

Utah Inland Port Authority Board | 2018

Utah Inland Port Authority Board Meeting Minutes

December 12, 2018 • 4:00 p.m. – 6:00 p.m.

Utah State Capitol

Room 450

Salt Lake City, UT 84114

Board Members Present: Carlos Braceras, D.Gregg Buxton, Stuart Clason, Lara Fritts, Ben Hart, Derek Miller, James Rogers, Francis Gibson, Garth “Tooter” Ogden, Nicole Cottle (by phone), Michael Jensen (by phone)

Board Members Absent: none

Others participating in meeting and staff: Nick Tarbet, Pricilla Tuuao, Larry Shepherd, Jennifer Bruno, Chris Pieper, Jill Flygare

Others in attendance: Kathy Van Dame, Terry Marasco, Tom Wadsworth, Deeda Seed, William Fisher, Aldo Tavares, Dorothy Owen, Tammy Long, Chase Thomas, Dennis Hanks, Dan Peay, Jim Catano, Craig Provost, Tommy Rock, Ryan Bean, Jessica Reiner, Richard Holman, Thea Brannon, Terry Winget, Shauna South, Heather Dove, Robyn Adamson, Susan Corth, Nigel Swaby,

Welcome

Chairperson Miller welcomed the public and board members to this Utah Inland Port Authority Board Meeting.

Pledge of Allegiance

Board Member Buxton lead the Pledge of Allegiance.

Approval of Minutes

Chairperson Miller entertained a motion to approve the minutes of the previous meeting.

Motion:

Board Member Buxton moved to approve the minutes of the November 26, 2018 Utah Inland Port Authority Board.

Vice Chair Rogers seconded the motion.

Motion was approved unanimously.

Discussion Items:

#1 Tax Differential Policy and #2 Project Area Applications

Chairperson Miller asked Board Member Hart for an update on the discussion items.

Board Member Hart discussed the efforts to date to finalize a deal with Stadler Rail. He said the situation is precarious with the company’s building being built and taking occupancy it will be difficult to finalize an incentive deal. The company has requested that the board consider an incentive opportunity. The precarious situation arises in that the board would need to consider creating a project area prior to the end of the calendar year or risk being unable to offer a future tax increment deal. Board Member Hart believes this is a deal that every taxing entity wants to get done but the Inland Port Authority does not yet have in place the policies and procedures to complete the deal. What the board can do is to consider creating a small project area on the company’s site before the end of 2018 as a placeholder, allowing future completion of a deal with a 2017 base year. Statute requires that the intent to create a project area be publically posted for 10 days. If the board does not complete this action in 2018 it will not be able to provide the same type of incentive deal that Salt Lake City previously discussed with this company. Creating the project area will hold open the option to later complete an incentive deal.

Chairperson Miller asked Board Member Hart to speak to efforts on the draft policies and procedures for tax differential.

Board Member Hart stated he had good meetings with Salt Lake City elected officials and staff, Salt Lake County, and Magna Township. There remain several more taxing entities to meet with. He noted that while considering future board or ex-officio positions the board should consider that neither Magna Township nor the Salt Lake City School District has a seat on the board. Conversations with the taxing entities are providing good feedback and policy edits.

Chairperson Miller invited questions from other board members on these updates.

Board Member Buxton noted that the Inland Port Authority Board was formed after Stadler Rail came to Utah and asked what previous incentive promises had been made and by what entities.

Board Member Hart noted that the sometimes lengthy negotiations with companies take place while other processes and business decisions are being made. The Utah Governor's Office of Economic Development made a deal with Stadler Rail in 2015 and the company came to Utah and set up in a temporary location. Salt Lake City was in discussions with Stadler Rail when the Utah Inland Port Authority legislation became effective and superseded its authority. Salt Lake City nevertheless thereafter proceeded to put a tax increment agreement in place, but other taxing entities have not. To meet demand for its products, Stadler had to move forward on a building prior to other agreements being finalized. The Utah Inland Port Authority now has authority to provide tax differential money and needs to finalize a deal with Stadler Rail.

