

**MINUTES
COMMISSION MEETING
OCTOBER 15, 2020**

The Port of Tacoma Commission met for its regular meeting, October 15, 2020. Commissioners Ang, Keller, McCarthy, Marzano and Meyer were all present via telephone/video conference.

10:30 AM EXECUTIVE SESSION

1. CALL TO ORDER:
Commissioner McCarthy called the meeting to order at 11:00 a.m.

2. RECESS TO EXECUTIVE SESSION:
After calling the meeting to order, the Commission immediately recessed into executive session to discuss one potential litigation item (RCW 42.30.110(1)(i)). The executive session lasted 30 minutes. No votes or actions were taken.

12:00 NOON PUBLIC SESSION

1. RETURN TO ORDER AND FLAG SALUTE:
Commissioner McCarthy reconvened the public meeting at 12:00 Noon. The public was provided with information on how view the meeting via live stream and how to listen live by telephone. Commissioner McCarthy then lead the Pledge of Allegiance.

2. APPROVAL OF THE AGENDA:
**It was moved and seconded to approve the agenda.
The motion carried unanimously.**

3. SPECIAL ORDERS OF BUSINESS: None.

4. CONSENT AGENDA:
It was moved and seconded to approve consent agenda
 - A. Approval of the Minutes of the September 17, 2020 Commission meeting.
 - B. Approval of the payment of checks 228041 through 228263 and wire transfers in the total amount of \$9,028,937.00 during the period of September 5, 2020 through October 2, 2020, certified by the Port of Tacoma auditor.
 - C. Authorization for the Port of Tacoma's Executive Director or designee to extend the term of Personal Services Agreement No. 069614 with Alliant Insurance Services, Inc. for a period of nine (9) months ending October 1, 2021, and to increase the amount of the existing contract by \$57,549.00 for a total contract amount of \$581,227.50.
The motion carried unanimously.

5. PUBLIC TESTIMONY: None.

6. EXECUTIVE DIRECTOR'S REPORT:
Eric Johnson, Executive Director, summarized the meeting agenda.
 - A study session on the proposed 2021 budget and the Port's Strategic Plan is scheduled for November 5, 2020.
 - Staff continues to work remotely, productivity remains high. No reports of any COVID cases at the Port to date.

- The City of Tacoma conducted a first reading on a motion to extend the Interim Regulations for the Tidelands for another six (6) months. The Port submitted written comments asking the City to extend the interim regulations, unchanged.
- Mr. Johnson informed the Regional Access Mobility Partnership group that on October 29, 2020, the Port would be holding a special work session on its Strategic Plan as related to the transportation planning. He is also involved in conversations with the State House of Representatives Transportation Committee regarding outreach efforts on transportation planning.
- Washington State Supreme Court ruled I-976 (\$30 car tabs) unconstitutional.
- The Port's Director of Facilities, Dakota Chamberlain is retiring. His contribution to the Port was recognized.

7. ACTIONS:

A. Parcel 103 Steam Plant Environmental Cleanup.

Presented by Sarah Weeks, Environmental Project Manager I

It was moved and seconded to: (1) authorize the Executive Director or his delegate to execute a Settlement and Cost-Sharing Agreement with Tacoma Power to settle past costs incurred addressing historical releases of hazardous materials and share future remedial costs, and (2) authorize project authorization in the amount of \$30,000 for a total authorized amount of \$755,000, for work associated with Parcel 103 Steam Plant Site Investigation, Master Identification No. 10123.01.

The motion carried unanimously.

Discussion:

- The site is located on the Blair/Hylebos peninsula and was developed by the City of Tacoma in the 1930s.
- The property was purchased by the Port from Tacoma Power (TP) in 2007. As part of that sale, Tacoma Power indemnified the Port for costs incurred addressing the release of hazardous substances, and the Port had five years in which to submit a claim. Once the Port took possession of the property, it demolished site infrastructure and spent \$373,000 on hazardous waste disposal for materials that were abandoned on site.
- In 2010 the Port Commission approved contract authorization to complete an environmental investigation. The investigation found soil and groundwater impacted by elevated pH, metals and petroleum. In 2012, the Port submitted a claim for \$676,000. Tacoma Power countered with \$200,000 conditioned on the Port agreeing to hold TP harmless for any future claims. The Port did not accept the offer and the costs have been in dispute ever since.
- The original scope of the authorization was to enroll in the Voluntary Cleanup Program (VCP) and complete an investigation and draft cleanup action plan. Ecology said this project was complicated for the VCP and informed staff that their agency priorities did not include this property. In 2018 the Commission authorized a change in scope for this project to focus on cost recovery.
- In January 2020, Tacoma Power submitted a counteroffer of \$661,263 for past costs and proposed cost-sharing of 84/16 (Tacoma Power/Port) through implementation of the cleanup regardless of the remedy ultimately selected. The core terms of the settlement were described.
- The \$30,000 additional funds requested by this action will support procurement of an environmental consultant to support the next phase of the project.

