

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
SPECIAL
COMMISSION MEETING
Thursday, August 22, 2007
12:00 Noon
Port of Coos Bay Conference Room
125 Central Ave, Coos Bay

ATTENDANCE:

Commission: David Kronsteiner, President; Dan Smith, Secretary; Brady Scott, Treasurer; and Jerry Hampel, Commissioner; Caddy McKeown, absent.

Staff: Jeffrey Bishop, Executive Director; Donna Nichols, Director of Finance and Administration; Bob Thomas, Port Counsel; Andrea Wall, Executive Assistant; Mike Gaul, Martin Callery and Aaron Simons were absent.

Media and Guests: Elise Hamner, *The World*; Knute Nemeth, Community; Gordon Young, Channel 14; Ken Messerle, Coast Consulting; Marvin Caldera, Steve Martizia, and James Davison, ILWU.

1. CALL TO ORDER: The President called the Regular Commission meeting to order at Noon and asked the audience to introduce themselves.
2. PUBLIC HEARING: The Public Hearing for the Supplemental Budget for FY07/08 was opened at 12:01, hearing no comments; it was closed at 12:02.
3. CONSENT ITEMS:
 - A. Minutes: July 19, 2007 Regular Commission Meeting Minutes
 - B. Approval of July/August 07 Invoices Totaling \$511,697.87
 - C. Ratification of Authorization for Executive Director to sign agreement with Project April.

Upon a motion by Commissioner Scott (second by Commissioner Hampel) the Board of Commissioners approved the July 19, 2007 minutes of the Regular Commission Meeting; the July/August invoices totaling \$511,697.87; and the Ratification of Authorization for Executive Director to sign agreement with Project April.

4. MANAGEMENT REPORTS:
 - A. Executive Director:

Mr. Bishop said the Port staff has been going through the process of finding legal counsel for the Section 203 process. It has been difficult to find a firm that does not have conflicts or cross representations with the many players involved in this project. Mr. Bishop did locate one attorney and he is in discussions with him; however, in the course of the discussion, the attorney switched firms and he has relocated from Portland to Los Angeles. He joined the firm of Christensen, Glaser, Fink, Jacobs, Weil and Shapiro, LLP. The attorney's name is Mark Stermitz and he is a former Environmental Attorney with the Port of Portland; prior to that he worked for the Department of Justice, representing some Federal Agencies on Columbia River. He currently represents the State of Montana in their FERC Hydro Power related licensing. Mr. Stermitz was at the Port of Portland where he dealt with the Columbia River dredging

project in great detail. Mr. Bishop said he is prepared to execute a letter of engagement. It doesn't obligate us to pay anything; rather it tells the terms and conditions of engagement. Counsel has looked it over. Mr. Bishop said that staff would be bringing a budget to the Commission explaining how the Port intends to execute the 203 process. He also said if the Commission had any more questions or if they wanted more detailed information, he would be happy to provide it. Mr. Bishop has a letter from the law firm with more details.

Continuing with the subject of attorneys, the Port's General Counsel, Mr. Thomas, has indicated his intentions to retire this year. The Port has received a statement of interest from a local firm to pick up that service. Mr. Bishop distributed copies of the statement of interest for the Commissioners to review.

Mr. Bishop continued his report with information about the Port's lease in the HUB building. Staff has been working on expanding the lease space in this building to accommodate a new Port Commission Chamber. Mr. Bishop distributed copies of a tentative floor plan for the Commissioner's to review. Attached to the drawing is a memo from the Director of Finance to Mr. Bishop which outlines the costs. There are two options for payment. The improvements of the space could be included in the annual rent; or the Port could pay the improvement costs outright and then pick up the additional rent. This space would provide the Port Commission with the ability to go to a separate room for Executive Sessions. It also provides us with additional office space and the ability to set up our existing conference room with some additional work stations for some of the activities that we have ongoing. Mr. Bishop is not asking for any direction at this point, he is just giving the Commission an opportunity to look over the drawings and to ask the questions they may have. Mr. Bishop did say this space was smaller than the Coos Bay City Council Chambers. The new seating would only allow 38 people in the audience; however, Mr. Bishop has been watching the attendance at our meetings and he can't recall any meetings where the attendance has been over 20-25 people. There is always the option of picking a larger venue if we know there will be more people in attendance. This is background for a discussion item at the next meeting.

In conclusion, Mr. Bishop said he would be out of the office until Sept 10th on vacation and business and he will be reachable only by email.

B. Deputy Executive Director - Absent

C. Director of Communications and Freight Mobility - Absent

D. Director of Finance and Administration: There were no questions or comments regarding Ms. Nichols report.

E. Interim Marina Facilities Manager - Absent

5. PUBLIC COMMENT:

Knute Nemeth had questions regarding total reduced sulfides. He said they were mentioned in the Coos Bay Ordinance 129 and he recalls seeing Martin Callery's response in the paper which he said, "Jordan Cove contends and he believes that the Jordan Cove project would not be in excess of those levels as stated in Ordinance 129". Mr. Nemeth would like to find 1) where it is in the public documents; 2) what kind of scientific data that the Port has looked at; 3) and where the public can view the information where

the Port made the determination that this project was not going to exceed those levels of PRS and it would not have to go to a vote of the people.

