

Minutes of Meeting September 12, 2019

A Regular Meeting of the Port Commission of Port Freeport was held September 12, 2019 beginning at 1:33 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. Cecil Booth, Project Engineer
Mr. Nick Malambri, Engineering Specialist
Ms. Lauren McCormick, Public Affairs Manager
Ms. Jo Beth Griffin, Public Affairs Assistant
Mr. Jesse Hibbetts, Operations Manager
Ms. Connie Wiegel, Sales & Marketing Specialist
Mr. Mike Quilty, Safety Coordinator

Also, Present:

Ms. Anne Rappold, Freeport LNG
Ms. Lauren Thibodeaux, Freeport LNG
Mr. Robert Gefers, Marsh
Mr. Peter Nemeth, Crain, Caton & James
Mr. Chaney Moore – Chevron Phillips
Mr. Jason Foltyn, HDR
Mr. Bob Arroyave, BGE, Inc
Mr. Bobby Fuller, Texas Port Ministry
Ms. Wendy Irwin, CP Chem
Mr. Wayne McDowell, CP Chem

1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:

2. Invocation – Mr. Bobby Fuller, 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 following hearings and meetings held:
 - August 22 Public Hearing
 - August 22 Regular Meeting
 - August 29 Public Hearing
 - August 29 Special Meeting

Commissioner Pirtle noted the August 29 Special Meeting minutes would be tabled until the next meeting.

A motion was made by Commissioner Kresta to approve the minutes as presented. The motion was seconded by Commissioner Hoss 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 asked Ms. McCormick to report on the Port's annual golf tournament. Ms. McCormick report the tournament is moving to a two-flight format due to increased interest in the event and only has 5 team slots left to fill. This year's committed sponsorships goal has surpassed last year. The tournament is scheduled for October 21 with all proceeds benefitting Texas Port Ministry. Ms. Saathoff reported that Freeport LNG recently started the commissioning of their first liquefaction train and has had two export shipments from their facility. Freeport LNG also announced they have received funding for construction of the fourth liquefaction train. MEGlobal recently held an event for their facility and is nearing the start of operation as well. When this operation begins, the Port anticipates an additional 25 vessels a year coming into the Freeport Harbor Channel. Ms. Saathoff noted the Port saw approximately 750 vessels calling a few years ago, will exceed 1100 vessels this year, and will be approaching 1300 vessel calls next year. With this continued growth, staff will be pressing Washington for funding for the FHCIP Project and attending meetings in Galveston, Dallas and Washington in the next few weeks. Additionally, Ms. Saathoff and Commissioner Pirtle will be attending the National Waterways Conference and will have the opportunity to engage with USCOE at the conference. Ms. Saathoff also noted a couple of the Ro/Ro vessels have sailed at night recently with no issues.

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

Commissioner Santos reported that he and Commissioner Pirtle had the opportunity to sail in with the Pilots on the first LNG vessel August 30. He also reported attending the September 6 meeting between the Port, City of Freeport and BISD and the Port's CAP Meeting September 10.

Commissioner Croft reported attending the Southern Outdoor Dreams Banquet September 5.

Commissioner Singhania reported attending the MEGlobal event as well as the CAP Meeting.

Commissioner Pirtle attended the Fort Bend Chamber Port Visit and Tour, Fort Bend, Freeport, & Taiwan meeting, MEGlobal event and Jones Creek Fire Department Fundraiser. Additionally, he and Ms. Saathoff met with Wharton County Judge and County Commissioner to discuss rail.

9. Public Comment – There were no public comments.
10. Adoption of a Resolution approving the application of tax abatement between Port Freeport and Chevron Phillips Chemical Company for property located in Chevron Phillips Chemical Company Reinvestment Zone No. 2, approving Tax Abatement Agreement on same terms and conditions as granted to Chevron Phillips Chemical Company by Brazoria County and authorizing Chairman and Secretary to execute said agreement.

At this time, Commissioner Kresta excused himself from the meeting and discussions regarding this item.

Mr. Lowe stated CP Chem has submitted a request for tax abatement for the construction of a 1-Hexene Unit. Total proposed investment is \$230 million with an abatement request of \$225 million and an estimated value at the end of abatement at \$165 million. The project will add 15 permanent jobs with at least 50 construction jobs at start up and completion with a peak of 500 jobs during the course. The project is scheduled to begin construction the fourth quarter of 2020.

A motion was made by Commissioner Singhania to approve the abatement. The motion was seconded by Commissioner Santos with all Commissioners present voting in favor of the motion and Commissioner Kresta abstaining.

11. Discussion regarding staff recommendation on property insurance as it relates to Parcel 14 rail improvements.

Ms. Campus stated that staff met with the Finance Advisory Committee to discuss the recently completed Parcel 14 rail and whether it should be added to the Port's property insurance. Following extensive discussions about possible scenarios that would involve a claim that would exceed the deductible on existing property insurance, it is staff's recommendation as well as that of the Finance Advisory Committee the Port remain in the current position of not insuring any of the rail facilities in the Port.

At this time, Ms. Saathoff stated Item #13 would be handled first.

