



OREGON INTERNATIONAL PORT OF COOS BAY

Coos Bay, Oregon

REGULAR COMMISSION MEETING

Thursday, April 17, 2008

7:00 p.m.

Port's New Commission Chambers

125 Central Ave, Suite 230, Coos Bay OR 97420

**ATTENDANCE**

**Commission:** David Kronsteiner, President; Caddy McKeown, Vice President; Dan Smith, Secretary; Brady Scott, Treasurer; Jerry Hampel, Commissioner

**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; Richard Rogers, Maintenance Supervisor; Mike Stebbins, Port Counsel; Holly Tavernier, Fiscal Support Specialist and Web Master; Andrea Wall, Executive Assistant

**Media & Guests:** Elise Hamner, The World; Gordon Young, Channel 14; Bob Thomas, former Port Counsel; Mary Geddry; Kate Jones; Jody McCaffree; Camby Collier; Frank Williams, retired ILWU 12; George Wales, Coos Bay Pilots; Jeff Bennett; Jan Dilley; Ken Messerle, Coast Consulting

1. The meeting was called to order at 7:00 p.m. and the President welcomed everyone to the new space. He said Port Commission and staff were really excited about the new technology being used and hopefully everyone will be able to hear well now.

2. The President asked the guests to introduce themselves.

3. CONSENT ITEMS:

- A. Minutes: March 20, 2008 Regular Commission Meeting
- B. Approval of March/April 08 invoices totaling \$ 1,013,088.33

Upon a motion by Commissioner Smith (second by Commissioner McKeown) the Board of Commissioners approved the March 20, 2008 Commission Meeting minutes and the March/April 2008 invoices totaling \$1,013,088.33.

4. MANAGEMENT REPORTS:

A. **Executive Director:**

Mr. Bishop started with an update on the Oregon Gateway project. This is a collection of three different projects on the North Spit which are centered on the Jordan Cove LNG facility (berth); Project Lofty creation of a Port general-purpose cargo terminal; the Intermodal Container facility with approximately 2 million TEUs. Of these three projects, the LNG facility is the only one which is still on course.

The LNG terminal project is progressing; recently the client has exercised his option to extend its contract with the Port through December 2008. The expiration of the contract will be before we can

reasonably expect the FERC permit situation is decided. A decision will have to be made by the developer to close on the property at that time or seek further continuance from Weyerhaeuser.

Project Lofty will be discussed in detail later in this meeting. It has been moved into the unfeasible category due to regulatory hurdles and the recent rail closure.

The container project's biggest issue is the channel modifications; the critical path still remains the improvement of the channel. The sub-standard channel prevents the Port from pursuing most cargo opportunities. As the studies have gone on with the channel, it has been discovered that the channel will have to be wider than thought originally. Costs nationwide are surprising everyone; we are seeing double, triple and sometimes quadruple estimates for public works projects. It has also been noted that we will not be able to count the LNG cargo into the economic benefit analysis because computer simulation shows that the largest permitted vessel by FERC can already safely transverse the channel. Not being able to use that cargo is a major impact in determining the economic benefits of the channel project. The Port still has hopes that we can restrict the hours of transverseing the channel for the LNG tankers, but that would require some channel modifications because now they would be required to come in on the tide.

In regards to the width of the channel, analysis is showing is that the large flat sides of all the containers stacked on the vessel may create a sail effect. The sail effect can push the vessels back and forth in the channel more than anticipated; as a result it will require a wider channel.

The developer outlined four contingencies when they first started working on this project in April 2006.

1. Permits to dredge the bay.
2. Affordable dependable rail capacity.
3. Permits to build the terminal
4. Board approval of the business case.

It is apparent that permit issues on the channel will be unresolved for years. The rail issue has become doubtful but not entirely impossible. The permits for actually building the terminal appear to be extremely costly but not impossible. The business case has taken the hardest hit due to the economy. Since the channel issues will be ongoing for years, no one involved in the project is willing to write it off yet, however there have been severe adjustments of expectations.

