

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
REGULAR COMMISSION MEETING
Thursday, May 20, 2010
7:00 p.m.

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

ATTENDANCE

Commission: David Kronsteiner, President; Vice President; Dan Smith, Secretary; Brady Scott, Treasurer; Jerry Hampel, and Caddy McKeown both were out of town with excused absences.

Staff: Donna Nichols, Director of Finance and Administration; Dan Lovelady, Rail Operations Manager; Mike Stebbins Port Counsel; Andrea Wall, Executive Assistant; Jeffrey Bishop is just arriving back from his travels to Washington D. C.; Martin Callery is out of the country.

Media & Guests: Leslie Farnsworth (Port staff) and her husband Clair, Gordon Young, Channel 14; Steve Pickering; Tim Raber; Larry Moore; Marvin Caldera, ILWU, Local 12; Bob Braddock, Jordan Cove

1. The meeting was called to order at: 7:08pm
2. Introduction of Guests: The President asked the guests to introduce themselves.
3. CONSENT ITEMS:
 - A. Minutes: Approval of the April 15, 2010 minutes
 - B. Approval of the April/May invoices totaling: \$501,590.79.

Upon a motion by Commissioner Scott (second by Commissioner Smith) the Board of Commissioners approved the minutes from April 15, 2010, and the April/May invoices totaling \$501,590.79.

4. MANAGEMENT REPORTS:
 - A. Executive Director: Jeffrey Bishop was out of town.
 - B. Director of Communications and Freight Mobility: Martin Callery was on vacation.
 - C. Dan Lovelady: Rail Operations Manager

Mr. Lovelady said he was happy to be back in Coos Bay and was going to spend his first night in his fifth wheel he has parked at the fish farm on the North Spit. There is so much going on with the railroad and the rehabilitation that he wants to spend more time over here, but he will still be job sharing with the City of Prineville.

Highway 126 overpass between Eugene and Veneta: The temporary bridge is done and he is going to meet with them tomorrow afternoon and talk about plans for the permanent structure. The goal is to have the permanent structure done by April 2011, before we start up operations.

As far as rail signals, a request was sent to ODOT rail to upgrade 10 of our crossings; ODOT approved seven of the ten requested. One of the ones to upgrade is in Reedsport and we will talk about that one later. The other two already have updated equipment – Mr. Lovelady is going to research that some more. The total cost is upwards of \$528,000.

Mr. Lovelady met today with ODOT and the City of Reedsport on the Highway 38 crossing-Umpqua Highway crossing and Winchester Blvd in Reedsport. It has been back and forth about five times to do a full upgrade of the crossings; then they didn't get the stimulus money so they were going to just try to fix the surfaces. ODOT stepped up last week and for the Umpqua they are going to do new signals, new concrete crossing panels and eventually put in sidewalks in. On Winchester, they are still negotiating between the City and ODOT for the City to take over maintenance on another road and then ODOT will pay for the new crossing. The crossings are in very bad shape and it is good we are going to get them done and out of our way; and we don't have to pay for them.

ConnectOregon III: We have been through the reviews and finished 2nd in the freight mobility and 2nd in the rail review out of the entire state. A couple of weeks ago, Mr. Callery and Mr. Lovelady went to the regional area Commission on Transportation and our project came out number one in this region. As a result, we are really confident that we will receive the ConnectOregon money. It will be just under \$9 million. There is a final review committee and then in August the Oregon Transportation Committee will award the projects.

TransPacific Realignment Project: The work has been started. We had contemplated holding off on starting until the donation agreement with UP was complete so they could deal with us instead of dealing with CORP. However, that agreement won't be done until July so the right-of-entry application was completed and we will send it in tomorrow. Work is being done right now on the TransPacific, but the work is outside the railroad right-of-way. Hopefully we will get the application back by the end of June. Quite a few changes in track structure are required; some good and some unnecessary, but we have to comply at least until we get ownership of the line.

The Port was contacted by Congressman DeFazio's office regarding some earmark funds, \$2.5 million, that were set aside for an intermodal project in the state. That project fell through and as a result, they wanted us to put together an intermodal plan for the funds. Later they came back and said that they would prefer to help us get the line open and operational. Mr. Lovelady put together a plan to supplement the ConnectOregon project plan by adding additional ties, additional ballast and additional bridge work. Hopefully, if we get the money we will be able to have the entire line at a Class II, 25 miles per hour.

