

Minutes of Meeting October 10, 2019

A Regular Meeting of the Port Commission of Port Freeport was held October 10, 2019 beginning at 2:34 PM at the Administration Building, 1100 Cherry Street, Freeport, Texas.

Commissioners present:

Mr. Shane Pirtle, Chairman
Mr. Paul Kresta, Vice Chairman
Mr. Rudy Santos, Secretary
Mr. John Hoss, Asst. Secretary
Mr. Ravi K. Singhania, Commissioner
Mr. Dan Croft, Commissioner

Staff Members Present:

Mr. Jason Cordoba, Legal Counsel
Ms. Phyllis Saathoff, Executive Director/CEO
Mr. Rob Lowe, Director of Administration/CFO
Mr. Al Durel, Director of Operations
Mr. Jason Hull, Director of Engineering
Mr. Chris Hogan, Director of Protective Services
Mr. Jason Miura, Director of Business & Economic Development
Ms. Missy Bevers, Executive Assistant
Ms. Mary Campus, Controller
Mr. Brandon Robertson, Network Systems Manager
Mr. Nick Malambri, Engineering Specialist
Ms. Lauren McCormick, Public Affairs Manager
Mr. Mike Quilty, Safety Coordinator

Also, Present:

Mr. Peter Nemeth, Crain, Caton & James
Mr. Bob Arroyave, BGE, Inc
Mr. Mike Hayes, Texas Port Ministry
Mr. Bobby Wingate, P66
Mr. Rick Stephanow, Gulf LNG Services
Mr. Troy Brimage, City of Freeport – Mayor
Ms. Maddy McCarty, The Facts
Ms. Gloria Milsap, Senator Huffman
Mr. David Thacker, Pct. 1 Constable
Ms. Pam Washington
Ms. Angie Williams
Ms. Susan Alford
Ms. Edmeryl Williams
Ms. Jessie Parker
Ms. Melanie Oldham
Mr. Kenneth Hayes
Mr. Eric Hayes

Ms. Amy Dinn
Ms. Victoria Rodriguez
Mr. Joshua Hickey
Ms. Cheryl Prince
Mr. Rob Giesecke
Ms. Maria Owens
Mr. Roy Ebert
Mr. Daniel Woodley
Ms. Susan Johnson
Mr. Manning Rollerson
Ms. Pamela Sanchez
Ms. Vivian Alford

1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:
2. Invocation – Mr. Mike Hayes, Texas Port Ministry
3. Pledge of Allegiance – U.S. Flag & Texas Flag
4. Roll Call – Commissioner Pirtle noted that all Commissioners were present.
5. Safety Briefing – Mr. Mike Quilty, Safety Coordinator
6. Approval of minutes from the Regular Meeting held September 26, 2019.

A motion was made by Commissioner Hoss to approve the minutes as presented. The motion was seconded by Commissioner Santos with all Commissioners present voting in favor of the motion.

7. Receive report from Executive Director/CEO and/or Port staff on activities and matters related to administrative affairs. Port tenant updates, USCOE, rail issues, AAPA Committees, leases, contracts, upcoming Port and civic events and other related administrative affairs.

Ms. Saathoff reported on staff's trip to Washington, DC to meet with the U.S. Corps of Engineers, office of the Assistant Secretary of the Army, and staff at Senator Cruz and Congressman Weber's office to brief them on the FHCIP as well as ask for support to the Galveston District's request for \$19 million to construct Reach 3 of the project. Staff also presented the results of the DMA analysis of the benefit to cost ratio. Ms. Saathoff met with the District Directors for Senator's Cruz and Cornyn to brief them on same information relayed in Washington. Mr. Miura reported on the Breakbulk Conference held earlier in the week stating it was a very well attended conference, with the Port receiving a lot of booth traffic and good leads for future business. Mr. Miura also announced that Connie Wiegel's last day with the Port will be Friday and we wish her the best. Mr. Miura further noted Ms. Wiegel will be missed. Ms. Saathoff also reported attending the meeting of the Port Authority Advisory Committee October 9.

8. Receive report from Commissioners on matters related to meetings and conferences attended, Port presentations and other related Port Commission matters.