Following is a collection of thoughts on the project from August 2007. Mr. Bishop said he knew that this project was a long process. The 203 process would take 2-3 years; and the construction would take 3-4 years. He said he was not fully aware of what the impacts would be, because the NEPA process had not started. The market is highly competitive and volatile and there is a question if the market would support a port totally dependent on discretionary cargo. Also political influences from the Trade Policy with China, with quality issues with children's toys and pet foods, are all completely out of the Port's hands. The premise was that trade with Asia would double by 2020 and imported cargo would triple. The tracking on growth between 1999 and 2004 was an astounding 27.2%. China continues to have double digit growth, but it has moderated to more like 10%. The projections indicated that there would be a tremendous imbalance of cargo in existing ports in the U.S., particularly in LA/Long Beach where they would be shooting up from 13,000,000 TEUs to 59,000,000 TEUs. It was questionable

whether they could handle that increase. Since the projections the economy has worsened. From the period of 1991 through 2006 there was not a single year in which the ports of LA/Long Beach saw a decline in cargo volumes. Then in 2007 there was a slight decrease and 2008 the decrease is projected to continue. The primary culprit is the decline in value of the U.S. dollar. Even more problematic is the relationship of the U.S. dollar to the Euro; the dollar has lost so much to the Euro that some major corporations involved in the shipping industry are switching from the U.S. dollar to the Euro in their accounting standards.

There has been one bright spot in all of this. In comparing Coos Bay costs on intermodal rail to other ports our studies have shown that all rail out of Coos Bay in 2006 was more expensive than any other location on west coast; that is primarily because we are the furthest location on the west coast from a rail standpoint. By April of 2008 it was recalculated and it shows that Coos Bay has made up ground in certain categories. The surprising thing is that we have a \$149 per container dollar advantage over Prince Rupert, our major competitor for discretionary cargo.

The project prognosis is the project has suffered from economy and decline of the dollar; costs are escalating; pressures on the project are mounting; rail uncertainty is impacting the project; there are new projects proposed since we have been working on this project that are increasing capacity at the major ports of Tacoma, Vancouver and Oakland. Things to watch are, will the economy rebound? How onerous will the environmental impacts be? The biggest issue is, will the dollar return to its global importance?

Staff has been formulating a recommendation for the Commission on proceeding with the project. They are looking at three things; reputation, financial risk and opportunity cost. We are trying to make sure that if the project does not have any hope that we don't keep pushing on it. We don't want to create false expectations, or overstay our welcome in this situation. So far we have done a pretty good job in avoiding financial risk in all the projects we have pursued. Finally, in regard to opportunity costs, Mr. Bishop believes at best the project has been delayed five years; to that end, 2020 would be the project date. We think that is a very long time to be working on a single project so staff is proposing that we be very careful how we commit ourselves from a contractual standpoint.

The LNG terminal is now tabbed at about \$1 billion and is located within the Urban Renewal District; the \$1 billion would produce about \$10 million annually in taxation and it would bond for about \$200 million. We are working on developing some potential projects where we could use those funds to augment the project. The biggest challenge is cost, if we can get the project within affordable range, reduce the cost differential between us and our competitors, then we have a chance of putting together a good business plan. Those projects could include a reduced scope on the dredging; modest design on the rail so it could handle smaller capacity; and could be terminal development or a combination of all three of these.

Mr. Bishop thinks that in the next 10 years there will be emerging markets that are unforeseen today; opportunities for displaced cargo is one; and we are not going to close the door on any other alternatives.

**B. Deputy Executive Director:**

Mr. Gaul said that he represented the Port of Coos Bay at the first Oregon Solutions Team involved in the Charleston Coastal and Ocean Education and Science complex and office space. Steve Bryant with the Oregon Solutions staff is the project manager. Team members include Senator Verger; Representative Roblan; Steve Bryant, Oregon Solutions; Jeff Griffin, Governor's Economic Revitalization Team; Betsy Boyd with the U of Oregon; Mike Graybill with South Sough; Craig Young with OIMB; Steve Denney of ODF & W; Jon Souder with Coos Watershed; Jay Rasmussen with Sea Grant; Jeff Bishop from the Port of Coos Bay; Captain Lance Benton, U.S. Coast Guard; Rusty Shields representing the Charleston Merchants; David Ford representing the Charleston Community Enhancement; Nikki Whitty from Coos County; Nick Furman of Oregon Dungeness Crab Commission; Hank Hickox of Bandon Dunes; and Andy LeTomme from the Oregon Parks and Recreation Dept.

