

**MINUTES
SPECIAL COMMISSION MEETING
JANUARY 21, 2021**

The Port of Tacoma Commission met for a special meeting, January 21, 2021. Commissioners Keller, McCarthy, Marzano and Myer were all present via telephone/video conference.

1. CALL TO ORDER

Commissioner McCarthy called the meeting to order at 10:16 a.m. and lead the Pledge of Allegiance. Following the Pledge, he provided opening remarks regarding the inauguration of 46th President of the United States of America.

2. APPROVAL OF THE AGENDA

It was moved and seconded to revise the agenda to pull items 10G, the ILA with the Washington State Department of Transportation (WSDOT) related to SR 167 (Phase 1B) and 10H, the associated public hearing and action regarding the surplus and Comprehensive Scheme of Harbor Improvements Amendment, transferring an 11.1 acre property transfer to WSDOT.

THE MOTION PASSED UNANIMOUSLY.

3. REVIEW OF FACTORS INFLUENCING THE MINIMUM PRICE OF REAL ESTATE

The Port's executive director, Eric Johnson, listed factors influencing the minimum price of real estate including the size of the parcel, infrastructure that serves the parcel, and the proximity of the parcel to transportation infrastructure.

4. EXECUTIVE SESSION

The Commission recessed for an executive session to discuss, in consult with its legal counsel, one litigation item (RCW 42.110.(1)(i)). Two items considering the minimum price at which real estate will be offered for sale or lease (RCW 42.30.110(1)(c)) were also discussed. The executive session began at 10:25 a.m. and lasted one hour and 15 minutes. No votes or actions were taken.

5. RETURN TO ORDER

The Commission reconvened in public session at 12:00 noon.

6. SPECIAL ORDERS OF BUSINESS

None

7. CONSENT AGENDA

It was moved and seconded (Keller/Ang) to approve the consent agenda consisting of items 7A 1-4 through 7D consisting of:

- A. Commission Meeting Minutes of September 24, November 5, December 3, and December 17, 2020.
- B. Approval of the payment of checks 228599 through 228886 and wire transfers in the total amount of \$31,465,615.94 during the period of November 28, 2020 through January 1, 2021.
- C. Adoption of Resolution 2021-03-PT Authorizing the closure of the Port's petty cash fund of \$1000.00.
- D. Acceptance of notification of the Executive Director's decision to extend the duration of paid leave benefits available to Port of Tacoma employees pursuant to the Families First Coronavirus Response Act (FFCRA) through March 31, 2021.

THE MOTION PASSED UNANIMOUSLY.

8. PUBLIC TESTIMONY

John Page, Director, Career and Technology, Tacoma Public Schools spoke regarding workforce development.

9. EXECUTIVE DIRECTORS REPORT

- Work continues on the Port's Strategic Plan. It is progressing and he expects a first draft to be in Commissioners' hands in approximately three weeks.
- The Tribal Liaison Commission Work Group, including commissioners Ang and McCarthy, along with the Executive Director and staff met with the Puyallup Tribe at the Tribe's request to discuss the Blair Waterway deepening and the Saltchuk mitigation site.
- There is a freeze on transportation projects due to a drop in transportation revenue. This includes the SR 167 (Phase 1B) extension. Mr. Johnson has been invited to participate in a panel providing testimony before the House Transportation Committee this afternoon to encourage the state to lift the freeze.

10. ACTIONS

A. ELECTION OF 2021 COMMISSION OFFICERS

It was moved and seconded (McCarthy/Myer) to adopt the following slate of officers:

President: Richard Marzano
Vice President: Donald Meyer
Secretary: Deanna Keller
1st Secretary: Kristin Ang
2nd Secretary: John McCarthy

THE MOTION PASSED UNANIMOUSLY.

Discussion

- Commissioner McCarthy noted that by rules, bylaws and tradition, the Commission rotates its officers annually.
- Commissioner Keller proposed a toast thanking Commissioner McCarthy and the team for getting through 2020.
- After Commissioner McCarthy passed the virtual gavel to new Commission President, Commissioner Marzano. Commissioner Marzano thanked Commissioner McCarthy for his leadership during 'these troubled times' without missing a beat.

