

MINUTES
MANAGING MEMBER REGULAR MEETING
TUESDAY MAY 5, 2020
Video Conference

SEATTLE COMMISSIONERS PRESENT:

Stephanie Bowman
Ryan Calkins
Sam Cho
Fred Felleman
Peter Steinbrueck

TACOMA COMMISSIONERS PRESENT:

Kristin Ang
Deanna Keller
John McCarthy
Dick Marzano
Don Meyer

STAFF PRESENT:

John Wolfe, CEO
Kurt Beckett, Deputy CEO
Don Esterbrook, Deputy CEO
Tong Zhu, Chief Commercial & Strategy Officer
Dana Henderson, NWSA General Legal Counsel
Mark Little, Director Contracts and Purchasing
Tom Bellerud, Director Business Development
Jennifer Maietta, Senior Real Estate Manager
Mike Campagnaro, NWSA Director Real Estate Director
Judi Doremus, Executive Assistant
Juliet Campbell, Commission Records Specialist/Clerk

10:00 A.M. – EXECUTIVE SESSION:

Commissioner McCarthy called the regular meeting to order at 10:00 a.m. and recessed into executive session. To discuss, in consult with legal counsel, two matters assessing the legal risk associated with proposed courses of action RCW 432.20.110(1)(i)(ii) and (iii). The executive session, originally scheduled for 45 minutes, was extended by 30 minutes, ending at 11:15 a.m. No votes or actions were taken during executive session.

11:30 A.M. - PUBLIC SESSION:

1. **RETURN TO ORDER AND PLEDGE OF ALLEGIANCE:** Commissioner McCarthy reconvened the meeting at 11:38 a.m. lead the pledge of allegiance.
2. **CHIEF EXECUTIVE OFFICER'S REPORT:** Both Homeports remain open and functioning at a high level considering the circumstances of COVID-19. CEO Wolfe reported that CMA-CGM has paid the settlement amount to resolve the interest payment owned for their 2019 annual payment. At the April 2020 Managing Member meeting, the Managing Members authorized the CEO to sign the APL First Amendment to the Termination Agreement, provided the payment was made by April 21, 2020. The payment was approximately one week late. The CEO informed the Managing Members of his intent to sign off on the agreement anyway, unless any commissioner disagrees with this approach in which case, the item can be placed on the action agenda for consideration. No commissioners requested the item be added to the agenda. The CEO will sign the finalized agreement May 6, 2020.

CEO Wolfe confirmed that all items on today's agenda have been reviewed internally and determined to fit within the Governor's proclamation related to Open Public Meetings Act.

3. **CONSENT AGENDA:**

It was moved and seconded to approve the consent agenda consisting of the minutes from the April 7, 2020 Managing Member meeting and the payment of checks 706888 through 706992 and wire transfers in the total amount of \$6,117,928.26 during the period March 28, 2020 through April 27, 2020.
The motion passed unanimously 10-0.

4. **PUBLIC COMMENT:** None.

5. ACTIONS:

A. Videography Contract

Presenter: Mark Little

It was moved and seconded to authorize the CEO or his delegate to enter into Personal Services Agreement No. 071301 with WorkTank Enterprises, LLC for video production and web streaming services in the amount of \$600,000 over a four-year period.

The motion passed unanimously 10-0.

Discussion:

- A correction was made to the presentation confirming the issuance of the Request for Proposal (RFP) was February 21, 2020 (not March 6).
- The RFP was for both the NWSA and the Port of Tacoma, however, this contract is for NWSA only. The Port of Tacoma will have a separate contract.
- Staff will provide commissioners with information regarding how the contract addresses any security concerns particularly for FMC meetings and executive sessions.
- Legal counsel is unaware of any NWSA policy related to commissioner involvement in the RFP scoring process. A commissioner suggested there may be a need for a policy surrounding commissioner involvement, specifically why and at what level.

