

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
REGULAR COMMISSION MEETING
Wednesday, December 13, 2006
7:00 p.m.
Coos Bay City Hall

Minutes of the Regular Commission Meeting of the Board of Commissioners of the Oregon International Port of Coos Bay, held Wednesday, December 13, 2006 at 7:00 p.m. in the City of Coos Bay's Council Chambers.

ATTENDANCE:

Commission: David (Dave) Kronsteiner, President; Brady Scott, Treasurer and Daniel (Dan) Smith, Secretary; Commissioner Jerry Hampel. Commissioner McKeown Absent:

Staff: Jeff Bishop, Executive Director; Mike Gaul, Deputy Executive Director; Martin Callery, Director of Communications and Freight Mobility; Donna Nichols, Director of Finance and Administration; Bob Thomas, Port Counsel; Joanna Volz, Receptionist at the Business Center and Andrea Wall, Executive Assistant.

Media and Guests: Elise Hamner, *The World*; Gordon Young & Don Van Dyke, Channel 14; Michael Armstrong; Marvin Caldera, ILWU 12; Marvin Smoot, Williams Pipeline; Ken Messerle, Coast Consulting & Services LLC; Jon Richards, Manager of the Business Center; and Jody McCaffree, citizen.

1. CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by President Kronsteiner.

2. INTRODUCTION OF GUESTS:

President Kronsteiner asked everyone in the audience to introduce themselves.

3. CONSENT ITEMS:

Upon a motion by Commissioner Smith (second by Commissioner Scott) the Board of Commissioners approved the October, 2006 Regular Commission Meeting Minutes; the October and November invoices totaling \$ 596,652.59; and ratified the Crustacean Science and Research Lease and the Coast Guard Cutter ORCAS Lease.

4. MANAGEMENT REPORTS:

A. Executive Director:

Jeff Bishop started by talking about the Special Districts conference this year in Corvallis on the Oregon State Campus, February 9-11 and the PNWA Mission in Washington D.C., March 4-9th. With the change in leadership in Congress the PNWA Mission should be full of new information. It has been over 10 years since the Democrats last held the majority. He urged the Commissioners to let us know as soon as possible if they are interested in going, especially the D.C. trip, so staff can get it set up and request hotel and air reservations as necessary.

Representative Earl Blumenaur has won a seat on the Ways and Means Committee and Representative Darlene Hooley has been appointed to the Energy Commerce Committee which has jurisdiction over a wide range of business and energy concerns. Blumenaur's appointment will mark the first time in 10 years that there has been an Oregonian on the Ways and Means Committee.

Incoming Senate Appropriations Chairman, Robert Byrd (D-W.VA) and incoming House Appropriations Chairman David Obey (D-WI), announced that they had decided to forgo passing the nine remaining fiscal 2007 spending bills. Instead they opted to pass a "joint resolution" to keep the Government funded until the fiscal year ends September 30, 2007. The statement added that all earmarks included in the nine bills would be scrapped. The Port is working to try to understand how it's going to impact the \$500,000 study of the Coos Bay jetties. Jeff will bring a report back when staff figures out the impact.

Jeff continued saying that the Port has been receiving a surprising number of questions regarding the development of bio-diesel and ethanol refineries. There is great speculation in these fields due to changes in the world's energy market. Staff will be shifting some of the Port's resources to study these processes. The Port will be pulling staff away from LNG research; however, this does not reflect a change on the Port's position on LNG; it is more a response to merging opportunities and realization that there is not much more we can do to further our LNG due diligence until an environmental statement is issued. The Port will be working toward a presentation in the next few months on bio-diesel, ethanol and the potential for cluster development of these industries.

David Kronsteiner asked a question; what does the fact that the Water Resources Development Act (WRDA) is not going to be passed mean?

Jeff said that WRDA is supposed to be every two years, but it has gotten off the cycle and it has not been passed since 2000. The Port had worked to get a couple of projects into the WRDA bill but we were too late. Jeff said the Port feels that actually it is a good opportunity, because the process will start anew in January; so it is probably to the Port's advantage.

B. Deputy Executive Director:

Mike said that there was a section in WRDA to extend the 214 authority to make it permanent. Senator Murray in Washington received approval and it is on the President's desk; it will provide for a two year extension.

Mike said that he heard through ODOT that because Congress is funding the fiscal year 2007 budgets through continuing resolutions, there may be reduced levels of funding for some of the SAFTEA-LU funding. The Port received SAFTEA-LU funding for Phase II of the rail bridge rehab and for the rail crossing portion of the Transpacific Parkway realignment. We are not sure at this time what the impact will be to the projects; but the Port is continuing to monitor them and Mike is talking with Peter Friedman. There may be some delays; though the Port is moving forward as if there will not be any.

