility that will provide interim office space and public meeting space for many of the project sponsors. Phase III would be completion of the Charleston Coastal and Ocean Life Center. The completion of Phase III however will require several years of planning, fundraising and federal assistance. The planning effort will be conducted by the UO office of Campus Planning and Real Estate.

At the January 5, 2009 Oregon Solutions team meeting, substantial progress was made in the decision pathway to move the project forward. The project has been re-characterized as a single project without references to phases. However, the previous Phase I work is still scheduled for construction in the spring. The UO's office of Campus Planning and Real Estate presented several site development scenarios. The team agreed to pursue a final conceptual development plan focusing on the north end of the OIMB campus directly across Boat Basin Drive from the Phase I, Charleston Marine Life Center.

The Center is now planned for approximately 5,000 sq. ft. and has funding commitments for all but \$150,000. The project is no longer focused on a near-term need to acquire Coast Guard housing property. Most or maybe all of the project objectives can be accomplished on or nearby the OIMB campus.

The team has agreed though that the long-term objective of obtaining the Coast Guard property should be pursued for future project expansion. There will be no need to look to the purchase of additional property or the construction of the interim office facilities right now although Port staff will continue to explore the financial feasibility of a Marine Business Incubation Facility.

The team agreed that the stakeholders are prepared to sign a Declaration of Cooperation Agreement which defines each team member's commitment. This is a good faith statement and not a legal commitment. The Port's commitments are as follows:

- Provide dedicated staff time and active involvement with project team.
- Continue to conduct capital improvement planning and seek funding resources.
- Continue to implement the Charleston Marina Master Plan.
- Take lead on the Incubator Feasibility Study.
- Determine Port needs for additional Charleston office space.
- Provide support for planning and implementation of Charleston Coastal and Ocean Center.
- Along with project team, continue to pursue Coast Guard housing property.
- Support funding requests and legislation at the State and Federal level.
- Provide renewed sponsorship for continued involvement of Oregon Solutions.

- Assist in developing an on-going collaborative structure to pursue completion of project.

The final signing of the agreement will signify the completion of the Oregon Solutions project and turn the project over to the stakeholders for final planning, fund-raising and implementation.

The Port staff remains actively involved in this partnership. The Port contributed \$6,000 toward the Oregon Solutions Sponsorship. They are now being asked to provide renewed sponsorship for January 1, 2009 through June 30, 2009 or the point in time that the Declaration of Cooperation is signed.

Mike Gaul commented that the Port has budgeted \$43,000 toward the parking and pedestrian improvements for the Oregon Coastal Marine Life Center and Jeff Bishop said that the Marine Life Center was included in the funding package.

Upon a motion by Commission Scott (second by Commissioner Hampel) the Board of Commissioners approved additional financial contributions, not to exceed \$5,000 and authorization to sign the Declaration of Cooperative Agreement. The funds will be coming from the Administrative Marketing Line Account.

H. Tyree Oil Lease Addendum

The current lease agreement with Tyree Oil commenced on November 1, 2001 for a period of five years. The lease includes three additional five year renewal options and is now in its third year of the first renewal.

The lease rate for the six 600 BBL tanks in use is based on monthly through-put at a rate of .015 cents per gallon of refined fuel and .01 cents per gallon of oil/water, blended and used oil, with a minimum monthly rate of \$3,000. In 16 of the past 24 months, the monthly payment has exceeded the minimum. There are two 600 BBL water tanks, one 5,000 BBL oil storage tank, two 10,000 BBL oil storage tanks and two 20,000 BBL oil storage tanks not in use. The lease requires an additional rent of \$500 per month, per tank and the existing through-put rate for each un-used tank when put into use.

Tyree Oil has had a difficult time including the un-used tanks into their business plan at the required rates. They are seeking a rate reduction for the un-used tanks only; there are no proposed changes to the six 600 BBL tanks currently.

Tyree Oil is currently negotiating with a potential customer who moves large volumes of product used as an alternative to the molasses used in cattle food. There have also been discussions between Tyree Oil and another potential customer interested in bio-diesel fuel storage and distribution.

Tyree Oil is requesting a rate reduction to \$250 per month, per tank and a reduction to .005 cents per gallon through-put for the currently un-used tanks only. Since the lease commenced in 2001, the Port has not realized any revenues from the un-used tanks. Approval of this request should increase Tyree's business portfolio at the facility and at the same time increase Port revenue for the facility.