B. PERSONAL SERVICES AGREEMENT – MAUL FOSTER & ALONGI, INC.

Presentation by Deirdre Wilson, Senior Planning Manager

It was moved and seconded (Ang/Keller) to authorize the amendment of Personal Services Agreement No. 071173 with Maul Foster & Alongi, Inc. increasing the Port of Tacoma Strategic Plan project budget from \$291,700 by \$50,000 for a total authorized amount of \$341,700.00.

THE MOTION PASSED UNANIMOUSLY.

Discussion:

- Commissioner Meyer does not like change orders, particularly to a \$300,000 contract, however the justification is solid given the communication issues and extraordinary items due to the pandemic. He asked if there were any savings realized due to, for example, less travel expenses and how staff and consultants landed on \$50,000.

Staff clarified the charges are all based on time and materials. Staff is working closely with the consultants to guide the work and time. However the process changed. For instance, gathering restrictions prohibited planned in-person meetings. A planned in-person assessment with experts instead turned into 40 individual telephone interviews. The number of Commission meetings tripled. Work on the website was expanded to include a comprehensive on-line open house, etc. Staff noted that the pandemic forced staff and the consultants to work with the new techniques and it may have cost more as staff learned to work within the new environment.

- Commissioner Marzano commented that it was appropriate to accommodate outside participant requests for more time to provide input in the process.

C. PARCEL 15 AGREED ORDER FOR CLEANUP IMPLEMENTATION, GRANT AGREEMENT AND PROJECT AUTHORIZATION (MIDs 099597 and 101280.01).

Presentation by Rob Healy, Environmental Senior Project Manager

It was moved and seconded (Meyer/Ang) to authorize entry into an Agreed Order with Washington State Department of Ecology (Ecology) to implement the cleanup at Parcel 15.

MOTION #1 PASSED UNANIMOUSLY.

Discussion:

- Commissioner Meyer noted a distinction between cleaning up and remediating. He asked if a calculation regarding removal of the problem had been done and, stated his concern regarding contaminants leeching into Wapato Creek. Staff informed that it was evaluated as part of the original feasibility study worked on with Portac and Ecology. Removal was the most expensive option estimated at over \$30 million. They went through Ecology's disproportionate cost analysis and that remedy was not selected by Ecology as the remedy of choice for the site.
- Commissioner Keller stated she is in full support of cleaning up/remediating. It is part of the Ports environmental stewardship responsibility.
- Commissioner McCarthy asked what the schedule is for actual dollars going out. He also wanted to know if the Ecology staff involved in this project are the same staff the Port is working with on other projects where the Port and Ecology may not agree. Staff responded that design is scheduled for later this year. Cleanup is expected to begin 2022, though there may be some flexibility to extend to 2023. Staff noted the \$1 million grant may be at risk if there are delays. Staff is working with Andy Smith, Group Leader for Ecology Southwest Region. The Ecology project managers working on EBC and the Taylor Way and Alexander Avenue Fill Area are not engaged in this project.

It was moved and seconded (McCarthy/Ang) to authorize entry into a grant agreement with the Washington State Department of Ecology for \$1 million to implement cleanup at Parcel 15.

MOTION #2 PASSED UNANIMOUSLY.

Discussion: No additional comments/discussion.

It was moved and seconded (Meyer/Keller) to grant project authorization in the amount of \$50,000 for a total authorized amount of \$50,000, to initiate remedial design for cleanup at Parcel 15.

MOTION #3 PASSED UNANIMOUSLY.

Discussion: No additional comments/discussion.

D. LOWER WAPATO CREEK HABITAT PROJECT

Presentation by David Myers, Engineering Project Manager II and Mark Rettmann, Environmental Project Manager II

It was moved and seconded (Meyer/Keller) to grant project authorization in the amount of \$12,170,000 for a total authorized amount of \$14,095,000 for the Lower Wapato Creek Habitat Project: MID 101449.01

MOTION #1 PASSED UNANIMOUSLY.

