

Meeting Minutes

May 11, 2022

Madison County Port Authority Board

The Madison County Port Authority meeting was called to order at 8:36 a.m. by Chris Wallace, Port Authority, Chairman. The meeting began with a roll call from all individuals participating in the meeting.

The following board members were present at the meeting: David Kell, Executive Director, Steve Hermiller, Steve Lelonek Ray Martin, Scott Sims, Chris Wallace, and Sissy Wiseman. Steve Lelonek participated through Teams. Caleb Bell and Adam Seeley Representatives from Bricker & Eckler Law Firms also participated in the meeting.

Correction/Revision April 13, 2022 Meeting Minute Revisions

There were two corrections/revisions from the previous meeting in April, 2022

1. Eminent Domain

The original meeting minutes stated that Scott Sims asked about Eminent Domain however that has been corrected to be Ray Martin. (See the information below.)

Ray Martin specifically asked about what authority the Port Authority Board would have with Eminent Domain? David Kell responded that just because the organization may have the power of Eminent Domain doesn't mean it has to be executed. Ray Martin replied that he is against and not in favor Eminent Domain. Ray feels that Eminent Domain gives a lot of ability to do things but not to take things, with the exceptional reason if there is no one take care of land. Ray feels that the Port Authority Board gives a lot of ability not for just real estate, and development but for infrastructure and a lot of other things.

2. Board Member Terms

The original meeting minutes stated that -

Ray Martin asked about the length of term for Port Authority Board members. David Kell recommended three board members be appointed to a two-year term and then continuing re – appointment for a four-year term. The other two board members will start serving a four-year term. The Madison County Commissioners will appoint any board vacancies

Steve Hermiller, Steve Lelonek, Scott Sims, and Chris Wallace will serve a two - year term to this board.

Ray Martin will serve a four - year term to this board

The meeting minutes have been corrected that Chris Wallace will serve a four - year term to this board not a two - year.

Steve Hermiller, Steve Lelonek, and Scott Sims will serve a two - year term to this board.

Ray Martin and Chris Wallace will serve a four - year term to this board

Subject: Meeting Minutes – Approval – April 13, 2022

All member present voted in favor to approve the April 13, 2022 meeting minutes with the corrections/revisions being made.

Discussion of Bricker & Eckler

Introduction of Caleb Bell and Adam Seeley

Caleb Bell is chair of public finance, and practices in the area of Port Authorities and special districts in Economic Development. Caleb does a broad variety of public finance/bond work for cities, counties, schools, and townships and has a lot of depth in these particular areas. In addition, he works with numerous counties on Port Authorities.

This provides opportunities for the government, communities, and counties to collaborate in ways that helps drive economic development.

Adam Seeley is an associate of finance; his experience includes working at the State Auditor's Department. He will assist Madison County with the Port Authority.

Fees

According to Caleb Bell, the Port Authority does have a lot of success in generating business with the Port that results in the private developers picking up the tab for work from projects that comes along. The Madison County Port Authority will collect project fees.

Ray Martin asked if Caleb was referring to a certain amount of fees the developer would pay in accordance with the contract?

Caleb provided an explanation that Bricker & Eckler generally uses.

If a new industrial park project would be created using a Port Authority, Bricker & Eckler would intake that project with David Kell's direction and would then interface with the company. The company would make a deposit with the Port Authority meaning that the company would be ready to move forward. The company would then sign an Engagement Letter meaning that the company is ready to move forward on the project and recognize that Bricker & Eckler is representing the Port Authority. This protects the government participants from exposure.

Bricker & Eckler would work a transaction and there may be multiple pieces and parts to that transaction to get documentation put together. As a closing condition if the company is going to pay the Port Authority fee for the deal it would take the sales tax exemption transaction and Port Authority fee and pay Bricker & Eckler as well as a closing item. This is thought of as mini bond issue or mini transaction where all the professional expense has to be covered. Bricker & Eckler will work and partner with the Port Authority to make sure that all the fees are calibrated.

David Kell, asked if the fee structure will be established or if it's based on a case by case project or something that needs to be in eventually in writing? According to Caleb Port Authorities can set up the fee schedules in different ways. In writing a fee schedule with considering factors and a lot of business structures. Caleb often advises Port Authorities if using the sales tax program to consider their counties portion of the sales tax in the regular course verses the whole sales tax. The sales tax in the State of Ohio is the state sales tax portion and the county sales tax portion comes up with a number.