The project will be done in two phases. Phase I will be construction later this year of the OIMB Marine Outreach Education Center. Craig Young presented this project at the July 2007 Commission meeting. Mr. Young has found grant money to construct it and the Port is going to budget some of our Marina Phase II funds to provide some curbing and parking in partnership with OIMB.

Phase II will be identification of the process, project site, conceptual design and possible funding sources for the larger Charleston Coastal and Ocean facility complex. The next meeting is April 29<sup>th</sup>.

On April the 7<sup>th</sup>, ODOT sent out RFPs for the Rail Bridge Phase II Rehab Project. Those proposals went to six engineering firms who were pre-qualified for this type of work. The RFP is to provide for architectural engineering services and there was a mandatory pre-proposal meeting on April 16<sup>th</sup>. There were two engineering firms who responded; David Evans Associates and Ch2m Hill. The proposals are due back by April 28<sup>th</sup>. At that time, ODOT and Port of Coos Bay staff will review the proposals and award the engineering services.

The TransPacific Realignment has been a much longer project than first intended. We have received the COE permit and mitigation plan approval. We are working with the Dept of State Lands to get their final approval. We have received most of the right-away approvals and we are waiting on Weyerhaeuser. Since they are a co-sponsor, it is just a matter of getting through their process and paperwork. In the past, Mr. Gaul stated that we wouldn't be doing this project during the summer where it would interrupt the summer traffic; however, since asphalt is doubling, this project may continue through the end of June and into July. Mr. Gaul hopes this project will be out to bid within the next 30 days and then he will be back to the Commission at the end of May or first of June to select a contractor to do the work.

For the Charleston Marina Plan Phase I improvements, there was a preconstruction meeting on April 15<sup>th</sup> with the engineer and Laskey-Clifton. The Port is in the process of informing our customers and users that there will be some traffic and parking re-routes during some phases of the project. Also because of the anticipated cost increases for the asphalt, we have asked Laskey-Clifton to give us a bid on another small piece of overlay that is needed. Mr. Gaul may come back before the Commission for some more funding to complete this small project. Aaron Simons, Harbormaster, is the Port's project officer for this project.

SOORC, Southern Oregon Ocean Resource Coalition, is the group that has been put together to address uses of the Oregon territorial waters. They are still organizing and there is a meeting tomorrow to put together a Board of Directors and to complete organization.

This group is already becoming known up and down the coast. OWET, Oregon Wave Energy Trust, is providing the funding for the 501(c) (3). Kathy Wall has been working with the attorney they provided to get the forms and documentation completed.

In late March, SOORC met with OPT to have some discussion on the filing for the 200 buoy full build-out. OPT said they wanted to work with us on that filing. We asked for a show of faith and requested a 90-day extension of the comment period for the NOI pad in regards to the traditional licensing process vs. the integrated process. OPT committed to support it and on March 25<sup>th</sup> they sent a letter to FERC and the extension was granted on March 28<sup>th</sup>. OPT will be back to meet with SOORC in early May.

Mr. Gaul said he included in the packet a Memorandum of Understanding between the State of Oregon and FERC in regard to wave energy on the coast. He also included a copy of the letter which the Governor sent OPT and FERC which basically said while the Governor supports small demonstration projects, he does not support a 200 buoy build-out until the science is known.

On April 10<sup>th</sup> and 11<sup>th</sup>, Kathy Wall and Mike Gaul attended an OCZMA meeting in Newport. The primary agenda items were focused on the Marine Reserve update from OPAC and wave energy. Reports were given from several of the Lincoln County's committees who are involved. Kathy and Mike provided the update on SOORC.

The State MOU was discussed at length along with the letter from the Governor to FERC. Rob Bovett, Lincoln County Counsel, has been getting well educated in the FERC process. It is believed that the MOU prevents OPT from doing anything until there is proof it works.

Next month, SOORCE, FINE and FACT will all be in Newport to take a coastal perspective on territorial sea impacts. There was also a report from DLCDC regarding clean energy.

### **C. Director of Communications and Freight Mobility:**

The Port partners with many of the groups in the Charleston area; the Merchants Association on the Crab Fee and the annual Seafood Festival; the Charleston Community Enhancement on the Oyster Feed which is Saturday, April 26<sup>th</sup>. Martin has been working on the marketing for the Oyster Feed. He had the opportunity to go out on the Betty Kay with Coos Leadership to talk about the industrial and maritime uses of the bay.