Upon a motion by Commissioner McKeown (second by Commissioner Hampel) the Board of Commissioner approved Mr. Tyree's request and also the authorization for staff to proceed through Port Counsel with a lease Addendum

I. Marine Reserve Committee Process

As reported in prior management reports, the Ocean Policy Advisory Council (OPAC) recommended to the Governor that two Marine Reserve study proposals, Otter Rock at Depoe Bay and Red Fish Rock at Port Orford, be forwarded to the legislature for funding consideration. OPAC also recommended that interested parties in the Cape Arago and Seven Devil's areas, led by the Port, be encouraged and supported to engage in further discussions.

The main criticism in the Cape Arago and Seven Devils process was the lack of public involvement and the failure to follow the guidelines of the Governor's Executive Order. OPAC and ODF&W believe that the Port is ideally suited to lead a transparent community open discussion for any future proposal to OPAC. Port Staff is seeking Commission approval of the process staff recommends for implementation to lead this community discussion. The process is designed to get maximum community exposure. (Community is described as Bandon to Reedsport).

The committee would be large but manageable. Kathy Wall and Mike Gaul would staff the committee. The makeup of the committee would involve one member from each identified community segment, plus six at-large positions. The Port Commission would appoint this committee and all public meeting laws would be followed to help ensure maximum public exposure. The committee would discuss proposed areas for consideration and between committee meetings they would meet with segments of the community they represent for further discussion. Town Hall meetings will be scheduled in Bandon, Reedsport and Coos Bay/North Bend areas to receive public input on proposals under discussion by the committee. The intended outcome of this process is a recommendation to OPAC for the next biennium. The process will use a consensus approach; if a consensus can't be reached, then majority vote would give the recommendation to OPAC. Port staff will also request staffing support from ODF&W.

One representative from each of the following organizations will be assigned: South Slough; Our Ocean; OIMB; the Seven Devils proposal; Surf rider; the four Sea Food Commodity Commissions; Cities of Coos Bay/North Bend/Reedsport and Bandon; Coos County; Tribes; 6 Public at-large; Charleston Advisory Committee; Recreation Fishing; Charter Fishing; Charleston Merchants; Charleston Enhancement Corp; Ports of Bandon and Umpqua; Port of Coos Bay (non-voting); Chambers of Bandon, Coos Bay/North Bend and Reedsport; and Oregon Sea Grant

The process has been vetted with SOORC, the Charleston Marina Advisory Committee and Our Ocean and all think it is a prudent course to follow. If the Port Commission approves this process, a recommended list of appointees will be provided at the March 19, 2009 Port Commission meeting.

Commissioner Hampel suggested one person from each commercial user group, Salmon, Crab etc. be included in the committee. Mike Gaul said that Susan Allen also has some suggestions to pass along.

Upon a motion by Commissioner Scott (second by Commissioner Hampel), the Board of Commissioners approved the staff recommended process for the Marine Reserve Recommendation Committee

9. OTHER:

A walk-on item entitled Amendment No.3 to ConnectOregon Inter-Governmental Agreement between the Oregon Department of Transportation (ODOT) and the Oregon International Port of Coos Bay was presented by Mike Gaul.

In May 2006, ODOT and the Port of Coos Bay entered into an IGA which covers Phase II of the repair and rehabilitation of the rail bridge across Coos Bay. The agreement included both State ConnectOregon funds of \$4 million and Federal SAFETEA-LU \$8 million funding for the project.

On July 16, 2008, the Oregon Transportation Commission approved a ConnectOregon project scope change from rehabilitation of the Coos Bay Rail Bridge to purchase and rehabilitation of the Coos Bay Rail Line for restoration of rail service to the southern Oregon coast. The federal action for the SAFETEA-LU funds is still pending.

Prior to ODOT transferring the ConnectOregon funds to the Port, this IGA amendment must be approved.

Upon a motion by Commissioner McKeown (second by Commissioner Scott) the Board of Commissioners approved Amendment No. 3 to the ConnectOregon Intergovernmental Agreement between the Oregon Department of Transportation and the Oregon International Port of Coos Bay.

10. INFORMATION ITEMS:

- A. SOORC Letter to FERC
- B. Letter from Coos Historical & Maritime Museum on Rail Bridge Log Books
- C. Charleston Advisory Meeting Agenda
- D. 2009 SDAO Safety & Security Matching Grant - Outdoor lighting

11. COMMISSION COMMENTS: None were given.

10. NEXT MEETING DATE -Thursday, February 19, 2009

12. RECESS: The meeting was recessed at 8:35 pm to go into Executive Session.

13. RETURN TO REGULAR MEETING: The Board returned to the Regular Port Commission Meeting at 9:08 pm.

Upon a motion by Commissioner McKeown (second by Commissioner Scott), the Board of Commissioners authorized staff to pursue an extension to the STB final date for the purchase of the railroad.

14. ADJOURN: The meeting was adjourned at 9:09 pm.