

**MINUTES OF REGULAR BOARD MEETING  
WAUKEGAN PORT DISTRICT**

**January 18, 2018**

**Waukegan National Airport  
SRE Bldg. / Admin Bldg. – Conference Room  
2601 Plane Rest Drive, Waukegan, IL**

**The following Board members were present:**

Tom Evers, Member  
Joe Legat, Secretary  
Randy Podolsky, Real Estate Committee Chairman  
Grant Farrell, Board Chairman

**The following Board members were absent:**

Gene Bach, Historian  
Mike Melius, Member  
Jorge Torres, Assistant Treasurer

**The following Board Officer was present:**

Bob Hamilton, Treasurer

**District Counsel:**

Peter Friedman

**Members of the Port District Staff present:**

Alain Giudice, Founders 3 RES, VP of Marina Division  
Phil Cook, Founders 3 RES, Manager, Marina Accounting  
Skip Goss F|3 Aviation, General Manager, Airport  
Barney Baker, F|3 Aviation, Maintenance Supervisor  
Mary McCarthy, F|3 Marine, Staff Accountant  
Mary Louise Schram, Recording Secretary

**Call to Order**

Chairman Farrell called the meeting to order at 2:02 PM.

**Roll Call** - Quorum not present

**Pledge of Allegiance**

**Approval of Remote Participation/Voting** - none required

**Chairman Remarks / F3/Public Comments**

**Chairman Remarks**

Chairman Farrell stated that no action would be taken on any matters until a quorum was established.

Chairman Farrell welcomed everyone back to the New Year and hoped everyone enjoyed the holidays, as did he.

Chairman Farrell reported that he participated in committee and management meetings to discuss projects and direction since the last Board meeting.

Chairman Farrell introduced Peter Friedman of the law firm Holland and Knight as the new WPD counsel, stating that it has been great working with Mr. Friedman during the transition and that Mr. Friedman's call three hours before the meeting to ensure preparedness was especially new and welcomed.

Note: Mr. Evers joined the meeting at 2:04 PM and Chairman Farrell noted that a quorum was now present.

**F3 Remarks** - none

### **Reports of Standing Committees**

#### **Real Estate**

Mr. Podolsky updated the Board on the status of the Bay Marine project, noting that WPD held-back some monies while Bay Marine completes the punch list. Some of the items on the punch list will not be able to be completed until spring. Mr. Seidelmann will monitor progress of Bay Marine to complete the punch list items. WPD submitted the paperwork required to North Shore Gas (NSG) for the fourth and final payment for reimbursement of the Bay Marine project by NSG per prior agreement. The NSG damages matter was deferred until new counsel was on-board. WPD is working with Counsel to determine if they or another firm will guide WPD through potential litigation.

The Teece Building and Center for Coastal Sustainability remains an active project with the Illinois Department of Natural Resources (IDNR), Delta Institute, City of Waukegan, and WPD all collaborating on the pitch deck materials for fundraising. The organizations are working together to fund the project largely through grants, large corporation donations, and financial support from other interested parties. This project will become much more active in the next few months than it is now and the hope is that the funding will be committed and secured before the end of the summer so that work can begin.

Mr. Podolsky and Mr. Seidelmann met with the Waukegan Park District on January 16, presented the WPD master plan, and requested the Park District's participation in identifying a location to build a public playground. WPD requested that the Waukegan Park District complete the annual maintenance and certification of the equipment and WPD would maintain the landscaping and grounds at the site. The proposed collaboration was well received and discussions will continue between both agencies.

The Mayor's office provided positive feedback to WPD regarding the installation of the ADA kayak launch. The WPD has all the equipment ready for installation and it will take approximately \$250K in funds to complete the hardscape area for the launch. Hardscape includes pavement/parking lot concrete, ramps, decking, benches, landscaping and additional materials to complete the project. The City is also very interested in seeing the project completed by spring and the Mayor asked the public works department to work with WPD to determine how both organizations can work collaboratively on funding and shared resources.

Mr. Podolsky stated that Signature Flight Service (SFS), whose representatives attended the Board meeting, were presented with an amendment to their lease to remove a small leased area to prepare the site for the new customs building. Mr. Podolsky referenced the map on the wall to identify the specific location.

