

OREGON INTERNATIONAL PORT OF COOS BAY
Coos Bay, Oregon
REGULAR COMMISSION MEETING & BUDGET HEARING
10:00 a.m., Thursday, June 16, 2022

Port Commission Chambers, 125 Central Avenue, Suite 230, Coos Bay, Oregon 97420

ATTENDANCE

Commission:

David Kronsteiner, President; Eric Farm, Vice President; Brianna Hanson, Treasurer; Kyle ViksneHill, Secretary; and Kyle Stevens, Commissioner.

Staff:

John Burns, Chief Executive Officer; Lanelle Comstock, Chief Administrative Officer; Mike Dunning, Chief Port Operations Officer; Megan Richardson, Director of Finance and Accounting; Rich Lopez, General Manager, Coos Bay Rail Line; Krystal Karcher, Administrative Assistant; and Mike Stebbins, Port Legal Counsel.

Media & Guests:

Greg Harvey, Coos Bay Shipping Terminal.

1. CALL MEETING TO ORDER

President Kronsteiner called the meeting to order at 10:02 a.m.

2. INTRODUCTION OF GUESTS AND PORT STAFF

President Kronsteiner welcomed new Commissioner Kyle ViksneHill.

3. PUBLIC COMMENT

John Burns stated public comment was received from Tim Novotny, assistant administrator and communications manager for the Oregon Dungeness Crab Commission. Mr. Novotny writes:

I have been requested to forward this letter written by the Coastal Caucus to BOEM on behalf of the Southern Oregon Ocean Resource Coalition (SOORC). SOORC urgently requests that you share this letter with your Board of Commissioners at their next meeting and asks that the Port consider a similar letter to seek a slowing of the BOEM process. Thank you for your consideration of this request.

A copy of the attached 4-page letter from the Coastal Caucus to Mr. Douglas Boren of BOEM was provided to the Commissioners.

4. CONSENT ITEMS

- A. Approval of May 17, 2022 Regular Commission Meeting Minutes
- B. Approval of May 25, 2022 Budget Committee Meeting Minutes
- C. Approval of May Invoices
- D. Approval of May Contracts Awarded

Upon a motion by Commissioner Farm (second by Commissioner Stevens), the Board of Commissioners voted to approve the May 17, 2022 Regular Commission Meeting Minutes, May 25, 2022 Budget Committee Meeting Minutes, May Invoices and May Contracts Awarded. **Motion Passed.**

5. MANAGEMENT REPORTS

All Management Reports were included within the Meeting Packet.

6. BUDGET HEARING – FY 2022/23 BUDGET

A. Public Hearing

President Kronsteiner opened the public hearing at 10:15 a.m.

The Port's Budget Committee approved the proposed 2022/23 Fiscal Year Budget after its first budget committee meeting May 25, 2022. Each year, following the Budget Committee's approval of the budget, the Commission is required to hold a public hearing. The objective of the public hearing is to receive testimony from any person present. The public hearing was scheduled for 10:00 a.m., June 16, 2022, prior to the regular Commission meeting.

During the regular Commission meeting, the Commission is **allowed to make changes to the budget if the total change in any fund does not exceed \$5,000 or 10%**, whichever is greater. Changes in excess of 10% would require the Commission to publish notice of a second budget hearing and a new financial summary and hold the second hearing before the adjusted budget can be adopted.

If no significant changes are made, the Commission should consider approval of the resolution adopting the budget.

President Kronsteiner asked for any public comment or testimony on the proposed resolution. There being none, President Kronsteiner closed the public hearing at 10:17 a.m.

7. ACTION ITEMS/REPORTS

A. **2022Res04: Adoption of Budget, Making Appropriations, Imposing and Categorizing Taxes – Combined for Fiscal Year 2022/23**

Upon a motion by Commissioner Farm (second by Commissioner Hanson), the Board of Commissioners motioned to approve Resolution 2022Res04, a resolution adopting a budget, making appropriations, imposing and categorizing taxes – combined for the 2022/23 fiscal year. **Motion Passed.**

B. **2022Res06: Approval of 2022/23 Port of Coos Bay Rate Schedule**

As part of the annual budget process, the Port of Coos Bay and Charleston Marina rates are reviewed each year and may be adjusted by the Consumer Price Index and/or by market analysis (each year staff surveys the rates and schedules of comparable facilities for comparisons).

Despite CPI being in excess of 8%, Port Staff is requesting a 6% increase to all Charleston Marina Complex Services except for:

1. Shipyard Environmental Fee: increase from 11% to 15%
2. Commercial Flake Ice: 0%
3. Semiannual Moorage: 0%
4. Work Docks: 0%
5. Shower Tokens: increased from \$.50 per token to \$1.00 per token
6. Shipyard Long-Term Work Area: Rates will increase 6% July 1, and then increase 25% every six months for two years beginning January 1, 2023. After two years the rate is locked with the exception of annual CPI (four 25% increases).