Commissioner Santos reported attending the Breakbulk Conference.

Commissioner Hoss reported attending different meetings and dinners as well as the Congressman Weber's luncheon held earlier in the day.

Commissioner Croft reported attending the State Legislative Update October 2, Sweeny Community Hospital Foundation Board Meeting October 7, the Breakbulk Conference and the BFBRD CAP Meeting held October 9.

Commissioner Singhania reported also attending the Breakbulk Conference, State Legislative Update, Friends of River Fundraiser and the Rotary Shrimp Boil.

Commissioner Pirtle reported attended meetings in Washington, DC, Friends of River Fundraiser, Scout Breakfast, West Columbia Chamber Luncheon and gave a presentation to the Brazoria Council October 8.

9. Public Comment – The following individuals addressed the Port Commission regarding agenda item #16...
 - Ms. Jessie Parker
 - Ms. Melanie Oldham
 - Mr. Rob Giesecke
 - Ms. Pam Washington
 - Mr. Joshua Hickey
 - Mr. Daniel Woodley
 - Ms. Susan Johnson
 - Mr. Manning Rollerson
 - Mr. Eric Hayes

At this time, Agenda Item 16 was moved up in the agenda for discussion and consideration. There was no Executive Session discussion regarding this item.

16. Discuss and consider Resolution determining public necessity and authorizing eminent domain for the acquisition of real property generally described as located within the "East End" of Freeport, generally bounded by the east right of way line of Terminal Street (east), the south line of Eighth Street, Navigation Boulevard (west), and Second Street.

Ms. Saathoff began by stating that the Port is growing and expanding, and the last economic impact study reflects the great things the Port is doing for the community and this region by impacting more than 150,000 jobs and providing substantial income that is being spent in the community. Ms. Saathoff also stated that placing this item on the agenda for consideration was not taken lightly. She identified the area known as the East End of Freeport as being bordered by FM1495 to the west, East 2nd street to the north, Terminal Street to the east and southern most property line of East 8th Street. She noted the area is bordered by Port Freeport to the east and south, FM1495, one of the main roadways to the Port, to the west and a city designated truck route to the north which obviously would be impacted by the Port as it expanded. She further noted this area was in a neglected state in the 1990s with many vacant, unkept properties. Ms. Saathoff explained the Port had the opportunity to begin negotiations for the first acquisition in 1996 which was completed in 1999 and is where the current Port Emergency Operations Center is located. After that, the Port began acquiring properties with delinquent taxes through the County tax resale process. After acquisition, the Port performed environmental evaluation addressing any asbestos issues and then had the acquired structures demolished. Offers were sent out to owners of vacant land in early 2001 and transactions were completed with interested property owners. Subsequent to that, other letter offers were sent out to owners of East End Freeport with many individuals coming forward ready to sell their properties, unsolicited. Independent appraisals were done on these properties to ensure the Port was initiating a fair