A lot of Martin's efforts over the last several weeks have been involved with CORP rail issues and rail service in general. He organized a meeting both in Coos Bay and Roseburg with various representatives of Troutman Sanders, and with representatives of two of the sub-contractors doing various components of the Feederline Application. They met with many of the past and potential shippers on the Coos Bay Line, both the portion that is embargoed from Vaughn to Coquille and the portion that is being served from the Eugene yard out to Vaughn, as part of the net-liquidated value process which is required

under the Feederline Application. The next day there was a meeting in Roseburg with various legal counsels for the shippers group, for the Port, for Sandy Brown from Troutman Sanders and representative from the State Attorney General's office. They were looking at the legal options outside of what the Port is pursuing with the Feederline Application. There are strategies being pursued both on the shipper's side and the State is also looking at opportunities it might have to participate.

This past week, Monday, Tuesday and Wednesday, Martin was asked to go along with two sub-contractors from Troutman Sanders looking at the real estate valuation and at the valuation of the rail assets.

They drove every back road between here and Eugene finding all the public access points to the railroad so they could look at the condition of the track; condition of the roadbed. Anything they could see from public right-of-way because at this point the RR has refused to grant access to the private areas. They drove for two days and then did a helicopter tour both directions doing aerial photography. All of this will go into the report. Martin learned a tremendous amount about the R/E aspects of the corridor, the value of the scrap, the costs associated with removing the bridges and the rail itself, as well as returning portions of the corridor to a condition different than it is today.

Jeff Bishop wanted to add to Martin's report the recent findings by the Surface Transportation Board and how they impact the Port's plan to move forward. What the STB has done in issuing their finding is that while the embargo was at one time lawful, it has become unlawful because of certain public comments and proposals made by the RR. The STB said, "This is our finding and we are providing you with the opportunity to dispute it", a show cause order. It basically means we have already made up our minds, can you convince us otherwise. It is basically challenging the lawfulness of the embargo; it doesn't resolve long term operational issues with the line; but the Feeder Application does do that. A process can be put in place whereby the STB orders the RR to put the line up for sale. The big difference is that the action the STB is taken is from Vaughn to Coquille. That does not include the entire line between Coquille and Eugene. So, if the STB forced the RR to abandon the line and it was picked up by someone else through an offer of financial assistance, it would only be for the section from Vaughn to Coquille. CORP would still own the section between that section of RR and the Union Pacific. We would still have to go through CORP ownership. There would be a financial role for CORP. The Port does not think that would be a long term viable strategy and we will continue to move forward with the Feederline Application.

Martin said the people he was talking with have been involved with both Feederline Application processes and the offer of financial assistance. They concur at this point the Feederline Application is where we need to continue to focus our efforts.

Martin continued his report saying that there is a hearing next Thursday and Friday in Washington D. C.; it is not specifically about CORP; it is about the common carrier requirements of the RR. Senator Wyden, Senator Smith, Representative DeFazio, and a representative from the Shippers Coalition, Allan Ford of Roseburg Forest Products, are first on the list to testify. They will be testifying on the specifics of this situation on the CORP-Coos Bay line.

Commissioner Scott asked that if we were successful with the Feederline Application, what is the process for determining the net liquidated value?

Martin said they look at the value of the R/E; the value of the steel or rail components which all may have value. They would look at every crossing to return it to some condition; tunnels would have to be addressed, probably sealed from a safety consideration. Someone eventually determines the value and then there is a hearing before the STB. CORP can disagree with the findings of our consultants on the value. There is also the going concern of the RR – what another RR would have paid for the income producing aspects of the RR.

There are two things you have to look at in this process.

1. Price you have to pay.
2. What you have to pay to get it back into operation.

President Kronsteiner asked if there is a Feeder Application, the RR still has an opportunity to agree to continue to operate don't they? Don't they have an option to show that they can operate over a certain period of time and will do it?

Jeff Bishop said it depends at what point they show that ability. The premise behind the Feederline Application is there is a finding of fact that service is inadequate. That is done through another judicial process. If that determination is made, Jeff is not sure the RR would have the opportunity to salvage at that point. The Shippers are the ones who make statements to the STB about how they regard the service. Was the RR able to meet its common carrier obligation?

