

Maryland Port Commission
Open Session Minutes
June 7, 2022

The Three Hundred and Eighty-Eighth Session of the Maryland Port Commission was called to order at 10:00 am by Secretary Jim Ports. The Commission met in Open Session from 10:00 am until 11:06 am in the Stanton Room, 20th floor, World Trade Center, 401 E. Pratt Street, Baltimore, MD 21202.

Present: Secretary Ports, Deputy Secretary Powell and Commissioners Dandy, Dean, Huber, Lunn, McDonald, and Richardson.

Staff: Brian Miller (Deputy Executive Director), Robert Munroe (Deputy Executive Director), Christina Nichols (Chief of Staff), Philip Whaling (MPA Assistant Attorney General and Acting Principal Counsel), Richard Scher (Director of Communications), Dominic Scurti (Director of Planning), Kristen Fidler (Director of Harbor Development), David Espie (Director of Security), Steve Johnson (Director of Engineering), Ryan Barry (Director of Operations), Wonza Spann-Nicholas (Director of Finance), John Thornton (General Manager of Procurement), and Krystal Jones (Executive Office).

Minutes of the Three Hundred and Eighty-Seventh Open and Closed Session Meeting

Commissioner McDonald moved to approve the Open Session Minutes of the Three Hundred and Eighty-Seventh Port Commission meeting. Commissioner Dandy seconded the motion. The Commission then voted unanimously to approve the Open Session Minutes.

Executive Director Update, Robert Munroe, Deputy Executive Director

Deputy Executive Director Robert Munroe presented the Executive Director's update on behalf of Executive Director William Doyle who was on business travel.

New Post-Panamex Cranes at Seagirt Marine Terminal

The new post-Panamex cranes are fully operational and are proving to be much more efficient.

Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant

The Maryland Port Administration (MPA) received a Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant for \$15 million to modify infrastructure at the Intermodal Container Transfer Facility (ICTF). This project was also included in funding requests for other grants. Funding from the CRISI grant will be subtracted from the funding requested from the grant from the U.S. Maritime Administration (MARAD). Dominic Scurti, Director of Planning, stated that portions of the projects to be funded by the Port Infrastructure Development Program (PIDP) grant include the same components as will be funded by the CRISI grant.

Department of Legislative Services Audit of Harbor Development

Commissioner Richardson asked about the audit of Harbor Development by the Department of Legislative Services (DLS). The focus of the audit was to ensure the accuracy of billing by Maryland Environmental Services (MES) for operation and construction services for MPA's

Dredged Material Management Program. The auditors looked at \$4.3 million dollars billed from June 2018 through July 2020. DLS examined everything with a “fine-tooth comb.” There was only one finding: MPA had diligent procedures in place, however, the MPA had no written documentation of the specific procedures. Harbor Development now has written procedures in place.

Kristen Fidler, Director of Harbor Development, confirmed that DLS went through everything thoroughly and found no violations because Harbor Development’s process is detailed and comprehensively documented. Secretary Ports stated that it is a testament to the MPA that there was only one finding. Commissioner Huber suggested that staff from Harbor Development should be present to receive the compliments for their very thorough work.

Contracts for Approval

John Thornton, General Manager of Procurement, presented the following contract to the Maryland Port Commission for approval:

1. Modification No. 1, Contract #518008 – Reconstruction of Berths 1-6, Phase 3 – Berth 3 at Dundalk Marine Terminal, Cianbro Corporation, Baltimore, Maryland; \$591,073; Term: July 7, 2022* – July 7, 2023 (**or earlier upon BPW approval*)

Mr. Thornton stated that MDOT MPA Engineering is looking at the big picture in developing an adjustment policy for future contracts. It proposes to agree to this modification for now and establish a policy for material price increases for the future. Secretary Ports expressed that this type of policy should already be in contracts to include material price increases and decreases.

The Secretary and the Commission expressed concern regarding the greater impact of the contract modification moving forward. They weighed the impact of the modification on future contracts and the impact of any delays on the project and on business if the modification is not approved. Due to the six phases of the project, the material price increases, the supply chain issues, and the impact of the pandemic, it has been determined that this request is a unique set of circumstances. Mr. Munroe stressed that the unique circumstances support the requested modification.

Brian Miller, Deputy Executive Director, commented that the project will make improvements to berths at Dundalk Marine Terminal which receive roll on/roll off cargo and paper products. Secretary Ports suggested that this information should be added to the BPW agenda item as well, that MPA anticipates an expansion of these commodities. Mr. Miller stated that any delays in the return to service of the berth under construction and the adjoining berth could cost the Port of Baltimore market share.

After this discussion, a motion to approve was made by Commissioner Richardson, seconded by Commissioner Huber, and approved unanimously by the Commission contingent upon the Board of Public works agenda item being adjusted to include the language discussed regarding the unique circumstances surrounding the contract modification request.

Kristen Fidler, Director of Harbor Development, presented the following contract to the Maryland Port Commission for approval:

2. Revised Contract: Contract #522059 – Project Partnership Agreement between the Department of the Army and the State of Maryland for Construction of the Mid-Chesapeake Bay Islands Ecosystem Restoration Project, Dorchester County, Maryland. Award: U.S. Army Corps of Engineers Baltimore District. Revised Contract Amount: \$4,596,303,297 Total Project (\$1,608,706,154 – 35% MDOT MPA’s Share, \$2,987,597,143 – 65% U.S. Army Corps of Engineers’ Share); Revised Term of Contract: July 28, 2022 – December 31, 2072.

Ms. Fidler thanked the Commission for approving the previous version of this contract at the May 3, 2022, Port Commission meeting. The contract approved by the Commission last month was based on old numbers from the U.S. Army Corps of Engineers. Harbor Development thought that the Corps updated its numbers in 2021 but was made aware that the funding numbers were based on information from 2009. When the Corps revised its numbers, the budget estimate increased significantly, including increases for stone, diesel fuel and additional volumes of material for the anticipated sea level rise. A 22% contingency also increased the costs; MPA believes this cost will decrease over the course of the project. The Agreement memorializes the roles and responsibilities of the MPA and Corps so that the Corps can advertise the contract.

Secretary Ports asked about Minority Business Enterprise (MBE) participation on the state level and Disadvantaged Business Enterprise (DBE) participation on the federal level. Mr. Thornton stated that MPA will make the distinction of DBE participation because this contract involves federal funds.

Secretary Ports asked about the dredged material capacity. Ms. Fidler stated that the Mid-Bay project would provide 95 million cubic yards of dredged material capacity.

After this discussion, a motion to approve was made by Commissioner McDonald, seconded by Commissioner Dandy, and approved unanimously by the Commission.

Move into Closed Session

At 11:06 am, in accordance with State General Provision Article, Section 3-305(b)(1), Annotated Code of Maryland, Commissioner Dandy moved that the Commission meet in Closed Session, and Commissioner Richardson seconded the motion. The motion was approved unanimously. See attached Closing Statement. The Commission met in Closed Session from 11:06 am until 11:13 am. Secretary Ports, Deputy Secretary Powell, and Commissioners Dandy, Dean, Huber, Lunn, McDonald, and Richardson, Robert Munroe (Deputy Executive Director), Christina Nichols (Chief of Staff), Philip Whaling (Assistant Attorney General and Acting Principal Counsel) and Judy Slater, MDOT Director of Human Resources (phone) were present. Compensation for one individual was addressed.

Adjournment

There being no further business, a motion to adjourn was made by Commissioner Richardson and seconded by Commissioner Dean. The motion carried unanimously. The meeting adjourned at 11:13 am.