

**PEASE DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING
MINUTES**

Thursday, August 22, 2019

Presiding: Kevin H. Smith, Chairman
Present: Peter J. Loughlin, Vice Chairman; Robert A. Allard, Treasurer; John P. Bohenko; Neil Levesque and Franklin G. Torr
Telephonically: Margaret F. Lamson from 10:33 a.m. to 11:41 a.m. (during this time all votes were roll call votes)
Attending: David R. Mullen, Pease Development Authority (“PDA”) Executive Director; Paul E. Brean, PDA Deputy Director and Airport Director; Lynn M. Hinchee, General Counsel; PDA staff members; members of the public.

I. Call to Order:

Chairman Smith called the meeting to order at 10:34 a.m. in the Board conference room on the Pease International Tradeport at 55 International Drive, Portsmouth, New Hampshire.

II. Acceptance of Meeting Minutes: June 20, 2019

Director Loughlin moved and Director Allard seconded that **the Pease Development Authority Board of Directors hereby accepts the minutes of the June 20, 2019 Board meeting.**

Discussion: None. Disposition: Resolved by roll call (7 – 0) vote for; motion carried.

III. Public Comment:

There was no public comment.

IV. Committee Meetings:

A. Reports:

1. Residential Housing Committee Agenda

Chairman Smith asked General Counsel Lynn Marie Hinchee (Hinchee) if she had anything further she would like to add regarding this recent meeting; Hinchee indicated nothing to add. Chairman Smith indicated that the next meeting is scheduled for September 18, 2019 **(the actual date of the meeting is September 19, 2019).**

Director Allard moved and Director Loughlin seconded a motion **to suspend the rules and move discussion regarding Northeast Rehabilitation up in the agenda for immediate discussion.**

Discussion: None. Disposition: Resolved by roll call vote (7 - 0) for; motion carried.

Northeast Rehab (NR) was represented by Atty. Ari Pollack (Pollack), Pollack introduced John Prochilo, CEO; Lester Schindel, CFO; Charlie Champagne, Operations Manager; the Planning and Development team for the project consisting of Bradlee Mezquita of Tighe & Bond doing the civil engineering; Todd Hanson and Mark Moeller of JSA doing the architectural work. Pollack also indicated that Todd Sigmon, an executive at Wentworth Douglass Hospital (WD) neighbor to rear of site, attended to show support for the proposal as the abutting tenant, but had to leave due to another commitment. The facility is located at 105 Corporate Drive and NR is looking to double its efforts. The planning experts indicate the need of two variances from the PDA Zoning Ordinance for the expansion plan. Pollack provided each Board member with a signed copy of the requested variances (Board materials contained unsigned version) as well as a plan showing the existing footprint of the facility in the pink and the proposed two story expansion in the orange. Pollack indicated that NR will be presenting a Restrictive Covenant relating to the WD land to the rear. Pollack described the orange expansion area as traversing linearly across the frontage and a leg that goes toward the rear and setback. NR asked to deviate from the applicable 50' rear setback and observe a 10' setback from the lease line boundary. NR did consider a lease line adjustment with WD, who was amenable with an adjustment. However, WD's chlordane (old insecticide / pesticide applied in areas around the Tradeport during the Air Force era) pile needs to be managed onsite; WD's pile is located to the rear of NR (the area that would have been the lease line adjustment). After considering alternatives, NR decided the best approach would be to leave the management of the pile with WD and deal with this issue with both a request for a deviation from a 50' to 10' set back as well as obtain a covenant from WD not to disturb the pile in their front yard and/or develop the area. Essentially this would provide the full 50' set back by virtual of the 10' being observed by NR and the Restrictive Covenant WD is placing on its own lot. The forms / documents have been reviewed by PDA staff. NR has asked for relief from the hardship of the pile (NR does not want to take on the liability for the pile) and for the Board to recommend to the City of Portsmouth (COP) a variance from the 50' setback to a 10' setback on the condition that the Covenant be finalized and recorded.

Second, the expansion places NR under the requirement that a second loading berth would be necessary. However, NR has one loading berth and one works for them, NR doesn't want two loading berths. Rather than creating the hardship of building and operating something that is not needed, NR is asking for the relief to have only one loading berth. NR still has a long process ahead with the COP and lenders, and asked for Board recommendation regarding the concept plan showing the expansion and the two variances from the Pease Zoning ordinances. Pollack indicated the individuals he has with him at the presentation can answer any questions the Board may have.

Chairman Smith (Smith) asks if any of the Board members has any questions. Director Peter Loughlin (Loughlin) had a question concerning parking where requirement is 66 and NR has provided 147, Loughlin asked if it is NR's experience that this use generates a higher parking ratio than normally required by PDA. Pollack indicated in the early stages of construction of the existing facility it was thought to take advantage of the space so that parking wouldn't be an issue. There is a stormwater plan that can handle the impervious coverage. As approaching the

expansion it is recognized that NR is over parking requirements and with the expansion they remain in compliance so not going to add any additional impervious if it can be avoided.

Smith asks where NR will be placing its (soil) pile and Pollack responded that NR will add to its existing pile at the corner of Corporate Drive and the road going to the facilities behind NR. If it reaches a height that the pile creates a hazard for traffic then a second new pile will be created but NR does not want three piles.

Director Peggy Lamson (Lamson) indicated she had been over to NR recently and complimented the site work and what NR is doing with the vegetation as it is bringing more color to Corporate Drive.

Director Loughlin moved and Director Torr seconded that **the Pease Development Authority Board of Directors hereby authorizes the Executive Director to complete negotiations, finalize, and execute the Pease Rehab/Wentworth Douglass restrictive covenant; and to approve, following any required approvals, the concept plan for 105 Corporate Drive as submitted by Pease Rehab, LLC, including the requests for deviations from the rear setback and loading berth requirements as shown on plans attached hereto and incorporated herein; all in accordance with the memorandum of Maria J. Stowell, P.E., Engineering Manager, dated August 13, 2019.**

Discussion: None. Disposition: Resolved by roll call vote (7 - 0) for; motion carried.

V. Old Business:

A. Approvals:

1. Farley White

Chairman Smith recognizes Director Loughlin to make a motion to move into non-public.

