

## MINUTES

### SPECIAL JOINT MANAGING MEMBER AND PORT OF SEATTLE MEETING

TUESDAY April 7, 2020

One Sitcum Plaza, Port of Tacoma Road, Tacoma, Blair Conference Room and by Video Conference

#### SEATTLE COMMISSIONERS PRESENT:

Stephanie Bowman (video)  
Ryan Calkins (video)  
Sam Cho (video)  
Fred Felleman (video)  
Peter Steinbrueck (in person Blair Conf. Room)

#### STAFF PRESENT:

John Wolfe, CEO (in person Blair Conf. Room)

#### By video conference:

Kurt Beckett, Deputy CEO  
Don Esterbrook, Deputy CEO  
Tong Zhu, Chief Commercial & Strategy Officer  
Dana Henderson, NWSA General Legal Counsel  
Tony Warfield, Environmental Senior Project Manager  
Mike Campagnaro, NWSA Director Real Estate Director  
David Morrison, Director Financial Planning & Treasury  
Emma Del Vento, Capital Program Manager POS  
Leilani Berinobis, Executive Administrative Assistant  
Juliet Campbell, Commission Records Specialist/Clerk

#### TACOMA COMMISSIONERS PRESENT:

Kristin Ang (video)  
Deanna Keller (video)  
John McCarthy (in person Blair Conf. Room)  
Dick Marzano (video)  
Don Meyer (video)

#### 9:00 A.M. – EXECUTIVE SESSION AND 10:30 A.M. CLOSED FEDERAL MARITIME COMMISSION (FMC) DISCUSSION:

Commissioner Steinbrueck called the special meeting to order at 9:12 a.m. and immediately announced the meeting would recess for an executive session lasting 90 minutes to discuss the annual review of a public employee RCW 42.30.110(1)(g) and, in consult with legal counsel, three matters assessing litigation that may be commenced by the NWSA and/or the legal risk associated with a proposed course of action RCW 432.20.110(1)(i)(ii) and (iii). He then announced the executive session would be followed by a closed FMC discussion pursuant to 46 U.S.C. § 40306; C.F.R. § 535.608; 46 C.F.R. § 535.701(i)(1) and as authorized by the Port of Seattle/Port of Tacoma Alliance Agreement, FMC Agreement No. 201228. The FMC session began at 10:32 lasted 55 minutes. No votes or actions were taken in either executive session or during the closed FMC discussion.

#### 12:00 NOON. - PUBLIC SESSION:

1. **RETURN TO ORDER AND PLEDGE OF ALLEGIANCE:** Commissioner Steinbrueck reconvened the special meeting at 12:13 p.m. and lead the pledge of allegiance.
2. **CHIEF EXECUTIVE OFFICER'S REPORT:**  
CEO Wolfe reported that all terminals remain open and functioning amid COVID-19 closures. He briefed the commissioners on a weekly call set up with co-chairs, customers and stakeholders where staff provides a commercial and operational update and then opens the call for a Q & A session. Every other week, the media is invited to call in for updates. An update on developments related to the Water Resources Reform and Development Act (WRRDA) of 2014 was given, specifically related to Section 2106 which allows Donor Ports to offer incentive payments to importers that use the gateway that pay into the Harbor Maintenance Tax Fund, but that do not get benefit from that fund.
3. **CONSENT AGENDA:**  
**It was moved and seconded** to approve the consent agenda consisting of the minutes from the March 5, 2020 special Managing Member meeting and the payment of checks 706757 through 706887 and wire certifications in the total amount of \$44,150,406.61 during the period February 22, 2020 through March 27, 2020.  
**The motion passed unanimously 10-0.**

4. PUBLIC COMMENT:

- Anne Kroeker, Des Moines resident, Quiet Skies Puget Sound member, spoke to the adverse effects of air cargo operations to communities under and around flight paths and around the world.
- Ralph B. Ibarra, President – DiverseAmerica Network, written comments submitted (attached).

5. ACTIONS:

A. Master Policy Resolution 2020-02

Presenters: Commissioner Steinbrueck introduced the discussion topic.

