

## REGULAR COMMISSION MEETING MINUTES

March 17, 2022

The Port of Tacoma Commission met for a regular meeting on March 17, 2022. Commissioners Ang, Keller, McCarthy, Marzano and Meyer were all present at the Fabulich Center, Room 104: 3600 Port of Tacoma Road, Fife, WA.

### CALL TO ORDER

The meeting was called to order at 12:01 pm and Commissioner Meyer led the Pledge of Allegiance. A moment of silence was observed for fallen Pierce County Deputy, Dominique (Dom) Calata, who died following a shootout on March 15<sup>th</sup> in Spanaway, Washington. Commissioner Meyer then acknowledged that this meeting was taking place on the ancestral lands of the Puyallup Tribe of Indians.

### APPROVAL OF THE AGENDA

The agenda was adopted by unanimous consent.

### SPECIAL ORDERS OF BUSINESS

None.

### CONSENT AGENDA

- A. Approval of the Minutes from February 17, 2022
- B. Approval of the Check Certifications:
  - 1. Checks #232638 through #232693 and #232695 through #232865 and #232867 through #232872 in the amount of \$6,235,370.40
  - 2. Check #232694 and #232866 in the amount of \$10,740.51 to the State Auditor's Office
- C. Microsoft Azure Cloud Services for 2022
- D. Personal Property Surplus: This item was tabled for discussion at a future meeting.

#### **MOTION #1: Approve the above stated Consent Agenda Items A, B1, and C, and table item D to a future Commission meeting.**

- 1. Commission asked how we determine what is surplus. Executive Director Johnson will look into this.
- 2. Regarding vehicles and forklifts with low values, the Commission asked how they are disposed of. An employee can't purchase one unless it goes to a public bid. Commissioner McCarthy expressed concern with this policy, as it is limited and doesn't include an employee's family members. Staff receives a list of who bought each item, the purchase price and the manner of the sale. This report will be shared with the Commission.
- 3. Staff stated that the property values we list may not be the amount we receive. It is what we perceive as the value. Eric Johnson will report back on this.
- 4. If the perceived value is less than \$10,000, the Commission delegates authority to the executive director through the Master Policy. If an employee or commissioner wants to purchase an item, it must go through a public auction.
- 5. The Port utilizes GovDeals (govdeals.com) for all online auctions, which is the same platform Washington State uses for their surplus needs. The Port cannot show any favoritism or preference in who purchases our surplus items. The Port generally conducts a surplus action a couple of times per year.
- 7. Commissioner McCarthy is comfortable as long as there is a report of the sales and it is shared with the Commission.

*Motion #1 was made and seconded.*

**VOTE: MOTION CARRIED 5-0**

#### **MOTION #2: Approve the above stated Consent Agenda Item B2.**

*Motion #2 was made and seconded.*

**VOTE: MOTION CARRIED 4-0 | Commissioner McCarthy abstained**

### PUBLIC TESTIMONY

None.