The Commission President asked if there was anything else. Mr. Nemeth said no – he would just like to see those figures and facts. He said he feels that as a member of this community and a voter; he is entitled to see them. Just hearing that Jordan Cove contends and somebody believes is not good enough for him. “Do you know the amounts of potential reduced sulfides emissions that would be produced here?”, he asked. Mr. Bishop said that it was an issue that the Port has not dealt with for quite some time, but we can provide a written response.

Mr. Nemeth said “so at this time, you have no personal knowledge of the amount that you recall”.

Mr. Bishop responded and said that his understanding is that there are no total reduced sulfides.

However, Mr. Bishop said, that for the record, he will respond in writing after reviewing the situation.

Mr. Nemeth asked again where the public documents were that someone could look at.

Mr. Bishop said that the discharge information is contained in the resource reports that Jordan Cove has filed.

Mr. Nemeth said that this is a question a lot of people are asking and he has not been able to get anything out of the public agencies. This situation is being closely mandated because it needs to be put to a vote of the people if the emissions exceed certain levels. He said he wanted to know if it was being shoved under the carpet or what.

Mr. Bishop said that total reduced sulfides are a measurement that pertains to pulp mills. From a regulatory standpoint, all of the information that he could find said that total reduced sulfides are specific to the pulp industry.

Mr. Nemeth continued talking about these emissions and natural gas plants and health concerns. Mr. Bishop inserted that his understanding from the analysis that was done is that there was a difference between a reduced sulfide and a normal sulfide and that is the nature of the analysis. He is not prepared to address it today; he will respond in writing at the next meeting in September.

President Kronsteiner asked Mr. Nemeth who was bringing the health issue up. Mr. Nemeth responded by giving Mr. Kronsteiner a lot of documentation, many reports which he said addressed the gas problems. Mr. Bishop asked if any of the documentation provided gave a legal definition of total reduced sulfide. Mr. Nemeth said total reduced sulfide was defined by state and federal law. He said it was kind of tough to get the definitions out of the state or federal agencies. He went on to give the Commission more reports. Mr. Bishop asked the question again – does any of this documentation provided give a legal definition of total reduced sulfides. Mr. Nemeth said he was not sure it was a legal definition but there are many definitions by state agencies. He would just like to have questions answered.

6. ACTION ITEMS/REPORTS:

A. Adopt Resolution 07/08-1 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. This 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 began the process of selling the AFDL-2 dry-dock during FY06/07. The solution to this event was not known during the regular budget process. In June, the Port issued a "Request for Proposal" for the sale. There was quite a lot of interest and proposals were received. The Port received \$502,000 on July 23, 2007 from the highest bidder. 50% of this was paid to Sause Bros., Inc. per the partnership established for the sale.

A supplemental budget is required to authorize the transaction in the new fiscal year. The expenditures associated with the receipt of monies caused the General Fund to be adjusted by more than 10% in the Material and Services and Transfer categories of the fund. The Depreciation Fund is also affected by more than 10% with the receipt of Transferred funds and the Capital Outlay expenditure associated. The expenditures include 50% of the shared proceeds to be paid to Sause Bros. \$50,000 will be used to increase the Professional Services category in the General Fund. The balance of \$201,000 will be transferred to the Depreciation Fund.

A Resolution is required for the approval and adoption of the FY07/08 Supplemental Budget.

Upon a motion by Commissioner Hampel (second by Commissioner Scott) the Board of Commissioners approved the adoption of Resolution FY07/08-1 which approves a Supplemental Budget for Unanticipated Revenues Received and Associated Expenditures.

Discussion: Commissioner Scott asked if we had we explained to public about the 50% payout to Sause Bros? The Executive Director said yes we had covered that in the last meeting. He then went on to give another brief explanation of the history of the dry-dock.

B. Point Adams Dredging in Charleston

Donna Nichols said that there has been a change to this action item. The initial action item requested approval for a Special Exemption for the competitive bid requirement for the Point Adams Dredging project and authorization for Port staff to negotiate a contract with Nehalem River Dredging. Port Counsel reviewed the backgrounder and said that the Special Exemption had been met because of the limited number of suppliers and the fact that Port staff had contacted and received competitive quotes by telephone. As a result we don't need approval for the Special Exemption but we do need authorization to negotiate a contract with Nehalem River Dredging.

Ms. Nichols continued with the Background.

During the past two years, the Charleston Channel and the entrance to the Charleston Marina at Point Adams has developed a large amount of infill impacting lessee's operations. The US Army Corps of Engineers (COE) is responsible for maintaining the Charleston Channel. The Port of Coos Bay is responsible for maintaining the Charleston Marina. Usually when the COE brings a contract dredge in for maintenance dredging, the Port attempts to piggy-back on the mobilized dredge and clear out the Point Adams area. Last year, no federal maintenance dredging occurred. This resulted in a large increase of material in the channel and the entrance to the Marina. Last year, the COE went through four bid processes but were unsuccessful in awarding a contract. This year after two bid processes, Hickey Marine was awarded the federal contract and they completed dredging in the Charleston Channel on August 6th.