- Ecology is not currently involved in this matter. The project is not eligible for VCP, and Ecology is not open to an Agreed Order at this time. Ecology is aware of this plan going forward. Staff reported that the Port will likely move forward with the investigation independently, but neither the Port nor Tacoma Power want to implement cleanup without an Agreed Order with Ecology.
- Commissioners noted that the use of public funds to clean up private industry contamination is bothersome. The Port should be indemnified.

B. Resolution 2020-12-PT - Issuance and Sale of a Revenue Refunding Bond

Presented by David Morrison, Director, Financial Planning and Treasurer

It was moved and seconded to delegate to the Executive Director the authority to approve the final terms of the refunding bond, and to delegate to staff the ability to pay all fees associated with the loan, and to adopt Resolution 2020-12-PT authorizing the issuance and sale of a revenue refunding bond, series 2020 (AMT), of the Port in the aggregate principal amount of \$26,075,000 for the purpose of refunding certain outstanding revenue bonds of the Port; providing the date, form and repayment terms of the bond; and approving an offer to purchase the bond.

The motion carried unanimously.

Discussion:

- Staff presented the proposed refunding opportunity. Extremely low interest rates are available in the publicly traded bond market. Staff worked with local Columbia bank to develop an alternate approach to issuing new debt in the public market.
- The terms of the loan, the payment schedule and savings from prior bonds were presented. There are savings of \$1,429,595 in cash over the next nine years.
- After December 1, 2020 the Port will have \$1.5 million of variable rate bonds that will be unhedged that can be retired. Every year thereafter about there is the opportunity to retire \$4 million.
- It was confirmed for Commissioner Meyer that the action today is to authorize the interest rate presented and that the delegation of authority to the Executive Director to approve the final terms means finalizing the paperwork – not approving any other interest rate.
- In 2014 the Port refunded parts of its 2004 bonds. It went out with an RFP and 40 banks responded. Columbia Bank won the business back then. In this situation, the rates in the publicly traded bonds were better than bank rates. Columbia Bank, our local partner, was willing to meet the publicly traded bonds.
- Commissioner McCarthy shared his philosophy regarding paying down debt and emphasized that he does not like the Port being the most leveraged major port on the west coast. He expressed his opinion that perhaps now is an opportunity for the Port to pay down its debt in light of potential risk associated with funds committed to the T5 NWSA project. He asked for staff to comment.
- Staff responded that rating agencies like the Port to have high liquidity. Staff acknowledged that the Port could pay off these bonds, however in looking at the Plan of Finance, the Port could be at or below our minimum cash in a couple of years and could end up borrowing in the next couple of years, and future interest rates are unknown. Staff recommends locking in these historically low interest rates and keeping the approximately \$26 million liquid. Staff added that in looking at the Plan of Finance including commitments to the NWSA revenue from the NWSA and the Port and the Port's CIP, the spending as proposed out five years, cash would be below the minimum \$20 million in 2023/2024 if the Port paid off the debt, and that is before any new projects added out of the Strategic Plan.

- C. Property Acquisition – 2235 and 2311 Ross Way, Tacoma Washington
Presented by Scott Francis, Director, Real Estate

Following the presentation by staff, the Commission engaged in a general discussion regarding this topic. No motion or action was taken.

- Commissioner McCarthy noted that the Commission was not aware of this potential purchase, it was not brought to executive session, nor was a proposed Purchase and Sale Agreement, apparently signed on behalf of the Port, been presented for review.
- Prior to calling for a motion on this item, the Commission President asked for clarification from the Executive Director regarding practice of purchasing property without prior Commission approval. According to staff, the last time was two years ago for a 4-acre parcel in a corridor that was identified as strategic to the Port's interest and fit within the goals.
- Commissioner McCarthy commented that when he returned to the Port Commission, he was informed that the Port is \$600 million in debt, due in large part to acquiring property it paid too much for and that was also contaminated. He stated that a substantial property purchase is something that should be brought to the commission in executive session. To infer that the staff is of the understanding that it has authorization to purchase property within the strategic zone without first bringing to the Commission causes him concern.
- Commissioner Meyer expressed his frustration of purchasing property and getting stuck with the environmental cleanup. He was also concerned with the reference to lead. To his knowledge lead does not naturally attenuate.
- Commissioner Keller opined that a \$2 million investment, no new jobs, a 6% rate of return and the need for indemnification for environmental issues begs for more conversation.
- Commissioner Ang is also concerned with the environmental risk. She emphasized the need for indemnification. She commented that the polluters need to be responsible for the cleanup. She also asked for additional information regarding the appraisal, the security deposit, and the basis for the 6% ROR.
- Commissioner Marzano added that he concurs with all the comment. He acknowledged that the property was identified as a strategic property, but there are answers needed before the Commission can act. He said he appreciates the efforts to make critical moves, but more dialog is needed.
- Staff clarified that the seller received an offer from another entity and offered the Port the opportunity to meet the terms of the other interested purchaser. The Port had to act quickly and assured the Commission that it did not commit the Port to anything until approved by the Commission.