#### **Banking**

Mr. Hamilton reminded the Board that there is a statutory requirement that WPD have an investment policy. Mr. Hamilton, Mr. Bach, and Mr. Podolsky completed the initial review of the proposed policy. Mr. Hamilton will send the updated policy with the Committee's changes to the rest of the Board for their comment and he requested members return their comments to him no later than two weeks. Mr. Hamilton anticipates that the updated policy will be presented for adoption at the next Board meeting.

### **Insurance**

Mr. Hamilton thanked his fellow Committee members, Mr. Evers, Mr. Legat, and Mr. Goss. He noted that the insurance review is incredibly complex and the window of time to evaluate and compare the proposals was very short due to the nature of the insurance business. The Committee members needed to learn the 'language' of the insurance business as part of the evaluation. The Committee made a recommendation that will be voted upon later during the meeting. Mr. Hamilton noted that the review and analysis provided no obvious choice. The Committee recommended that WPD award the 2018 insurance contract to West Insurance, the historical broker for WPD, as they submitted the most cost-effective proposal. Mr. Hamilton distributed the Committee report and reviewed the reasoning for the recommendation.

Mr. Hamilton stated that he would like to keep the Committee together and active through the summer to broaden their knowledge and preparedness for next year's insurance review. Because the Committee acquired a new understanding of the intricacies of the insurance business related to the unique needs of an Airport and Harbor RFP, they want to ensure that the next RFP is more comprehensive in scope, for example the need to add an environmental rider related to underground storage tanks.

The Committee recommended that WPD conduct an appraisal of their insurable holdings before the next insurance RFP is posted to ensure that all proposals work from the same understanding of assets and value. Mr. Hamilton stated that he would like Mr. Goss to obtain additional information about the cost of such an appraisal. Mr. Goss responded that the monies for the appraisal were included in this year's budget.

Mr. Hamilton stated that in thinking ahead, he feels that WPD should consider the underground storage tank at the Harbor a risk that needs to be mitigated and WPD should consider moving it to above grade storage. Chairman Farrell responded that Mr. Seidelmann has been working over the last six to seven months to address this concern and will share a report with the Board, shortly.

Chairman Farrell thanked the Committee members for their effort in managing such a complex review in the tight timeframe allowed by the insurance process. He added that he would like the Committee to stay together and continue to build upon the knowledge learned through this year's evaluation.

### **Public Comments** - none

### **Waukegan Yacht Club**

Kathy Larsen-Sivia, Past Commodore of the Waukegan Yacht Club (WYC), presented a restaurant opportunity under evaluation by the WYC. A restaurateur from Chicago is evaluating whether or not there is sufficient community interest to support a fine dining restaurant at the Harbor. Alan Yuen of Friendship Restaurant in Logan Square, Chicago, proposed and WYC agreed, to host an event at the WYC on February 10, 2018 and the public is invited. The event will celebrate the Chinese New Year and Valentine's Day with a six-course dinner and a twenty-second light show. The cost to attend is \$85/person with a limit of 185 attendees. WYC must guarantee a minimum of 80 attendees and both WYC and Mr. Yuen would consider an attendance of 120 or more a successful event. The success of this event will determine whether or not discussions with Mr. Yuen to establish a seasonal restaurant at the Harbor will continue. WYC contacted the City and Fire Department

and were told that no permits were required but it was recommended that WYC contact their insurance company for direction regarding liability coverage.

Ms. Larsen-Sivia noted that Main Street and the City of Waukegan will be promoting this event and asked WPD to add the event to their website. She invited the Board to attend in a show of support. Upon wishing WYC much success with the event, Mr. Podolsky noted that he will be out of town on that date or he would otherwise attend to show support.

### **Establish the Consent Agenda**

Motion by Mr. Podolsky, second by Mr. Evers:  
To establish the consent agenda as outlined on the agenda.

All members present voted aye and the Chairman declared the motion carried.

### **Approval of the Consent Agenda**

Motion by Mr. Podolsky, second by Mr. Evers:  
To approve the consent agenda with the noted spelling correction of two names (Larsen and Classen) in the December 17, 2017, regular Board meeting minutes.