On the rail bridge project, staff will have the draft RFP for engineering services to ODOT by the end of the month. ODOT will take a 30-45 day review period to approve it and Mike anticipates advertising in February and engineering firm selection in March. The bid process comes next.

On the Transpacific Parkway Realignment Project, the plan review for road and rail work has been completed. CORP and Union Pacific have asked for a couple of minor changes in the rail portion and that is being worked into the design plan. Staff is also exploring with ODOT the availability for any additional funding through some of their other programs in the event the bid comes in higher than we anticipate. Mike said it is still going to bid in February or March and hopefully it will be completed before the summer season.

Special Districts Association of Oregon is having their conference February 9-11, 2007. Donna has provided each Commissioner with a packet of information. If you have an interest in going, Mike says it is a great conference. Let Andrea know if you are interested and she will arrange for your registration and hotels.

PNWA is in Washington D.C., March 4-9, 2007. If you are planning on going, there is a book of rooms reserved at the Washington Court Hotel and they fill up fast. If you want to be guaranteed a room in the hotel where the conference is being held, you need to get it set up very soon.

Jeff commented again that this conference will be very unique because of the change in the political atmosphere.

C. Director of Communication & Freight Mobility:

Martin has been busy with the Oregon Freight Advisory Committee; he chairs a sub-committee. The committee has gone through several lists of projects proposed for the next statewide transportation improvement plan and has presented them to the Oregon Freight Advisory Committee (OFAC). The committee adopted the recommendations they were given. There weren't any new local projects; there was mostly continuing maintenance and a few modernization projects. Most of the new money that the state has for transportation is continuing to be funneled into the bridge system; trying to bring it back up to standard. The committee also had the opportunity for the first time to comment on the Metropolitan Transportation Improvement program. Other transportation improvements plans are also asking the Freight Advisory Committee to comment on their plans.

There was a long briefing on ConnectOregon II; the Governor has ConnectOregon II in his budget for \$100,000,000. The recommendation from ODOT is that everything should stay the same as far as the process; however, there will probably be some tweaking of the process when it comes out of legislature so the process is more equitable.

Jeff and Martin have been asked to give a presentation on the Gateway Project at the March meeting of the Oregon Freight Advisory Committee.

In gearing up for the next Legislative session, there will be a rail day in Salem (probably mid-January 2007) to talk to Legislators about the rail projects. In addition, the Port of Coos Bay will be featured in the Oregon Rail Users League newsletter and it will talk about our involvement with the rail projects in the South Coast regions.

Martin thanked the rest of the Port staff for their work on the LNG demonstration held at the North Bend Fire Department. Martin was not able to be at the demonstration, but other staff helped get it set up. Martin heard good comments from people throughout the community about the demonstration when he got back.

The Communications department is working on the Legislative biennial report; Rockey Hill & Knowlton is working on it also. This report will also be adopted and then changed a bit to be used for a report to the community.

Martin is working with Don Yost to get the 2007 Sport show marketing set up. There are three shows scheduled, possibly four. They want to go to Portland, but if there is a conflict, maybe they will do the Central Oregon show instead.

The Southwest Oregon Trade and Transportation Task Force continues meeting in preparation for the next Legislative session. Jeff and Martin will be attending a meeting on the 18th in Roseburg and it will be a planning session for the next Legislative period; Oregon Gateway is a vital piece of what the Oregon Trade and Transportation Task Force is focused on. Martin thinks there is a lot of support of what they are trying to do on the North Spit from Southwest Oregon.

Martin and Don Yost were asked to serve on the Waterway Suitability Assessment (WSA) committee for the Jordan Cove project. There are about 18 people on the committee; a broad cross section of people from throughout the community. Many members have ties to the marine industry, but all types of people are represented. One of the questions Martin asked at the first meeting was what part of this is going to be public document? The first response of the Lieutenant heading up this committee was that he didn't believe that it qualified as a public document because it is targeted by Coast Guard as Security Sensitive Information (SSI). However, Martin was sent another email a couple of days ago and they are going to post a portion of the WSA; the WSA has not been issued yet by Jordan Cove. A preliminary WSA was completed and sent to the Coast Guard. The Coast Guard looked at it and told Jordan Cove where the blanks need to be filled in or information added. The next draft will come in soon and the committee will go through it with a fine tooth comb and really look at all the issues and provide comment on behalf of the community. It will be 4-6 months before that process is far enough along to see anything. There will be information on the Coast Guard's site which is called "Home Port" about the process.