**It was moved and seconded** to hear First Reading of Resolution 2020-02.

**The motion passed unanimously 9-0** (Commissioner McCarthy abstained, as this is a first reading).

Discussion included:

- A summary of recommended changes to the Master Policy as presented by the Internal Governance Committee was reviewed. Commissioners offered comments and requested amendments be considered prior to a second reading. Requested changes include modifications to the definition of non-discretionary projects to include those to related to safety, to add reference to debt service capability in long-range business plans.
- A discussion took place regarding the process of bringing projects to the Audit Committee.
- Commissioner McCarthy commented on the Master Policy annual review process noting that the Managing Members created a committee last July to review the Master Policy. The committee provided unanimous recommendation to the entire body. He doesn't necessarily agree with some of the requested modifications and asked that the modifications requested/presented today come back as possible amendments to the existing language for consideration at the May meeting. Commissioner Steinbrueck stated that the packet to be brought forth at the next meeting will include the proposed changes discussed today and the onus will be on the individual commissioners to make any objections/amendments on that final package at the next meeting.

B. *Item pulled from meeting agenda.*

C. Tacoma Harbor Deepening Project

Presenter: Tony Warfield, Environmental Senior Project Manager

**It was moved and seconded** to authorize an increase in project authorization in the amount of \$129,000 for a total authorized amount of \$1,629,000, for work associated with the Tacoma Harbor Deepening Project, Master Identification Numbers 201060.01 and 201060.02.

**The motion passed unanimously 10-0.**

Discussion included:

- The \$129,000 increase is to cover the remainder of the NWSA's obligation to the Army Corp of Engineers, staff time, and contract contingency to address the comments from the Puyallup Tribe of Indians dated February 14, 2020 related to the Draft Feasibility Report.
- Commissioners Ang and McCarthy and CEO Wolfe and Port of Tacoma Executive Director, Eric Johnson, consulted with the Puyallup Tribe after the date on the letter but had not yet been provided with the letter. Very little of what was contained in the Tribe's technical comments was discussed. Staffs from the NWSA and the Tribe met after the formal consultation and that is when NWSA staff was provided with the Tribe's comments. Both staffs planned to meet to work through the technical details of the comments. That meeting has been delayed due to COVID-19 and social distancing measures. The Agency Decision Milestone date, currently scheduled for April 16, 2020, will likely be pushed out.
- Commissioner Steinbrueck relayed the expectation that further government to government consultation should take place in response to the Puyallup Tribe's letter.

D. CEO Annual Evaluation and Potential Action Regarding Compensation

Discussion included:

- The CEO Wolfe received a rating of 'remarkable' in the majority of categories on his 2019 annual performance review. Commissioners expressed their confidence in his performance and leadership.
- CEO Wolfe thanked the team and thanked the commissioners for their trust in him. He added that due to the current economic environment and financial challenges ahead, and to his opinion that his current compensation is fair, he recommended no upward adjustment to his compensation. No action was taken on this item.

E. Resolution 2020-03-PT

Presenter: Dana Henderson, NWSA General Legal Counsel

**It was moved and seconded** to waive second reading, and adopt at this first reading, Resolution 2020-03, a proposed resolution that acknowledges the emergency situation posed by COVID-19, describes the impact that the situation poses to the Homeports and the Alliance, waives certain competitive solicitation processes as needed, and delegates additional authority to the NWSA CEO to manage and respond to the emergency.

**The motions passed unanimously 10-0.**

Discussion included:

- The sunset date is December 31, 2020. Some commissioners would prefer that the sunset date be tied to the date the Governor withdraws the emergency notices versus December 31, 2020.

F. Amendment to Lease Termination Agreement for Terminal 5 and Proposed Settlement of Interest Amount Past Due for 2019 Payment

Presenter: Mike Campagnaro, NWSA Director Real Estate Director

**It was moved and seconded** that the Port of Seattle Commission authorize the NWSA CEO or his delegate to execute an Amendment to the Terminal 5 Lease Termination Agreement with Eagle Marine Services, LTD. (EMS) and its parent company America President Lines, LTD (APL) provided that APL has paid \$286,086 to settle a past due interest amount.