## EXECUTIVE DIRECTOR'S REPORT

- **11<sup>th</sup> Street Viaduct:** Eric Johnson reported that the 11<sup>th</sup> Street Viaduct demolition will begin in the near future. The Port is actively negotiating an interlocal agreement (ILA) with the City of Tacoma regarding how the Port will participate and the amount of our contribution. There are questions of right-of-way and payment. We are leaning heavily into this negotiation and expect an ILA next month.
- **Transportation:** Executive Director Johnson thanked Representative Jake Fey and the entire Pierce County delegation for their leadership in getting the transportation funding package passed, even in a short session. We received the full backfill of the shortfall on vital two gateway projects, State Route 509 and 167.
  - **Port of Tacoma / I-5 Interchange:** The Washington state transportation package funded Phase II of this project with \$35 million to assist in its completion. This, as well as the SR 167 project, were named as our top priorities in the Strategic Plan.
  - **Banana Yard:** Thanks to Senator Patty Murray, the Port received \$2.5 million for new rail switches at this site.
  - **Off-Dock Container Yard:** Governor Inslee allotted \$2 million in the capital budget for this project, in addition to the \$15 million we previously received.
  - **Port Legislative Lobbyist:** Our Port of Tacoma legislative lobbyist, Lisa Thatcher, is an indispensable part of our team, but usually is invisible. She continues to work very hard for the Port of Tacoma and had tremendous success this session.
- **Bus Tours:** The Port's monthly bus tours are back with the lifting of the COVID restrictions. There has been a lot of interest from the public. Yesterday we had a full bus, which holds 50 people. Citizens can reserve seats on a bus via our website. Also, our popular boat tours will be back in 2022. They will be on August 28<sup>th</sup> this year. Staff highly recommends reservations for this as well. Reservations made be made on our website starting in late June-early July.
- **Wapato Creek Habitat Restoration:** This Port project has been nominated for an IAPH (International Association of Ports and Harbors) award in May at their meeting in British Columbia. The Port is one of three finalists for this award.
- **Asian Pacific Cultural Center:** APCC sent a letter to the Port proposing some deeper partnerships between the two organizations. This was forwarded to the Commission. Executive Director Johnson met with APCC's executive director, Lua Pritchard, and her board yesterday. They had a good conversation about partnerships. Johnson stated that he is always impressed by what they do; more to come on that.

Commissioner Meyer recently attended a Pacific Northwest Waterways Association meeting and stated that other governmental entities realize that the public projects we take on do need support and funding. We all have a deep sense of appreciation for the state and federal funding we receive. This is a good reminder for us to take every opportunity to say thanks.

Commissioner Keller gave a shout-out to Executive Director Johnson. She stated after he gave a State of the Port Report at the Propeller Club several people told her it was one of the best reports they had ever heard.

## COMMISSION ACTIONS

### A. Proclamation 2022-02-PT: Women's History Month and International Women's Day:

**MOTION: Adopt Proclamation 2022-02-PT, recognizing March 2022 as Women's History Month and March 8th International Women's Day.**

*Motion was made and seconded.*

### DISCUSSION:

1. Commissioner Keller read the proclamation into the record.
2. Commissioners stated unanimous support for this proclamation.

**VOTE: MOTION CARRIED 5-0**

**B. Resolution 2022-05-PT: Commission Code of Governance and Conduct:**

**MOTION: Approve the published version of Resolution 2022-05-PT, regarding a Code of Governance and Conduct for Port of Tacoma Commissioners.**

*Motion was made and seconded.*

**DISCUSSION:**

1. Revisions have been made to this resolution since the first reading based on Commission feedback. Section I added a paragraph from the City of Kenmore's ordinance regarding free speech. Section C, on loyalty, paragraphs #5 and #9 were added, as suggested by the Commission. There is also language creating a process by which complaints could be brought forward to a Commission Committee and then brought to whole Commission if warranted. The bulk of changes are in the last section, paragraphs #2 and #3, on violations and enforcement.
2. The Commission asked about the possibility of a complaint being brought up in public session whether it is founded or not. We could address this on a case-by-case basis.
3. Commissioner McCarthy stated that this revised resolution is a much better product. However, he will be voting no because he still has a problem with the violation enforcement being left to the Commission. He is uncomfortable with the idea of three commissioners having the ability to punish another Commissioner. He added that the Commission needs to have an independent body look at these complaints, taking it out of the body of five electeds and letting that independent source make the determination.
4. Commissioner Ang asked if other Port Commissions have independent evaluators. Heather Burgess, Legal Counsel, responded that the Ports of Bellingham and Olympia are the only ones she is aware of who address violation enforcement, but our resolution has a provision to allow sending a complaint to an outside investigator if warranted.
5. Commissioner Meyer stated that this is the first time the Commission has had a code of conduct and it is time we have one. He thanked Commissioner Keller for her leadership on this initiative.