The proposed red lined 2022/23 Port of Coos Bay Rate Schedule was attached as Exhibit A to the resolution within the meeting packet. The Rate Schedule may be modified by Resolution of the Port Commission. Upon approval by the Board, the proposed 2022/23 Port of Coos Bay Rate Schedule will become effective July 1, 2022.

Upon a motion by Commissioner Farm (second by Commissioner Stevens), the Board of Commissioners motioned to approve Resolution 2022Res06 revising the Port of Coos Bay Rate Schedule as presented, for Fiscal Year 2022/23. **Motion Passed.**

C. Execution of 2020 PIDP Grant Agreement

In October 2020, the Port received a grant award notice under the 2020 Port Infrastructure and Development Program (PIDP) in the amount of \$9,880,000; total project cost \$10,000,000. The project will fund Phase II of the Coos Bay Rail Line tie and resurfacing program, which will replace roughly 48,000 crossties and resurface main line, sidings, an industrial lead, rail yard, and spur tracks with ballast along 85 miles of track that stretches from Eugene, Oregon to Coos Bay, Oregon. The final draft agreement shows a reduction in the scope of work due to inflation and the rising costs of materials and services. The application scope of work was 67,000 ties and 121 miles of resurfacing. A provision is included that if additional funding is available, there will be additional work. The increased price of ties will likely preclude that additional work.

Despite the reduction in scope, the project will improve the safety and efficiency of the movement of goods by bringing the track into a much-improved state of good repair, while reducing the risk of train derailment and eliminating the need for 34 miles of slow orders. The reduced scope continues to provide a more efficient rail option that will reduce transportation costs, truck congestion, and delays, while supporting the movement of products from the Willamette Valley for export through the Port of Coos Bay. The Port match for this project is \$120,000 which will be covered by Port General Funds.

Port staff worked with the USDOT MARAD grant team members to finalize the project scope, schedule, and budget information in June of 2022 and to prepare the initial draft grant agreement concurrent with the NEPA certification efforts. The MARAD team is finalizing internal draft requirements and approvals and expects a final agreement to be submitted to the Port for signature in early August 2022.

The final draft agreement has been reviewed by Port legal counsel and staff and sent back to MARAD for final concurrence. Once this process is completed, the Port will be able to enter into a grant agreement for project funds.

Commissioner ViksneHill asked whether there is a plan for obtaining funding for the remaining ties and resurfacing due to the reduction in scope. Mike Dunning stated it is not in the plan at this time. Port Staff has agreed with MARAD that the reduction in scope will meet the needs and goals of the project. Mr. Burns stated as part of the MEGA grant application, there will be additional tie, rail, and ballast replacement in conjunction with that work.

Upon a motion by Commissioner Farm (second by Commissioner Stevens), the Board of Commissioners motioned to authorize Port Chief Executive Officer John Burns to execute the Grant Agreement between the Port and USDOT Maritime Administration for the 2020 PIDP Grant covering the CBRL Phase II Tie and Resurfacing Project. **Motion Passed.**

D. Execution of David Miller and Associates Task Order #16

At the March 28, 2016 Board of Commissioners meeting, the Commission authorized Commission President David Kronsteiner to execute an Amendment, Assignment, Assumption and Consent Agreement of the prime contract for consulting services for the Channel Modification Project from David Evans and Associates (DEA) to David Miller & Associates (DMA).

Task Order DMA #16 in the amount of \$4,264,881 describes the tasks to be undertaken during FY 2022/23, along with projected costs including work on the project's Environmental Impact Statement. A shift in the primary beneficiaries of the project will require the Port to conduct a new economic feasibility study to include the proposed container terminal and Roseburg Forest Products.

Funding for this Task Order will be provided by the \$15 million grant that was passed by the Oregon legislature in the Spring of 2022.

Commissioner ViksneHill asked whether the procurement rules of the Port allow for a change order, as it sounds like the scope of the project has changed significantly. Mr. Dunning stated this is a task order rather than a change order, but this is within the procurement law. The significant scope of the project has not changed; rather it is the commodity coming in that has changed. The channel design and work done to date will not change.

Upon a motion by Commissioner Farm (second by Commissioner Stevens), the Board of Commissioners motioned to authorize Commission President David Kronsteiner to execute Task Order DMA #16 for professional services related to the Coos Bay Channel Modification Project in an amount not to exceed \$4,264,881 for work to be performed on the project during FY 2022/23. **Motion Passed.**

E. 2022Res07: Declaration of Emergency Repairs at MP 655-656

On May 31, 2022 CBRL General Manager was notified of a derailment between MP 655 and 656 on the rail line. While there was no damage to people, cargo, or rolling stock, Maintenance of Way track inspectors took the track out of service due to rail, tie, and ballast conditions. All service was stopped while the track was assessed, and the determination was made that it was necessary to bring in equipment and manpower to execute timely repairs. Without these timely repairs, customers would not have had service for an excessive amount of time.

