



SPECIAL MEETING OF THE
CONNECTICUT PORT AUTHORITY
BOARD OF DIRECTORS

**Tuesday, November 16, 2021
11:00 a.m.**

In response to concerns regarding the spread of coronavirus disease (COVID-19), and in the interest of the safety and well-being of participants, this meeting was held remotely by conference call.*

**Please Note: In addition to the minutes below, an audio recording of this meeting can be found on the Authority's website at <https://ctportauthority.com/governance/>*

Board Attendance

Chair David Kooris; Jeff Beckham; Brian Thompson; John Flores; Parker Wise; John Johnson; Tom Patton; Felix Reyes; Dave Pohorylo; Judi Sheiffele; Don Frost (joined at 11:09am); Grant Westerson

Absent: Alexandra Daum; Mark Rolfe; Gregg Scully

CPA Staff: John Henshaw; Andrew Lavigne; Joe Salvatore; James Peterson (OPM)

MINUTES

1. Call to Order

Chair Kooris called the meeting to order at 11:04am.

2. Public Comment

Don Frost joined the meeting during public comment.

- 3. Consideration and approval of a resolution authorizing the Executive Director to negotiate and enter into an escrow agreement with the State of Connecticut Department of Energy and Environmental Protection ("DEEP") and U.S. Bank National Association, as required by Condition # 7 of DEEP License 201905859-SDF TW WQC for improvements to the New London State Pier, to fund fish habitat restoration projects as mitigation for coastal resource impacts authorized by the license, in an aggregate amount not-to-exceed \$3,425,000.00.**

Prior to any discussion on this item, Brian Thompson recused himself and left the call at 11:14am.

Chair Kooris noted that Items #3 and #4 are mitigation payments to the Department of Energy and Environmental Protection (DEEP) and the U.S. Army Corps of Engineers (USACE) that are conditions of each of those permits. The Authority received the DEEP permit on August 18, 2021, and the condition payment outlined in that permit must be met within 120 days. The USACE payment will be a condition of the yet-to-be-issued federal permit. The condition payment to USACE must be made before any permitted work can start, so authorizing action on Item #4 today will allow for executive director John Henshaw to make the payment and allow work to commence as soon as possible once the permit is issued.

John Henshaw discussed the purpose of the Mitigation Payment Escrow Agreement for the payment of mitigation funds to DEEP.

RESOLVED: That the Executive Director be and hereby is authorized, empowered and directed, for and on behalf of the Connecticut Port Authority (the "Authority"), to negotiate, execute and enter into that certain Mitigation Project Escrow Agreement ("Agreement") by and among the Authority, the State of Connecticut Department of Energy and Environmental Protection ("DEEP") and U.S. Bank National Association, in connection with the funding of fish habitat restoration projects, as required by Condition # 7 of DEEP License # 201905859-SDF TW WQC dated August 18, 2021, as mitigation for resource impacts from the construction of certain improvements at the State Pier facility in New London, Connecticut, substantially in the form attached hereto as the Exhibit to Agenda Item #3, and to take such reasonable and necessary actions to execute and deliver any and all other reasonable and necessary documents in furtherance thereof.

Motion by John Johnson, seconded by Grant Westerson.

Felix Reyes stated that New London appealed DEEP's decision not to direct any funds to New London. New London will not be supporting this action. Chair Kooris noted that the Authority did not have any objections to New London raising these concerns during the DEEP permitting process and added that the Authority did not have a role in determining the projects. It is understood that this is a conflict between the city and DEEP.

John Flores asked whether the \$3.425m was subject to change and how the figure fits within the budget. Chair Kooris noted that the mitigation payment is set and will not change. The amount budgeted was slightly less (but north of \$3m), so we will be looking at reallocating other soft cost budget line items to cover the cost.

Felix Reyes asked about the locations of the projects identified by DEEP. Chair Kooris read the list from the circulated materials and reiterated that the Authority has no role in how the funds are administered.