Director Loughlin moved and Director Allard seconded that **the Pease Development Authority Board of Directors enter non-public session pursuant to NH RSA 91-A:3 (2)(d) for the purpose of discussing the acquisition, sale or lease of property.**

Discussion: None. Disposition: Resolved by roll call vote (7 - 0) for; motion carried.

The meeting moved into non-public, the room was cleared, the video streaming turned off, but the voice recorder remained on.

Smith asked the three individuals to introduce themselves; Attorney John Dougherty (Dougherty) of Nutter McClennen & Fish LLP, counsel for the Farley White interests; John Power (Power) and Elizabeth Rucci from Farley White (FW).

Dougherty indicated that FW currently has a 127,000 sq. ft. Class A office building at 100 Arboretum and has been in negotiations with PDA to obtain a lease line revision to expand the premises which would enable a new 73,000 sq. ft. building (likely a multi-tenant office building). With respect to 100 Arboretum there is an existing operating lease that everyone is operating under which has about 40 to 45 years left in an unexpired term; the business

arrangement with PDA with what is known as 90 Arboretum would be an extension of term to 74 years and the rent is being recast from having 5 year CPI adjustments to annual CPI adjustments and a 25 year fair market value reset. During the last several months there has been tremendous progress between PDA and FW in negotiating the ground lease and FW was advised by PDA staff that there are outstanding issues needing Board approval. The August 9th letter submitted by FW summarizes the outstanding issues which included specific lease language. The short list of issues, 3 in particular, that FW looked to preserve the existing language which is contained in the current lease and to be applied to the new arrangement.

The 3 areas are:

1. **Application of the insurance proceeds after a casualty occurring**: Language in existing lease indicates a clause that lender's counsel (Goulston & Storrs representing Berkshire Bank) requires remain in the new lease. Language states that the leasehold mortgagee can apply insurance proceeds after a casualty to pay down its loan, should it choose. FW stated it would be unlikely, although not uncommon (i.e.; if a 10 year loan and a casualty occurs in the last year) lenders would say it will not release the money to rebuild and a new deal is renegotiated.
2. **Sublease approvals**: Pertaining to the office / spaces leases that FW would enter into with subtenants within the building (this concept is in the existing lease as well).
3. **Recognition**: The Board recognizes the FW tenants in place if FW (the middle man were out of the picture) that PDA would not evict the tenants. The current language provides that those tenants couldn't be in default and the tenants' rents would need to cover the PDA rent.

Even though the term is being extended these are important business issues to FW. In a multi-tenant Class A office building scenario which are important issues to keep in a future deal and FW requests they stay in place.

There were also discussions of FW having Right of First Refusal (ROFR) if PDA, for whatever reason were to sell. The current language is if PDA provides ROFR to another tenant at Pease, then FW would have that benefit as well.

Last issue is the rent schedule. There have been delays in the permitting and request that the new rent commencement date for the new property be June to allow a FW a 9 month period to basically construct the building and lease it up and not pay rent where it doesn't have the ability to receive rent from subtenants.

Hinchee indicated that there is an additional point that Dougherty did not cover which was the most recent draft of the lease has all of the rents adjusting on the same date and FW is not willing to do that.

Power, of FW, spoke to the comment to indicate that it is not that FW is not willing, rather it is highly unusual because the site is being expanded and a new building being built on it as opposed to a site being acquired and constructing a building. There is an existing situation and that lease would commence upon the signing of the new agreement (hypothetically

September 1st). Trying to marry the two together being that FW has a building which has no ability for revenue and will have no revenue until the building can be built (9 months or longer – prepared to go into the ground immediately) and FW has an existing building that will go on the new rent schedule essentially immediately.

Hinchee reminded the Board that the only approval PDA has from the FAA is to reset a lease to year zero and provide a 74 year term is if PDA does a new lease with the addition of property or addition of construction. PDA does not have the authority to use an old lease format and add a term onto it if resetting to year 0. Smith looked for clarification by indicating – if no building is built, Hinchee indicates that FW would receive an amendment to extend its existing term so that from the first day of the lease (which about 20 years has already run) so the total term from day one of the lease to the end of lease would be 74 years. So the way it has been currently drafted is that FW would be getting only one lease for the entirety of the properties, it starts at 0 and goes 74 years; so would have had the benefit of the property for 94 years.

Smith stated that the Board is interested in getting a deal done with FW as a new office building would be great, believed the Board and FW to be close. It is necessary to understand where FW is coming from where alternatives have been offered, want to be flexible without violating any FAA requirements.

Power indicated that FW has brought a rendering (which was passed among the Board members) on what FW is proposing. Hinchee has indicated that all past renderings have been circulated to the Board in terms of concept plans and designs but believes what the Board is currently viewing is more up-to-date.

Smith reviewed the list of outstanding items:

1. **Right of First Refusal (ROFR)**: As it is currently written, if PDA grants a ROFR to any other tenant PDA would extend the same offer to FW; asked if that is acceptable and response from FW individuals is in the affirmative. **Hinchee** indicated that is a policy decision for the Board so it has not been included, but if agreed on it... **Dougherty** indicates that Hinchee has drafted language that FW has approved.
2. **Insurance proceeds**: **Smith** indicated that PDA staff offered to include the provision in the lease as long as FW were to provide security to PDA for the promise to rebuild in the event of a loss. **Smith** asked if that is a provision acceptable to FW. **Dougherty** indicated that as FW understood it there was a guarantee, so the lease currently obligates FW to rebuild after the event of a casualty or a casualty of greater than 50% FW can walk away they don't have to rebuild. **Dougherty** understood PDA was looking for a security to guarantee it would rebuild the buildings. **Dougherty** went on to indicate that FW owns over one million square feet in New Hampshire; **Hinchee** further stated that FW does but the tenant in this instance, the obligated party, does not have any asset except this building. **Hinchee** clarified the information to the Board that if the mortgage lender uses the proceeds FW will not have insurance proceeds to rebuild and there is a contractual obligation to do so. However, this particular entity (has the right to sell the building to any other entity

without the approval of PDA) the next entity does not have an obligation to rebuild and may or may not have the assets to rebuild. PDA did not seek just a guarantee (Atty. Manchester offered a number of alternatives which may have been satisfactory for security) but the concept alone was rejected / no interest. **Dougherty** indicated that FW is a developer with sufficient means and again indicates the million square feet only in New Hampshire, FW owns a lot of property in New England and Florida. The request is not something FW will agree to; FW will be motivated to rebuild. If complete casualty, there is certain value there (intangible value). FW cannot envision a scenario where it would not rebuild. If the lender indicates that there is 6 months left on the term, the lender leaves – FW will negotiate with the lender, different lender, self-finance, whatever. **Dougherty** indicated that it is unusual to have a guarantee or Letter of Credit (LOC) to stand behind an obligation to rebuild. FW's position would be the concern of FW not standing behind this.