The ratio of the counties portion to the whole is a percentage which is usually about 15% - 20% of the whole. Madison County Port Authority needs to make sure they will be receiving this percentage back into Madison County.

Project Discussions

Amplify Bio Project - David Kell has had a conversation with a company Amplify Bio, that is a subsidiary of Battelle. David informed the contractor that this project would be presented to the Port Authority board and to the Commissioners for discussion to see if there is an interest to participate. Chris Wallace mentioned that there is certainly interest to have discussion about this project.

This project would be for a combo of two buildings with an estimated cost of \$10 million, and \$2 million. As of this time this projected is estimated to be \$10M – \$12M with a 70% material cost and 30% labor cost.

Bricker & Eckler can assist the Port Authority through this process. According to Caleb this project would be brought back to the board. Bricker & Eckler will have the project identification, project terms, and term sheet. David Kell would be working on negotiating those terms with the company, and would then be brought back to the board for the terms, to understand the scope.

Ray Martin asked what the time frame was on this project? David Kell responded that Amplify Bio said this project was urgent but not have a specific date. The State is also involved and it will be officially announced on May 29th and that it's going through a tax credit authority.

The Amplify Bio project is a good example that may be higher impact with smaller dollars which is important to the Battelle Enterprise and the County verses a large project such an Amazon style project with larger dollars. According to Caleb the Madison County Port Authority will have to develop some type of fee schedule that the board will be comfortable with.

Ray Martin agreed with Caleb's suggestion about impact fees. Ray mentioned that he's not interested in giving a CRA to the potential smaller Battelle project because it's not a big employer but this deal helps attract Battelle and get them in the area.

Ray Martin asked Caleb if this project would be relatively easy? Caleb said yes, that this is not a heavy load, it will be helpful that the State is involved because they will gather information.

Exter Project– Is another project that expressed interest may bring to the table there are some added costs of project.

Cricket Project – Is a group of investors on State Route 161 that is looking to develop to build a multi - tenant Cricket small stadium, multi - use facility, hotels, and event center for development, and is a legitimate operation and wants to move quickly to attract some international events to this area by 2024.

Ray Martin – Why Madison County is being selected for this project? David Kell responded that Plain City is going to begin annexing.

Communications

Steve Hermiller asked how questions individually should be directed in a group text or how to handle the communications? David Kell replied that Teams has been set up for this type of communication and everyone should be included. According to David other options can be looked at for communication such a group text. David reviewed Teams to make sure everyone was included in Teams.

Caleb suggested to be mindful when using the Teams communication tool when talking with each other to be careful that you are not deliberating about the activity. If talking with legal counsel that will be privileged information that can be withheld. If you start talking to each other that could become public record.

Steve Hermiller asked that when chatting within Teams if that is still privileged information, and Caleb confirmed that it was.

Caleb also informed the board that Ports do have telephonic authority permanently. This is helpful when something that needs to happen quickly such as meeting a company's timeline because of a big project that's coming in. There may be a need to call a board meeting quick and the easiest way to do that is sometimes over the phone, the bylaws have embedded authority to do this.

Bylaws/Policies

Caleb Bell quickly explained that there are a number of policies that have developed over the years to create a place to go for questions. As a result, these policies have been created to use as a baseline. If something is later determined that a policy is not working then there will be an amendment to the policy. Bricker & Eckler produced the set of policies to make sure the Port Authority is compliant with the Auditor.

One item that Caleb brought up is the authority of the spending limit. As of this time the policy states that there is a \$5K spending limit without the Port Authority Board approving authority.

Steve Hermiller asked what is the structure of getting a policy, procedure, or bylaw revised?

Caleb replied that if there is something that a board member is interested in revising, they can suggest to David Kell, Executive Director, then David and Caleb can discuss the revision request and then run an edit.

Steve Hermiller – asked how Freedom Of Information Act (FOIA) requests requested and brought forward, and who is to act on that?

Caleb responded that Public Recorders are required by code. Once the Madison County Port Authority approves to adopt the public records policy you can work off that. The Ohio Public Records Laws is broad it allows for open Sunshine Law so individuals can request public records. According to law the public records public recorder requests do not have to be in writing. The requestor does not have to identify themselves. The public records requests can be requested by email. The public records requests do require specification about the request. The Executive Director and Secretary Treasurer are primarily responsible for handling these requests.