Parker Wise asked why U.S. Bank National Association was selected as agent. Chair Kooris said he doesn't know the answer to that. John Henshaw said he doesn't know the answer either - he believes it came from DEEP, but he can check on that.

John Johnson asked what happens to these funds if the Authority doesn't receive the separate USACE permit. Chair Kooris stated that today's authorization would allow John Henshaw to transfer the funds, only after receipt of the federal permit. The DEEP funding gets paid regardless, because that license is valid for years and the payment is tied to the granting of the license. The USACE payment is tied to the commencement of the actual work.

So VOTED, with an objection by Felix Reyes.

- 4. Consideration and approval of a resolution authorizing the Executive Director to purchase credits from the U.S. Army Corps of Engineers' Connecticut In-Lieu Fee (ILF) program for payment to the Connecticut Chapter of National Audubon Society, Inc., as compensatory mitigation, in connection with its permit application to the U.S. Army Corps of Engineers (NAE- 2018-02161), in an aggregate amount not-to-exceed \$1,740,658.00.**

John Henshaw explained that as a condition of the USACE permit, the USACE calculated a payment for mitigation, which factored in the Authority's payment to DEEP, along with the additional credit to be purchased from the ILF program.

Chair Kooris noted that, compared to the DEEP permit which includes mitigation payment as a condition for receiving the permit, the USACE permit condition for payment is required for commencing work. So, the work enabled by the USACE permit can not begin until the payment is made and acknowledged by Audubon. The goal of this item is to ensure that John Henshaw is enabled to issue payment to Audubon as soon as the permit is issued to enable work to begin immediately.

RESOLVED: That the Executive Director be and hereby is authorized, empowered and directed, for and on behalf of the Connecticut Port Authority (the "Authority"), to purchase 3.7 credits from the U.S. Army Corps of Engineers' Connecticut In-Lieu Fee (ILF) program for payment, in an aggregate amount not-to-exceed \$1,740,658.00, to the Connecticut Chapter of National Audubon Society, Inc., as compensatory mitigation of impacts from approved work relating to the State Pier Infrastructure Improvements Project, in connection with the Authority's permit application to the U.S. Army Corps of Engineers (NAE- 2018-02161).

Motion by John Johnson, seconded by Parker Wise.

John Flores asked whether this payment was budgeted. Chair Kooris stated that this payment was not anticipated to be at this magnitude, as we thought there would be more of a credit for the DEEP mitigation payment and other mitigation activities taking place beyond those in the DEEP license. We are going to have to do some re-budgeting relating to the project's soft costs. To use round numbers, the two payments (Item #3 and Item #4)

together are \$5m and change and we had budgeted low-\$3m. To be wholly transparent and in the simplest of terms, the mitigation payments are approximately \$2m over the budgeted amount and so we are working to find that in the soft costs in other categories by shifting soft costs around.

We have funding in escrow for all of our contracted costs. The Department of Administrative Services' team overseeing the project is in the process of taking a revised look at the budget with the new project leadership in there to support the Authority. We're going to try to rectify it all as soon as possible. You'll see a lot more from us related to budget at our December Regular Meeting of the Board. We hope to have the benefit of much more information related to the permitting, etc. to share with you at that time. We're still working through final budget and final Guaranteed Maximum Price (GMP) and we are comfortable in our current allocation of funding and the way it's going to play out over time. Fundamentally, there's still money in escrow that is unencumbered that would allow John Henshaw to execute these agreements.

Tom Patton asked whether these actions inform when we think we'll receive the USACE permit. Chair Kooris stated that the fact that we have this number and the fact that we are bringing it before the Board now at a Special Meeting means we are very far along in the permitting process. This is one of the last aspects. Doing this calculation gives us the benefit of knowing the number. The fact that we're taking a Special Meeting now so John Henshaw is able to execute this upon issuance of the permit, speaks to our expectation, but we don't have a date certain and we don't want to say a date and set expectations. We definitely feel as if we're in the very final stages.

So VOTED.

5. Adjournment

Motion to adjourn made by John Johnson and seconded by John Flores. Meeting adjourned at 11:40am.