3. **Subleases / Tenant recognition**: **Smith** indicated that PDA staff agreed to automatically approve the extensions of all existing tenant subleases with the provision that they have an opportunity to review the subleases. PDA staff has offered to give them the same complete recognition FW has now, if can approve all new subleases. PDA does not need to approve the expansion of an existing lease or an existing tenant taking additional space. It is necessary to see all new subleases if PDA is going to recognize those tenants (that is how it was tied together). PDA listed items separately because recognition can be attained as requested if subleases can be viewed. Subleases are delegated to the Executive Director for approval and every month subleases are reported to the Board (of all tenants and some tenants have 28 buildings). FW lumped items together; PDA indicated can provide the recognition but needs to see subleases in advance. **Smith** asked FW what the hang up is on PDA not reviewing the subleases. **Dougherty** indicated FW doesn't have it now and the feeling is it shouldn't change. The concern is that there could be delays (i.e.; FW does not want to be in a situation where the Board, for whatever reason, indicates that this is not an appropriate tenant to have in its building or there could be delays in getting the approval). FW believes it is fast an efficient in turnarounds in processing deals and building out space and dealing with tenants. **Power** indicated that traditionally speaking most loans have high threshold levels for lender approval or have no lender approval on leases, partially due to timing. In this deal, and on this building, the financing is being wrapped into both buildings (100 and 90). The lender has agreed to a lender consent threshold of 25,000 sq. ft. or bigger (so lender doesn't have a say of 25,000 sq. ft. or larger) based on FW's reputation of doing a good job and being responsible to investment partners and existing customers. FW believes it has done a respectable if not a commendable job on the property operating at Arboretum Drive. **Hinchee** indicated the necessity for PDA staff looks at the existing policy and the fact that FW has free reign to transfer property to another entity. The timing issue was never addressed / concerns about delay. **Hinchee** indicated that if the timing issue had been brought to her attention she would have negotiated a timeframe within the lease so the review of sublease would be performed within a short period of time and return the consent back to FW, so long as standards were met. What PDA had been told was because FW didn't have this language in its

existing lease and they were not willing to do it in the future. **Hinchee** affirmed that approval is delegated to the Executive Director so long as it meets the 4 standard points in the lease. **Smith** indicated it does not need to wait to come to the Board; **Hinchee** indicated the sublease gets reported to the Board following execution and that a copy of the delegation was previously provided to counsel. **Dougherty** asked if the recognition was removed from the table, what would the value be to the Board of approving subleases? **Dougherty** further stated that at this price point FW would not be leasing to an ice cream shop / fly by night entity; therefore, not sure what the PDA's standard of review would be. **Executive Director David Mullen (Mullen)** indicated the concern of precedence as it is in other leases. **Mullen** further indicated being a state agency PDA treats everyone equally and without differentiation so it would be a burden for PDA to break precedence. **Dougherty** stated it is FW's precedence that it is in its current lease. **Hinchee** reiterated that this is a new lease, the Letter of Intent (LOI) and prior conversations made it clear, this is the benefit of the value being added to the existing property by giving the extended term. **Power** stated FW is not looking to take advantage of anyone, FW believes in what PDA has done, being in this area and City of Portsmouth and Town of Newington. FW has an agreement and has no need to change that agreement. If Board decides FW shouldn't build 90 Arboretum Drive FW will remain with its existing agreement.

Smith addressed Power for clarification of all of the items with the exception of the one area that the Board would have some flexibility. As mentioned earlier by Hinchee, the Board may go to June 2020 to start the rent. However, what Smith heard was the Board does not have any flexibility in the FAA rules that once a lease is reset to 0 it has to be a Fair Market Value (FMV) at that time, it cannot be at the existing rent was. **Hinchee** affirmed, she further stated that PDA does have leases that are in excess of FMV and those are being rewritten at its current rent – rent is not decreasing. This information has been provided to FW and FW's point is it is not an office building (i.e.; WD -- seen as medical use). Part of FW's parcel is already in excess of amount PDA is going to be charging going forward. FW will be paying \$17,800 but the blended rate is \$17,300 and going to \$17,400 so it is a very de minimis amount of rent. Administratively, the Board has made the decision that part of the reason to go forwarded with the leases for longer terms is to get a blended rate, one rate for each parcel / tenant and move forward. It is an administrative change from the policy of the Board which is why it was raised. At some point FW will go to FMV, not interested in arguing the existing lease. The existing property (which is slightly under FMV), if it ever fell substantially below, under the provisions of the lease that are subject to the FAA grant assurances the FAA could, and have at other airports, stated it is not going to recognize the rate. Hinchee indicated she doesn't believe it will happen at Pease due to the way PDA has structured the adjustment provisions of the lease (one rate one start). Hinchee stated that Smith sat through all negotiations with the FAA; FAA had two issues and one specifically was receiving FMV on properties the entire time. **Power** asked if the other was PDA would have to change all the existing terms of the lease. Power further stated that FW is happy to pay FMV, FW is not arguing the economics of the transaction and looking forward to get the building under construction. What FW is trying to do is relieve some of the burdens on the PDA on approvals and things on what we do today and are operating under.

Smith called for comments or questions from the Board. **Loughlin** had some comments and supported what the Chair stated that PDA hoped the building would go. Did not need to see the rendering due to the fact that everything that FW has done is first class. To FW it is a great idea and it is, but the regulator (Town/PDA) doesn't always view it in the same manner. Meaning if Town/PDA grants a particular approval every other resident in the town (landowner/taxpayer) wants the same treatment. When PDA has had policies and programs in effect that work he has been reluctant to change and over the years has been reluctant to disagree with PDA's legal advice. When PDA started out 30 years ago it was a real question as to whether this was going to work out at all – in New Hampshire no one did long-term leases (where you lease the land and you build your own building). **Loughlin** is very reluctant and understands FW's arguments – as a regulator sees the need for consistency. **Dougherty** indicated that **Hinchee** has been a tremendous advocate and Susan Manchester both have done a terrific job. What is unique with FW is it has these 3 provisions in current deal so it is hard to give that up – that is one of the hurdles.