B. First Reading: Third Amendment to the Yang Ming Line Lease.

Presenter: Tom Bellerud

Staff presented the first reading of the Third Amendment to the Yang Ming Line (YML) Lease Agreement which provides for a two-year lease extension to their IPI Rail guarantee. YML is in the third year of a three-year agreement. In year two, YML had a shortfall of 7,666 rail lifts. The NWSA has invoiced a penalty of \$203,149. Rather than payment of the penalty, negotiations have taken place resulting a proposal to extend the agreement under the second amendment for two additional years and commit YML to an additional 33,000 rail lifts for each of those two years. YML has not had other shortfalls. At the time of their shortfall, the contractual agreement didn't include WUT. Staff noted this carrier is trending quite solidly against its commitment to the NWSA. The arrangement is not without risk, but YML and staff believe payback on this will be relatively quick.

C. First Reading: One-Year Extension of the Master License Agreement with Foss for Terminal 46

Presenter: Jennifer Maietta

CEO Wolfe began with a brief update on the state of affairs at Terminal 46. Foss Maritime would like to extend its Terminal 46 Master License Agreement. The NWSA has discontinued the selection process for the Request for Proposal (RFP) issued August 19, 2019. The RFP was issued to solicit water-dependent marine cargo or other marine industrial business. Four proposals were received by the deadline, none of which were determined sufficient or met the RFP requirements. The NWSA will continue to facilitate current activities at Terminal 46 which include vessel berthing, maritime support and workforce training for terminal and crane operations.

Staff then presented the first reading of the one-year extension of the Master License Agreement with Foss for Terminal 46. Much of what is taking place with the Master License Agreement has to do with berthing in the yard areas. There is an Interlocal Agreement (ILA) with the Port of Seattle (POS) for utilizing 29 acres for cruise. The ILA as amended allows the POS's continued use of those 29 acres. Revenue generated by temporary licenses in those areas go to the POS. Fixed expenditures to maintain the terminal occur regardless of whether there is a Master Lease. The fixed expenses as budgeted are \$1,020,300. The Master License generates revenue of approximately \$500,000.

Temporary licenses cannot exceed the life of the Master License; however, Foss can market for a longer-term license and come to the NWSA for approval.

- D. Second Reading: Master Policy Resolution 2020-02
Presenters: Commissioner McCarthy introduced the action.

It was moved and seconded to adopt Resolution 2020-02 as presented by the Governance Committee.

It was moved and seconded (Meyer/ Steinbrueck) to amend Resolution 2020-02 as presented by amending section 3.b.iv, related to the Roles and Responsibilities of the CEO, by adding: 9. Developing strategies to ensure gateway is successful and competitive in meeting customer and community expectations.

The motion passed 7-3 by the following vote:

Port of Seattle:

Commissioner Bowman: Aye
Commissioner Calkins: Aye
Commissioner Cho: Aye
Commissioner Felleman: Aye
Commissioner Steinbrueck: Nay

Port of Tacoma:

Commissioner Ang: Aye
Commissioner Keller: Aye
Commissioner McCarthy: Nay
Commissioner Marzano: Nay
Commissioner Meyer: Aye

It was moved and seconded (Bowman/Steinbrueck) to amend Resolution 2020-02 as presented by amending the first sentence of section 8.g.ii, related to Personal Service Contracts, by striking 25% and reverting to the original amount of 50% to read: When any amendment to a Personal Service Contract, which was approved by the CEO pursuant to Section (g)(i) herein above, individually or cumulatively will exceed ~~25%~~ 50% of the authorized amount, and that amended cumulative amount remains less than \$300,000.00, then the amendment must be filed with the Managing Members and made available for public inspection prior to the proposed starting date of services under the amendments.