**The motion passed unanimously 5-0.**

**It was moved and seconded** that the NWSA authorize the NWSA CEO or his delegate to 1. execute an Amendment to the Terminal 5 Lease Termination Agreement with Eagle Marine Services, LTD. (EMS) and its parent company America President Lines, LTD (APL) provided that APL has paid \$286,086 to settle a past due interest amount; and 2. Settle the outstanding interest payment owed to the NWSA by applying 6% interest to the 2019 Annual Payment for a total of \$286,086 to be paid by April 21, 2020.

**The motion passed unanimously 10-0.**

*[Commissioner Felleman was excused briefly, but returned prior to the votes]*

Discussion included:

- A summary of the Lease Termination Agreement and a summary of the outstanding balances owed by APL was provided. Staff recommended that the past-due interest for the 2019 annual payment be settled at 6 percent, and once payment has been made, incentivize EMS/APL to increase their container volumes through the Seattle – Tacoma gateway and extend their commitment under the Termination Agreement two years.
- Commissioner Steinbrueck asked whether the terms represented a potential disincentive in terms of excess lifts into being able to be carried over to meet next year's minimums. Staff responded that the shipping lines negotiate with their customers on an annual basis and do not see this as a disincentive.

**6. GENERAL BUSINESS:**

**A. Terminal 5 Modernization Program Quarterly Update**

Presenters: Emma Del Vento, Capital Program Manager POS and Kurt Beckett, Deputy CEO NWSA

- Deputy CEO Beckett gave an abbreviated version of the presentation highlighting changes to the amounts against the program budget and to the schedule. He also highlighted risks including certain work elements that cannot be completed under the current social distancing orders, a delay from Seattle City Light, and access issues due to the closing of the West Seattle Bridge. SSAT notified staff that its ship-to-shore cranes are delayed due to COVID-19 issues. A discussion took place regarding a new policy by Seattle City Light to directly recover revenue-based tax costs paid by Seattle City Light. Commissioner Calkins recommended a government affairs conversation take place. Staff intends to provide an interim update at the next meeting.
- Of the original construction contingency of \$24 million, \$11.8 remains. The \$16.1 million in Management Reserve remains, and there is the added reserve of \$24 million reflecting the variance in the bid amount versus actual construction contract.
- COVID-19 impacts cannot be measured to the schedule at this time.

**B. Financial Response to Economic Situation.**

Presenter: David Morrison, Director Finance & Treasury

Staff provided a comparison of the 2020 Budget, the 2020 February year-to-date actuals, and to 2019 actuals.

Recommendations for deferrals or elimination of spending in the Operating Budget, Capital Improvement Plan savings opportunities and Terminal 5 Project spending as to timing were presented. Staff only has numbers through February at this time (pre COVID-19). Updated numbers through June will be presented at the July 2020.

**C. 2020 Goals and Expectations.**

CEO, John Wolfe stated that the 2020 Goals and Expectations document is complete after incorporating feedback received from commissioners. He noted that the items included were set pre-COVID-19 and that some that are challenged by COVID-19 circumstances – some things may need to be put on hold.

**D. Commissioner Comment.**

Commissioner Felleman commented on the overall waterfront electrification strategy and overlapping interests of the NWSA with the Homeports.

Commissioner McCarthy commented he would like the Managing Members to have more public meetings. He proposed a study session to discuss strategic issues sometime before the next public meeting in May.

Commissioner Ang commented that the NWSA goals and objectives and meeting topics should include a focus on the legislative agenda and government affairs to ensure the NWSA's interests are addressed in state and federal efforts toward economic recovery.

Commissioner Keller commented that the commissioners, through their involvement on the various boards, need to be part of the think tank for economic recovery.

Commissioner Felleman added to Commissioner Ang's comment, stating that the NWSA should help guide the resources becoming available and focus on windows of opportunity. Commissioners noted there is a four-member legislative committee of the NWSA and that they have been meeting.

Commissioners acknowledged Earth Day and suggested the NWSA provide some messaging in addition to or in coordination with the Homeports.

7. **ADJOURNMENT:** There being no further business, Commissioner Steinbrueck adjourned the meeting at 3:15 p.m.