**VOTE: MOTION CARRIED 4-1**

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

**C. WJR (Calbag) Lease Consolidation, 2<sup>nd</sup> Reading:**

**MOTION: Authorize the Executive Director or his designee to:**

1. **Terminate the current 5.43-acre Lease with WJR Tacoma LLC for property located at 1602 Marine View Drive;**
2. **Terminate the current 3.31-acre Lease with Calbag Tacoma LLC for property located at 1602 Marine View Drive;**
3. **Enter into a new lease with a termination date of December 31, 2045 with one 30-year extension period with WJR Tacoma, LLC for an 8.74-acre premises located at 1602 Marine View Drive, Tacoma, WA.**

*Motion was made and seconded.*

**DISCUSSION:**

1. The escalating lease amount is in the Port's favor. This lease does not have a cap on the escalation. Lease escalation on the larger piece has been based on a five-year interval CPI-U. On the 3-acre piece it was done annually. Commissioner Ang would like to see market rate be used to determine lease escalations. Staff stated that the Port used to have flat rate escalations of 2%. The benefit is that the escalation is predictable for tenants. We chose, at Commission direction, to change to a CPI method. During the period that this change was made, CPI was lower than our flat rate. However, it is now higher – some tenants have seen escalations of up to 8%.
2. Commissioner Meyer stated that the market adjustment scenario, adjusting to where the market is at, is fairer to the tenant and the Port. The fairest way is to have some form of a market adjustment or appraisal. He does believe that WJR and Calbag are the best tenants for these properties. His issue is to get an appraiser in there at some point.
3. Commissioner McCarthy expressed concerns about the tenant possibly accepting stolen catalytic converters. Staff responded that any catalytic converters they accept have to be shown to be lawfully acquired. Governor Inslee has a bill on his desk that revises the sale of catalytic converters and addresses the stealing of them.

Calbag buys and sells catalytic converters. Theft of these is a big problem right now. They sell all of these items to Converters Plus. The majority come from licensed auto shops.

4. Commissioner McCarthy had conversations with Jeff Wilson, Port of Longview Commissioner, concerning the legislation brought by Cindy Ryu, a member of the Consumer Protection and Business Committee. He is concerned about loopholes in the existing law for the theft of catalytic converters. Most who buy and sell are on private property. We are lucky that we own this property so we can put provisions into the lease to ensure that no illegal activity is taking place. He is sure that this tenant follows the law, but this law has many loopholes. Some of these illegal converters are coming from licensed shops. He would like to look into this further before approving a lease until 2075 for the greater community good. Staff responded that catalytic converters are a very small part of their business. They have to prove that they have title to the car it came off of. Most of their scrap metal comes from different companies. They work under an RCW which has a lot of criteria, which Scott Francis, Real Estate Director, read into the record. Commissioner McCarthy stated that the majority of the customers are not individuals from the public; most are from auto shops and they don't reveal the particular car and car owner it came from.
5. The tenants appreciate operating in Tacoma because the police here are very responsive. They are also a member of stolenscrap.com. This is a registry of stolen converters by serial number. Their staff watches for anything on that list and if they see a converter on that list they call the police. They are doing a better job than others. They also offered a tour of their operations for the Commission. Commissioners Meyer and McCarthy would like to participate in this.
6. Commissioner Marzano toured Schnitzer Steel. They take down all of the catalytic converter serial numbers and the other information required by law. He felt more comfortable after seeing this. As to the lease itself, it is a lengthy lease, but we are almost 30 years into this lease now. He doesn't know what other use could be implemented on this land. The water is too shallow for ships to traverse this area and there is no dock, so it couldn't be used for cargo movement by ship. This is a sorting operation; they don't crush cars, etc. It is a different operation than Schnitzer Steel, who actually testified in favor of the tighter legislation.
7. The lease terms were reviewed, including that the lessee has the responsibility for one stormwater system for the whole 8.74-acre parcel. If we do not consolidate these properties into one lease and have two separate users on the adjoining properties (WJR and Calbag) it would cost the Port approximately \$400,000 to have a stormwater system on each property.
8. WJR and Calbag have common ownership between the two entities.
9. Previously Calbag had responsibility for conducting periodic inspections of both parcels. The Port's Environmental Department felt that the cap inspections should be done by them to better control the Ecology requirements for the environmental cap.
10. Commissioners expressed some concern that this long-term lease locks this property down for 75 years. Staff responded that these entities have been our tenants for more than 25 years. Also, the current use is the highest and best use for this property because of its location on a corner of a fast road and the elevated entrance to the property, making it unsuitable for truck and trailers to enter. The Port of Tacoma currently has 13 long-term leases. This rent is higher than the other 12 long-term leases. Short-term leases and long-term leases are priced differently. The Port also has an Ecology Consent Decree limiting this property to light industrial uses. It sat vacant for two years when WJR ended their lease on the smaller parcel. So, it is not a property that is in high demand.
11. Commissioner Ang still has concerns for locking property in so long. Staff stated that we review restrictions on parcels annually. We have a good eye on that and have a good relationship with WJR and Calbag. As stated previously, they have been a good tenant for over 25 years. Staff added that property with a stable tenant using it at the highest use increases the value of the land.
12. The tenant caused damage to the environmental cap on the smaller parcel. They were using a scrapper and storing scrap using heavy equipment to move it around, causing the damage to the cap. We collected the funds from the tenant for the repair work. We later requested that WJR release that smaller piece because we couldn't lease it to another tenant, which they agreed to do.
13. Commission asked if the hump in the driveway was caused by the railroad. The hump is in the cap area. To change this we would have to make changes to the cap area, which would not be an inexpensive change.
14. Commissioner Marzano suggested we shorten lease, do an appraisal and put provisions into place. The lease for the larger piece is already in place and will continue as is. The only change is that they take over the smaller piece we asked them to continue leasing, which they did at our request. Not approving this will not change the remaining 25 years on this lease or the 30-year extension, as this is already signed and in place.

