



1. CALL TO ORDER

Commissioner Felleman called the meeting to order at 9:03 a.m.

Roll was taken and a quorum confirmed.

Port of Seattle Commissioners:

Stephanie Bowman – Present
Ryan Calkins – Present
Sam Cho – Excused
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 SESSION

The Managing Members immediately recessed into executive session pursuant to RCW 42.30.110(1)(i)(i) to discuss with legal counsel two items relating to litigation or potential litigation to which the agency is a party when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. The executive session lasted 33 minutes. No votes or actions were taken during executive session.

3. CLOSED SESSION - FMC

Immediately following executive session, the NWSA Managing Members, Port of Seattle and Port of Tacoma, held a closed session pursuant to 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 as authorized by Port of Seattle/Port of Tacoma Alliance Agreement – Federal Maritime Commission (FMC) Agreement No. 201228. The closed session lasted 41 minutes. No votes or actions were taken during this closed session.

4. RETURN TO ORDER AND FLAG SALUTE

The Managing Members reconvened in public session at 11:03 a.m. Roll was taken and a quorum confirmed.

Port of Seattle Commissioners:

Stephanie Bowman – Present
Ryan Calkins – Present
Sam Cho – Joined at 11:22 a.m.
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

Commissioner Felleman led the Pledge of Allegiance. He acknowledged the ancestral lands and waters of the Coastal Salish people. He also acknowledged that May is Asian American and Pacific Islander Heritage month. He commented on the diversity of perspectives brought to the NWSA by the commissioners since the formation of the Alliance and the benefits. He commented the conditions that lead to the formation of the Alliance still exist.

5. CHIEF EXECUTIVE OFFICERS REPORT

CEO John Wolfe summarized items on the agenda.

Industry changes have significantly impacted vessel schedule integrity. CEO Wolfe commented on congestion challenges. He reported that the NWSA is performing well compared to some other west coast gateways but acknowledged that improvements in the yard and gate areas are needed. An operational task force has been set up with staff, labor partners, truckers, importers and exporters.

The task force is looking for solutions to reduce congestion and help exporters get their products to market.

CEO Wolfe addressed questions regarding truck backup onto SR-509. RFID technology allows monitoring of the truck queue so issues can be addressed. It was also noted that a culvert failure at PCT, which contributed to backups around the queue area, has been fixed.

Issues regarding the West Seattle Bridge and congestion around Terminal 18 (T18) in the North Harbor were discussed. Repairs to the high bridge are expected to be complete mid-year 2023. With the ramping up of construction of Phase 1 at Terminal 5 (T5) opening January 2022, and Phase 2 the following year, and as people begin returning to work and traffic increasing, staff is sensitive to congestion issues. With the opening of T5, some of the volume will shift from T18. This will be part of the congestion solution. The task force mentioned earlier will be addressing these issues.

6. CONSENT AGENDA

It was moved and seconded (Bowman/Steinbrueck) to approve the consent agenda as amended.

- A. Approval of the April 6, 2021 minutes
- B. Approval of the payment of checks 708075 to 708158, *excluding check 708077*, and wire transfers in the total amount of \$13,351,462.60 during the period of March 20, 2021 through April 16, 2021.
- C. Approval of the voluntary extension of the Emergency Paid Sick Leave pursuant to the American Rescue Plan Act (ARPA) for the period of April 1, 2021 through June 30, 2021.
- D. Project authorization in the amount of \$5,500.23 for a total authorized amount of \$305,500.23 for work associated with the RFID at PCT Truck Queue, MID No. 201075.01.

E. ***DUAL ACTION***

NWSA: Authorization of the NWSA Managing Members for the NWSA CEO or his delegate to enter into an Interlocal Agreement (ILA) with the Port of Seattle to use a portion of NWSA licensed property located at Terminal 106 West (T106W) for the purpose of widening the roadway in conjunction with the POS Terminal 106 redevelopment project.

Port of Seattle: Authorization of the Port of Seattle Commission for the POS Executive Director or his delegate to enter into an ILA with The Northwest Seaport Alliance to use a portion of NWSA licensed property located at Terminal 106 West (T106W) for the purpose of widening the roadway in conjunction with the POS Terminal 106 redevelopment project.

The motion carried unanimously for the NWSA.

The motion carried unanimously for the Port of Seattle (POS) as to item 6E.

ITEMS REMOVED FROM CONSENT AGENDA

It was moved and seconded (Meyer/Keller) to approve item 6B.2, payment of check 708077 to the State Auditor's Office in the total amount of \$17,021.55 during the period of March 20, 2021 through April 16, 2021.

The motion carried 2-0 by the following vote:

Port of Seattle:

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

Port of Tacoma:

Ang: Aye
Keller: Aye
McCarthy: *Abstain*
Marzano: Aye
Meyer: Aye

7. PUBLIC COMMENT

None.