The motion passed 9-1 by the following vote:

Port of Seattle:

Commissioner Bowman: Aye
Commissioner Calkins: Aye
Commissioner Cho: Aye
Commissioner Felleman: Aye
Commissioner Steinbrueck: Aye

Port of Tacoma:

Commissioner Ang: Aye
Commissioner Keller: Aye
Commissioner McCarthy: Nay
Commissioner Marzano: Aye
Commissioner Meyer: Aye

It was moved and seconded to adopt Resolution 2020-02 as amended.
The motion passed unanimously 10-0.

E. Second Amendment of the Termination Agreement with Total Terminals International, LLC (TTI)

Presenter: Jennifer Maietta

It was moved and seconded to authorize the CEO or his delegate to enter into a Second Amendment to the Termination Agreement with Total Terminals International, LLC (TTI) at Terminal 46 provided that TTI pays its outstanding balances (approximately \$330,000) in full by May 15, 2020. The amendment shall be limited to include a new provision that the late removal fees and any liquidated damages charges for crane storage will be held in abeyance between May 1, 2020 and September 30, 2020 and waived only if the cranes are removed by September 30, 2020, all other terms and conditions to remain the same.

The motion passed unanimously 10-0.

Discussion:

- The purpose of the grace period is to allow for the potential sale, planning and logistics of the removal of cranes by TTI from the premises. TTI has represented they have a pending sale for two cranes with the government of El Salvador, however, finalization of the sale has been delayed due to COVID-19. They have a signed contract which they have reported is good through May. If unable to finalize the arrangements through El Salvador, they still have time to remove cranes.
- In addition to having the \$330,000 in hand by May 15, authorizing the amendment can avoid the cost of litigation associated with going after some of the fees and establish some good will.

6. GENERAL BUSINESS:

A. CEO Additional Announcements, Events, Recognitions. None.

B. Commissioner Comments.

- Commissioner Keller expressed concerns related to increased tariffs and retaliatory tariffs related to China and the impact on the NWSA's ability recover. She encouraged all to reach out to our federal legislators to voice their concerns.
- Commissioner Meyer asked that the NWSA reach out to Alaska partners to see if there is anything the NWSA can assist with, for example with PPE. CEO Wolfe is unaware of any specific requests but will reach out.
- Commissioner Felleman built on Commissioner Meyers comments related to Alaska. He noted that United States is an arctic nation and the North Slope is about more than just oil and gas development. It is a strategic asset and serves remote areas, ships in distress and defense. He also noted the home porting of District 13 ice-breakers by the Port of Seattle is a support for Alaska.
- Commissioner Steinbrueck thanked Commissioner Cho for drafting a proclamation condemning xenophobic behavior which will go before the Port of Seattle May 12. He would like the NWSA to consider drafting something similar. He shared challenges regarding the fishing season on the North Pacific fleet related to COVID-19.
- Commissioner McCarthy expressed his appreciation for the webinars being held by the NWSA and the communication efforts with stakeholders. He noted government entities are now seeing the impacts of COVID-19 and drastic changes in the number of layoffs and furloughs. He noted the need for the NWSA to stay on top of the changes. He wants a full financial report at the next meeting.
- Commissioner Ang added her thanks to Commissioner Cho for drafting the anti-discrimination proclamation for the Port of Seattle and supports a similar proclamation for the NWSA. She reported that Matson has donated \$500,000 to Alaska food banks. She noted some non-profits are assisting with PPE to communities and tribes experiencing health disparity and access to supplies. It would be great if the NWSA could be part of that help.

7. **ADJOURNMENT:** There being no further business before the Managing Members the meeting adjourned 1:39 p.m.



John McCarthy, Co-Chair
The Northwest Seaport Alliance



Peter Steinbrueck, Co-Chair
The Northwest Seaport Alliance


ATTEST:



Sam Cho, Co-Secretary
The Northwest Seaport Alliance



Don Meyer, Co-Secretary
The Northwest Seaport Alliance



Juliet Campbell, Clerk
The Northwest Seaport Alliance