Martin commented that Jon Richards had involved him in the Economic Outlook Forum this year to give comments summing up the forum; the forum was well represented by the Port this year.

David Kronsteiner asked about the \$100,000,000 ConnectOregon money. Is it all grant money or is some of it loan money. Martin said the majority was grant money. There were a few projects that asked for loan money; and that total does count toward the \$100,000,000 though in theory it will be turned back as repayment. That will affect future generations of ConnectOregon, so at some point there will be some cash flow back; though Martin doesn't expect it to be a huge amount.

D. Harbormaster:

Don Yost did not attend the meeting however his written report was in the packet.

E. Director of Finance and Administration:

Donna Nichols had nothing more to report.

F. Business Center Presentation by Joanna Volz.

Joanna Volz prepared a Power Point presentation on the Business Center. Among the topics she covered was the history of the facility; who assumes responsibility; the partnership of the Airport, the Port and the College in the business management process; the purpose of the facility; and who is now in residence. It was a very informative program and provided the Commission with a good overview of what happens at the Business Center.

5. PUBLIC COMMENT

Jody McCaffree: Jody said she attended the LNG demonstration and thanked the Port for inviting her. She questioned however how effective a demonstration of such a small amount of LNG could be. She again asked that Jeff look at some of the scientific reports she had sent him. Jody expressed concern about Southport Forest Products laying people off when we are spending money to fix the barge slip. She doesn't want the Port to waste money on a project that may not be used.

Marvin Caldera: Marvin again thanked the Port for all of their work. He also said that the ship that was hit by a 75' wave which damaged their wheelhouse provided the longshoremen with some work. The ship was full of newsprint which needed to be off-loaded. The paper is very sensitive and it needed to be moved carefully. Since the port district did not have a large enough dock, the off-loading was a lengthy process using only one large piece of equipment on the dock and trucks; they moved a lot of paper.

Marvin also talked about some of the other ships coming in with work. The longshoremen are very hopeful that this LNG project happens and brings more work to the area.

6. ACTION ITEMS/REPORTS:

Before starting the action items, Mike said he wanted to clarify to Jody McCaffree that the Port staff time was the only input from the Port regarding the barge slip; the Port contributed no funds. The funds are from Southport and the State investment only.

A. Southport Barge Slip Rehabilitation – Contract Review Board Action

Resolution 89-9 created the Port's Local Contract Review Board. The updated rules and regulations for the Board were established by Resolution 2004/05-7. The Board has the authority to grant special or emergency exemptions from competitive bidding requirements as long as the exemption is justified; does not result in favorites; and will result in substantial cost savings.

The Port and Southport Forest Products entered into a public/private partnership in a grant request to the ConnectOregon program for rehabilitation of Southport's barge slip, which was previously owned by the Port. The Port, acting as project sponsor, requested \$506,000 through ConnectOregon. Southport committed \$140,000 matching funds. The cost estimates and construction time frame were based on the planning intent for Southport to construct the project using their own staff. They would lease special equipment and operators as needed. For Southport's market competitiveness and for success of ConnectOregon, this project was designed for construction during the current in-water work window. Southport is in the process of having a separate engineering firm provide the Engineers Review of the construction design. That

review and the Corps of Engineers 404 permit are expected to be completed before the end of December.

The ConnectOregon grant agreement provided by the State and approved by the Board of Commissioners requires that the Port comply with Oregon Revised Statutes 279A, 279B and 279C (Public Contracting). As the Port's Local Contract Review Board, the approval of a special exemption to competitive bidding for this project will signify compliance with the requirement.

If a special exemption is not granted, this project cannot be competed within the current authorized in-water work window. The project could not be constructed until next year which would increase costs; could jeopardize funding; and affect Southport's competitiveness in the market.

The project will create an estimated three new FTE's.

Upon a motion by Commissioner Scott (second by Commissioner Hampel) the Local Contract Review Board (Board of Commissioners) gave approval for an exemption to competitive bidding for the Southport Barge Slip project and Commission authorization for the Executive Director to enter into a construction contract with Southport contingent on a favorable engineering report.

EXEMPTION GRANTED BY THE LOCAL CONTRACT REVIEW BOARD OF THE OREGON INTERNATIONAL PORT OF COOS BAY FOR THE REHABILITATION OF THE SOUTHPORT BARGE SLIP.

