

# EMINENT DOMAIN

***Presentation to:  
The APPA Economic Development Committee***

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June 20, 2007



# EMINENT DOMAIN

## Chapter 1 of a very long book

- Port of Tacoma
- Politics
- Process
- People
- Press



# EMINENT DOMAIN

## “All Politics Are Local”

- Tacoma Convention Center
- Sound Transit
- Washington State Legislature
- Property Rights

# EMINENT DOMAIN

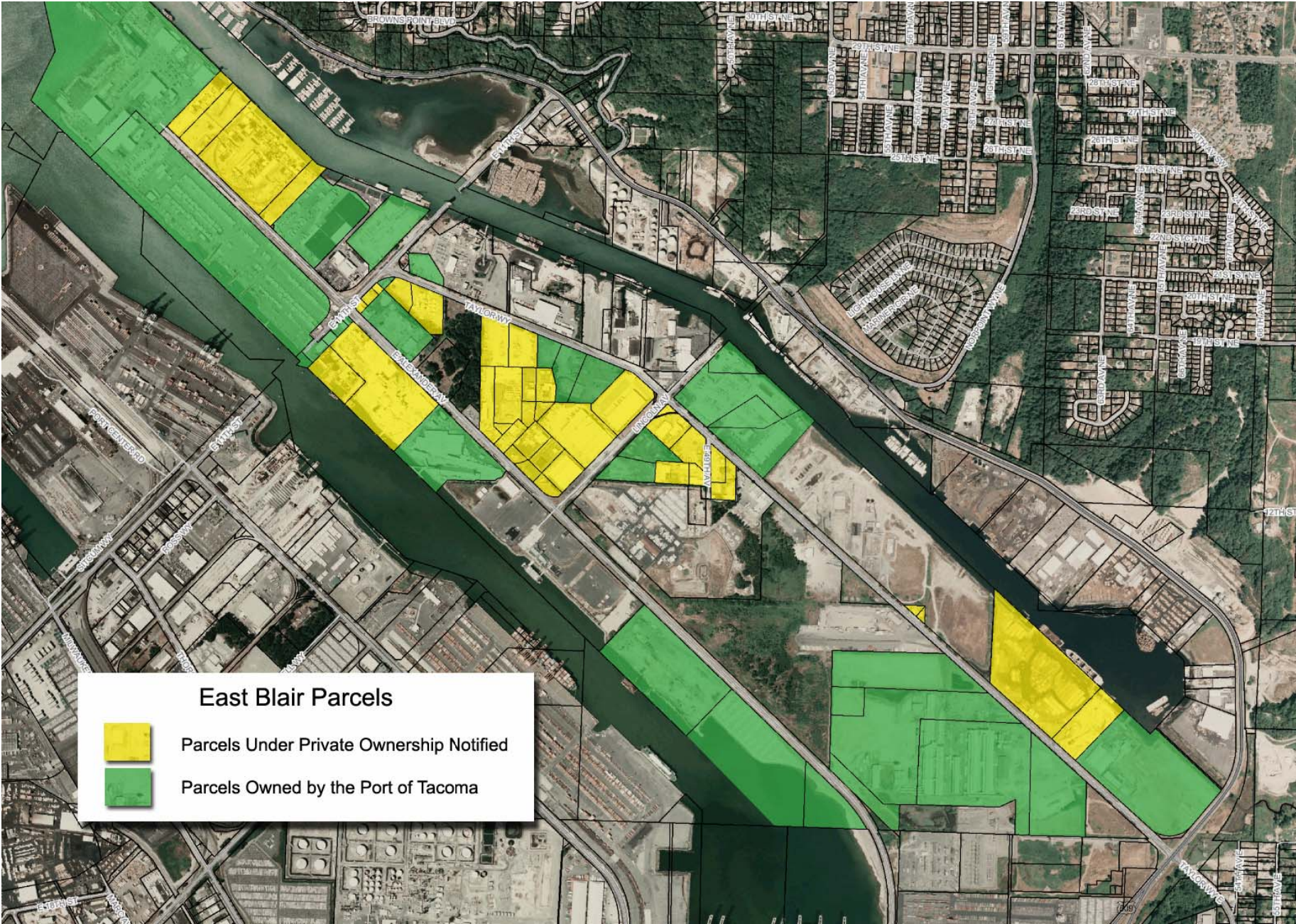
## RCW 53.08.202

A port district may construct, condemn, purchase, acquire, add to, maintain, conduct, and operate sea walls, jetties, piers, wharves, docks, boat landings, and other harbor improvements, warehouses, storehouses, elevators, grain-bins, cold storage plants, terminal icing plants, bunkers, oil tanks, ferries, canals, locks, tidal basins, bridges, subways, tramways, cableways, conveyors, administration buildings, fishing terminals, together with modern appliances and buildings for the economical handling, packaging, storing, and transporting of freight and handling of passenger traffic, rail and motor vehicle transfer and terminal facilities, water transfer and terminal facilities, air transfer and terminal facilities

# EMINENT DOMAIN

## RCW 53.08.202

and any combination of such transfer and terminal facilities, commercial transportation, transfer, handling, storage and terminal facilities, and improvements relating to industrial and manufacturing activities within the district, and in connection with the operation of the facilities and improvements of the district, it may perform all customary services including the handling, weighing, measuring and reconditioning of all commodities received. A port district may also construct, condemn, purchase, acquire, add to and maintain facilities for the freezing or processing of goods, agricultural products, meats or perishable commodities. A port district may also construct, purchase and operate belt line railways, but shall not acquire the same by condemnation.



# EMINENT DOMAIN

## Stepped Acquisition Process

- I.D. Properties for Assembly