15. The Commission does want to work this out and not send a completely negative response to these long-term tenants. If Scott Francis goes back to them and then we vote “no” a second time it would send a very negative message to a good tenant. Commissioners Meyer and McCarthy would like to take a tour.

**VOTE: MOTION FAILED 2-3**

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

**D. Atkinson Office Lease-1<sup>st</sup> and Only Reading**

**MOTION: Authorize the Executive Director or his designee to enter into a three-year lease with two mutually approved one-year extensions with Guy F. Atkinson Construction, LLC. for office space located in the Fabulich Center located at 3600 Port of Tacoma Road, Tacoma, WA.**

*Motion was made and seconded.*

**DISCUSSION:**

1. Atkinson is already leasing a large area on the second floor of the Fabulich Center. This lease would be for space on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.
2. This lease brings 30 new jobs to Tacoma. They will have 75 employees working from the Fabulich Center.
3. This is a first and only reading because it is a straightforward office lease that is not controversial.

**VOTE: MOTION CARRIED 5-0**

**E. Atkinson Land Lease-1<sup>st</sup> Reading (no vote at today’s meeting):**

**MOTION: Authorize the Executive Director or his designee to enter into a three-year lease with two mutually approved one-year extensions with Guy F. Atkinson Construction, LLC. for a.52-acre parking area at the Fabulich Center located at 3600 Port of Tacoma Road, Tacoma, WA.**

**DISCUSSION:**

1. This is a small parcel for laydown/storage space and their employees’ parking. This is a first reading and no action is being asked for. Scott Francis will return in April to ask for approval of this lease. They will fence this area and develop it. This will protect their company trucks and personal vehicles from catalytic converter theft.
2. This supports their three-year office lease. They will have a large number of people in the building and make sure there is adequate parking for all tenants.
3. Commission stated that it is nice to see this building now at 93% occupied. We’re talking about a three-year lease, but we will be moving to our new location and we were going to get an appraisal and see if we want to keep it or put it on the market. Would like to move forward with an appraisal to see where we’re at on this building.
4. The Commission needs to discuss if the Port wants to stay in the office leasing business. Commissioner Meyer would like to strategize about this. We have been careful not to approve leases longer than three years in this building since we might sell it.

