



1. CALL TO ORDER

Commissioner Felleman called the meeting to order at 4:04 p.m.

Roll was taken and a quorum confirmed.

Port of Seattle Commissioners:

Stephanie Bowman – Present
Ryan Calkins – Present
Sam Cho – Present
Fred Felleman – Present
Peter Steinbrueck – Present

Port of Tacoma Commissioners:

Kristin Ang – Present
Deanna Keller – Present
John McCarthy – Present
Don Meyer – Present
Dick Marzano – Present

2. EXECUTIVE / CLOSED FMC SESSION

The Managing Members immediately recessed into executive session pursuant to RCW 42.30.110(1)(i)(i) to discuss with legal counsel litigation to which the agency is likely to become a party when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. Portions of the privileged discussion are also protected by Federal Maritime Commission (FMC) regulations and related laws found at 46 U.S.C. § 40306; 46 C.F.R. §535.608; and 46 C.F.R. 535.701(i)(1) and authorized by Port of Seattle/Port of Tacoma Alliance Agreement – FMC Agreement No. 201228. The session lasted 53 minutes. No votes or final actions were taken.

3. RETURN TO ORDER AND FLAG SALUTE

The Managing Members reconvened in public session at 4:58 p.m. Roll was again taken all commissioners were present. Commissioner Felleman led the Pledge of Allegiance.

4. ACTION

It was moved and seconded (Bowman/Cho) to direct staff to return to the Managing Members by the October meeting for final approval of an agreement or amendment to existing agreements with CMA CGM that is reflective of the terms discussed.

Discussion:

- APL and the Port of Seattle came to an agreement years ago to terminate a Terminal 5 agreement with specific provisions. That agreement predated the NWSA. The NWSA took management of that agreement in 2015. There has been one amendment to that agreement whereby the NWSA agreed to forego payment of MAG in replacement for additional volume guarantees through the gateway into the future by CMA CGM, who has since purchased APL.
- Discussions are taking place regarding a potential amendment to the first amendment to the termination agreement.

- John Wolfe, NWSA CEO, stated that under the current agreement, payments that will come due from CMA CGM to the NWSA between now and August 2023 are: three \$9 million annual payments, a \$1.3 million vessel shortfall payment, and an expected MAG shortfall estimated to be approximately \$3.5 million.
- The proposed amended terms were described and include:
 - Payment by CMA CGM to the NWSA in the amount of approximately \$10.04 million by December 1, 2021
 - CMA CGM guarantees a base MAG volume of 225,000 lifts in the NWSA gateway beginning 2022. Increasing by 5,000 lifts year-over-year through 2026. For the subsequent years there will be a 1% increase per year against the previous year through 2031.
 - CMA CGM agrees to a shortfall fee of \$75 per box 2022-2026, and \$50 per box shortfall fee for years 2027-2031.
 - Interest of 12% per annum will accrue on payments from the due date. Any delinquent payments trigger a one-time penalty of \$18 million – equal to the two \$9 million annual payments – and will be immediately due.
- In turn for agreeing to the terms, NWSA would agree to release CMA CGM / APL from all other outstanding obligations associated with the first amendment of the termination agreement at Terminal 5.
- Commissioner Ang commented there will be containers going through the NWSA gateway, but this particular contract proposal provides certainty and cash on hand without going through litigation and preserves the relationship between the NWSA and CMA CGM, one of the largest carriers. She supports the motion.
- Commissioner Bowman supports the motion and looks forward to seeing a final agreement to review but is fine with the parameters to move forward. She wants to see CMA CGM committed to the NWSA gateway long term.
- Commissioner Cho echoed Ang and Bowman comments. He commented that the goal of the NWSA is throughput and volume through the NWSA gateway. This agreement will ultimately commit CMA CGM to the gateway. Acknowledged the proposed terms do not reflect a perfect deal but rather a scenario to not let the perfect be the enemy of the good. He supports the motion.
- Commissioner Keller supports staff going forward to bring back more details. She looks forward to a partnership with CMA CGM to grow the gateway. The terms need some work, they are not perfect. She agrees with the sentiments of Commissioner Cho.
- Commissioner McCarthy stated he realizes the motion is not to approve a final agreement today. He does not support the terms presented at this time. There are several terms that are problematic in his opinion. Mainly he asserts that there is inadequate consideration in return for the large sums of payments the NWSA would be agreeing to give up.
- Commissioner Steinbrueck supports the motion. He looks forward to the opportunity to evaluate the final terms.
- Commissioner Meyer supports the motion. He likes the throughput terms he sees in the proposed terms.

- Commissioner Marzano supports the motion. He looks forward to the family wage jobs as a result of the long term commitment to the NWSA gateway.
- Commissioner Felleman commented that he appreciates the work of all that brought the NWSA and CMA CGM to this point. For clarity, he stated that the terms of the deal discussed represent the path forward to bring this to conclusion.

The motion passed 2-0 by the following vote:

Port of Seattle – 1

Bowman – Aye
Calkins – Aye
Cho – Aye
Felleman – Aye
Steinbrueck – Aye

Port of Tacoma – 1

Ang – Aye
Keller – Aye
McCarthy – No
Marzano – Aye
Meyer – Aye

5. ADJOURNMENT

There being no further business, the meeting adjourned at 5:15 p.m.



Fred Felleman, Co-Chair
The Northwest Seaport Alliance



Richard Marzano, Co-Chair
The Northwest Seaport Alliance

ATTEST:



Sam Cho, Co-Secretary
The Northwest Seaport Alliance



Deanna Keller, Co-Secretary
The Northwest Seaport Alliance



Juliet Campbell, Clerk
The Northwest Seaport Alliance