Mr. Callery has been working on a request for qualifications (RFQ) for a shortline operator. He will be back home early June and a meeting is set for the 7th of June to finalize the RFQ and send it out. The committee is going to review the qualifications and pick the top 2-5 qualifiers and have them submit detailed proposals. The Shippers group and also ODOT- rail will be part of the selection committee.

Mr. Bishop was in Washington D. C this week attending a meeting on the TIGER II grant. The Port applied for TIGER I but didn't get it. This new grant will be quite a bit less money than the first TIGER grant. We have been told that the TIGER people like bike paths and high speed rail. They indicated to Mr. Bishop that we should put in two applications. One for high speed rail which we are not sure about and the other would be for a bike path to Coquille on the railroad right away. If it

would help us to supplement our other application for track work to Coquille and the up-grades from CORP, Mr. Lovelady thinks we could put in the bike path with 25' on either side of the right-of-way with some fencing to keep the bike riders off of the tracks.

D. Director of Finance and Administration: Donna Nichols

Ms. Nichols said she wanted to highlight a couple of items in her report. The Port is almost done spending the stimulus money, the AARA Money; we are doing the close outs. There may be a little more money left and if so we will work on the tunnel 13 portal. Then we will move to the HB5054 transportation funds; those are the lottery bond sale funds. The bond sale was supposed to go through on the first of May but we haven't gotten the money yet. There is a change order in tonight's Action Items that will give us authority to start spending the money. The project is not tied to any direct project but since we have LRL on site, they are just going to continue working on the tunnels, 13, 15, 17, 19 and 20.

The Port received notice from the Oregon Department of Fish & Wildlife of a potential acceptance of \$15,000 grant request for the new roof over the fish clearing station at the Marina launch ramp. Aaron Simons and Richard Rogers traveled to Baker City today to give a presentation and hopefully receive the award for the grant tomorrow.

One of the Businesses in the Incubator are moving out – Top Quad. They are downsizing so we are saying they are graduating because they are not going out of business.

E. Marina Facilities Manager: Aaron Simons

Ms. Nichols said she can report on the Ice House. About \$10,000 worth of ice was sold through April 2010 and the fishermen like the quality of ice.

5. PUBLIC COMMENT:

Steve Pickering: He said what he is going to speak about first occurred in 2005 but has come to the forefront again because of the City of Coos Bay's recent decision to move some of the hunting areas and it relates to the Port's closure to fire arms and hunting on Port property. Mr. Pickering then read ORS 166:170, 166:171, 166:172. He then talked about the authority to regulate the possession of a loaded firearm in public places. He said that this is the one that will specifically affect the Port and the Port's ban of firearms violates the right of the people of Oregon who have a valid concealed carry permit because it is missing specifically the reference to section 166:360 and 166:370. Mr. Pickering then went on to ORS166:173

The President asked Mr. Pickering to finish up. Mr. Pickering said that the Port's entire ordinance is invalid if it doesn't restrict or specifically state except under ORS 166:360 and 370. He continued and said that the same discussion was at the Airport two years ago and the airport changed their policy. The Port of Portland spent \$6 million defending their lawsuit with Oregon Firearms Federation. Mr. Pickering says the Port should rescind or reconsider the wording of our ordinance.

6. ACTION ITEMS/REPORTS:

A. Resolution FY09/10-4 Signature Authorization for new Checking Account

The State of Oregon through its Department of Administrative Services (DAS) has authorized the use of lottery bonds to be issued to fund grants to the Port of Coos Bay for repairs to the Coos Bay Rail Line. New proceeds during 2009-2011 would be \$3,552,399.

A separate money market checking account is being opened at Umpqua Bank for the expenditures against the rail line. The bond sale was scheduled for the week of May 3rd, closing on May 13th. The funds will be deposited directly into the new account.

Umpqua Bank offered a higher interest bearing account than other lending agencies including the Government Pool; the interest will be 1.22%. Additionally, since Mike Gaul was listed on all checking accounts, new signature cards are being generated to update the accounts. The individuals listed on Resolution FY09/10-4 will be authorized signatories on the existing Umpqua Bank accounts.

Upon a motion by Commissioner Smith (second by Commissioner Scott, the Board of Commissioners approved Resolution FY09/10-4 for the new MM checking account at Umpqua Bank for HB5054-A Transportation – rail line repairs.