8. ACTION

A. Second Reading—Pacific Maritime Association (PMA) New Lease Agreement at Terminal 46 (T46)

Presented by Jennifer Maietta, Interim Director – Alliance Real Estate

PMA seeks to consolidate its regional training facilities to T46 to develop a consolidated, state of the art training facility for the purpose of conducting training and other services related to PMA's goals and objectives for longshore workers, clerk's foreman and causals.

The Lease Agreement does not provide for crane use. Crane use will be addressed in an amendment to the Lease Agreement that will be brought forward in the near future.

Insurance requirements included in the lease were highlighted. The standard insurance, indemnity, and attorney's fees provisions in the North Harbor leases are included. The Port of Seattle and NWSA will be listed as additional insureds with the Lessee's policies as primary.

Material changes since First Reading were summarized and included:

- Addition of a five percent cap on market rate adjustment
- Relocations costs and expenses to be paid by the NWSA should the NWSA terminate the Lease for certain purposes.
- Lessee is protected from liability of potential prior hazardous substances within the past five years.

Staff presented the key lease terms.

It was moved and seconded (Bowman/Cho) to authorize the NWSA CEO or his delegate to execute a new lease agreement with Pacific Maritime Association at T46 in substantially the same form as presented.

The motion passed unanimously.

Discussion:

- Commissioner Bowman complemented the team for bringing this forward. She stated this shows a commitment to the gateway by the employer, workers, and the NWSA and shows that our labor force is leaning into trying to be as productive as possible bringing in new members.
- Commissioner Meyer sought clarity regarding terms related to relocation and whether the NWSA is required to provide cranes if PMA is relocated. Staff clarified that if the NWSA has to move PMA's yard and office space it will be at the NWSA's cost. The NWSA will not be required to provide a crane. PMA can and has used terminal operator's cranes for training. If PMA has to be moved to an area without that capability, PMA will work that part with terminal operators. Staff stated that it unrealistic that the NWSA would be able to provide another terminal like this setting. The parties recognize the uniqueness of this opportunity.

B. Joint Resolution Port of Tacoma 2021-10-PT and Port of Seattle No. 3788

--Water Resources Reform and Development Act (WRRDA) of 2014

--Harbor Maintenance Tax (HMT) Donor Port Overview

--Section 2106 Funds Distribution for 2021

Presented by David Morrison, NWSA CFO and Ryan McFarland, NWSA Senior Manager, Government Affairs

Staff proposed recommendation on how to receive and spend the section 2106 donor port funds the homeports are receiving this year.

Staff also provided an overview of the Harbor Maintenance Tax, how it is assessed, its purposes and why the homeports of Seattle and Tacoma are considered "HMT donor ports" and how that is a disadvantage. Staff also noted that HMT does not apply to cargo flowing through Canada to the United States, putting the US at a competitive disadvantage.

Discussion:

- Commissioner Meyer wants a strategy for getting funds to NWSA customer's customer.
- Commissioner Calkins inquired about the source of funds generating HMT funds. Staff responded that 97% was NWSA and 2.2 % cruise for 2019.
- Marzano agreed that trying to get back to the people that are doing the paying is a discussion for the future. Help benefit the users within the North and South Harbors in order to allocate those funds back to them.

Port of Seattle:

It was moved and seconded (Bowman/Cho) to waive introduction and consider first reading as second reading of Joint Port of Seattle (No. 3788) - Port of Tacoma (No. 2021-10-PT) Resolution regarding Section 2106 Funds distribution for 2021.

The motion passed unanimously.

Discussion:

- Commissioner Steinbrueck asked for the basis of waiving two readings. Commissioner Felleman suggested it is because the Joint Resolution is non-controversial and is of benefit to both homeports and the Alliance. He commented further that by waiving two readings it sends a clear message the HMT funding is a long-time coming.

Port of Tacoma:

It was moved and seconded (Keller/Meyer) to adopt Joint Port of Seattle (No. 3788) – Port of Tacoma (No. 2021-10-PT) Resolution regarding Section 2106 Funds distribution for 2021.

The motion passed unanimously.

Port of Seattle:

The Port of Seattle having waived introduction and two readings of the Joint Resolution (POS 3788 – POT 2021-10-PT), voted to adopt Joint Port of Seattle (No. 3788) – Port of Tacoma (No. 2021-10-PT) Resolution regarding Section 2106 Funds distribution for 2021.

The joint resolution was adopted by unanimous vote.

9. GENERAL BUSINESS

A. Internal Governance Work Group

NWSA and Port of Seattle: Internal Governance Work Group Report and Recommendation regarding Maritime Access and Impact Mitigation Agreements with the Muckleshoot Indian Tribe and Suquamish Tribe.