**F. Resolution 2022-06-PT: Master Policy**

**MOTION: Adopt Resolution 2022-06-PT, Port of Tacoma’s Master Policy.**

*Motion was made and seconded.*

**DISCUSSION:**

1. The changes were reviewed. In 2020 a comprehensive review was performed with prior legal counsel and many changes were made. This effort today results in non-substantive changes.
2. Mitigation Bank and Sales is a new section. New definitions are listed in the Master Policy.
3. ILA approval change: Approval previously was delegated to the executive director between the POT and NWSA. This was pulled back up to the Commission level.

4. The updated Master Policy reinstated executive director delegation for surplus of property with a value of less than \$10,000. We could add language to require staff to return to Commission with the results of sales of surplus personal property.
5. The recommended changes were reviewed. Additionally, the Commission requested the following:
  - A. Page 17/18: Request legal counsel give more information here and add reporting language.
  - B. Page 22: Proceeds from the sale of surplus mitigation credits - The Commission doesn't want to limit the Port's use of proceeds from the sale of mitigation bank proceeds. They would prefer maximum flexibility. It was suggested to take #3 out or change the "shall" to "may". This is not a legal requirement, so this will be deleted on redraft.

**VOTE: TABLED TO APRIL MEETING 5-0**

**G. ILA - Port/Pierce County: Lower Clear Creek Restoration, Flood Gate Configuration and Easements:**

**MOTION: Authorize the Executive Director or his designee to:**

1. **Enter into an Interlocal Agreement (ILA) with Pierce County, pursuant to the Interlocal Cooperation Act (RCW Chapter 39.34). This Agreement is for the Port of Tacoma and Pierce County to cooperatively enhance salmon habitat, reduce flood risk, and improve fish access at the Port's Lower Clear Creek Habitat Mitigation Site. The total financial commitment by the Port of Tacoma shall not exceed \$25,000.**
2. **Convey a temporary access easement and a permanent access easement to Pierce County on Port Parcel 67, the Lower Clear Creek Habitat Mitigation Site, necessary to implement the ILA.**

*Motion was made and seconded.*

**DISCUSSION:**

1. The background on this item was reviewed. This will enhance an important investment the Port has already made.
2. Flood gates: The County will take the wooden flap gate and replace it with a motorized sluice gate. The new gate will work together with the other motorized gate to allow more fish access.
3. The County will remove the access road and replace it with bellies. This will maintain function of our wetlands and allow better fish access. Removing the access road will not impact the Port, as it is not currently providing any function.
4. The Port's total contribution will not exceed \$25,000. The County will maintain and monitor the project area for five years.
5. The temporary easement (for five years) and permanent easements were reviewed.
6. Indirect positive impacts were reviewed, such as significantly reducing the flood risk in the Clear Creek floodplain and eliminating the Port's spill response liability.
7. The County will be responsible for acquiring all permits.
8. Commissioners Keller and Meyer stated that they are continually impressed by the work of our Environmental Team.
9. Commissioner McCarthy requested a tour of this site.

**VOTE: MOTION CARRIED 5-0**

**H. Resolution 2022-07-PT: Maritime Center Headquarters Master Plan**

**MOTION:**

1. **Port of Tacoma staff shall begin a cultural resources assessment on Port Parcels 92 and 94 in close communication with the Puyallup Tribe of Indians.**
2. **Port of Tacoma staff shall begin Environmental, Engineering and Planning studies required to support property redevelopment consistent with the cultural resource report.**
3. **Port of Tacoma staff shall prepare a scope, schedule and budget for consideration by the Commission to develop a Wheeler Osgood Area Master Plan informed by stakeholder feedback that would include a new Port Administration building as part of the Site Master Plan.**

*Motion was made and seconded.*

**DISCUSSION:**

1. A cultural resource assessment will be done due to the cultural significance to the Puyallup Tribe of Indians.
2. Eric Johnson had a good conversation with Metro Parks staff and learned how they have handled outreach. The Port takes this outreach piece very seriously. This resolution gives us some clear Commission direction.
3. Commissioner Meyer stated that he was very proud that the Port was able to go through the strategic planning process, even under difficult circumstances. He would like to continue to use that model.