OREGON INTERNATIONAL PORT OF COOS BAY
RESOLUTION FY09/10 - 4

A RESOLUTION OF THE OREGON INTERNATIONAL PORT OF COOS BAY
APPROVING THE SIGNATURE AUTHORIZATION FOR A NEW CHECKING ACCOUNT AT
UMPQUA BANK FOR THE SPECIFIC PURPOSE OF HB5054-A TRANSPORTATION – RAIL
LINE REPAIRS AND TO UPDATE CURRENT SIGNATURE SIGNATORIES ON EXISTING
ACCOUNTS

WHEREAS the Oregon International Port of Coos Bay has designated Umpqua Bank, under the terms and conditions of Umpqua Bank, as the bank and depository for the 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.

General Checking Account for HB5054-Transportation –Rail Line Repairs

David Kronsteiner	President
Catherine “Caddy” McKeown	Vice President
R. Brady Scott	Treasurer
Donna Nichols	Director of Finance

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 20th day of May, 2010.

B. Amendment to Agreement with LRL Construction – Change Order #3

The Port has completed the scheduled repairs and rehabilitation to four of the tunnels on the Coos Bay Rail Line on behalf of \$2.5 million in stimulus funds received from the American Recovery & Reinvestment Act of 2009.

LRL Construction from Tillamook was awarded the construction bid with HDR Engineering & Jacobs Engineering as the project engineers. The Port's Public Contracting Rules and Regulations allow the expansion of a scope of work through the action of change orders.

The State of Oregon has authorized the use of lottery bonds to be issued for repairs to the Coos Bay Rail Line. Spending authority for these bonds was granted in August 2009 but the bond sale was in May 2010. The funds should be deposited to the new account by the end of the month.

Change Order #3 will authorize Phase 2 of the Scope of Work with LRL Construction. Jacob Engineering's cost estimate is \$978,185. This will complete all Priority 1, 2 & 3 work in tunnels 13, 15, 17, 19 and 20 with the exception of the portal structure of tunnel 13.

Copies of Change Order #3 and the engineer's estimate were included in your packet.

LRL is mobilized on site and will continue to work on the tunnels. Separate quotes and bids will be issued to complete rail line track work which includes brush cutting, week kill and a rail flaw detection test.

Port's legal counsel has reviewed the change order documents.

Discussion: Mr. Lovelady said that LRL completed the scope of work in the original bid project. At that time there was a change order to do additional work to use the rest of the money. Because it was on a unit basis LRL came in under budget; the engineering also came in under budget. Mr. Lovelady and Ms. Nichols have been going through the final figures and both feel that there is close to \$200,000 left. Then when we finished on tunnel 13 in the last week, a waterline broke above the tunnel on top of the mountain and worked its way through the ground and into the tunnel. It did damage to the roof of the tunnel. A cost estimate for doing that repair work came in at \$138,000. We didn't expect that problem but believe we have enough money to correct it. LRL is going to leave their equipment on the property and they will give us the same unit rates they had previously and we do not have to pay the mobilization fee.

What we are going to do with the lottery money is to finish the Priority 1 and Priority 2 work.

Commissioner Scott asked Mr. Lovelady to explain again what the damage was that caused \$138,000 worth of repair. Mr. Lovelady said there was a 6"-8" waterline on top of the hill and somehow it was damaged. The water ate its way down through the rocks and into the tunnel; it made a huge cavity. Mr. Lovelady said that we do not know how long it had been going on and he did not know whose waterline it was. Mr. Lovelady said he would find out whose water pipe it was.

Mr. Lovelady added to the brush cutting, weed spray and the rail flaw test information. The Rail flaw detection is an electronic high rail vehicle that ex-rays the rail and can tell you if there are broken rails or cracked rails so they can be changed out. Mr. Lovelady also said that he wanted to get the brush cutting and the weed spraying done prior to starting the rehabilitation. The President asked if Mr. Lovelady is anticipating some of the damaged rail to be in the curves. Yes, and he said that there were several ways of lubricating the curves to correct the problem. Quite a bit of money was put in the ConnectOregon III application for curve lubricating.

Upon a motion by Commissioner Scott (second by Commissioner Smith) the Board of Commissioners approved Change Order #3 – Phase 2 rail line rehabilitation work and spending authority for HB5054-A transportation lottery funds.

C. Coos Bay Rail Line Right-of Entry and Temporary Easement

The City of Veneta is making road improvements to West Broadway Avenue & Waldo Street. The city will pay for a right-of-entry fee for a temporary easement but they won't actually purchase the right-of-way. They will use it to put dirt on while they are building a path and then will slope the bank from the railway when they are done. The right-of-way is 200' wide in that area and work will not be within 25' of the line so flaggers will not be required except when they put a median on Territorial Highway.

