

MINUTES
PORT AUTHORITY SPECIAL MEETING
WEDNESDAY, JULY 19, 2023
4:00 P.M.
CONFERENCE ROOM A

Members Present: Commissioners Jason Baskin, Lee Bjorndal, Geoff Smith, Jeff Austin, Michael Bednar, Kris Heichel, and Tim Ruzek.

Members Absent: None.

Staff Present: Port Authority Attorney Craig Byram, Port Authority Executive Director Craig Clark and Port Authority Secretary Tom Dankert.

Others Present: John Garry (DCA), Patrick Harty (Harty Mechanical), Holly Wallace (City Planning Director), and Craig Popenhagen (CLA Auditors).

President Baskin called the meeting to order at 4:00 p.m.

Item #2. – Approval of minutes of the May 10, 2023 special meeting: Motion by Commissioner Austin, seconded by Commissioner Smith to approve the minutes of the May 10, 2023 special meeting. Carried 7-0.

Item #3. – Approval of claims for payment April 27, 2023 through June 22, 2023: Mr. Dankert discussed the claims paid for the above period totaling \$62,476.49. Mr. Dankert highlighted the payments made for the Walker Building remodel, adding 1,900 square feet now to the International Paper lease. Additionally, the final loan payment was made to HPW LLC for the renovation of the former Paradise Island/Ville properties. No questions noted.

Motion by Commissioner Bjorndal, seconded by Commissioner Ruzek to approve the claims for payment. Carried 7-0.

Item #4. – Audit Presentation: Auditor Craig Popenhagen from CliftonLarsonAllen, LLP presented the audit report to the Board. Mr. Popenhagen noted the following:

- The Port Authority has been issued a clean, or unmodified opinion, meaning these statements are fairly presented.
- New GASB accounting changes require us to now book the present value of leases that are longer than 12 months, meaning the International Paper lease has now been recorded as both a Lease Receivable and offset with a Deferred Inflows of Resources on the Balance Sheet (no income statement effect).
- Designated fund balance has been set aside for the Port Authority's commitment to the infrastructure costs for a new road in the Creekside Business Park.
- As far as internal controls go, we have no findings.
- As far as the Minnesota Legal Compliance, we have no findings.
- The governance letter indicates no changes in policies and no audit adjustments were needed.

Motion by Commissioner Austin, seconded by Commissioner Smith to approve the audited financial statements as presented. Carried 7-0.

Item #5. – Harty Mechanical: President Baskin reviewed the Harty Mechanical project in Creekside Business Park and the actions previously approved by the Port Authority as part of the land sale, including the requirement to add and maintain 5 jobs during the two years following the issuance of the Certificate of Occupancy by the City of Austin. The sale has closed and the project is underway. President Baskin noted we have created the baseline employment number to be used in evaluating the addition of new jobs, but Mr. Harty has expressed concerns that an economic downturn, another pandemic, or some other event Harty cannot control, could disrupt his ability to meet the strict requirements pertaining to job creation under the Developer Agreement. Failure to strictly comply triggers substantial financial obligations owed by Harty to the Port, which would present significant harm to Harty if those financial obligations were to occur during a time when such outside forces were already putting stress on his company. Instead of seeking amendments to the Developer Agreement, Harty requested the Port discuss what approach it might take if such events transpired and include its discussion in the minutes for reference in the future. After all, this issue will be present for years and there may be turnover in board membership. So documenting the Port's views on enforcement now will be helpful to future board members and also to Harty.

Commissioner Bednar asked if this had ever come up before in the Port Authority dealings. Mr. Clark noted he was not aware of a similar situation or request.

Mr. Byram noted the Port Authority will have multiple options to consider if the events described by Harty were to occur, and the choice between those options may depend heavily on the type of occurrence or disruption that is alleged to have frustrated Harty's ability to strictly fulfill its requirements under the Developer agreement. The choice may also depend on the scale of Harty's shortfall in its performance. The Port might choose to forgive, in whole or in part, the shortfall and consider Harty's efforts to have been sufficient. Or the Port might delay the deadlines for job creation in a manner designed to allow Harty to fulfill the requirements on a prolonged timeframe. These decisions will necessarily be made on the circumstances present at the time of the decision and the anticipated changes in circumstances that might improve Harty's ability to meet or exceed the intended goals.