purchase of the property. Ms. Saathoff stated the Port has consistently tried to be fair and pay market value for the properties, has always done the right thing and has not taken advantage of anyone. The Port continued to acquire property and on multiple occasions, sent out offer letters to owners with vacant lots and structures. The Port reached a point where several residences, even with a fair market value appraisal, did not reflect enough value for the owner to purchase another home that provided a quality of life. Ms. Saathoff commended the Commission's decision to take twenty lots the Port had purchased on 9th Street and establish a Swap Program. The idea behind the program was for owners that were willing to do an exchange; the Port would build a new home and exchange deed for deed. The only restriction was they would need to live in the home for 5 years before they could sell it, and the home they were exchanging had to be their homestead, not a rental property. Public meetings were held to explain the program and members of the East End community were invited to hear about the program. After these meetings, the Port realized there were more people interested than lots available to construct homes and a waiting list was started. The Port built the initial twenty homes and then began finding other locations in the community on which to build more homes for those on the waiting list. As of this date, there has been 36 swap transactions. The program is ongoing with the Port currently working with four individuals to construct new homes. Ms. Saathoff noted that in light of this resolution under consideration, the Port will continue to try to make purchases outside of the eminent domain process however; there are some properties the Port has tried to acquire that do not have clear title. Eminent domain gives the Port the means to resolve these issues. It is the Port's intent to complete as many transactions outside of the eminent domain process and is willing to work with anyone who wants to. Ms. Saathoff shared a map of the 28-block area under consideration in the resolution. Within this area, there are 4 blocks that were never developed residentially, 349 50-foot lot properties with the Port currently owning 263 of them. There are 39 properties with improvements 12 resident-owned and occupied, 12 rental properties and 14 properties that are currently not occupied and appear uninhabitable. In addition to these properties, there are 39 residential lots. Ms. Saathoff also noted that some of these properties have legal representation associated with them, but the Port is happy to engage discussion with the owners or their attorney if directed to advance discussions. At this time, a large portion of the remaining properties, especially those that are vacant or abandoned properties, have title issues that cannot be resolved. The Port has made every effort to assist in resolving issues. The Port has also assisted in paying for all closing costs, allowed individuals to hire legal counsel and paid for those fees, paid for costs associated with financial advice and has spent an extensive amount of staff time trying to clear titles, locate heirs and have necessary forms signed. Ms. Saathoff reiterated that the Port does not take any of this lightly, will continue to do the right thing, and wants to work with the remaining residents to find an amicable resolution. She also added that the Port has never threatened anyone with eminent domain or condemnation. This is the first time it has been brought forth. There is one large tract owned by a commercial enterprise and the park (Lincoln Park) is owned by the City. The Port is in discussion with the City in finding a way to relocate the park to give the City and the community a facility that is more centrally located that all can enjoy. The law allows for park relocations. At this time, Mr. Cordoba explained the resolution stating the document indicates in the recitals that Port Freeport, as a governmental entity, does have the ability to initiate condemnation proceedings to acquire property for public necessity, so long as it serves a public use, that is pursuant to the Texas Water Code. Additionally, the resolution continues to formally authorize the initiation of condemnation proceedings, which is a process that is enumerated by statute and the Property Code. The Port will engage legal counsel who specializes in condemnation proceedings to advise us through the process to ensure we are complying with the law. This resolution is confined to the area outlined in green on the map shown and attached to the resolution as Exhibit A. Lastly, Mr. Cordoba noted that if the Port Commission chooses to pass the resolution, the Port still has the ability to communicate with people, to have a dialogue with them to try and reach an amicable resolution and to the extent that this can be constructive and productive, we will absolutely do it. With regard in how this will help the community, Ms. Saathoff noted that with the Port expanding and growing, there is more activity and this area accommodates that expansion and the facilities necessary to efficiently and effectively manage