The cost for the right-of-entry is \$4,620.

Port's legal counsel reviewed and approved all documents.

Discussion: Commissioner Scott asked what the difference was between right-of-entry and a right-of-way. The right-of-entry is a protection for us – certificates of insurance are required. What does it get you? The right-of-entry gives you the right to come on the railway and do work. Ms. Nichols added that there is usually start/stop dates. Mr. Lovelady said a Temporary Easement is included for them to put dirt on the right-of-way while they are building a multi-model path along the railroad tracks. Mr. Lovelady said that they would be quite far away from the rail as that area is so wide. Then once the work is completed the Temporary Easement will cease and desist. The President asked if there would be any changes to the rail and Mr. Lovelady said no.

Upon a motion by Commissioner Smith (second by Commissioners Scott) the Board of Commissioners approved the Right-of-Entry and Temporary Easement, with signature authority, for the Coos Bay Rail Line, for the City of Veneta's Broadway/Waldo Street Redevelopment.

7. OTHER:

A. Emergency Piling Replacement at Marina Facilities Approval of Resolution FY09/10-5

A piling broke at the end of D-Dock and has created a hazard to the dock as well as vessels parking over or near it. Aaron Simons requested an emergency in-water work window from the Corps of Engineers. He was rewarded a 3-week window from May 24 2010 through June 15, 2010.

Since receiving the in-water work window, three other pilings have been discovered which need to be removed and replaced. One was on F-Dock; two were at the Ice House. The temporary permit allows up to four pilings to be repaired so we would like to take the opportunity to get all of them repaired with one mobilization fee.

The total cost for repair is \$4,945. The Marina cost center does not have enough funds to cover the expenditures in this budget year. Staff is requesting that funds come from the Depreciation Fund which is appropriate.

A Resolution is required for the unscheduled expense from the Depreciation Fund.

Upon a motion by Commissioner Scott (second by Commissioner Smith) the Board of Commissioners approved Resolution FY09/10-5 Commission Authorization for Expenditure of Funds from the Depreciation Fund not scheduled this budget year.

OREGON INTERNATIONAL PORT OF COOS BAY
RESOLUTION FY09/10 - 5

A RESOLUTION OF THE OREGON INTERNATIONAL PORT OF COOS BAY
AUTHORIZING AN ADDITIONAL EXPENDITURE OF FUNDS FROM THE
DEPRECIATION FUND NOT SCHEDULED THIS BUDGET YEAR

WHEREAS there is a need for formal Commission authorization for an additional expenditure of funds from the Depreciation Fund not scheduled this budget year; and

WHEREAS there are sufficient funds in the Depreciation Fund for the expenditure; and

WHEREAS the purpose of this expenditure is for emergency piling removal and replacement in the Marina facilities; and

WHEREAS the need for these repairs is to remove and replace four pilings - 1 on D-Dock, 1 on F-Dock and 2 at the Ice Dock within an approved in-water work window; and

WHEREAS the total amount for this project is \$4,945; and

WHEREAS staff is requesting the expenditure from the Depreciation Fund because there is not enough funds in the General Fund Marina Cost Center.

THEREFORE BE IT RESOLVED by the Board of Commissioners of the Oregon International Port of Coos Bay, under the terms and conditions of Section 294.311 of the Oregon Revised Statutes, that the Chief Financial Officer of the Oregon International Port of Coos Bay has approval to spend additional funds in the amount of \$4,945 from the Depreciation Fund for piling repairs at the Charleston facilities.

APPROVED and ADOPTED by the Board of Commissioners of the Oregon International Port of Coos Bay this 20th day of May 2010.

David Kronsteiner, President

Daniel Smith, Secretary

8. INFORMATION ITEMS:

- A. Business Center Newsletter – May 2010
- B. Minutes – January 20, 2010 – Marine Reserves
- C. Minutes – March 24, 2010 – Marine Reserves
- D. Draft Minutes – April 28, 2010 – Marine Reserves
- E. Draft Minutes – May 7 2010 – CCURA Budget
- F. Draft Minutes – May 5, 2010 – Port Budget
- G. Marine Board Grant for G-Dock Pump-out & Dump Station Replacement

9. COMMISSION COMMENTS: There were none.

10. NEXT MEETING DATE: The next meeting is Thursday, June 24, 2010

11. ADJOURN: The meeting was adjourned at 7:45 p.m.

By: _____
David Kronsteiner, President

By: _____
Dan Smith, Secretary