Commissioner Keller reported on the NWSA's Internal Governance Work Group (IGWG) recommendation that the Managing Members proceed with authorizing the execution of Maritime Access Mitigation Agreements with both the Muckleshoot Indian Tribe and the Suquamish Tribe and that the cost be evenly shared among both Homeports.

The IGWG's unanimous recommendation is based on additional information identified and considered by the IGWG since the April 6, 2021 NWSA Managing Member Regular and Port of Tacoma, Port of Seattle Special Meeting where this and related motions failed.

Commissioner Felleman commented that while the proposed motion for authorization to execute the agreements is the same as the motion which failed at the April 6, 2021 meeting, there is now additional information related to valuation details related to the 2016 membership interest valuation affirmation.

On behalf of the NWSA, it was moved and seconded (Ang/Steinbrueck) to authorize the NWSA Managing Members enter into the Maritime Access and Impact Mitigation Agreements with the Muckleshoot Indian Tribe and with the Suquamish Tribe for the five-year period of 2021-2025, and further that the Managing Members authorized payments per the Agreements be funded by the Northwest Seaport Alliance.

The motion passed 2-0 by the following vote:

<u>Port of Seattle - 1:</u>		<u>Port of Tacoma – 1:</u>	
Bowman:	Aye	Ang:	Aye
Calkins:	Aye	Keller:	Aye
Cho:	Aye	McCarthy:	Nay
Felleman:	Aye	Marzano:	Aye
Steinbrueck:	Aye	Meyer:	Nay

On behalf of the Port of Seattle, it was moved and seconded (Bowman/Cho) to authorize the Port of Seattle Commission to enter into the Maritime Access and Impact Mitigation Agreements with the Muckleshoot Indian Tribe and with the Suquamish Tribe for the five-year period of 2021-2021, with payments per the Agreements to be funded by the Northwest Seaport Alliance.

The motion passed unanimously.

- Commissioner McCarthy made a point of order questioning whether our rules of order allow the Managing Members, having already voted on this motion at a previous meeting, to bring it back at a subsequent meeting hoping the vote will change. Legal counsel opined that nothing in the NWSA Second Amended Bylaws prohibits the renewal of a motion. Further, the Bylaws rely on Robert’s Rules of Order which allow a motion to be brought back if previously defeated. Commissioner McCarthy then stated that if counsel’s recitation is incorrect, any vote on the motion becomes void ab initio.
- Commissioner Meyer expressed concerns over a lack of clarity of the scope these agreements surrounding permit reviews and the impact.
- Staff provided that with respect to Terminal 5 agreements, the permits have to do with in-water work during construction time. There is agreement to provide \$3.6 million and to discuss again in the future. With the respect to the vessel coordination agreements, the majority of the costs relate to the administrative costs of the program.
- Staff further provided that the vessel coordination agreements apply to all Alliance terminals. There have been no delays for shippers in the terminals due to fishing nets. If there were to be delays due to nets, it would represent a significant cost to NWSA customers.
- Staff differentiated between the scope of the vessel coordination agreements, which concern ongoing operations, and the Terminal 5 agreements, which are specific to direct construction impacts from one particular project.
- Commissioner Meyer commented that the vessel coordination agreements have expended into permit areas and the NWSA is paying millions without definition of the projects considered.
- Commissioner McCarthy asked specific questions about how much these agreements will cost the NWSA. He restated his arguments from the April 6, 2021 meeting when this matter originally came before the Managing Members:
 - Tribal issues are not addressed in the NWSA Charter – these are homeport issues.
 - There are no agreements in effect at this time, the NWSA has lived up to its obligations to the tribes. He stated the opportunity to discuss the whole package is now before negotiating a package that essentially obligates the NWSA to \$6 million in payments.
 - There is no reason the NWSA has to interpret the Charter the same way the Managing Members did in 2016.
 - He expressed concern with the method of calculation of payment to the Suquamish Tribe.
 - Historically tribal issues are homeport issues. These payments are not operational costs in his opinion any more than off-terminal projects, such as roads. He stated these items should be deleted from NWSA expenses and urged the Managing Members to vote against the agreements.

- Commissioner Ang commented that policy needs to be developed regarding operational expenses and historical obligations with regard to tribal relationships. She stated that she gives weight to the fact that the tribal agreements were included in the 2016 valuation. She emphasized the importance of avoiding delays and increasing efficiency and stated she believes these agreements provide those benefits. She stated that when the homeports entered into the NWSA, both said they wanted to be competitive in the gateway. She noted that Terminal 5 is a key investment of the NWSA, worth more than \$500,000,000 of public and private investments. The NWSA needs T5 online quickly. She urged the Managing Members to move forward with the agreement and address the policy issues in the future.
- Commissioner Keller commented that the agreements from 2015 and 2016 were based on CPI and the proposed agreements are a continuation of that. She acknowledged the Managing Members may need to renegotiate at a later date. She commented that without the agreements there will be no movement of ships to the NWSA gateway. She added that to share in net profits, the Managing Members need to share the expenses. She sees these agreements as an investment in Terminal 5.
- Commissioner Steinbrueck commented on the importance of preserving tribal relations and the critical need for T5 to remain on schedule, citing significant delay costs and the potential for liquidated damage claims.