- Meet with Landowners
- Seek LOIs / PSAs
- Deliver Notice Letter after extended efforts
- Keep partners informed
- Offer relocation options
- File eminent domain action if no engagement



# Resolution no. 2007-04

## Background

Properties are needed to support future maritime development including terminal facilities, road and rail infrastructure, and public transportation needs.

# Resolution no. 2007-04

## Background

The Port of Tacoma will seek to acquire the property by direct negotiation based on fair market value. If direct negotiations are unsuccessful, this action will authorize the Executive Director and legal staff to take necessary steps to file condemnation proceedings and acquire the property.

# PRESS

- Establishing “public need & necessity”
- Logical step in ongoing briefings to newspaper about Port’s anticipated growth
- Partners underscored the message
- Lack of outcry from property owners
- Story “heads-up” provided informed reporting

# PRESS

## THE NEWS TRIBUNE

THE NEWSPAPER FOR THE SOUTH SOUND • SATURDAY, JUNE 2, 2007 • TACOMA, WASH. • THENEWSTRIBUNE.COM • 35¢

### IT'S ALL ABOUT CONVENIENCE

How to set up your own home gym  
HOME&GARDEN, E1



### 5 THINGS NOT TO MISS AT FLOWER & GARDEN SHOW

HOME&GARDEN, E10



## Port of Tacoma plans big land acquisition

By Paul Schrag  
Business Examiner Staff

Floods of cargo from Asia have encouraged recently unveiled expansion plans at the Port of Tacoma, with more than 20 business owners on the east side of the Blair Waterway receiving notice that the port plans to build where they currently operate.

This story first appeared in **BE Daily**  
DELIVERED VIA E-MAIL

Port officials will vote at their May 29 meeting whether to use the power of eminent domain as a last resort in their attempts to acquire land needed for future expansions.

Businesses, meanwhile, are just now beginning to consider the impacts, said Tacoma-Pierce County Economic Development Board President and CEO Bruce Kendall, whose agency offers assistance to businesses affected by coming changes.