Common Carrier definition: When the RR was deregulated, in order to preserve their anti-trust immunity, their ability to regulate a monopoly, they were saddled with a common carrier obligation. This basically means that when you agree to serve an area, you serve it whether or not you make a profit. You cannot divest yourself of that obligation without process.

Martin commented that they have discovered some shippers out there who have requested service and they were never given service. Jeff Bishop commented that the only members of congress who have decided to testify are from Oregon.

**D. Director of Finance and Administration:**

Ms. Nichols had no further comments and the Commissioners had no further questions for her.

**E. Interim Marina Facilities Manager:**

Aaron introduced Richard Rogers to the Commission as the new Maintenance Supervisor. His only comment was that it has been a very busy month in the Marina Complex. The Commissioners did not have further questions.

**5. PUBLIC COMMENT:**

Jody McCaffree: Jody had some questions about Jordan Coves' extension and then continued to ask a lot more questions regarding the Executive Director's report. The President told her that this was a Public Comment period and it was for comment, not questions. If she would like to submit written questions, she was welcome to do that and answers would be written out and sent to her.

Frank Williams: Mr. Williams said Local 12 voted against both the Marine Terminal in the ocean and the Wave Buoys. He said there were 14 different marine facilities on the Oregon Coast and pretty soon none of the beaches will be able to be used. The Longshoremen are not happy about it. He also said he did not think the Governor putting ODF&W in-charge of the Marine reserves was a wise choice.

6. **ACTION ITEMS/REPORTS:**

**A. New Member of the Port Budget Committee**

There are five citizen members and five Port Commissioners on the Port Budget Committee. The Citizen members are appointed for alternating three-year terms. FY08/09 will be the last of a three-year term for Position #2 and Position #5. Mr. Simpson held Position #5 before he passed away, leaving that Position open.

The Port requested letters of interest through the World and on the Port's website. The submission of a letter was due April 4, 2008. Staff heard from five interested citizens and received two letters of interest; one from Mike Helfrich and one from Steve Donovan.

Mr. Helfrich currently serves as Chair of the Charleston Advisory Committee; he is a Coos County Urban Renewal Agency Budget Committee member; and is on the Coos Bay/North Bend Water Board. His background is Commercial banking.

Mr. Donovan is an engineer and works with SHN Consulting Engineers and Geologists. He serves on the City of Coos Bay's Budget Committee as well as the City's Planning Commission. Mr. Donovan might run into conflicts of interest with Port projects that use SHN. He would need to state his position and conflict

Staff recommendation is to select Mike Helfrich to Position #5 for the last year of a three-year term because of his past experience with Port activities and as a representative of Charleston.

Upon a motion from Commissioner McKeown (second by Commissioner Hampel) the Board of Commissioners approved Mike Helfrich as the new member of the Port Budget Committee, to complete Mr. Simpson's term which expires after the FY08/09 Budget Committee meetings.

**B. Railroad Bridge Loan – Resolution FY07/08-7**

The Rail Bridge Special Revenue Fund was authorized and established during FY02/03 at a request from the State of Oregon for the loan awarded on behalf of the Railroad Bridge Rehabilitation Project Phase I. The State's loan contract included Special Conditions to the award. The loan is payable from the revenues of the fund. The revenue is from the tariffs collected from the users of the rail line and interest earned. Because there were enough revenues in the fund to cover the remaining debt service, staff requested and the Board approved the loan payoff in December 2007. The payoff amount exceeded the amount budgeted in the Funds' Debt Service category for the current fiscal year.

Oregon Budget Law requires a Resolution or Ordinance to transfer funds from one category to another within the same fund. Staff is requesting that a budget transfer be done from the Rail Bridge Special

Revenue Fund's Capital Outlay category to the same fund's Debt Service category in the amount of \$204,701.02 to offset the loan payment.

**OREGON INTERNATIONAL PORT OF COOS BAY**

**RESOLUTION FY07/08 - 7**

**RESOLUTION FOR COMMISSION AUTHORIZATION TO AMEND  
FY07/08 RAIL BRIDGE SPECIAL REVENUE FUND BUDGET  
TO CHANGE CATEGORY AMOUNTS  
TO REFLECT UNPLANNED DEBT SERVICE PAY OFF**

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE  
OREGON INTERNATIONAL PORT OF COOS BAY AS FOLLOWS:**

There is a need for formal authorization to amend Category amounts within a single Fund.