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John McCarthy, Co-Chair  
The Northwest Seaport Alliance



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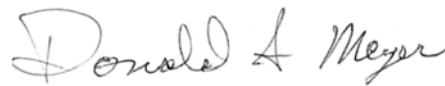
Peter Steinbrueck, Co-Chair  
The Northwest Seaport Alliance

ATTEST:



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Sam Cho, Co-Secretary  
The Northwest Seaport Alliance



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Don Meyer, Co-Secretary  
The Northwest Seaport Alliance



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Juliet Campbell, Clerk  
The Northwest Seaport Alliance

**Testimony of Ralph B. Ibarra, President – DiverseAmerica Network**  
**Northwest Seaport Alliance Managing Members Meeting: April 7, 2020**

For the record, my name is Ralph B. Ibarra residing in Algona, WA since 1990 and the Managing Members of the Northwest Seaport Alliance (NWSA) know me as an advocate and activist for inclusion, diversity, equity and access in public works contracts for small business concerns; especially for enterprises owned and operated by minorities, women, veterans, the disabled, and those that identify themselves as LGBT. At the Port of Seattle Commission meeting held on March 24, the positive results from the Port's Diversity in Contracting commitment were shared with the Commissioners by Mian Rice, Director Diversity in Contracting. To be sure, Mian is the best person to manage the Port's Diversity in Contracting endeavor and he is implementing its purpose and intent in a comprehensive and genuine manner. I also must express my gratitude for the superb actions and supportive contributions from the Port's Executives and staff members to actualize the Diversity in Contracting outcomes. As such, I offer up these two (2) critical situations to the NWSA Managing Members for their deliberation and subsequent actions.

A.) The disruption of the operations at both home ports caused by the COVID-19 pandemic has triggered delays and suspensions of work on Northwest Seaport Alliance (NWSA) capital projects and those of the Home Ports. These temporary actions are having a significant impact on the small and diverse firms that are subcontractors, suppliers and vendors on NWSA and Home Ports' projects. As such, I am urging the Managing Members to direct all Port personnel and Prime contractors managing procurements and contracts for all NWSA and Home Ports' projects to prepare Impact Reports and Mitigation Procedures to lessen the shock of these unavoidable delays and suspensions. These types of proactive efforts by each Home Port, its Prime contractors and Large subcontractors will underscore the Managing Members' steadfast pledge to enhance the many initiatives it has in play that propagate diversity, equity, inclusion and fairness.

B.) The provisions of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) signed into law on Friday, March 27 holds great promise for powerful and effective solutions to the plight of the small and diverse business concerns that depend on the NWSA and its Home Ports' operations for their well-being. I have been studying the CARES Act to learn as much about its purpose and intent and as a way to distill the many provisions that pertain to small firms so that I can provide support to the different constituents I am committed to help. I am particularly gratified to know that the NWSA, its Home Ports, and their respective customers and clients have been included in a significant provision contained in the CARES Act:

**SEC. 3102. EMERGENCY RELIEF THROUGH LOANS AND LOAN GUARANTEES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, to provide liquidity to eligible businesses related to losses incurred as a direct result of coronavirus, the Secretary is authorized to make or guarantee loans to eligible businesses that do not, in the aggregate, exceed \$208,000,000,000 and provide the subsidy amounts necessary for such loans and loan guarantees in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(b) DISTRIBUTION OF LOANS AND LOAN GUARANTEES.—Loans and loan guarantees made pursuant to subsection (a) shall be made available to eligible business as follows:

***(1) Not more than \$50,000,000,000 shall be available for passenger air carriers. [Emphasis added]***

***(2) Not more than \$8,000,000,000 shall be available for cargo air carriers. [Emphasis added]***

***(3) Not more than \$150,000,000,000 shall be available for other eligible businesses. [Emphasis added]***

As such, I am respectfully requesting that the NWSA Managing Members advance a priority to support the awareness, understanding and application of the CARES Act - ***A BILL: To provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.*** With the NWSA and its Home Ports' ardent commitment and actions to bolster the utilization of the valuable provisions contained in the CARES Act, small business concerns and residents within its jurisdiction will survive and ultimately thrive in the long term. Please know that I stand ready to assist the NWSA Managing Members, Executives and staff in this crucial endeavor to mitigate the long-term impact of the COVID-19 pandemic.

Respectfully submitted,

Ralph B. Ibarra, President | DiverseAmerica Network | Cell/Text: (253) 653-465 | Email: Ralph@MBEWorld.com