Smith stated that the ROFR language was agreed upon by PDA staff and FW and if the Board were to approve that; and if the Board approves what FW is looking for with the insurance proceeds; if PDA writes into the tenant recognition a turnaround of three (3) business days by the Executive Director so PDA is still reviewing it but it is being turned around in a timely fashion – **Hinchee** confirms the approval of subleases and **Smith** affirms the approval of subleases; we extend the rent beginning date to June 2020 but at the proposed blended rate of \$17,475 – is that something FW could live with. **Power** asked if there would be a reasonableness standard on the consent. **Hinchee** indicated that there is a reasonableness standard already on the sublease consents in the lease – it is already written in. **Power** wanted to confirm; **Hinchee** again stated “not unreasonable withheld or delayed” is the standard. **Power** asked with regard to the recognition that would be given pending the approval of the subleases. **Hinchee** affirms that the recognition provision will be as it is in the existing lease, it is sublease approval provision that will change. **Hinchee** indicated that as long as PDA receives the sublease for approval we approved it and FW gets recognition. **Power** asked if it was for all leases; **Hinchee** indicated it is cumulative -- all leases. **Power** asked if there is a minimum size (1,000 ft; 500 ft; 2,000 ft); **Hinchee** confirms there is no size limitation. **Power** stated he is anticipating his heirs will inherit this transaction. **Power** indicates from his perspective that is an acceptable compromise, unless he is missing something. **Dougherty** indicates the other way to do it would be not to have the sublease approved but to have the recognition in the new building. So in other words leases above a certain square foot threshold in the new building... **Power**, no offense to but it becomes six and one half dozen of another... **Dougherty** indicated that subleasing... recognition happens when you are in default. **Hinchee** indicated that PDA would prefer to see all of the subleases; it is the practice of PDA and there are practical reasons for it. **Hinchee** stated that there have been times when PDA has reviewed a lease and the use is permitted but the use language deviates from the statutory language or zoning language and this is brought to the tenant's attention. **Power** asked if PDA would sign off on a form lease so if FW knew what the ground rules were upfront and FW would know the form so wouldn't get into a problem. **Hinchee** indicated that would not be an issue; **Power** stated that was reasonable. **Smith** indicates that the Board does not believe there is a concern with the subleases that FW is going to do. What this does is it doesn't set a precedent for the Board with other owners down the road but it provides FW with the security knowing it is going to be turned around and approved on a timely basis and it isn't

precedent setting for the Board. **Power** asked either Mullen or Hinchee if it were possible, as part of the process that if during a negotiation a question arises FW could contact PDA and ask for clarification if it is okay; **Mullen and Hinchee** indicated the expectation of FW reaching out to PDA for clarification. The issue on the insurance proceeds that has been explained to the Board is that PDA does not have this in any other lease (audit performed) and would not expect the Board would agree to this in the future. PDA does not have a tenant with this language in its existing lease so would not expect that it would be an automatic approval or that the Board would be changing policy on any particular point; just that there is a tenant with an exception already in its lease and so you will accept carrying it through to the new lease.

Smith asks the Board how it feels on what he has laid out as a compromise. Directors Allard (Allard) and Levesque (Levesque) indicate approval. **Dougherty** asked to clarify the sublease approval concept, so after 3 business days to reasonably approve. For some reason if PDA did not respond and Power needed to close a deal and it would be deemed approved if he didn't receive anything after a certain period of time; **Smith** indicates the Board would be okay with that. **Torr** indicates that the Board still has not resolved the insurance issue. **Smith** indicates that what Hinchee previously explained would be that if the Board were to agree to what FW is asking that this would not be precedent setting and it would not be deemed automatic in future lease agreements and that the reason behind accepting it for FW is because it is in its existing lease and the Board is granting an extension of that provision in FW's new lease. **Loughlin** asked if there is any other tenant this would affect; **Hinchee** responded not that PDA is aware of. After the insurance discussion came up on this lease PDA did a quick audit of the big tenant leases and it is not in the leases; the leases have the provision that the mortgage lender apply the proceeds in accordance with the other terms of the lease. Hinchee indicated that Dougherty had a conversation with Atty. Manchester regarding the mortgage and since he had not seen the mortgage yet, often the mortgage requires the rebuild as well. **Smith** asked Hinchee if there is any vote required and Hinchee responded that a vote would be taken in non-public. PDA has authority to negotiate but does not believe these points are covered. **Hinchee** explained the need for a motion to extend the authority to the Executive Director to complete negotiations and finalize the lease agreement in accordance with the discussions we have had, the presentation today since Dougherty has made the presentation for FW we can go with that.

Hinchee indicated the need to vote to come out of non-public session and stated did not see the need to keep the minutes confidential which gives PDA everything on the record which is needed. The Board can immediately take a vote in accordance with the discussion. **Smith** asked FW if there was anything else from its end. **Dougherty** indicated that the Board would go into public session and FW wouldn't have to make a presentation; **Hinchee** affirms. **Dougherty** asked as far as process for finalizing the lease, **Hinchee** indicated that she will be unavailable until Tuesday to get anything turned around. **Dougherty** asked if it could get signed next week; **Hinchee** stated that Mullen has authority to sign and there is very little to rewrite. **Power** stated that he was not sure whether the Board recognized the momentous event that 90 Arboretum will be as it will be the only building of its kind in New England and east of Minneapolis which is a mast timber frame building which is sustainable and LEED certified. Power indicated that he cannot think of a better place to have this be a "ground breaking building". It will get attention and people will come. **Smith** indicated the Board's willingness to show some flexibility and that the reputation and track record at the FW current site has been a great benefit to the Tradeport.

Chairman Smith moved and Director Allard seconded that **the Pease Development Authority Board of Directors come out of non-public session.**

Discussion: None. Disposition: Resolved by roll call vote (7 - 0) for; motion carried.

The Board came out of non-public session at 11:38 a.m. and Director Lamson disconnected from the meeting at 11:41 a.m. The meeting reconvened at 11:45 a.m.