There are sufficient revenues in the Rail Bridge Special Revenue Fund to pay off the associated debt service balance.

The Port's current year budget did not reflect the payoff amount and showed only the current year's portion. The Debt Service and Capital Outlay categories need to be amended to reflect the unplanned payoff amount.

"An exception of Local Budget Law ORS 294.326 and 294.326(4) allows the governing body of a municipal corporation, after declaring the existence of an unforeseen occurrence or condition which could not have been foreseen at the time of the preparation of the budget for the current year, to enact appropriate appropriation ordinances or resolutions authorizing the expenditures. The ordinance or resolution shall state the need for the expenditure, the purpose for the expenditure and the amount appropriated."

Under the terms and conditions of Section 294.326 of the Oregon Revised Statutes, the Director of Finance and Administration of the Oregon International Port of Coos Bay has approval to decrease the Capital Outlay category by \$204,701.02 and increase the Debt Services category by the same amount for the specific purpose of debt service pay off.

Approved and adopted by the Board of Commissioners this 17<sup>th</sup> day of April 2008.

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David Kronsteiner, President

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Dan Smith, Secretary

Upon a motion by Commissioner Smith (second by Commissioner McKeown) the Board of Commissioners approved Resolution FY07/08-7, authority to transfer budgeted funds from Capital Outlay category to Debt Service category in the Rail Bridge Special Revenue Fund.

**C. Marina Complex Fee Schedule Resolution FY07/08-8**

As part of the annual budget process, the Marina Complex rates are reviewed and adjusted by the Consumer Price Index and/or by market analysis and economy of scale. Each year staff surveys like entities with their rates and schedules for comparisons. The proposed new rates have been used in the budget process.

Because of fishery issues, there were no suggested amendments during the last FY 06/07 year's budget. The Charleston Advisory Committee recommended to Port staff that adjustments be made at regular intervals. Based on the last two years for the month of February Consumer Price Index, an increase of 5% over-all is suggested for next year's rates. The rates were presented and recommended for approval at the April 2, 2008 Charleston Advisory Committee meeting.

The fee schedule may be modified by resolution of the Port Commission and becomes effective immediately for new moorages. The new schedule will become effective July 1, 2008 so that Port staff has time to notify and mail the schedule to all existing customers.

**OREGON INTERNATIONAL PORT OF COOS BAY  
RESOLUTION - 8  
FISCAL YEAR 2007/2008**

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE OREGON INTERNATIONAL PORT OF COOS BAY that, as authorized by Ordinance No. 143, there is hereby adopted for the Charleston Marina the attached schedule of fees and charges to be effective July 1, 2008.

APPROVED and ADOPTED by the Board of Commissioners of the Oregon International Port of Coos Bay this 17<sup>th</sup> day of April, 2008.

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David Kronsteiner, President

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Daniel Smith, Secretary

**Discussion:** There was one change to the fees in the Shipyard. A \$10 per day transient dock fee was added.

Upon a motion by Commissioner Hampel (second by Commissioner Smith) the Board of Commissioners approved Resolution FY07/08-8, Marina Complex Revised Fee Schedule.

#### **D. Marina Best Management Practices**

The intent of the Charleston Marina Best Management Practices is to educate our customers and to provide adequate guidelines to protect the environment and water quality at Port facilities.

The Port's Board of Commissioners adopted Best Management Practices for the Charleston Boatyard in October, 2004. The Port is now currently in the certification process under the Oregon State Marine Board's Clean Marina Program. One of the requirements to become Clean Marina Certified is the adoption of Marina Best Management Practices.

The document follows the guidelines of the Oregon Department of Environmental Quality's "Best Management Practices for Oregon Marina", the Oregon State Marine Board's "Clean Marina Program", Oregon Revised Statute 468B, Oil Pollution Act (OPA-90) and the Clean Water Act.

At the last Commission meeting, staff was provided a draft copy of the proposed BMPs. There have since been four additions which were highlighted in the document in the packet for the Commissioners. The document has been reviewed by the Oregon State Marine Board staff and they have recommended adoption by the Port of Coos Bay.