- **December 2017 Regular Board Meeting Minutes**
- **December 2017 Check Approval**
- **December 2017 Financial Report**

On a roll call vote, all members present voted and the Chairman declared the motion carried.

Aye on Consent Agenda – Mr. Evers, Mr. Podolsky, Mr. Farrell, Mr. Legat

Abstain on the Regular Board Minutes – Mr. Legat (had not read minutes prior to meeting)

### **Insurance Approval**

Motion by Mr. Evers, second by Mr. Legat:  
To award the 2018 insurance contract to West Insurance.

Discussion:

Mr. Evers thanked the members of the Committee, West Insurance and Wirtz Insurance for all their efforts, and Mr. Goss for being the shepherd of the process. He acknowledged Mr. Hamilton's earlier observations about the complexity of the insurance needs of the airport, harbor, marina, and various other assets. He added that the Committee discovered that personal knowledge of homeowners or auto insurance is quite different in scope than knowledge of commercial insurance, their carriers, brokers, and industry standards; it was a learning experience. Mr. Evers stated that they tried to get the proposals to an apples-to-apples comparison but even with great effort by everyone involved, he does not believe that they achieved that goal. There were various factors that prevented this alignment, including: interpretation of the proposal, asset values independently assigned by insurance companies, the various carriers used and their understanding of the needs, as well as industry practices. This resulted in an inability of the Committee to compare each proposal directly. Time was spent with both West and Wirtz Insurance to understand their proposals. Founders 3 provided an independent insurance expert to be a resource to assist by providing education and industry insight to the Committee members. Mr. Evers confirmed Mr. Hamilton's earlier acknowledgement of the Committee's recommendation to award the 2018 insurance contract to West Insurance.

Mr. Hamilton added that in the future it might be possible to put the Harbor into a risk pool, perhaps with a park district as both fall into the recreation category. The Committee will explore this possibility as another way to control or limit costs.

Mr. Podolsky thanked the Committee, acknowledging their challenge to complete a complex review within the short time frame allowed. He will respect the recommendation of the Committee, however, he stated that he was still personally troubled by historical service providers who, prior to his introduction of competitively bidding the insurance contract, appeared to be complacent and non-responsive to the business needs and relationship with WPD. Mr. Podolsky stated that he might vote against the motion but that his vote was not against the work of the Committee who worked very hard on behalf of WPD.

Chairman Farrell stated that insurance has been an ‘interesting ride’ over the last three years. He respects the work completed by the Committee and especially the effort by Mr. Goss. Chairman Farrell stated that he hopes the Committee can continue their work to improve the process for next year.

Mr. Podolsky stated that he agrees with Mr. Hamilton that more attention needs to be directed toward environmental topics as part of next year’s insurance review. Mr. Podolsky noted, and Mr. Hamilton confirmed, that it was Wirtz Insurance who brought the gap in coverage to the attention of the Committee. Mr. Podolsky pointed to this as another example of the level of service that has not been provided by the current service provider which is why he is not comfortable awarding the contract to West Insurance.

On a roll call vote, the motion failed.

Aye – Mr. Evers, Mr. Legat, Mr. Farrell

No – Mr. Podolsky

Chairman Farrell asked Mr. Friedman for clarification of the required vote under the WPD statute. Mr. Friedman stated that four aye votes would be required to pass a resolution or ordinance. Chairman Farrell stated that because the current insurance contract ends at the end of January, he would call a special meeting of the Board for another vote on this topic, adding that he will poll Board members to ensure sufficient attendance to vote.

There was then another Motion by Mr. Evers, second by Mr. Legat to award the 2018 insurance contract to West Insurance.

It was acknowledged that this is the same motion and an attempt to reconsider the Board action.

Mr. Evers stated that he appreciated Mr. Podolsky’s concerns, noting that Mr. Podolsky has gone on the record with his concerns not only today but during prior discussions, as well.

Mr. Podolsky stated that his concerns are not limited to Mr. West or West Insurance but that his interest in the application of service levels as meaningful and primary criteria has been consistent in all discussions and votes before WPD.