Chairman Smith moved and Director Allard seconded a motion that **pursuant to NH RSA 91-A:3 (III) the divulgence of information discussed at its non-public session of August 22, 2019 meeting related to the acquisition, sale or lease of property do not require confidentiality.**

Discussion: None. Disposition: Resolved by unanimous vote for; motion carried.

Chairman Smith moved and Director Torr seconded that **the Executive Director complete negotiations and finalize the lease agreement with Farley White in accordance with the discussions that took place in the non-public session.**

Discussion: None. Disposition: Resolved by unanimous vote for; motion carried.

VI. Finance:

A. Reports:

1. FY 2019 Financial Report for the Twelve Month Period Ending June 30, 2019 (Preliminary)

Finance Director Irv Canner (Canner) indicated PDA is preparing for its year-end audit; have gone through many closings and have the certified ready to go. The auditors will be at PDA as of September 3rd and it is anticipated they will stay the week.

The trends in terms of higher operating revenues has continued throughout the year. PDA has seen an increase of just over 6% than budgeted which comes from pay-for-parking; wharfage and dockage activities, and fuel revenues (both areas exceeded the PDA budgeted numbers); and overran expenses just under 3%; when you bring the two numbers together there is a positive variance. PDA's most current numbers getting ready for the auditors that number is positive after going through an aggressive closing process. Expenses which have been discussed (i.e.; personnel services) is on budget; there is a charge out which indicates the location that the wages are for (i.e.; Airport, Skyhaven etc.). Staffing as of June 30th was 157 individuals and current payroll is for 161 individuals; this number will be reduced at the end of the summer season. The balance sheet shown is better than last year, the big change which is not indicated is a reduction in pension liability and OPEB liability by 12%. The construction process indicates a reduction in capital expenditures primarily in the areas of the Barge Dock; terminal (design work etc.), Golf Course equipment and initial monies for the runway and modifications.

The pay-for-parking and fuel flowage which were new items added in FY18 exceeded budgeted expectations. Enplanements as of June 30th up by approximately 40% close to 69,000. Skyhaven for the year ended with a deficit in terms of operations. Historically since PDA has taken on Skyhaven it shows that the revenues, which are tied to the rentals, don't justify the expenses. The fuel side came in slightly over what was budgeted. Cumulatively PDA has absorbed approximately \$1.7 million in capital expenditures and debt repayment.

The golf course operations as of June 30th (fiscal year) show an increase in operating revenues by 8% influenced by public play. Overall operating income greater than budgeted, Grill 28 came in 4% greater than last year and simulator was up by about 12%.

Port unrestricted funds were up from wharfage and dockage fees influenced the positive 16% increase in operating revenues shown.

These are preliminary numbers and do not expect any surprises when the auditors commence.

2. Cash Flow Projections for the Nine Month Period Ending April 30, 2020

Canner indicates that the cash balance is anticipated to decrease by 85% which is due to the anticipated activities at the terminal expansion during the next nine months and the runway work modifications as well. Anticipates that PDA will have to go into debt in late December and in April may need to draw the Revolving Line of Credit (RLOC) (indicated that the RLOC is \$15 million) which will be due to financial commitments over the next several months. Indicated that as of June 30th PDA had just over \$37 million dollars in commitments under contract (terminal, runway and Barge Dock).

3. Revolving Loan Fund

In accordance with the "Delegation to Executive Director: Consent, Approval and Execution of Revolving Loan Fund Documents," Mr. Mullen reported the a loan in the amount of \$27,000 to Scott Heisey at an interest rate of 4% for the purchase of a vessel, gear, equipment and accessories.

VII. Licenses/ROE/Easements/Rights of Way:

In accordance with the "Delegation to Executive Director: Consent, Approval and Execution of License Agreements," Mr. Mullen reported the following:

A. Reports:

1. Big Brothers Big Sisters – 62 Durham Street

Mr. Mullen indicated that Big Brothers Big Sisters ("BBBS") has been granted a Right of Entry to use the parking area adjacent to 62 Durham Street on September 21, 2019 from 4:00 p.m. to 11:59 p.m. for the purpose of parking BBBS event participant vehicles and being hosted by Port City Air.

2. National Visa Center - 100 New Hampshire Avenue

Mr. Mullen indicated that the National Visa Center (“NVC”) was granted a Right of Entry to utilize 100 ± parking spaces at 100 New Hampshire Avenue from 8:00 a.m. through 5:00 p.m. on Friday, July 26, 2019, for the purpose of providing NVC employees a location to park while NVC is hosting a Naturalization Ceremony at its location of 32 Rochester Avenue.

VIII. Leases:

In accordance with the “Delegation to Executive Director: Consent, Approval of Sub-lease Agreements,” Mr. Mullen reported on the following subleases:

A. Reports:

1. Sublease between 222 International, Limited Partnership and Seacoast Business Machines, Incorporated

Mr. Mullen indicated that 222 International, Limited Partnership entered into a sublease with Seacoast Business Machines, Incorporated (“SBM”) for 937 square feet within the leased premises at 195 New Hampshire Avenue, for a period of three (3) years, with an effective date of July 1, 2019. SBM will use the premises for general office use and related uses. Director Lamson approved the sublease.

2. Sublease between 200 International, Limited Partnership and Landry Architects, PLLC

Mr. Mullen indicated that 200 International, Limited Partnership entered into a sublease with Landry Architects, PLLC for 1,943 square feet within the leased premises at 200 International Drive, for a period of five (5) years, with an effective date of August 15, 2019. Landry Architects, PLLC will use the premises for general office use and related uses. Director Lamson approved the sublease.

3. Sublease between 2 International Group, LLC and HII Fleet Support Group, LLC

Mr. Mullen indicated that 2 International Group, LLC entered into a sublease with HII Fleet Support Group, LLC (“HII”) for 4,513 square feet within the leased premises at 2 International Drive, for a period of five (5) years and two (2) months, with an effective date of November 1, 2019. HII will use the premises for general office use and related uses. Director Lamson approved the sublease.

4. **Next Level Now, Inc. – Exercise of Renewal Option**

Mr. Mullen indicated that Next Level Now, Inc. has exercised the first of two One (1) year renewal options for property located at 16 Pease Boulevard and its Lease has been extended through July 31, 2020.

B. Approvals:

1. **Northeast Rehabilitation Expansion – Concept Plan**

This item was moved and addressed at the beginning of the Board meeting.