**Discussion:** Commissioner McKeown asked if the Best Management Practices would be required of the Port's customers. Mr. Simons said yes, these are laws. There was a question of consequences. Mr. Simons said that if the customers do not follow the rules and regulations, first they would be told what the error was - it is very important to educate everyone to the Best Management Practices. We would not be reporting them to anyone at this time. If, however, the behavior continued then they may be reported to the responsible agency. If the behavior still continues they may be asked to leave the Marina. Mike Gaul spoke up and said that the Port's intention is not to hire someone to look for people disobeying the rules, but if an employee observes someone doing something wrong that is when the customer will be talked to.

Glenn Dolphin of the Oregon State Marine Board will be present at the next meeting to present a certificate for the Clean Marina Program to the Commission.

Upon a motion by Commissioner Hampel (seconded by Commissioner Smith) the Board of Commissioners approved adoption of the Charleston Marina Best Management Practices with the highlighted changes to be included.

#### **E. Giddings Ways - Additional Funding**

The Giddings Marine Ways is owned by the Port of Coos Bay, but is operated by Giddings Boat Works through a lease agreement. The Marine Ways is an essential component of the Shipyard and both Giddings and the Port receive revenue from its operation.

The repairs became more extensive than originally planned; the cost of materials continued to rise and there was a need to hire Marine Crane Service to complete the work. The project ended up \$18,091 over budget. Ray Cox, owner of Giddings Boat Works offered to share the cost overrun by donating a portion of his labor costs in the project. Since the Port and Giddings both receive revenue, this is a fair

and honorable offer. Staff supports an additional payment to Giddings Boat Works in the amount of \$9,050 which represents 50% of the cost overrun. The funds would be authorized from the Depreciation Fund.

Mike Gaul then showed a slide show of some of the photos that Ray Cox took while the repairs were being completed to give the Commission an idea of the work involved.

**Discussion:** Mike added that the budget last year was \$15,000 but repair costs were dated and other areas were identified that needed repairs. A list of all the costs was included in the Commission packet. Also, a big part of the overrun was the fact that they thought the Saltaire would be able to help in the repairs but that vessel was not big enough and there was a need to get a crane which added to the costs.

Upon a motion by Commissioner Hampel (second by Commissioner Scott) the Board of Commissioners authorized moving funds from the Depreciation Fund in the amount of \$9,050 to cover the cost share proposal by Giddings Boat Works for the Giddings Marine Ways repair.

#### **F. Perkins-Coie Change Order for CZMA**

The original budget with Perkins-Coie for the Coastal Zone Management Certification regarding the ship/access channel was \$7,500. Perkins Coie has exceeded this authorized amount by \$6,070 to date and is requesting an additional \$7,500 to complete the task. In Perkins-Coie's defense, there are a number of things which they had to address with different project modifications regarding disposal areas. The total amount of the change order is \$14,000 and is 100% reimbursed by Jordan Cove Energy. Jordan Cove has provided their approval

**Discussion:** The document Perkins-Coie is providing is for Oregon Coastal Zone Management Certification and it will be included with the with the permit to cash resource agency who has responsibility under the 404 permit process.

Upon a motion by Commissioner McKeown (second by Commissioner Smith) the Board of Commissioners approved Perkins-Coie's Change Order #1 for the Coastal Zone Management Certification.

### **7. OTHER:**

#### **A. Street Vacation**

Staff was visited today by Jeffrey Bennett who is a property owner in Barview with a request for the Port to sign a Consent Form as one of the adjacent property owners, for the vacation of the Westerly 20' of Barview Boulevard lying Southerly of Wilshire Boulevard. The total length of the vacated portion is approximately 269'.

Converting the public land to private land adds the parcel to the tax rolls. This portion of Barview Boulevard will never be improved due to the existing topography.

The Port is an adjacent property owner because this section parallels the Port's Charleston Dredge Disposal Site and the adjacent mitigation property. It has been determined by staff that the approval of this vacation will not impact our site.

Mr. Bishop commented that the Commission would be acting as property owners; it is not a governmental order. The owner just wants a buffer zone to their property and they also want to clean it out. It has been a dumping site for a variety of garbage.