Port Procurement Rule 4.6.3 allows the Chief Executive Officer or his designee to award emergency contracts up to \$200,000 in value, and Rule 4.6.5 allows the CEO to enter into a direct award for construction. These actions require a Commission Resolution to ratify the Declaration of Emergency at its next regularly scheduled meeting or as soon as practical.

Commissioner Farm asked the approximate value of the contract. Mr. Burns stated it was about \$30,000.

Upon a motion by Commissioner Farm (second by Commissioner Stevens), the Board of Commissioners motioned to adopt Resolution 2022Res07 ratifying the Declaration of Emergency by CEO John Burns, including the execution of a contract with Coos Bay Rail Line, Inc and H&S Construction to effect emergency repairs to the track and bed at milepost 655-656 on the Coos Bay Rail Line. **Motion Passed.**

F. Disposal of Surplus Property

Over time, the Port accumulates surplus personal property as older equipment and materials are replaced with newer materials, areas of operations are phased out, or when items are abandoned and/or obtained through the auction process. When sufficient quantities of such materials and equipment are accumulated, it becomes necessary to dispose of the surplus property. The surplus property includes property the Port has determined is not needed and unlikely to be needed for Port operations.

Section 6 of the Port's Local Public Contracting Rules requires the Chief Executive Officer to identify Port surplus property and recommend the means of its disposal to the Port Commission, as the designated Local Contract Review Board (LCRB). The policy sets forth specific criteria for the disposition of surplus personal property.

Much of the Port's surplus property has little to no value to the Port or its operations. It is inefficient to continue to bring individual action items to the Commission for the disposal of such property. Therefore, Port staff is requesting the Commission, as the LCRB, name the Chief Executive Officer as its designee for determining and authorizing the methods of disposal of surplus property with little to no value to the Port for Fiscal Year 2022/23 in strict accordance with written policy.

All surplus property will be evaluated against policy before disposition. If any items are determined to not meet the specific criteria set forth in policy, Staff will present an action item for the Commission's consideration upon that determination.

Upon a motion by Commissioner Stevens (second by Commissioner Farm), the Board of Commissioners motioned to name the Chief Executive Officer as the Local Contract Review Board's designee for determining and authorizing the methods of disposal of surplus property with little to no value to the Port for Fiscal Year 2022/23 in accordance with the Port's Local Public Contracting Rules. **Motion Passed.**

G. Chief Executive Officer Performance Review

The Oregon International Port of Coos Bay Board of Commissioners reviewed and discussed the performance of Chief Executive Officer John Burns during Executive Session on Tuesday, May 17, 2022, and then President Kronsteiner and Vice President Farm met with John Burns the morning of June 16, 2022, to conduct the actual performance review. This Performance Review is intended to formally document Mr. Burns' performance over the past year, recognize his achievements, and provide specific feedback and objectives.

The summary of Mr. Burns review has been provided to the Commission and was added to the online Commission packet for the public.

Based on the Chief Executive Officer's commendable Performance Review and successful achievements, the Oregon International Port of Coos Bay Board of Commissioners recommended providing Mr. Burns with an 8.1% Cost of Living Adjustment increase retroactive to January 1, 2022. This is the same cost of living adjustment that all staff will be receiving effective July 1, 2022.

Considering that Mr. Burns' review was the morning of the Commission meeting, and in order to include this merit increase in this fiscal year's budget, staff have added this action item as a last minute walk on.

Commissioner ViksneHill asked whether the retroactive pay raise is typical or if there is a specific reason for it this time. Commissioner Farm stated it has been done previously, and typically these performance evaluations take place in January.

Upon a motion by Commissioner Stevens (second by Commissioner Farm), the Board of Commissioners motioned to approve an 8.1% Cost of Living Adjustment increase retroactive to January 1, 2022, for Chief Executive Officer John Burns based on his commendable achievements and outstanding leadership, as outlined in Mr. Burns' documented Performance Review. **Motion Passed.**

8. OTHER

9. COMMISSION COMMENTS

10. NEXT MEETING DATE – Tuesday, July 19, 2022 at 10:00 a.m.

Mr. Burns stated there will be an additional meeting prior to the July meeting. There had been an action item on today's agenda to approve the supplemental budget for FY 2021/22 but that was removed due to an error. Staff will schedule a supplemental budget hearing on Wednesday, June 29, 2022 at 10:00 a.m. via Zoom.

11. ADJOURN

President Kronsteiner adjourned the meeting at 10:36 a.m. and entered into Executive Session to:

(e) conduct deliberations with persons designated by the governing body to negotiate real property transactions;

(g) consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(h) consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed; and

(j) carry on negotiations under ORS Chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.