8. NON-ACTION - NEW BUSINESS: None.

9. COMMITTEE REPORTS:

A. Economic Development Fund Committee.

Eric Johnson provided a progress report on the four projects previously approved by the Port's Economic Development Fund Review Committee.

- As authorized by the Commission, two Interlocal Agreements (ILAs) with the City of Sumner have been signed. (1) the Stewart Street Bridge project. Freight mobility, flood control, and fish passage benefits. (2) intersection improvements at Highway 410 project. Fish culvert will be replaced.
- The ILAs with Lakewood and Puyallup are finalizing their proposed ILAs and should be sent to the Port relatively soon.

- If the Economic Development Fund program is approved by the Commission for 2021, the Port will send out a notice to interested parties that the grant application process will be open again. Typically, those are sent out in December, with awards announced Q1.

B. Tribal Liaison Committee

Eric Johnson informed the Commission that the Port has requested Consultation with the Puyallup Tribe related to several projects, including the Blair deepening project.

10. ISSUE BRIEFINGS:

A. Tacoma-Pierce County Economic Development Board (EDB) Annual Update

Presented by Bruce Kendall, Executive Director EDB Tacoma-Pierce Count

- Mr. Kendall provided an update on EDB's efforts to recruit and retain primary businesses in Pierce County including how the EDB has pivoted since Covid-19. Partnerships formed for the purposes of getting businesses the help they need to survive and recover were highlighted.
- The future view of how offices are structure post COVID was discussed.
- EDB's internal and external efforts in reaching a goal of a becoming a "beacon for diversity, equity and inclusion" were presented.

B. Strategic Plan Update

Presented by Eric Johnson

- Mr. Johnson set forth the planned schedule for tackling the strategic plan. Several work sessions will be scheduled as part of regular or special meetings.
 - October 29, 2020 meeting - transportation planning efforts, historical, current and future and an overview of financials.
 - November 5, 2020 – Environmental goals.
 - November 19, 2020 – Organizational health.
 - December 3, 2020 – Economic vitality and marine infrastructure.
 - December 17, 2020 – Connections.
- Commissioner McCarthy emphasized the need of financial health as part of organizational health and would to see the term "financial" worked back into the goal language.

C. Litigation Settlement Report, Pierce County Cause No. 16-2-10303-6

Presented by Eric Johnson and Carolyn Lake, Port General Legal Counsel


- The Port of Tacoma, Tacoma Pierce County Economic Development Board, Tacoma Pierce County Chamber of Commerce and the Washington State Office of Attorney General reached a settlement agreement that brings an end to litigation regarding Fair Campaign Practices Act (FCPA) violations.
- Topic stems from an assertion that the port violated the FCPA four years ago by challenging an initiative filed by citizens related to water usage. The Port was successful in the challenge and the judge ruled the initiative was not supposed to be on the ballot. There was an assertion that the Port's action was a violation of the FCPA.
- Key points include that The Public Disclosure Commission (PDC) determined that the Port had not committed any violation and the trial judge said the Port did not violate the law. The matter went to the Court of Appeals and while in the Court of Appeals, the Washington State Supreme Court ruled in a separate case that had similar facts, that such activity should be reported as a campaign expenditure.

11. ANNOUNCEMENTS / COMMISSIONER COMMENTS:

- Commissioner Ang thanked Dakota Chamberlain for his service to the Port. She thanked Bruce Kendall for his presentation today and said she's happy about the diversity, equity, inclusion mission of EDB. She encouraged citizens to Vote. She acknowledged Indigenous People's Day and commented that the Port is on Puyallup Tribe's ancestral land.
- Commissioner Keller commented that citizens need to exercise their right to vote and continue to follow health guidelines regarding COVID.
- Commissioner Marzano wished Mr. Chamberlain well on his retirement and encouraged citizens to follow the guidelines for COVID and also to vote.
- Commissioner Meyer wished Mr. Chamberlain well and thanked him for his contributions to the Port.
- Commissioner McCarthy wished all a Happy Halloween.

12. ADJOURNMENT:

There being no further business before the Commission, the meeting adjourned at 2:02 p.m.



John McCarthy, President
Port of Tacoma Commission

Attest:



Don Meyer, Secretary
Port of Tacoma Commission



Juliet Campbell, Clerk of the Port
Port of Tacoma