Chairperson Miller noted that the question was important. The Inland Port Authority Board can move ahead with a deal with this company on whatever terms it sees fit, regardless of what Salt Lake City did but it is important to note that the company has moved forward in good faith based on the agreements entered into by the city – agreements whose validity came into legal question by the previous creation of the port authority. Moving forward on the creation of the project area does not bind the board to any course of action on the tax incentive deal, but it preserves options.

Board Member Fritts noted that legislation creating the Utah Inland Port Authority Board grandfathered agreements entered into prior to March of 2018, however this deal with Stadler Rail was signed after that date. The agreement was negotiated in good faith and contains language stating that the creation of the inland port authority could negate the ability of Salt Lake City to fulfill its terms.

Board Member Buxton asked if there were other deals done under the same timing. Board Member Fritts replied that this was the only deal that fell into that gray area.

Chairperson Miller stated his intent to move forward by scheduling a meeting of the board prior to the end of the year for the creation of a project area for Stadler Rail. A decision on an incentive deal for the company would be considered later by the board, once the policies and procedures for considering those incentives are in place.

Vice Chairperson Rogers suggested Thursday, December 27 at 4:00 pm for the meeting. With no board member objecting to that date and time, Chairperson Miller asked the board to plan on that date.

Action Items

#3 Interim Administrator Search

Chairperson Miller offered a review of the decision and efforts over the past two months to hire an interim administrator who will function during the time it will take until the search for an executive director could be completed. The interim director will assist with scenario planning for large and complex economic development projects, assist with the drafting and execution of tax differential policy, and lead a public engagement process. Applications for the position were gathered by the board, Chairperson Miller interviewed potential candidates, and the board discussed the qualifications of the candidates in executive session at the last board meeting. In that executive session the board agreed on a candidate and empowered the chair to negotiate the terms of a six month contract with the selected individual.

Chairperson Miller announced that he has reached agreement for the interim administrator position with Christopher M. Conabee, a former deputy director of the Utah Governor's Office of Economic Development with experience overseeing incentive programs and recently co-chair of the Point of the Mountain Commission where he led the public engagement process. The contract negotiated is in the amount of \$100,000 for six months, payable monthly, with a \$10,000 bonus payable at the end of the term upon approval of the board.

Chairperson Miller invited public comment on the interim administrator position. There was no public comment.

Chairperson Miller noted that Christopher M. Conabee was not in attendance at the meeting but had asked the chair to express his commitment and desire to do his best and based on his experience with the Point of the Mountain Commission he is committed to a robust public engagement process.

MOTION:

Board Member Hart moved to adopt the contract with Christopher M. Conabee as presented.

Board Member Fritts seconded the motion.

The motion carried unanimously.

#4 Update on Request for Proposals: Legal Support

Utah Inland Port Authority Board | 2018

Chairperson Miller explained that the board at the November 26, 2018 meeting had met in executive session and begun a review of the submissions to the request for proposals for legal services. Because not all members of the board were in attendance and participating in that discussion, the item was delayed until this meeting. He invited public comment on this item. No member of the public requested to speak. Rather than move to executive session for action on this item at this point in the agenda, Chairperson Miller suggested that the board conclude the public portion of the agenda, including general public comments, prior to the closed portion of the meeting. There was no objection to proceeding in that manner.

General Comments to the Board:

Chairperson Miller invited public comments to the board.

Dorothy Owen, chair of the Westpointe community council, wished the board a happy holiday season and acknowledged the work the board is doing. She encouraged the board to be aware of all going on around this issue and to listen to all the voices speaking out on the inland port.

Heather Dove, president of Great Salt Lake Audubon, shared her concern over reports that some legislators favor the sunseting of the ban of truck traffic on the Legacy Highway so that trucks may use that route for access to the inland port. Her group urges the Utah Inland Port Authority Board to support the repeal of the clause on sunseting the truck ban to protect the 10 million migratory birds who use the adjacent waterways and the residents who live between the Legacy Highway and Interstate 15.

Richard Holman, a trustee of the Rose Park Community Council and co-chair of the Westside Coalition, acknowledged the difficulty of the job the board has undertaken. While there are those who favor the inland port and those who are opposed we don't have to be at odds. The decision to create an inland port has been legislated and together we need to figure out how to move it ahead productively. The board will hear from the public often. He encouraged the board to make public engagement a priority for the interim administrator. He thanked Board Member Hart for a meeting with Salt Lake Community College on training programs for jobs that may be created in the inland port. He thanked Vice Chairperson Rogers for his interest in this topic.