IX. Contracts/Agreements:

A. Reports:

1. **Sea Wall Failure - Portsmouth Commercial Fish Pier – Appledore Marine Engineering**

In accordance with the “Delegation to Executive Director: Consent, Approval and Execution of Documents and Expenditure of Funds for Emergency Repairs” Mr. Mullen reported that PDA-DPH entered into a contract with Appledore Marine Engineering, LLC in an amount not to exceed \$42,950 with respect to the Sea Wall Failure, Portsmouth Commercial Fish Pier to monitor the potential failure and inspect the sea wall tieback system, which is ten (10) feet below the existing grade. Director Loughlin granted his consent to this request on June 17, 2019.

2. **Purchase of Replacement Computers from Dell**

In accordance with Article 3.9.1.1 of the PDA Bylaws, Mr. Mullen indicated that Director Peter Loughlin authorized the purchase of computer replacement equipment from Dell in the amount of \$5,859.13. Director Loughlin granted his consent to this request on August 1, 2019.

3. **Solar Feasibility Study - Competitive Energy Services, LLC (CES)**

In accordance with Article 3.9.1.1 of the PDA Bylaws, Mr. Mullen indicated that and that Director Robert Allard authorized PDA to enter into a contract with Competitive Energy Services, LLC (CES) in an amount of \$7,000 to perform a Solar Feasibility Study at Pease Tradeport, Port of New Hampshire and Skyhaven Airport (DAW) to include an overview of potential installation sites, whether on buildings or parcels. Director Allard granted his consent to this request on August 9, 2019.

B. Approvals:

1. **Allied Equipment, LLC – Weedtechnics Model SW800 Steamwand System for Weed Control**

Director Levesque moved and Director Torr seconded that **the Pease Development Authority Board of Directors approves of and authorizes the Executive Director to enter into an agreement with Allied Equipment, LLC (“Allied”) in a total amount not to exceed \$21,841.00 for the purchase of a Weedtechnics Model SW800 Steamwand System (“Weedtechnics”) weed control machine for use at the Pease Tradeport, Pease Golf Course, Portsmouth International Airport at Pease (“PSM”) and Skyhaven Airport (DAW); all in accordance with the memorandum of Paul E. Brean, Airport Director, dated April 4, 2019 (scribner error as date should read August 8, 2019).**

In accordance with the provisions of RSA 12-G:8 VIII, the Board justifies the waiver of the RFP requirement based on the following reasons:

- **The Weedtehcnicos SW800 is the only locally distributed organic weed steamer and has been purchased for a consistent price by neighboring municipalities.**
- **The current status of herbicide application licensing and permitting near a watershed will challenge the ability of the airport to stay in compliance with FAA Regulations.**

Note: This motion required 5 affirmative votes.

Discussion: Director Bohenko (Bohenko) indicated that the City of Portsmouth (COP) had tested the item and it has limited capacity in what it can do. PDA Deputy Director / PSM Airport Director Paul Brean (Brean) indicated that the item worked well in the PDA application primarily along the cracks and along the airfield. Bohenko indicated that PDA probably doesn't want to put the chemicals down anymore; Brean agreed.

Disposition: Resolved by roll call vote; motion carried.

2. NRC East Environmental Services, Inc. - Emergency Spill Response & Waste Disposal Services

Director Torr moved and Director Allard seconded that **The Pease Development Authority Board of Directors hereby authorizes the Executive Director to award and enter into a contract with NRC East Environmental Services, Inc. of Franklin, MA to provide Emergency Spill Response & Waste Disposal Services to the Pease Development Authority. The contract is for a period of three (3) years with two (2) one (1) year options to renew; all in accordance with the memorandum of Maria J. Stowell, P.E. Manager - Engineering, dated August 8, 2019.**

Discussion: None. Disposition: Resolved by unanimous vote for; motion carried.

X. Signs:

A. Reports:

1. 325 Corporate DR II, LLC – Signage Change

In accordance with the “Delegation to Building Inspector: Consent and Approval of Minor Revisions to Existing Signs” Mr. Mullen reported that PDA has approved a minor signage change request by The Kane Company to update existing signage at property located at 325 Corporate Drive. Director Loughlin granted his consent to this request on July 11, 2019.

XI. Executive Director’s Reports/Approvals

A. Reports:

1. Golf Course Operations

Golf Course General Manager Scott DeVito (DeVito) indicated that the maintenance department just finished its aeration of the greens (the last couple of years this has been targeted to be done the third week in August). The course has its annual membership drive commencing Monday, September 9th, with Pay Now Play Now. September is a busy tournament month with over 750 pre-booked rounds.

2. Airport Operations

- a) Portsmouth International Airport at Pease (PSM)
- b) Skyhaven Airport (DAW)

Deputy Director / Airport Director Paul Brean (Brean) indicated that it has been the busiest July in the history of the terminal with 21,000 passengers coming and going (scheduled and charter enplanements). Strong fuel flowage for the month of July due to heavy cargo and larger aircraft used for technical stops. Revenue parking had about 900 transactions for the month of July and are above our projected revenue. Seasonal airline services are wrapping up and the NHANG received the first two of the KC46s. Terminal construction is moving along.

c) Noise Line Reports (June and July)

There were a total of six (6) noise inquiries in June, 2019. Four (4) inquiries were for rotor-wing aircraft (from two residences - one from Portsmouth, NH and the other from South Berwick, ME) all were concerning Seacoast Helicopters; one (1) inquiry was for fixed wing aircraft (from Durham, NH concerning two C130 aircraft) and the last inquiry was for both fixed and rotor—wing aircraft flying over the University of New Hampshire (from the same Durham, NH residence indicated above).

There were no noise inquiries in July, 2019.

Director Levesque (Levesque) asked about the Russian jet and Brean responded that it is a Ukrainian Antonov - 124 doing contract work for Raytheon.

B. Approvals:

i. Bills for Legal Services

Director Bohenko moved and Director Torr seconded that **the Pease Development Authority Board of Directors authorizes the Executive Director to expend funds in the total amount of \$79,504.64 for legal services to the Pease Development Authority by KutakRock**

in the amount of \$1,107.00 and Sheehan, Phinney, Bass & Green in the amount of \$78,397.64.