the business that is already occurring inside the port. In doing this, the Port needs to manage the truck traffic in the area and get it off the public roadways and into the port system. We need to provide customs and border adequate area and equipment for them to ensure the safe and secure movement of international commerce. There are other opportunities such as warehousing that are associated with the exiting types of operations the Port has, but as far as a container handling operation, those activities stay at the dock near the equipment that handles those types of containers. This is not in any way related to the Freeport Harbor Channel Improvement Project. No land was required to construct the FHCIP. Commissioner Hoss commented that the citizens want to be heard more than anything else, want to have a say and as a person who grew up in Freeport and spent a large part of his life on the waterfront, if you leave for 10-20 years, this is a very different world. Freeport does not look the same. Things have evolved, areas have expanded outside of town, outside of Freeport and Brazosport area. The City of Freeport itself has degenerated. This is not the reflection of anybody, any government, it is what it is. People moved out of Freeport and the downtown have moved to Clute and Lake Jackson. Over the past 30 years, Commissioner Hoss has looked at this and this evolution and has grown to understand that Freeport needs to continue to evolve, it's one of the reasons he ran for this office. Commissioner Hoss, along with all the Commissioners present and past have been extremely sensitive to condemnation. As a group, we have opposed it. We have spent money, we have thought outside of the box to purchase things, land swaps. He was not aware of any government entity that has done land swaps like this. We have added rooftops to the City of Freeport. Commissioner Hoss noted that one question that has been posed to him is what jobs are created. He stated that the Ro/Ro ships that call Port Freeport have a 100-person work gang. These ships make calls 1-2 ships per week, sometimes four which means we have local people employed in good paying jobs. This doesn't include the container market, the petrochemical market or the truckers. Commissioner Hoss stated that if people were going to be forced to exchange their land for money, then they have the right to know what it will be used for and he asked Ms. Saathoff to reiterate what the land is going to be used for public use and how will it impact the community. Ms. Saathoff stated it would be used in support of the other activities the Port has and as we build out, we continue to build out container handling facilities and support more movement of goods produced in the region. This area will be needed to manage the growth in a way that doesn't negatively impact the broader community and roadways but maintain our compliance with federal laws regarding secure facilities and providing our customs and border protection with types of infrastructure they need to effectively carry out their duties. She added there is often a misconception the federal government pays for all the resources and that they provide that themselves. They don't. Ports do where Customs and Border Protection operates. Mr. Cordoba explained that the public use and necessity is going to be that of this organization. We are a governmental entity, we have an enacting statute that authorizes us and permits us to take certain actions. It also limits our actions. Any and all public use that will be utilized in the East End will be within the confines of our enacting statute regarding the operations of the port and the facilities that we currently have. Ms. Saathoff added that "public use" by definition may mean different things to different people. According to the law, operating a port authority and having publicly available facilities for the movement of international commerce is public use. Commissioner Singhania asked Ms. Saathoff for clarification regarding opportunities for property owners to work with the Port to be able to sell their property, even if the resolution is passed. Ms. Saathoff stated the Port is currently in discussions with several residents and will continue those discussions to find an amicable resolution. She added the Port is willing to continue dialogue with a resident who owns rental property and if any other residents contact the Port, we will engage in conversation about a transaction. Additionally, the Port will mail bonafide offers based on a fair market value assessed appraisal to see if anyone is interested in entering discussions. If the Port decides to move forward with the condemnation process on a property, there must be an initial bonafide offer and a waiting period after that. Ms. Saathoff stated that if the resolution is passed it does not mean the Port will immediately begin condemnation. She added there will be a webpage that can be accessed from the Port's website specific to East End, where the public will have access to the resolution as well as the Landowner's Bill of Rights as published by the Office of the Attorney General. Commissioner Hoss assured

the public that this area will be utilized for the Port, it will not follow the horror stories of other entities around the country where property was traded or given to someone, it will be utilized for an industrial area, such as warehouses, truck gate complexes, maybe cold storage facilities. He did have all the details of what will be built, but he did have a general description. And, he is sensitive to the marina along the north side and respected the city's wishes for the port to not interfere with it.

A motion was made by Commissioner Hoss to adopt the resolution authorizing acquisition of real property interests and initiation of condemnation proceedings as presented in the agenda and by resolution explained by Counsel within the East End. The motion was seconded by Commissioner Santos with all Commissioners present voting in favor of the motion. It was noted that Commissioner Kresta was absent for this agenda item and the rest of the meeting.

10. Adoption of a Resolution recognizing Mark Mazzanti, Director of Programs for the Southwestern Division, for his years of service with the U.S. Army Corps of Engineers.

Ms. Saathoff stated the resolution before the Commission not only recognizes Mr. Mazzanti for his service to the U.S. Army Corps of Engineers but his strategic partnership with Port Freeport in providing invaluable leadership and guidance in advancing the Port's FHCIP that was authorized by Congress in 2014 and the reevaluation report process approved in May 2018. A retirement ceremony for Mr. Mazzanti will be held October 11 however, staff cannot attend due to customer visits. Ms. Saathoff asks the Commission to adopt this resolution recognizing Mr. Mazzanti.

A motion was made by Commissioner Singhania to approve the resolution. The motion was seconded by Commissioner Hoss with all Commissioners present voting in favor of the motion.

11. Approval of an electrical easement to CenterPoint Energy for a new power line to serve Parcel 14 Rail project.

Mr. Hull stated that CenterPoint is requesting an easement in order to install power lines on the Parcel 14 property to extend electrical service to the site. Mr. Hull recommends approval. Commissioner Hoss asked what would happen if CenterPoint removed the lines and left. Mr. Hull stated there is a process to have the easement vacated. Mr. Cordoba added that the easement usually includes a provision stating if the easement is abandoned or if CenterPoint ceases use for a period of time, the easement terminates.