Subject – Policies/Procedures/Bylaws - Approval

All members present voted in favor to approve to adopt the Madison County Port Authority policies, and procedures, and bylaws as presented.

Port Authority Operations

According to Caleb Port Authorities can actually operate airports within the Port Authority. Some ports can be more complex where they work as a bank and make loans. As of this time Caleb didn't think that Madison County would be using the Port Authority as a bank. In the future if the Madison County Port Authority needs to use the port as a bank, they can cooperate with Columbus, Dayton or Warren County, Port Authorities for lending program needs.

A board member asked if the Port Authority has borrowing ability? Caleb replied, that yes, Port Authorities has the power to be a borrower.

Ray Martin asked Caleb what does the Port Authority Board with the income? In reply Caleb provided the two examples below.

1. It pays no taxes on the income and does not file taxes because the Port Authority is a government operation.
2. Port Authority income is available for board operations, Port assets acquire property, acquire easements, sell property actively participate in economic development, direct grants, and infrastructure.

Secretary

David Kell asked Caleb at this time if the acting Secretary can be the Secretary or if a board member can be the Secretary?

Caleb responded that at this time, the acting Secretary can be the Secretary. The way the bylaws were set up for efficiency purposes is that the Secretary and Treasurer are the same person to make it easier when starting up.

Caleb proceed with information that the Secretary and Treasurer has to countersign everything the Executive Director does because of the public contracting rules. Caleb suggested that the board could be also have an assistant Secretary to manage documents and keeping the files. In addition, the Secretary and Treasurer has to countersign everything the Executive Director does because of public contracting rules. The Secretary and Treasurer as a board member is ultimately going to sign documentation and the statutory requires a public official bond with a small cost. Any public official board member working on Port Authority project and acting within the scope of duty will not have individual liability. Caleb also recommended to have a professional financial CPA firm outside the board, and that person could also be an assistant. There could also be an assistant Secretary assistant Treasurer, County staff, and the outside professional to cover the responsibilities.

Scott Sims asked if the Secretary/Treasurer has signing authority and that there may be a conflict with a project. Caleb replied that the bylaws allow for the appointment of an assistant to sign on behalf of the Secretary/Treasurer. Also, the bylaws put a fiscal officer role into multiple party hands. The fiscal officer role is to get a counter signatory against the Executive Director signature. The other fiscal officer could sign in the event of a conflict of interest, or an absence. Bricker & Eckler does a lot of electronic signing methods. When closing deals that involve recorded instruments such as deeds or leases those items need to go to the Recorder's office.

Conflicts of Interest

Steve Hermiller asked if a board member deems there was a conflict, then how is the conflict of interest deemed, who does it be brought up to, and who resolves it? Caleb replied that conflicts are personal and are not required to be voted on by the board. Each board member has a duty of loyalty and duty of care to the board and has the duty to disclose any conflict a board member may have in respect to the transaction of a vote or discussion. These conflicts can be disclosed to the Executive Director and is also located in the policy. If there is a conflict of interest that a board member did not want to discuss with the Executive Director, then it can be reported to Bricker & Eckler. The information given to Bricker & Eckler is confidential.

Subject: Meeting Adjourned

Ray Martin, made motion to adjourn the meeting.

Scott Sims, seconded motion.

This meeting adjourned at 9:22 a.m. All members present voted in favor to adjourn the meeting.

Meeting Attendance Sheet

Those Present

MADISON COUNTY COMMISSIONERS
Port Authority Board Meeting
May 11, 2022 - 8:30 p.m.

- 1. David Kell Steve
- 2. Larry A. Martin
- 3. Steve LeLonek (phone)
- 4. Steven Hermiller
- 5. Chris Wallace
- 6. A. Scott Sims
- 7. CAROL BELL
- 8. ADAM JEELE
- 9. _____
- 10. _____
- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____
- 16. _____
- 17. _____
- 18. _____
- 19. _____
- 20. _____
- 21. _____
- 22. _____
- 23. _____

Signatures

Chris Wallace

Ray Martin

Steve Hermiller

Steve LeLonek

Scott Sims