Discussion: None. Disposition: Resolved by unanimous vote for; motion carried.

ii. IT Director – New Position

Director Bohenko moved and Director Torr seconded that **in accordance with the provisions of Section 3.11 of the Second Amendment to By-Laws of the Pease Development Authority, the Pease Development Authority Board of Directors hereby approves of and authorizes the Executive Director to create the position of Information Technology (IT) Director and to immediately fill said position with an appropriately qualified candidate; all in accordance with the memorandum of David R. Mullen, Executive Director, dated July 8, 2019.**

Discussion: Mullen indicated that Berry Dunn had done an assessment of PDA's IT and indicated that there were areas that needed addressing so the responsibility of this new position would be to take care of those issues and it will help to take PDA further into the future. Bohenko asked if this person would be for a lot of support on desktop computers. Mullen indicated that currently PDA has Jess doing all of the site work, so this new individual will give a larger view assessment and set us up into the future. Bohenko asked if with storage PDA is in the "cloud" and Mullen indicated he did not believe so. Bohenko also asked if the new individual would be looking at the cloud and Mullen affirmed. Lastly, Bohenko asked if the IT person would be updating the website; Mullen indicated there is room for that, further indicated that the website is maintained by Liz and an intern who is assisting as well. Mullen indicated the IT person would provide direction PDA has not had in the past. Bohenko asked about going to electronic packets which are done at the City by utilizing iPads and everything can be stored so you can go back and look at prior information; the only cost would probably be 10 iPads. Bohenko asks if this IT position would be replacing a position; Mullen indicates it would be a new position.

Disposition: Resolved by unanimous vote for; motion carried.

iii. Security Specialist/Trusted Agent– New Position

Director Allard moved and Director Loughlin seconded that **in accordance with the provisions of Section 3.11 of the Second Amendment to By-Laws of the Pease Development Authority, the Pease Development Authority Board of Directors hereby approves of and authorizes the Executive Director to create the position of Security Specialist/Trusted Agent and to immediately fill said position with an appropriately qualified candidate; all in accordance with a memorandum from Paul E. Brean, PDA Deputy Director/PSM Airport Director, dated July 23, 2019.**

Discussion: Bohenko asked if this was a fulltime position; Brean indicated it was and benefited. Bohenko asked where there are two new positions has PDA not filled two positions; Canner responded two unfilled positions. Bohenko stated keeping the table organization the same and reallocating resources to other positions. Mullen indicated no they would be in addition;

Canner indicated these would be two incremental positions to the staff. Bohenko again asked if these would be reallocating positions due to changes in requirements; Mullen indicated two new positions. Bohenko stated that would be two new to the two open positions; Canner indicated that was a question an operational question for Brean. Brean indicated that some positions have been outsourced in this calendar year and the intent is not to backfill those. Bohenko asked if net operation for Brean will be the same and Brean affirms and as plans move forward for succession planning PDA may have someone to shadow [a position] but would eventually be cut back.

Bohenko asked if through the transition period there would be an elimination of position(s); Mullen indicated PDA did not think it could at this point but would take a look as time moves forward.

Smith added that the Executive Committee had gone through the organizational chart with staff and discussed the new positions. From the Executive Committee's perspective, it is appropriate given the needs and growth on the airport side and the fact that there isn't an IT person onsite. Bohenko indicated that it wasn't about the positions, was wondering if there was anything that wasn't going to be filled.

Disposition: Resolved by unanimous vote for; motion carried.

iv. Acceptance of potential Congestion Mitigation Air Quality (CMAQ) grants

Director Bohenko moved and Director Allard seconded that **the Pease Development Authority Board of Directors hereby authorizes the Executive Director to complete and submit to the NH Department of Transportation the grant applications for two potentially eligible air quality improvement and congestion mitigation projects from the Congestion Mitigation and Air Quality (CMAQ) Program and to:**

1. **Accept, if offered, a grant in the amount \$40,000 in CMAQ funding for the installation of electrical vehicle charging stations at the golf course and airport terminal parking lots and expend \$10,000 in matching funds; and**
2. **Accept, if offered, a grant in the amount \$360,000 in CMAQ funding for construction of a right turn lane on New Hampshire Ave and expend \$80,000 in matching funds;**

all in accordance with the memorandum of Maria J. Stowell, P.E. Manager - Engineering, dated August 2, 2019.

Discussion: Bohenko asked if the charging stations would be available to the public or just golf carts; Stowell indicated the charging stations would be for the automobiles of public/customers at the golf course and the terminal. Bohenko asked if it would be free to the public or would there be a charge. Stowell indicated that PDA was looking at a swipe/charge. Bohenko indicated that there are rules to indicate you can't charge for the electricity, indicated charging would have to be looked at (issues with charging and doing it a certain way). Stowell indicated you can't be a utility so it might have to be some sort of fixed charge.

Allard asked PDA chances on getting this (50/50); Stowell indicated attended a meeting and were told how much money was available statewide – it is very competitive and assumes the COP is putting in some applications as well. Allard asked if this was for electric cars; Stowell affirmed for customers if they have an electric car and want to drive it to the golf course they can be charging vehicle while golfing. Allard asked how many electric cars in New Hampshire. Stowell indicated that there are more and more (Lonza has a few parking stations in its garage and Bottomline has some parking stations). Stowell further indicated that she believed there are four or five tenants who provide electric cars for its employees.

Disposition: Resolved by unanimous vote for; motion carried.

XII. Division of Ports and Harbors:

Geno J. Marconi (“Marconi”), Division Director of the Division of Ports and Harbors (“DPH”), reported on Division activities, and the reports before the Board represent the current business at the DPH.

A. Reports:

1. Port Advisory Council – Meeting Minutes of May 8, 2019

Marconi indicated that the Port Advisory Council met May 8, 2019 and the minutes are included in the agenda; the Council adjourns for the month of July and August so will pick up again in September. Anticipates that the June minutes will be approved at the September meeting.

2. Commercial Mooring for Hire Permit Application – Kittery Point Yacht Club

Marconi indicated that DPH received a request for a commercial mooring for hire from Kittery Point Yacht Club and that under the Code of Administration of Rules there is an ability to have a Commercial for Hire allowed; upon review by the Harbor Master a recommendation is made to the Executive Director who is allowed to sign off through the Delegation of Authority.