Commissioner Hoss noted that he didn't see this language within the document and made a motion to approve the easement contingent on the inclusion of a clause stating if CenterPoint stops use for transmitting electrical purposes, it reverts back to the Port. The motion was seconded by Commissioner Singhania with all Commissioners present voting in favor of the motion.

12. Approval of resolution approving the acceptance of the Port's portion of proceeds received from high bidders on delinquent tax property held in trust by Brazoria County, Texas and authorizing the Chairman to join in conveyance to high bidders.

A motion was made by Commissioner Santos to approve the resolution. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

13. Discussion regarding the date and time for the next Board Meeting.

Mr. Pirtle stated he will be traveling out of the country October 24 and asked the Board to consider moving the next meeting to October 23 at 4:30 p.m. After a brief discussion, everyone agreed to moving the meeting.

14. EXECUTIVE SESSION in accordance with Subchapter D of the Open Meetings Act, Texas Government Code Section 551.001, et. seq., to review and consider the following:

A. Under authority of Section 551.071 (Consultation with Attorney) for discussion regarding:

1. Consultation with attorney to discuss potential litigation.
2. Consultation with attorney to discuss potential litigation.
3. Consultation with attorney and discussion regarding legal matters arising out of Texas Transportation Code, Title 4 Navigation, Subtitle A Waterways and Ports, Chapter 52 Texas Deepwater Port Procedures Act.
4. Consultation with attorney regarding Resolution authorizing use of eminent domain for acquisition of private real property for public use.

B. Under authority of Section 551.072 (Deliberation of Real Property Matters) for discussion regarding:

1. The potential exchange, lease, or value of real property located at Port Freeport, including but not limited to Parcels 7, 8, 10, 26 and 37.
2. Discussion regarding the potential exchange, lease or value of real property located in Freeport, Texas, including but not limited to the area known as the East End of Freeport and bordered by the following streets: FM 1495; East 2nd Street; Terminal Street and East 8th Street in Freeport, Texas.
3. The potential purchase, exchange, lease or value of real property located at Port Freeport, including but not limited to the real property located at and contiguous to Berths 1, 2, 5 and 7.
4. The potential exchange, lease, or value or real property located at Port Freeport, including but not limited to Parcel 14.
5. The potential exchange, lease, or value of real property located at Port Freeport, including but not limited to Parcels 4, 5, 6, 9, 19, 27, 31, 34, 35 and 38.

C. Under authority of Section 551.076 (Security Matters) for discussion regarding:

1. Discussion regarding issues related to the deployment, or specific occasions for implementation of security personnel or devices or security audit and services.

15. RECONVENE OPEN SESSION to review and consider the following:

16. This agenda item was discussed and considered prior to Executive Session.

17. Discuss and consider First Amendment to the Lease Agreement between Port Freeport and Vulcan Construction Materials.

Mr. Miura stated that staff recommends approving the execution of a first amendment to the lease agreement between Vulcan Materials and Port Freeport subject to no substantial changes.

The amendment covers an extension of the primary term taking it to October 2029 and offers two 5-year extension periods. This is the 5-acre site on Velasco Terminal adjacent to Berth 6.

A motion was made by Commissioner Hoss to approve the first amendment with Vulcan for the approximately 5 acres adjacent to Berth 6. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

18. Discuss and consider Second Lease Agreement between Port Freeport and Vulcan Construction Materials.

Mr. Miura stated this agreement covers a 10-acre lease premise on the western most portion of Parcel 14 and contemplates leasehold improvements by Vulcan Materials at 1 acre per year. It also includes an extension of road to access their lease premises and offers Vulcan temporary storage area to commence operations coupled with minimum annual guarantees of railcars plus base rent.

A motion was made by Commissioner Hoss to approve the second lease agreement with Vulcan for the 10 acres of the far west end of Parcel 14 as presented by staff. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

19. Adjourn.

With no further business before the Commission, the meeting adjourned at 6:07 PM.