Mr. Evers stated that he respected Mr. Podolsky’s position and that he agreed with him with regard to customer commitment and service levels, but during the Committee’s review of the proposals, they concluded that service levels in isolation should not be a differentiator. Mr. Evers acknowledged Mr. Hamilton’s earlier statement that the Committee wants greater lead-time and to go back and look at many of the variables to improve the process. Mr. Evers noted that last year the process was rushed. This year the process was slightly less rushed and better than last year. In the coming year, Mr. Evers feels that the Committee will be better informed and that there may be more time for the Committee to improve the process further. Mr. Evers asked Mr. Podolsky to reconsider his no vote to approve the 2018 insurance contract knowing that the Committee will continue to work hard to improve the process.



Mr. Podolsky stated that he is uncertain how the Board members not attending today's meeting would vote and that he has not discussed nor polled them on their vote. Mr. Podolsky stated that his opinion is that staff is not happy with the recommendation of the Committee but he does not want to discuss this openly at this meeting. Mr. Podolsky gave all due respect to the motion but declined to change his vote. He would prefer a special meeting on this topic and allow his fellow Board members to vote.

Mr. Evers stated that Mr. Podolsky's choice was fair. Mr. Evers said he has not spoken with any Board members outside of the Committee and that he could not say how the absent Board members would vote.

Mr. Evers withdrew his motion, noting that he respects the position taken by Mr. Podolsky.

#### **Airport General Manager Remarks (Operations/Status Report)**

Mr. Goss reported that as discussed with the tenants, security fees would be increased. Mr. Goss provided background to the topic stating that all leases have a security charge, which provides for a pro-rata share of the security cost based on the size of the lease. Costs annually have been around \$110K and revenues around \$32K resulting in a \$78K deficit. The Airport cannot afford to sustain the deficit. The rates have never been raised—ever. Customs fees have not been increased and are running in deficit mode with \$190K in cost and only \$155K billed. The plan is to increase fees for international garbage management, from \$850 to \$1050 per bag. Mr. Goss stated that he would work with Mr. Friedman to update the ordinance and fees. His current plan is to double the fees but noted that even with the increase, the accounts will still have deficit balances.

Mr. Podolsky, in his capacity as Real Estate Chairman, stated that approximately \$100K per year would be needed to cover new debt related to the customs facility.

Mr. Podolsky stated that the same deficit problem with service fees has existed since his first year on the Board and that many discussions have been held about fees and services. Mr. Podolsky stated that he believes that WPD should be charging what it costs WPD. It is his recommendation, and he would encourage both the Board and staff, to increase fees to break even rather than double fees and continue to run deficits for WPD. Mr. Podolsky added that WPD could determine the fees, set the expectation with the tenants, and phase in the new rates so that at the end of one year, or two, WPD would break even on those services.

Mr. Goss responded that he will consider Mr. Podolsky's recommendation and noted that the debt service would add another incremental increase. Mr. Podolsky responded that the debt service could be figured out when WPD gets there.

#### **Harbor General Manager Remarks (Operations/Status Report)**

Mr. Giudice delivered the report, as Mr. Seidelmann was not in attendance. Mr. Giudice reported that WPD hosted a booth at the Chicago Boat Show in early January and he spent time at the booth and walked around the event to engage with current and potential boaters. Mr. Giudice received positive feedback from current marina customers who praised the staff and appreciated the improvements at the marina/harbor. Five new boaters signed leases during the show, two from North Point and three from the 31<sup>st</sup> Street Harbor. The number of inquiries related to leasing a slip at the Waukegan Marina has increased.

At this time in 2016, there were 110 new slip holders at the Harbor; in 2017, four new boaters had been added (114); and, in 2018, 26 new boaters have been added to the Harbor. This early number is very encouraging for the season. The staff continued to work to improve the marketing materials and outreach. Enhancing the guest boater experience appears to have driven interest. The survey responses have been instrumental in providing valuable customer feedback.

Chairman Farrell added that Mr. Seidelmann developed a report that is very informative and clear so that Board members will be able to keep track of the metrics related to activity at the Harbor. The report will continue to be refined as it is used. Chairman Farrell asked for the timeline to begin communication with boaters for the 2018 season. Mr. Giudice responded that the final calendar would be completed and ready for distribution by the end of the month.

### **Report from District Counsel Peter Friedman**

Chairman Farrell stated that he asked Mr. Friedman to cover three topics with the Board, including Freedom of Information Act, Open Meetings Act, and Ethics.