**VOTE: MOTION CARRIED 5-0**

**NONACTION - NEW BUSINESS**

For Commission transparency on Commission committees, there are a few boards that are NWSA memberships and not Port of Tacoma. Commissioner Keller would like to bring this forward at the April meeting or through the Governmental Committee.

**COMMITTEE REPORTS**

None.

**ISSUE BRIEFINGS**

**Taylor Way ITS Briefing, Mark D'Andrea, City of Tacoma:**

1. The \$500,000 that the Port made available to the City was not needed. The City didn't do all of the ITS improvements. The Commission has the option to use that money to complete some of the items that didn't make it into the City's budget.
2. Taylor Way is now concrete, a second left turn lane both north and southbound on 509 were added, and the City also expanded the turn pockets. There is also a dedicated right turn lane coming northbound. They widened the Taylor Way leg of the intersection to assist trucks, and added a 10' sidewalk from SR 509 to Lincoln Ave. City staff found that at dusk and in the evening it was difficult to see and people were walking in the road. This was a safety concern that has now been addressed
3. The background on this project was reviewed. This main corridor had no ITS connection. The facets of this project that were completed were also reviewed. It was built to tie into the SR 167 ITS system.
4. The Puyallup Tribe of Indians was very supportive and allowed us to use a piece of their land. The City coordinated with businesses along this route to minimize interruptions. They also planned for allowing emergency access during the three-day closure for paving. They had to coordinate with the railroads and businesses.
5. The next steps were discussed.
6. In terms of battery-operated trucks – it is heavy haul with 13" of concrete. This will last much longer than a paved highway.
7. Two ITS improvements have been designed and the city has an interest in completing these last two items with the remaining funds from the Port:
  - A. Design and ITS backbone: The City is also looking for grants for this. We have some bits and pieces that are not as connected as they should be. They are working on a truck study to incorporate the latest information into the ITS model. The truck study should be completed in time for budget season.
  - B. They would also like to have ITS comprehensively throughout the Tideflats. If we want to grow, we need to manage our traffic. Taylor Way has a fire station with no indication if a train is blocking the road. They are close to being ready to use the analysis tool from the truck study, which will tell us which projects will give us the biggest bang for our buck.
8. The Commission asked, in regard to an ITS system for whole Tideflats, how does our current wireless tracking system work with a comprehensive ITS Tideflats system. Mr. D'Andrea stated that this is down the road a bit. The City's goal is to have the ability to direct traffic when there are blockages. ITS signage can be programmed remotely immediately. As SR 167 now ties into SR 509 we will have a great increase in traffic. If there is an incident, drivers need to know where to go.
9. The City thanked Evette Mason for her tireless work on outreach for this project, prior to retiring from the Port.

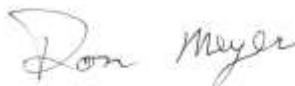
**ANNOUNCEMENTS / COMMISSIONER COMMENTS**

**Commissioner Ang:** She would like to see where we are in our staffing.

**Commissioner McCarthy:** Stated that his request for consideration of a Chief of Staff would have made three different items for this meeting easier for Commissioners. The NWSA is also considering this position.

**ADJOURNMENT**

With no further business, Commissioner Meyer adjourned the meeting at 2:53 pm.



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Don Meyer, President  
Port of Tacoma Commission

Attest:



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Kristin Ang, Secretary  
Port of Tacoma Commission



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Judi Doremus, Clerk of the Port  
Port of Tacoma