"The most common question we get is 'Is this See Plastics, Page 28

## Port moves to condemn land

Threats of land speculators force the port to hasten land acquisition

The Port of Tacoma attempts to condemn the property of unwilling sellers. Its goal is to fend off land speculators in an area it hopes to develop.

BY KELLY KEARSLEY  
The News Tribune

The Port of Tacoma filed condemnation actions Friday on four Blair Peninsula properties whose owners, port officials said, have been unwilling to nego-

## THE NEWS TRIBUNE

THE NEWSPAPER FOR THE SOUTH SOUND • WEDNESDAY, MAY 16, 2007 • TACOMA, WASH. • THENEWSTRIBUNE.COM • 35¢

### ALL-AREA BOYS SOCCER TEAM

Bellarmine Prep senior is player of year **SPORTS, C1**



### FELIX STRUGGLES, BUT M'S STEP UP

Ichiro has sixth five-hit game **SPORTS, C1**



### HEAR HIM AGAIN: 'IDOL' TOUR SETS DATE IN TACOMA

**SOUTH SOUND, B2**

## Port plans to buy private land

Commission to vote on eminent domain authority at May 29 meeting

The Port of Tacoma wants to acquire private property from almost two dozen owners on the east side of the Blair Waterway for future shipping terminals.

BY KELLY KEARSLEY  
The News Tribune

The Port of Tacoma wants the land of 22 Tidelabs property owners on the east side of the Blair Waterway for future ma-

rine cargo terminals. If needed, the port will use its powers of eminent domain to force the land sales.

The property owners received letters this week notifying them of the port's plans, which most likely will displace many businesses and require others to reconfigure their operations.

The Port of Tacoma commission will vote at its May 29 meeting whether to give port staff the authority to condemn the property. A majority of commissioners

said Tuesday that they would be in favor of granting that authority.

"It gives the staff the ability to move forward with the discussion," said Commission President Corinne Bacon. "I don't know what saying no (to granting eminent domain authority) would do."

Bob Emerson, the port's senior director of real estate and industrial development, said the port already has contacted most of the property owners and hopes to negotiate the purchases. The authority to

condemn the property gives the port a recourse if negotiations do not succeed and would ward off potential land speculators, he said.

"It's an attempt to create certainty for our planning as we go forward," Emerson said.

The plans have created much uncertainty with the affected business-

nesses. The port has not yet announced a date for the acquisition.



# PRESS



DAN VOEPEL

## Port of Tacoma needs a real plan for land deals

Everything the Port of Tacoma does to boost its capacity as a competitive, world-class container-handling operation trumps any other business that gets steamrolled along the way, if you believe the port's hype.

Want proof? When the Port Commission voted last month to buy 140 acres on the Tideflats for a marine terminal, the commissioners didn't know what businesses or even how many businesses its action would displace, nor exactly how many jobs its action would displace.

Nor does the Port of Tacoma have any written policy about how to help relocate businesses that stand in its growth path or which businesses get paid by the port to relocate and which ones don't.

It should.

Because guess how many jobs the port's expansion will affect? About 720, according to figures compiled Friday by the Economic Development Board of Tacoma-Pierce County.

And not all of those jobs will stay in Tacoma – or even Pierce County.

"Our goal is always to keep companies in the jurisdiction that they are presently in," said Bruce Kendall, executive director of the development board. "But there will be companies coming out of this that just won't be able to stay in the City of Tacoma."

I don't want to imply that port officials don't care about the businesses their actions will affect. They do, absolutely. Their purchase plans came with verbal commitments to phase in con-

# SOUTHSOUND

WEDNESDAY, MAY 30, 2007 • THENEWSTRIEBUNE.COM/NEWS/LOCAL • SECTION B

## Port's eminent domain OK'd

### 22 property owners on Tideflats must yield to expansion

**The Port of Tacoma Commission unanimously approves the use of condemnation powers to acquire 140 acres of Tideflats property.**

BY KELLY KEARSLEY  
The News Tribune

In a unanimous vote, the Port of Tacoma Commission on Tuesday authorized the use of the port's powers of eminent domain to force the sale of 140 acres of privately owned property on Tacoma's Tideflats. The port wants the property so it can develop marine cargo terminals on the east side of the Blair Waterway. The action affects 22 property owners – many of whom lease their land to other businesses. Those busi-

nesses generate an estimated 680 jobs, Bob Emerson, the port's senior director of real estate, told the commission.