Terry Marasco, board member of Utah Moms for Clean Air, said the public is concerned that the legislature has done nothing about clean air. We will work with you to make sure this project is sustainable or we will kill it.

Nigel Swaby shared concern over comments by a board member this week on the public input offered to the Utah Inland Port Authority Board. Public comments are important to improving this project for all as it moves forward over time. Think of this project as a marathon and not a sprint.

William Fisher questioned why there were no public hearings on the legislation that created the inland port. He wondered why the approval of Salt Lake City was not obtained before the legislation was passed. He also questioned whether there would be an independent environmental impact study done before any infrastructure was undertaken in the inland port.

Aldo Tavares, board member of the Jordan Meadows Community Council and the West Side Coalition, said that while the public and the board don't agree on everything, they want to work together. He spoke of recent comments concerning the urgency with which the work of the board is moving forward. He urged the board to make its decisions and move forward the right way, no matter how long it takes.

Susan Corth spoke of winter inversions that degrade Salt Lake City air quality in the winter and polluted air throughout the year and the potential impact of large industrial sources. She opposes adding additional pollution sources such as the inland port while we struggle with air quality.

Robyn Adamson encouraged the board to open up more communication with citizens and work with them to create industry that will grow over time and not be tied to decreasing industries like fossil fuels. She spoke of her daughter's health problems attributed to polluted air.

Thea Brannon encouraged the board to consider the effect of the inland port and to take their time to make the right decisions, protecting the quality of life of valley residents. She asked that all endeavor to participate in this process in harmony and civility to create an environmentally friendly inland port.

Report of Chair and Vice Chair:

Chairperson Miller provided an overview to the board of a report to the legislature's Executive Appropriations Committee of the state legislature. That report was furnished to board members and posted publicly on the inland port website. The report reminded the legislature that while the initial legislation was passed in early 2018, the Utah Inland

Utah Inland Port Authority Board | 2018

Port Authority Board has been active for less than four months. In that time the board has adopted the open and public meetings act, has adopted a public decorum and public input policy, has reviewed and held two public hearings on a budget, passed that budget, has prepared and issued a request for proposal that includes an economic impact study and an environmental impact study, selected an executive search firm to recruit an executive director – a search that is well underway, hired an interim administrator, will soon make a decision on responses to a request for proposals for legal support, and created a technical advisory committee that will soon be convened. He read from his letter to the legislative committee assuring them that board will continue to move forward with the responsibility assigned to them, to guide the development of the cleanest, most technologically advanced port that will be a gem for Utah and a model for the nation.

Board Member Hart commented on the Salt Lake Community College Westpointe Center and its educational programs. He mentioned a grant from the Utah Governor’s Office of Economic Development to create an additional training program for the aerospace industry. He thanked Richard Holman, a resident who spoke earlier, for his efforts from the community to support these educational initiatives.

Closed Session

Chairperson Miller turned the meeting over to Vice Chairperson Rogers, stating that he intended to recuse himself from the discussion and decision on the RFP for legal services. Board Members Gibson, Fritts and Cottle likewise recused themselves from the discussion and decision.

Motion:

Board Member Buxton moved that the board enter closed session to discuss the character and professional competence of applicants for legal counsel.

Board Member Braceras seconded the motion.

The motion carried on a roll call vote with all participating members in support of the motion.

Return to Public Session

Vice Chairperson Miller reopened the meeting, returning to item #4 on the agenda, the request for proposal for legal services.

Jill Flygare of the Utah Governor’s Office of Economic Development oversaw the procurement process for legal services and provided the ranking based on the board’s scoring of the three firms who submitted responses.

Motion:

Board Member Clason moved that the board award the contract for legal services to Michel Best & Friedrich as the firm who received the highest scoring from participating board members.

Board Member Ogden seconded the motion.

Discussion:

Board Member Hart spoke favorably of Michael Best & Friedrich and its people as the highest scoring and best option for providing legal services to the Utah Inland Port Authority.

Motion was approved unanimously.

Motion:

Board Member Braceras moved to adjourn.

Board Member Clason seconded the motion.

Motion was approved unanimously.

Meeting adjourned.