After further discussion it was noted that the Port Authority Board acknowledges that unforeseen circumstances to arise, and sometimes those are beyond the control of those who are doing their best to conform to contractual obligations. The Port is not normally punitive in its approaches to contract enforcement and intends to work with Harty to address such issues in a manner that reflects both the importance of the contractual obligation but also the practical reality existing at the time of enforcement. The Port invites Harty to bring his concerns forward for consideration as they arise, and commits to working with Harty to identify if reasonable accommodations are necessary as a result of events outside of Harty's control, and if so to be reasonable in determining what those accommodations might be based on the practical realities existing at that time.

Harty expressed appreciation for the discussion and stated he was satisfied with the statements made by the board members.

Item #6. – Port Authority Strategic Plan: President Baskin discussed the desire to play more “offense” when it comes to properties the Port Authority owns. President Baskin asked two basic questions, as follows:

1. What is the Port Authority 10-year goal?
2. What are our major strategic imperatives the Port Authority should focus on to achieve those goals?

Board members and staff created a list on the whiteboard of potential goals. Please see attached Schedule A for brainstorming on 10-year goals.

President Baskin then consolidated the list from Schedule A into a more concise 10-year goal list (see attached Schedule B) and had members rank their priorities with yellow post-it flags, as follows:

1. Diversity/expand employer base (2 votes)
2. Creekside Business Park full or X% occupied (4 votes)
3. Diversify/expand tax base (1 vote)
4. Existing Port land fully developed, sold, and new land acquired (10 votes)
5. Develop downtown area (3 votes)
6. Protect and expand housing stock (0 votes)
7. Spec Building (4 votes)

President Baskin then listed on the whiteboard the strategic imperatives to accomplish those goals (see attached Schedule C), as follows:

1. Creekside X% full (1 vote)
2. Spec Building (3 votes)
3. FAARM Project (4 votes)
4. Market available land (6 votes)
5. Acquire new land to develop (2 votes)
6. Shovel ready infrastructure on existing property (4 votes)
7. Mainstreet 2.0 (2 votes)
8. Work with DCA to drive private investment (0 votes)
9. Proactively target and bring in new employers (3 votes)
10. Increase tax levy to max allowed (2 votes)
11. Create pool of funds to pay for infrastructure (6 votes)

President Baskin thanked everyone for their input, and noted he would work with Mr. Clark on using this meeting to create some strategies and goals for review at a future meeting.

Item #7. – Port Authority Owned Properties: Mr. Clark discussed a memo he had outlining land cost in surrounding communities based on his discussion with Ryan Nolander from Hamilton Real Estate in Rochester.

Commissioner Austin noted the prices seem to be all over the board.

Commissioner Smith noted at our next meeting we should review and create a per acre price for our different properties.

Mr. Clark noted that we might price the parcels at different rates based on types of businesses or jobs that the new business will be bringing into the community. Commissioner Smith noted that depends on who we are marketing our property too.

No further discussion.

Item #8. – Executive Director Report: Mr. Clark noted Sarah Wolfe from Wolfe and Company is asking for approval to put a sign over her salon in downtown Austin. We have authority over this exterior because of our prior easement purchase, so any signage needs to be approved by us.

After further discussion, motion by Commissioner Austin, seconded by Commissioner Bjorndal to approve the signage request. Carried 7-0.

Item #9. – Any other business: Commissioner Smith noted we should be looking at Historic District requirements and thinking about areas that this might affect. President Baskin requested Mr. Clark to send out a list of Pros/Cons to designating areas as historical districts.

Item #10. Adjournment: With no further business, motion by Commissioner Austin, seconded by Commissioner Bjorndal to adjourn the meeting at 5:50 pm. Carried 7-0.

Approved: _____

President: _____

Secretary: _____