Discussion:

- Commissioner McCarthy expressed his concern over this large cost project. He commented that the project does not support an existing customer or known new customer and will not generate any particular income other than the value of the credits. He wants to know how confident staff is in the future cost estimates. He noted changes to the estimates from prior authorization regarding this project in 2014, 2019, and 2020. In 2014 the cost was estimated at \$5.4 million increasing in 2019 to \$10.9 million. Estimates in July 2020 were higher than the current estimate which is now approximately \$15.8 million. Staff attributed changes from 2014-2019 to escalation in the construction industry and to changes and revisions to the plans based on modeling and data collection. Staff stated that though the project itself does not generate revenue, it allows the Port to complete other projects on other Port-owned property, that would have environmental impacts, such as the Thorne Road Projects, Progress Rail, TPU Marsh Site. The project is anticipated to create enough Fish Credit from the bridge crossing to allow for future crossing of Wapato Creek North of SR 509, etc.
- Potential impacts to the schedule due to SR 167 project delays were discussed.
- Mark Rettmann provided a brief explanation the value of and timing of the use of Wetland and Fish Credits.
- Commissioner Meyer asked for more information on the project contingency and the bidding environment. Contingency is based on the level of design. Currently the contingency is \$2.1 million. The project has a 10% contingency on phase 1, 25% for construction and maintenance phase 2. Staff is also carrying contingency for escalation and the "COVID factor". The bidding environment is volatile and busy.
- The site includes buffers so there is no impact on adjacent property. The design is such that it will not impede movement of the water. Regarding erosion, staff noted that Wapato Creek is slow moving. The design is such that some of the woody material will be embedded into the curves of the meandering creek lending to the structural integrity. Design steps to ensure the stream capacity in the future were discussed (vegetation, cobble, etc.)
- Commissioner Keller commented that she likes this project and it is an important piece of the Port's environmental stewardship role. She noted that Pierce County citizens are contributing to this project through their property taxes.

It was moved and seconded (Keller/Ang) to authorize the Executive Director or his designee to enter into mitigation agreements (i.e., Interlocal Agreements (ILAs) with the Washington State Department of Ecology, Washington Department of Fish and Wildlife, and other applicable permitting agencies, as necessary, with terms substantially as set forth.

MOTION #2 PASSED UNANIMOUSLY.

Discussion:

- Clarification was provided regarding the sentence in the above motion request "... with terms substantially as set forth." Staff clarified that the reference is to the mitigation agreements to document the mitigation plan and the generated advance mitigation credits. The mitigation agreements will include terms substantially as set forth in page 5 of the accompanying memo, including Scope of Work: Defines design and construction elements of the habitat site, and site protection (restrictive covenant/conservation easement), monitoring and maintenance, and reporting requirements. Mitigation Value (Credit) Generation: Defines types of mitigation credits and how many will be generated by the site and when the credits will be available Mitigation Credit Use: Defines how the Port can use the advance mitigation credits. Terms and Conditions: Defines terms and conditions and other administrative procedures for the agreement.
- Staff also clarified that Advance Mitigation Credit can only be used by the Port on Port projects (this is different and separate from Mitigation Bank Credits).
- Commissioner McCarthy wants to make sure that any ILAs do not preclude the Port from transferring the maintenance of the sites to other entities.

It was moved and seconded (Meyer/Keller) to authorize the Executive Director or his designee to record on Port properties a restrictive covenant/conservation easement for habitat purposes, amended utility easements, and other applicable easements necessary to implement the Project, with terms substantially as set forth.

MOTION #3 PASSED UNANIMOUSLY.

Discussion:

- The terms include restrictive covenant and utility easements necessary to rework due to new locations.
- Commissioner Meyer wants assurance regarding the Port's ability to maintain the capacity of this site. Staff discussed permitting and estuary wetland habitat easements to protect the restoration portion of the project.
- This project will add to the flood storage at this site. Approximately 28 acre feet based on Wapato Creek base flood elevation. The Puyallup River overtopping calculation increases by almost 80 acre feet.

E. INTERLOCAL AGREEMENT WITH CITY OF FIFE – 12TH STREET E RIGHT OF WAY

Presentation by Evette Mason, Manager Government Affairs.

It was moved and seconded (Keller/Ang) to authorize the Port's Executive Director or his designee to enter into an ILA with the City of Fife per Resolution No. 2020-11-PT First Amendment Exhibit A, Delegation of Authority Maser Policy, Paragraph IV.A, requires Commission authorization to enter into ILAs with other public agencies. Specific to this ILA:

1. Replacing the 12th Street E Wapato Creek culvers with bridge.
2. Filling the creek ditch along 12th Street E.
3. Conveyance of a strip of Port property along 12th Street E Street for right of way and utility purposes.
4. Confirmation of the permitting agencies.
5. Coordination of review and inspection fees.