Most of the affected businesses will need to relocate, though some might be able to reconfigure operations at their current locations.

Commission President Connie Bacon said the port would condemn property only as a last resort and plans to continue to negotiate purchases with property owners.

"This is not something we do lightly," Bacon said. "This is not a hammer, it's something that's a last-ditch effort."

Though the port won't need any of the properties for at least a year, Emerson said he wanted to secure the rights to the property in the upcoming weeks and

months to facilitate development.

The meeting attracted a crowd, with most of the 63 chairs at the Port Business Center meeting room taken and several people standing in the back. Many of the affected property and business owners attended, but only one chose to voice his concern to the commission.

Gary Kehler, vice president of Graymont Limited, a Canadian company that makes products from limestone, said the port's action has an immediate effect on business – especially customers considering long-term contracts with the company – even if the port doesn't need the property for years.

The port wants a small corner of the

Please see PORT, page B5



# PRESS

## THE NEWS TRIBUNE

Tacoma, Washington • Established in 1883

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KIM BRADFORD Editorial writer

### OUR VIEWS

## Port of Tacoma expansion a move to the future

**Buying 130 acres on the Blair Waterway would help position the port to capitalize on an anticipated jump in container shipping volume.**

Coming off a year when the Port of Tacoma's container traffic grew just 1 percent, the port's plan to acquire more land for marine cargo terminals could seem askew.

But Asia's booming exports will continue to need a way to get to market, and it's only a matter of time before the Southern California ports receiving much of the increased traffic now will hit their capacity. When they do, shippers will start looking up the coast. The Northwest ports well prepared for growth could reap a windfall.

Port officials figure that diversion of cargo could be five years off. The time to prepare is now.

That's the idea behind the Port of Tacoma's announced plan to buy 130 acres along the Blair Waterway. Port officials have long intended to develop the waterway for marine terminals. They see the projected boom in container shipping traffic on the horizon as an impetus to act.

They are not alone. The Puyallup Tribe of Indians recently cemented a deal with SSA Marine to develop a 180-acre container terminal on the waterway's eastern shore. With the proposed port expansion, nearly the entire peninsula would be secured for marine commerce.

Unfortunately, the proposed port expansion also means upheaval for 22 Tidelands property owners, who face no choice but to sell their land to the port. Port commissioners are set to vote Tuesday to give port staff the authority to condemn the properties if purchase negotiations don't suc-

*The power of eminent domain exists for just these kind of situations.*

ceed.

If life were perfect, all the land owners would be willing sellers and the port wouldn't have to use its hammer to force sales. But the power of eminent domain exists for just these kind of situations — when essential public projects outweigh the interests of individual property owners.

Everything possible should be done to find suitable locations in Tacoma for the affected businesses to relocate. That's the fair thing to do. It also is vital to ensuring that those businesses don't dry up and along with them, the jobs and tax revenue that they provide.

The port is working with the City of Tacoma and the Economic Development Board for Tacoma-Pierce County to help the property owners and businesses find new space. Port officials also say they won't resort to condemnation at a particular site unless a potential port tenant has expressed definite interest in developing it.

The Port of Tacoma is a major driver of the South Sound economy; if its ability to grow were stymied, so too would be a major source of revenues and high-wage jobs. The boom in container traffic has to go somewhere. The port's expansion plan is a responsible and far-sighted move that would help position it and this region to cash in on global trade.





**TO BE  
CONTINUED...**

**PORT of**  
**TACOMA**  
**U.S.A. ★★**