Although Hickey Marine quoted a price to dredge the Marina entrance, due to other operational commitments, they were unable to remain in Coos Bay.

Currently there is 25,000 cubic yards of material to be removed from the entrance of the Marina at Point Adams. The infill is impacting Russell Marine, the Marina's only commercial fuel dock and the fish buying dock. If left unchecked, this infill will increase and impact the Bandon Pacific Plant and the launch ramp operations. The Port Commission serves as the Port's Local Contract Review Board. Chapter 6 of the Port Policy Manual provides the Rules and Regulations for public contracting which guides the Local Contract Review Board. By rule, contracts greater than \$50,000 should go through the competitive bid process. Policy 6-1A-4 allows the Contract Review Board to grant a Special Exemption from the competitive bidding requirements.

- ..if the Board finds a lack of competitive bids will not result in favoritism.
- ..if it will not substantially diminish competition in awarding the contract.
- ..or such exemption will result in substantial cost savings.

It is imperative that the two-year build up of infill be removed as soon as possible. The authorized in-water work window for private (non-federal) dredging in Coos Bay is October 1st to February 15th each year. Considering the timing, staff contacted the following dredging companies to discuss the project, request estimates and determine availability for an October 1, 2007 dredging project. Based on those telephone contacts, the following information is provided:

- Hickey Marine - \$10 cubic yard plus mobilization equals \$289,000.
- Ross Island Dredging - \$10 cubic yard including mobilization equals \$250,000.
- Underwater Earth Movers - \$12 cubic yard plus mobilization equals \$434,750.
- Nehalem River Dredging - \$4.50 cubic yard plus mobilization equals \$160,250.

While Nehalem River Dredging may appear extremely low compared to the other companies, they are a company with a long history of dredging in Charleston. They know the Marina and disposal site well.

Based on the critical time path to remove the estimated 25,000 cubic yards of material, the information from possible dredging contractors and the fact that Special Exemption will provide substantial cost savings to the Port, after review by Port Counsel, staff believes that this request meets the requirements of the Special Exemption allowance in the Public Contracting Policy.

Discussion: Port Counsel said the Standard Exemptions in the Rules of the Local Contract Review Board contain an exemption that fits this situation. "Contracts for equipment materials or services for which there are a limited number of suppliers, all of whom have been identified, and all of whom are asked to supply competitive quotes...". Then under the State Rules that we have also adopted, we can negotiate with one selected. We don't need a Special Exemption but we do need authorization to go ahead and negotiate with them.

Upon a motion by Commissioner Scott (second by Commissioner Hampel) the Board of Commissioners authorized the Port staff to negotiate a contract with Nehalem River Dredging.

C. Giddings Lease Assignment

Don Giddings is in the process of selling his business to Ray Cox. Mr. Giddings wants to retire and

he is requesting a lease assignment to Mr. Cox. This lease allows for assignment with approval of the Landlord.

Giddings Boat Works has been the anchor tenant at the shipyard since 1987. Mr. Giddings has an excellent reputation in support of the commercial fishing fleet with many return customers. Mr. Cox purchased Tarheel Aluminum, another boatyard tenant, in 2003. Mr. Cox also provides quality workmanship to his customers and has developed a fine reputation in the area.

The lease consists of two buildings, a parcel ground lease and the 200 ton marine railway. Mr. Cox will retain Mr. Giddings' employees and provide the same quality service that customers have enjoyed for many years. The current lease commenced February 1, 2006 for a period of one year. It includes four additional one-year renewal options. The lease will be renegotiated in 2011. The business sale is scheduled to be final as of September 1, 2007. It is appropriate to seek Port Commission approval of the lease assignment. The assignment would be contingent on the business sale. The Port has received letters from Mr. Giddings and Mr. Cox and Ms. Nichols estimated that the revenue the Port gets from Mr. Giddings is in the range of \$22,000 - \$25,000 a year.

Upon a motion by Commissioner Smith (second by Commissioner Hampel) the Board of Commissioners approved the lease assignment from Mr. Don Giddings, dba Giddings Boat Works, to Mr. Raymond Cox, dba Tarheel Aluminum, contingent on the business sale.

Discussion: Commissioner Hampel said he is very aware of these two businesses and he thinks it will be a good fit. He thinks Raymond Cox will do well with the business.

7. OTHER:

8 INFORMATION ITEMS:

9. COMMISSION COMMENTS: No Comments

10. NEXT REGULAR COMMISSION MEETING DATE -Thursday, September 20, 2007

11. ADJOURN: The meeting was adjourned at 12:30pm.

By: _____
David Kronsteiner, President

By: _____
Caddy McKeown, Vice President