It was moved and seconded (Steinbrueck/Keller) to call the previous question. The motion carried 2-0, by the following vote:

<u>Port of Seattle - 1:</u>		<u>Port of Tacoma – 1:</u>	
Bowman:	Aye	Ang:	Aye
Calkins:	Aye	Keller:	Aye
Cho:	Aye	McCarthy:	Nay
Felleman:	Aye	Marzano:	Aye
Steinbrueck:	Aye	Meyer:	Nay

- Legal counsel advised that the effect of the motion to call the previous question passing is to cut off further debate and the body must then vote on the main motion. A motion to call the previous question must be adopted by a 2/3 vote, the body needs three affirmative votes by each of the Managing Members to carry.

B. Q1 Budget Year to Date Summary v. Budget/Prior Years

Presented by David Morrison, NWSA CFO

- Revisions to the Q1 Scorecard document were presented. Commissioners would like to see a 2019 comparison because 2020 was such an unprecedented year with Covid-19.
- The budget schedule was presented and included a Capital Investment Plan study session in August, a budget study session in October and budget adoption in November.

C. NWSA Federal and State Grant Funding Strategy

Presented by Jason Jordan, NWSA Director Environmental Programs.

- Staff proposed an annual briefing on external funding accomplishments.
- National hydrogen infrastructure and new alternative fuels, especially for ports, were discussed.
- Commissioner Cho offered his thoughts on prioritizing grants. He recommends prioritizing those efforts that increase competitiveness, and those that save money through federal subsidies. He emphasized quality over quantity.
- Other commissioners agreed and added it is important to recognize capacity and resources grants require.
- Commissioner Steinbrueck would prioritize shovel-ready projects combined with anything that addresses competitiveness. Additionally, he supports new projects for renewable energy with just and fair transition to clean energy.

- Commissioner Felleman added a need to consider expending public funds for societal benefits beyond competitiveness and economics.
- Commissioner McCarthy cautioned that there is a need to manage expectation about the amount of federal funds that may be available. The importance of selecting grants/projects that the NWSA can afford to pay its part.

D. Commissioner Comments

Commissioner Ang: Recognized Asian Pacific Heritage Month. Encouraged all to get vaccinated.

Commissioner Cho: Recognized Asian Pacific Heritage Month. Asked that we reflect on Asian American's contributions.

Commissioner McCarthy: Encouraged the NWSA Co-Chairs to return to in-person public meetings as soon as possible. Regarding the vote on the tribal agreements, he finds it offensive that debate was limited on such an important and serious subject. He requested a report on the 50-50 split of the NWSA licensed properties, the valuations of when the NWSA was formed, what income was anticipated, and what the valuations are today. The NWSA should constantly evaluate whether the Alliance is performing as anticipated. He noted the fiduciary responsibilities to the taxpayers. He is concerned that T5 is over budget and behind schedule. Tough questions regarding finances should not be discouraged and debate should not be limited. Staff provided an example of challenges and complexity in providing comparisons on what would have happened had Managing Members not taken certain actions.

Commissioner Marzano: Echoed the desire for in-person meetings.

Commissioner Meyer: Requested the NWSA Bylaws be amended to take public testimony before the Consent Agenda at meetings.

Commissioner Ang: Stressed the need for safety measures to be in place once returning to in-person meetings as the public will likely attend.

Commissioner Steinbrueck: Suggested inviting HistoryLink to present on their research regarding Washington agriculture. The NWSA invested in that project.

Commissioner Felleman: Commented that public involvement is important to him and he supports Commissioner Meyer's request to move public testimony earlier in the agenda. He recommended the NWSA actively engage the public to request feedback at the public meetings. He appreciated the debate regarding the tribal agreements.

10. ADJOURNMENT

There being no further business, the meeting adjourned at 2:21 p.m.

Fred Felleman, Co-Chair
The Northwest Seaport Alliance

Dick Marzano, Co-Chair
The Northwest Seaport Alliance

ATTEST:

Sam Cho, Co-Secretary
The Northwest Seaport Alliance

Deanna M. Keller, Co-Secretary
The Northwest Seaport Alliance

juliet campbell

Juliet Campbell, Clerk
The Northwest Seaport Alliance