Based on the circumstances stated herein, an exemption from competitive bidding procedures is hereby granted to permit the Port and Southport Forest Products to move forward with the rehabilitation of the Southport Barge Slip in a timely and cost effective manner. Without competitive bidding, contracts and/or subcontracts may be let, but such contracts shall provide for performance and payment bond, prevailing rate of wage, benefits and other legal requirements.

Special Circumstances for Consideration:

- Without an exemption, the project cannot be constructed this year.
- Moving the project to next year would add to the cost of the project and could jeopardize funding.
- Any delay in this project will affect the market competitiveness of Southport Forest Products
- This project creates new jobs and adds additional barge tonnage to the bay.
- This project was originally planned to be constructed by Southport Forest Products and the addition of competitive bidding will increase project costs.

The Board finds that the exemption is necessary because of the special circumstances and conditions involved; and such exemption will not result in favoritism or substantially diminish competitive contracting, and it should result in cost savings and additional jobs for the Port.

Adopted by the Local Contract Review Board on December 13, 2006.

B. County/Port IGA Amendment – Transpacific Realignment Project

On June 22, 2005, Coos County and the Port entered into an IGA relating to the realignment of the Transpacific Parkway. Because the realignment involves relocation of a railroad crossing, Union Pacific has demanded the Port and County enter into a “New Public Road At-Grade-Crossing Agreement”.

The IGA Amendment is necessary to include reference to the new crossing agreement. A copy of the proposed Amendment language was provided by County Counsel and reviewed by Port Counsel. The Amendment does not change any of the original Port and County responsibilities identified in the IGA.

Upon a motion by Commissioner Smith (second by Commissioner Scott) the Board of Commissioners approved Amendment #1 to the County/Port IGA of the Transpacific Parkway Realignment and authorization for the Executive Director to sign the final documents.

C. UP Agreement-New Public Road At-Grade-Crossing – Transpacific Realignment Project.

The Transpacific Parkway Realignment involves the relocation of a railroad crossing. Union Pacific and Central Oregon & Pacific are requiring a “new Public Road At-Grade-Crossing Agreement for this work. The agreement requires the approval of Union Pacific RR, Central Oregon & Pacific RR, Coos County and the Port.

Coos County has requested two changes. The first corrects the County’s address and the second revises the language in Article II to read:

“Upon completion of the construction of the Road to County Road standards, the County will formally accept the Railroad’s dedication of the Road, and will adopt an order designating the dedicated Road, thereby incorporating the Road into the County’s Road maintenance system.”

Port Counsel has reviewed the Agreement.

Upon a motion by Commissioner Smith (second by Commissioner Scott) the Board of Commissions approved the At-Grade-Crossing Agreement and authorization for the Executive Director to sign the original documents on behalf of the Port.

D. Encore Enterprise Lease Agreement

Encore Enterprises has leased Building #2 at the Charleston Shipyard since December 1, 1997. The Lessee provides engine repair services to the users of the Shipyard. The final term of the original lease agreement expired November 30, 2006 with no renewal options remaining. Encore Enterprises wishes to continue operations at the Charleston Shipyard. The new lease

document provides for a one-year lease term and includes four additional one-year renewal options. All other terms and conditions of the original lease remain in effect.

Upon a motion by Commissioner Hampel (second by Commissioner Scott) the Board of Commissioners approved the Lease Agreement with Encore Enterprises and authorization for the Executive Director to sign on behalf of the Port.

E. Yaquina Bay Fruit Growers Option/Lease on the North Spit

The Port of Coos Bay has received a proposal from Mr. Harry Noah, dba Yaquina Bay Fruit Processors, for an option/lease of the North Bay Aquaculture facility.

The Port took possession of this facility after its closure in the early 1990's. It was last operated for aquaculture purposes during the 1996/1997 Spring Chinook Salmon release project. Since the 1997 release, the facility has been vacant with the exception of two temporary lease agreements. There are two long term cell tower leases on the southern boundary of the property.

Port staff continues to run the pumps monthly and provide maintenance to the main building; however, there is a huge back log of deferred maintenance regarding the infrastructure at the facility. The proposal from Yaquina Bay Fruit Processors is for an option through the 2007 Legislative Session. In consideration of the option, Yaquina Bay would pay \$1,000. The lease agreement provides the terms and conditions of a long term lease. It would start when the agreement is exercised by the Tenant.

In consideration for an initial low start-up lease rate, Yaquina Bay Fruit Processors would be responsible for repairing the deferred maintenance items bringing the facility up to full aquaculture operating standards. The lease rate would escalate for 5 years and then CPI adjustments would start in year six. The Landlord will have no duties relating to repairs and utility services. Port staff has completed due diligence on this proposal and believes it is an excellent opportunity to put the facility back into aquaculture use.