THE MOTION PASSED UNANIMOUSLY.

Discussion:

- Commissioner Meyer asked about public access to the site. Staff responded that one of the concerns discussed with the Puyallup Tribe, is that the area has special meaning to the Tribe and they want to limit public access to the property. Staff informed that the intention is to grade/fill the existing ditch and creating a gentle slope off the road surface to the habitat site. It will be a 33' wide grassy shoulder. Staff noted that though it would be nice for people to go out and enjoy these areas for birdwatching, etc. as suggested, the problem is that 'man' is not a component of the natural area the project intends to create and agencies frown on public access to habitat sites.

F. PUBLIC HEARING/Action: Surplus .8 Acres of Port Parcel 14

Presentation by Scott Francis, Director Real Estate

Commissioner Marzano opened a public hearing to take public comment on the Port of Tacoma's proposed action to surplus certain real property pursuant to RCW 53.08.090, to amend its Comprehensive Scheme of Harbor Improvements pursuant to RCW 53.20.010-020 and RCW 53.25.120 to delete that property, and to consider approval of transfer of that property to the City of Fife for public purposes. The Property sought to be declared surplus consists of the following real property:

Land with irregular dimensions being approximately .8 acres total and 33' in width at its widest point and 1,193.65' in length, being the southerly part of Revised Parcels N and O of City of Tacoma Boundary Line Adjustment No. LU17-0187, recorded under Recording No. 201909055001, records of Pierce County, Washington, being the southerly part of Pierce County Tax Parcel Nos. 0320013157 and 0320013158, Pierce County address 1131 E Alexander Ave, Tacoma WA 98421, located along the northern edge of 12th St E.

The Port's Executive Director certified that the property is no longer needed for Port use and is surplus to the Port's needs.

After a staff presentation, Commissioner Marzano invited public comment. No members of the public signed up to provide comments and no written comments were received. Commissioner Marzano then closed the public testimony portion of the hearing.

It was moved and seconded (Ang/Meyer) to declare, via Resolution 2021-02-PT, certain Port owned property as no longer needed for Port District purposes and surplus to the Port's needs; amend the Port's Comprehensive Scheme of Harbor Improvements to remove the property from the Port's Comprehensive Scheme of Harbor Improvements; and authorize the Port's Executive Director to transfer the property to the City of Fife.

THE MOTION PASSED UNANIMOUSLY.

Discussion: None.

11. NON-ACTION – NEW BUSINESS

None.

12. COMMITTEE REPORTS

Commissioner Marzano asked all commissioners to reach out to the Executive Director regarding who would like to take the lead on two proposed workgroups including Workforce Development and Diversity, Equity and Inclusion.

13. ISSUE BRIEFINGS

None.

14. ANNOUNCEMENTS/COMMISSIONER COMMENTS

Commissioner Ang: Noted Martin Luther King Jr. Day and the Port's role in creating economic justice.

Commissioner Keller: Commented that the country has been through a rough four years and that we need to fight extremism and violence by those anarchists that want to tear our country apart. Things brewing on Facebook she sees are not good. The Country needs to be strong together and create the country we want in a peaceful respectful way.

Commissioner McCarthy: Commented he is looking forward to being able to get together in 2021.

Commissioner Meyer: Thanked Commissioner McCarthy for leadership and ability to work through the technical aspects of the virtual environment. He echoed comments by Commissioners Ang and Keller underscoring the Port's role in creating good wage jobs.

Commissioner Marzano: Agreed with the statements of Commissioners Ang and Keller. He would also like to try and get together in person by June if possible. In order to address the challenges and issues the Port faces the Commission may need to meet more than monthly.

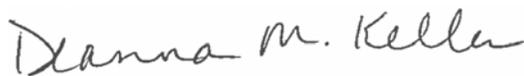
15. ADJOURNMENT

The meeting ended at 2:37 p.m.



Dick Marzano, President
Port of Tacoma Commission

ATTEST:



Deanna M. Keller, Secretary
Port of Tacoma Commission



Juliet Campbell, Clerk of the Port
Port of Tacoma