Mr. Friedman stated that Board members will receive a copy of his PowerPoint presentation and that his presentation is intended to cover the fundamentals. The goal of the review is to ensure that the Board does not get bogged-down in non-substantive or procedural issues so that Board members can hold substantive discussions and make decisions based on an issue/topic.

- Freedom of Information Act (FOIA)
  - Applies to public bodies:** legislative, executive, administrative or advisory of the state of Illinois. It includes counties, townships, cities, villages, school districts, and other special districts. It also applies to the subsidiary bodies including boards, commissions, and communities.
  - Includes all public records** prepared by or for, used by, received by, in possession of, or under control of a public body that pertain to transaction of public business, all materials regardless of format, including emails and text messages. NOTE: Employees of WPD and the Board President, whether using a personal or district device and if they have independent authority, then all communications can be FOIA'd. In addition, emails and texts during a meeting can also be requested through FOIA.
  - Not covered by FOIA** are records not in possession of the public body and there is no obligation to create a record in response to a FOIA request.
- Open Meetings Act - 5 ILCS 120
  - Applies to public bodies:** legislative, executive, administrative or advisory of the state of Illinois. It includes counties, townships, cities, villages, school districts, and other special districts. It also applies to the subsidiary bodies including boards, commissions, and communities AND the Waukegan Port District.

#### **What makes a meeting?**

“...a gathering of a majority of a quorum for the purpose of discussing public business” The details and definitions of a quorum (70 ILCS 1864/19) and how to ‘count’ members are contained within the presentation as is the detail on the following additional criteria.

#### **Notice and Location**

#### **Agenda and Minutes**

#### **Public Comment**

#### **Email and Online Communication**

Mr. Friedman cautioned the Board and staff that group emails could be categorized as a meeting. It is his recommendation to send emails to ‘groups’ as a bcc so that replies are received individually by the sender. It is further recommended to never ‘reply-all’ to emails, send a single response or pick-up the phone and call. This prevents ‘group conversations’. Use WPD email address and do not use personal email—if personal email is used for WPD business, it is eligible to FOIA>

**Remote Participation**

Defined within the WPD bylaws and allowed in certain circumstances, a quorum must be physically present, speakerphone must be audible to all attendees, and electronic participant must be identified (voice recognized).

**Closed Session**

The criteria to enter closed session are tightly constrained by the law. The Board can enter closed session whether or not it is on the agenda, but the statute and section that covers the purpose of the closed session must be stated. A roll call vote is required to enter closed session.

**Mandatory On-line Training**

Every elected or appointed official of a public body subject to OMA must complete within 90 days of election or appointment. Certificate of completion (copy) must be files with the Village Clerk. Training will include how to vote and provide an understanding of the "Prosser" rule. The Chair cannot make a motion but can vote for or against a motion.

- Ethics

A member may be disqualified from voting due to a conflict of interest which, as a matter of law, precludes the member from being able to act on a matter of public business due to divided loyalties between the district and another person or entity.

**Statutory Conflict**

If in doubt or there is a question about a possible conflict of interest, call Mr. Friedman. It is better to obtain guidance up front than to manage this after an action. Do not sit on the information; bring it forward to be discussed. You will be guided to your choices, which may include recusal but could also require either divesting yourself of the interest or resigning from the Board.

**"Common Law" Conflict**

If there is the appearance of impropriety, perhaps no gain but and interested party, it is recommended that you recuse yourself from the vote.

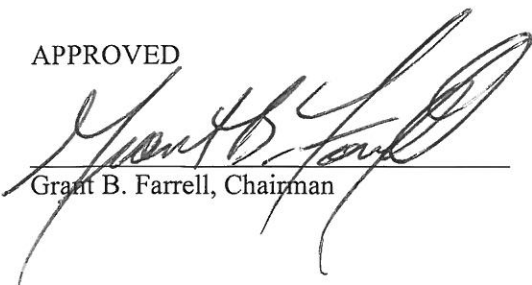
**Adjournment – 3:05 PM**

Motion by Mr. Evers, second by Mr. Legat:  
To adjourn.

All members present voted aye and the Chairman declared the meeting ended.

Meeting adjourned at 3:05 PM

APPROVED

  
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Grant B. Farrell, Chairman