Upon a motion by Commissioner McKeown (second by Commissioner Smith) the Board of Commissioners approved signing the County Adjacent Property Owner Document which signifies Port approval of vacation of the Westerly 20' of Barview Boulevard lying Southerly of Wilshire Boulevard; a total length of approximately 269'.

## **B. Slip/Access Channel 404 Joint Permit Application Modification**

At the start of the Jordan Cove Energy Project, a joint task force was established by the Resource Agencies to work with Jordan Cove Energy, Pacific Connector and the Port of Coos Bay regarding the draft Biological Assessment which would be furnished to FERC for the project.

The task force was made up of representatives from DLCD, ODFW, DEQ, BLM, USEPA, COE, USFS, USFWS, OPRD, NMFS, Jordan Cove Energy, Pacific Connector, the Port of Coos Bay and FERC.

Paul DeMorgan of RESOLVE was hired to facilitate the meetings and provide a record of issues, discussions and resolutions. At the first task force meeting sub-groups were assigned to do the "under the microscope" review of elements of the project. The sub-groups were identified as Species Survey Sub-group, Habitat Quality Sub-group, ESA Consultation Sub-group, Water Body Crossing Sub-group, Sediment Placement Sub-group and Mitigation Sub-group. The charge for these sub-groups was to identify issues and provide discussion to resolve these issues.

Numerous meetings have been held and cooperative progress has been made; however, one issue that staff felt was solved but recently was put back on the table by NMFS and USFWS is the issue regarding the use of the West Berth, the multi-purpose cargo terminal.

Originally the Resource Agencies requested a general use explanation, including conceptual dock design, so they could do a cargo impact study of the dock. With input from the agencies, staff provided information on a RO-RO dock operation which we felt made the most sense. That information was also included in the 404 Joint Permit Application.

At an April 3<sup>rd</sup> sub-group meeting, staff was surprised by a request from NMFS to provide more in-depth information on the use of the dock. Specifically, the type of cargo ships, type of cargo, number of ships per year, who the customer will be and how the upland site would be used. These are questions that the Port is not able to answer at this time. USFWS suggested that we just use a surrogate dock scenario or conceptual operation for them to conduct their general cargo impact study. Additionally, NMFS proposed a more stringent ballast water management requirement than is currently required by Federal law, which would immediately put the dock, when constructed, at a

distinct economic disadvantage for use. Adding the additional ballast water management methods on this project, that are not being required of our competition, puts us at a competitive disadvantage. The Port of Coos Bay would be the only Port on the West coast to have these restrictions and we would never be able to be competitive. During an April 11<sup>th</sup> sub-group meeting regarding this issue, one Resource Agency member made the comment, “someone has to be first”. Staff recommendation simply states that we do not opt to be first.

Staff held discussions with Jordan Cove Energy and our consultants. It was determined that NOT responding to the NMFS and USFWS request would stall the 404 Joint Permit Application process and it could negatively impact the project timeline. There were two choices:

1. Provide the conceptual dock information requested by the agencies, or...
2. Withdraw the multi-purpose dock section from the permit process at this time and address it under a separate permit when we can provide accurate answers to the agencies request.

Option two would also benefit the agencies because it would provide for a general cargo impact study for a known use and design.

After much discussion between Jordan Cove Energy, our project consultants and Port staff, it was decided that the prudent choice to keep this project on schedule would be to withdraw the multi-purpose dock section from the 404 Joint Permit Application. This action will not affect the size of the slip/access channel, nor the land use approvals that have already been granted. By withdrawing this part of the project, it does not preclude us from moving forward with the multi-purpose berth at a later date.

Upon a motion by Commissioner Smith (second by Commissioner McKeown) the Board of Commissioners approved the removal of the Multi-Purpose Cargo Dock Infrastructure from the 404 Joint Permit Application.

8. **INFORMATION ITEMS:**

- A. Agenda & Minutes – Charleston Advisory Committee
- B. Southern Oregon Ocean Resource Coalition (SOORC)
- C. FERC info Wave Energy Projects
- D. Corrected Budget Calendar – 1<sup>st</sup> Meeting April 30th
- E. Business Center Newsletter – April 2008

9. **COMMISSION COMMENTS:** There were none.

10. **NEXT MEETING DATE** –Thursday, May 15, 2008 – in new Port Commission Chambers

11. **ADJOURN:** The meeting was adjourned to Executive Session at 8:43pm