Upon a motion by Commissioner Smith (second by Commissioner Scott) the Board of Commissioners approved the Yaquina Bay Fruit Processors Option/Lease Agreement and authorization for the Executive Director to sign on behalf of the Port.

F. Godfrey & Yeager Excavating Proposal on the North Spit

Port staff has received a proposal from Godfrey and Yeager Excavating to remove sand from the Port's North Spit Industrially zoned property. This land is identified on an exhibit included in the packet. Staff completed due diligence and believes a contract would benefit them by providing a source of construction fill for their use while benefiting the Port by removal of sand build-up on potential industrial sites. Prior to any sand removal, Godfrey and Yeager would be required to provide a cultural survey of the site. They would need to mark the boundary lines of the Port owned industrial zoned property, and ensure no removal access disturbs any wetland areas. Godfrey and Yeager are proposing to pay \$.30 per cubic yard for the materials removed.

There was some discussion about this proposal. Commissioner Hampel said that he was not totally comfortable with the terms of the contract. He would like to see the 90 day notice shortened to 30 days and all of the terms tightened up and written out specifically. The Commissioners would like to know how the material removed is going to be calculated for payment. Mike said that he would write the contract up and take in to consideration all of the comments and then bring it back for Commission approval.

There was a Consensus by the Board of Commissioners to move forward with this contract and to bring it back before the Commissioners when the contract is completed.

G. Amendment to Ken Messerle, Coast Consulting LLC contract.

The Port originally entered into a governmental relations agreement with Coast Consulting and Services LLC in April of 2005. This was to provide governmental relations support for the Port projects at the State level. That agreement was updated in March, 2006.

Section 2d of the service agreement provides for a mechanism to adjust the monthly retainer fee in December 2006 prior to the coming Legislative Session. Considering the North Spit Development Projects the Port is working on, it is anticipated there will be a large increase in the Coast Consulting work load during the 2007 Legislative Session. Funds are available in the current budget and this adjustment would become effective January 1, 2007.

Upon a motion by Commissioner Scott (second by Commissioner Smith) the Board of Commissioners approved the amendment to Ken Messerle, Coast Consulting & Services LLC adjusting the monthly retainer of \$1,000/mo to \$2,000/mo effective January 1, 2007.

H. Contract with the law firm of Perkins Coie.

Mike had a meeting with the law firm of Perkins Coie today regarding the rezoning of the navigation channel. This is Task #1 of a larger contract as we go forward. This piece provides the scope of the land use and rezone change process. Perkins Coie will be having a series of meetings with the City, planning Department and LCDC to lay out the process and timelines for the land use issues to address the channel navigation. We are just trying to get this ready to start; Perkins Coie is ready to go. We would like authorization not to exceed \$15,000 for Task 1.

David Kronsteiner asked if this was within the budgeted amount. Jeff said that there was \$200,000 in the Special Projects fund.

Upon a motion by Commissioner Hampel (second by Commissioner Smith) the Board of Commissioners approved authorization for the Executive Director to enter into contract with the law firm of Perkins Coie to prepare application for a rezone of the navigation channel in the lower Coos Bay, for an amount not to exceed \$15,000.

I. Contract with the engineering firm of David Evans and Associates.

This again is Task #1 of a larger contract. This piece provides project description and purpose. It provides for agency meetings, pre-application meetings and takes us to the point where the Corps of Engineers will issue a notice of intent for public comment.

Upon a motion by Commissioner Smith (second by Commissioner Scott) the Board of Commissioners approved authorization for the Executive Director to enter into contract with the engineering firm of David Evans and Associates to conduct studies necessary to scope an environmental statement to widen the lower Coos Bay navigation channel to 500' and deepen it to 51' M.L.L.W. for an amount not to exceed \$80,000.

7. OTHER:

8. INFORMATION ITEMS

9. COMMISSION COMMENTS:

David Kronsteiner said that tonight we authorized a couple of things to happen on the North Spit that have been lying foul; the barge slip and the aquaculture site; hopefully something can be done on both of these sites. It is pretty exciting to see these things starting. Good Job.

Dan Smith: He referred to the Economic Development Forum on December 8, 2006 at the Mill. Commissioner Smith said that he has had a lot of positive feedback and community interest from people in just the few days after the forum. Staff and the Executive Director represented the Port well. Dan said it was much appreciated.

10. NEXT MEETING DATE – January 18, 2007

11. ADJOURN: 8:30 p.m. to enter into an Executive Session.

By: _____
David Kronsteiner, President

By: _____
Dan Smith, Secretary