3. Request to Transfer Commercial Mooring – Adam Baker to Jason Townsend

Marconi indicated that a Commercial Mooring Transfer has been requested and met the Code of Administration of Rules; upon review by the Harbor Master a recommendation was made to the Executive Director who signed off through the Delegation of Authority.

4. Portsmouth Fish Pier Sea Wall Update – Appledore Marine Engineering Report

Marconi indicated that the Sea Wall has worsened; proposals have been requested to stabilize the wall. DPH received one proposal from Riverside Pickering and its proposal was

approximately \$24,000 to go in and drive 8 pilings on an angle and attach them to the wall by welding in an effort to stop the migration of the wall so it doesn't fall into the river. Marconi further indicated receipt of an emergency wetlands permit from DES and spoke of how condition surveys are done on the facilities (one was done on Fish Pier facility), and even though the facility is old, the report received from the engineering firm did not indicate that the wall was in eminent danger of collapse as issue was below the ground. Has been in touch with the Governor's office and leadership in the Senate in an effort to find funding to replace wall. Have to assume that if 50' of the wall failed, the remainder of the wall was constructed in the same manner and may fail as well. Levesque asked the total estimate to replace the wall; Marconi responded \$3.2 million dollars; one of the driving factors to the cost is the need to make the repair from a crane on a barge versus on land as well as part of the wall is within 20' of the building and the anchor system is underneath the building presenting an engineering and construction dilemma. Propose to drive another wall two feet outside the existing wall and go into the existing tie backs because the report indicates that the tiebacks are in good condition. Had been planning a few years out to do the replacement with the thought of doing a concept plan to replace whole facility, going to the legislature and ask for funding during the next budget season for grant money from US DOT. Marconi indicated that some of these projects are eligible for DOT grant money. Allard asked if DPH had approximately \$12 million dollars to do work on the pier; Marconi indicated that project has not been started yet. Allard asked if that was specific to the big pier; Marconi affirmed and stated that was a DOT grant specific to the rehabilitation and modification of the existing main ship dock. Allard asked if those funds could cross and Marconi indicated that the BUILD program is funded to 2022 and there may be approximately \$5 million dollars left in the program. Allard asked where the \$3 million would come from; Marconi responded that was what he asked D'Allesandro and the Governor's budget director. Allard asked if there is some kind of fund available; Marconi indicated that there are different ideas that are being weighed. Levesque asked for verification that this property is owned by the State; Marconi affirmed. Levesque further stated that PDA is not on the hook for this wall; Marconi again affirmed and further stated that during discussions with Senator D'Allesandro who is the Chairman of the Finance Committee it was confirmed that the property is owned by the State and operated by PDA - DPH.

5. Jocelyn Marine Services, Inc. – Right of Entry Renewal

Marconi indicated that Jocelyn Marine Services, Inc. requested to exercise its second and final option to renew its Right of Entry to provide boat hauling and launching services at the Hampton Harbor Marine Facility from July 1, 2019 to June 30, 2020.

6. Kokosing Industrial, Durocher Marine Division – Right of Entry for use of the Market Street Terminal premises

Marconi indicated that in accordance with the "Delegation to Executive Director: Consent, Approval and Execution of License Agreements and Rights of Entry" Mr. Mullen approved the request from Kokosing Industrial, Durocher Marine Division for storage of cable reels and assembling of equipment in association with its Little Bay cable project at the Market Street Terminal (555 Market Street) from August 6, 2019 through December 31, 2019. Director Loughlin granted his consent to this request on July 31, 2019. Primarily contractor for hull

alignments going under Little Bay, the ship's anticipated arrival is September 3rd or 4th, and it is coming from Korea. The ship is coming in with the spools of cable on it.

7. LS Cable America Ltd. – Right of Entry for use of the Market Street Terminal premises

Marconi indicated that in accordance with the “Delegation to Executive Director: Consent, Approval and Execution of License Agreements and Rights of Entry” Mr. Mullen approved the request from LS Cable America Ltd. for storage at the Market Street Terminal (555 Market Street) of underground cable transmission material in association with its F-107 UNH Project from August 19, 2019 through December 14, 2019. Director Torr granted his consent to this request on August 15, 2019. This company owns the cable associated with the Kokosing project for laydown area to put the cable spools and transfer onto the barges as the project progresses. Some of the cables will be loaded directly onto the barges and the remaining spools will be placed in the laydown area.

Lastly, Marconi praised his staff for the hard work which was done while the Tall Ship Eagle was here the beginning of August. The security for the traffic and public/pedestrian patterns, concession tent, barricades to protect the public and vessel from intrusion were laid out by Security Supervisor Dan Pollinger; Deputy Chief Harbormaster Grant Nichols was in charge of overall security and coordinated with local and State police, State Police Bomb Squad, Coast Guard, security personnel; Operations Manager Whit Anderson and Tyler Zabkar did all the heavy lifting, moving jersey barriers around, cleaning things up; and back office stuff with Lana and Brenda in the office area. Torr indicated that Captain Marconi was working hard as well.

XIII. Special Events:

A. Report

Executive Director Mullen indicated that there will be three (3) races which will be held during the month of September as indicated below.

1. **September 2, 2019 - St. Charles Children's Home 5k run,**
2. **September 7, 2019 - Newington School Supporters 5 mile run; and**
3. **September 28, 2019 - Bottomline Technologies 5k run.**

XIV. New Business:

XV. Upcoming Meetings:

Board of Directors	September 19, 2019 @ 8:00 a.m.
Residential Housing Committee	September 19, 2019 @ TBD

All Meetings begin at 8:00 a.m. unless otherwise posted.

XVI. Directors' Comments:

Director Levesque thanked Hinchee for coming back early from her vacation to attend the rescheduled Board meeting.

Chairman Smith appreciated all of the hard work and efforts by the PDA Board in moving the meeting from the August 15th to August 22nd and the Board and PDA staffs' efforts during the non-public meeting and the months of negotiations that led up to the non-public.

XVII. Adjournment:

Director Torr moved and Director Allard seconded to **adjourn the Board meeting**.

Discussion: None. Disposition: Resolved by unanimous roll call vote for; motion carried. Meeting adjourned at **12:34 p.m.**

XVIII. Press Questions:

There were no questions from the press who attended the meeting.

Respectfully submitted,



David R. Mullen
Executive Director