12. Adoption of a Resolution setting the 2019 Tax Rate for Port Freeport.

Mr. Lowe stated the Port previously held two public hearings, August 22 and August 29, and is based on the process with the County in setting the tax rate. The Port is currently in a 3-1 relationship on M&O to debt service and will maintain the four cents but over the next five that will reverse to a 1-3 relationship with one cent toward M&O and three cents to debt service. Once the Port receives its taxable valuation information from the County, there are two rates to be calculated, an effective tax rate and the rollback rate. The effective rate takes the prior years' taxes divided by the current taxable value of properties on the tax roll the previous year. The rollback rate isolates the debt service portion, looking at only the maintenance and operations tax. There is a maximum of 8% increase on this tax before public vote is required. This year's effective tax rate base is \$14.1 billion, deducting \$454 million worth of new additions, for an adjusted tax base of \$13.693 billion. When calculated against \$5.4 million in total taxes for prior year, the effective tax rate is \$0.039436. The Port proposes to maintain the tax rate at \$0.0401, which has been in place since 2016. When compared to the effective rate calculation, this gives the Port an incremental tax levy of \$93,985 or \$0.000664 per \$100 of assessed value. Mr. Lowe explained that in order to move forward we

must have a motion by the Board that is specific to statutory language, which is in reference to the effective tax rate. The Port's overall tax rate of \$0.0401 is not changing. Ms. Saathoff noted the Port is levying slightly more in I&S and less in M&O this year, and acknowledged the intention of the Board to adopt a resolution to set aside an amount from the Port operating revenues equivalent to the amount that would be levied for M&O and place those funds in the special capital reserve fund created by the Board in 2015.

A motion was made by Commissioner Singhania that the property tax rate will increase by adoption of a tax rate of \$0.040100 which is effectively a 1.68% increase in the tax rate. The motion was seconded by Commissioner Hoss with all Commissioners present voting in favor of the motion.

13. Adoption of the FY 2019/2020 Budget for Port Freeport.

Mr. Lowe stated there are no changes to budget that was presented in at the workshop and then gave an overview beginning with anticipated operating revenues of \$35.9 million which is a 28% increase. After \$20 million in operating expenses, the Port would produce an operating profit of \$15.9 million at a margin of 44%. Overall, staff anticipates a decrease in net assets as contributions toward the Freeport Harbor Channel Improvement Project take place. Planned capital expenditures in total are about \$116 million with \$56 million allocated to capital which will be funded through a combination of cash flows, holdings in the capital reserve, debt and grants. Debt service of \$5.2 million includes an estimated \$80 million in new revenue backed debt for Port Capital Improvement projects. \$20 million will be used from the capital reserves with the balance in unrestricted reserves to be \$29 million by year end. Sources of revenue include harbor revenues at 53%, lease revenues at 34% and ad valorem at 13%. Total ship calls are 448 which is a 38% increase over the budget. Lease revenue is decreasing slightly with two existing leases expiring but overall, nearly \$36 million in operating revenue. The Port's ad valorem taxes/taxable value is up to \$14.1 billion which is a 2.7% increase and will ultimately result in \$5.5 million in tax revenue collected. Mr. Lowe also shared the tax levy projection showing the Port moving from its current 3-1 relationship of M&O to debt service, to a 1-3 relationship.

Ms. Campus began her presentation showing 40% of the Port's operating expenses is depreciation while salaries, wages and benefits is 26%, professional services 13% and other at 7%. Port salaries, wages and benefits increased from the forecasted 2019 to \$566,000 or 11.9% for a total budget of \$5.3 million. The overall budget includes a 3.65% salary and wages increase, \$20,000 in market adjustments, request for a new position in Business Development and request for a full-time Public Affairs Assistant position. Staff has budgeted a 12% increase in group health, 10% increase in dental and vision premiums with the renewal January 1. The percent of group health to total wages and benefits at 17%. The budget assumes full employment with all vacancies filled and full participation in the retirement plan with the percent of benefits to salaries and wages at 40%. Professional Services budget has a budget of \$2.651 million which is an increase over the 2019 forecasted by \$703,000. The budget includes security services fees with the addition of K-9 detection services, a freight mobility study/market analysis, surveying, environmental consulting, economic impact study, federal and state government liaisons, port planning services and grant application services. The Training, Travel and Promotional budget is \$707,000, an increase of \$127,000. This area includes commercial events participation and promotion of the Port. Sales travel has increased, and government relations travel has decreased because it is an off-year for state legislative session. Community Events has increased and includes the CAP Meetings, Port Golf Tournament and Take-a-Child Fishing Tournament. Technical training has increased to include two AAPA sessions falling in the same fiscal year. Professional development, ZPMC training, certifications, emergency management and safety programs are also included. Supplies budget is \$166,000, an increase of \$24,000. This includes small equipment and safety purchases that are less than \$5,000. Utilities will see an increase of \$42,800. The City of Freeport has increased their water and sewer rates effective September 1. This is a 37% increase in the Port's water and sewer. There has also been an increase in electricity with the ZPMC cranes use. Business insurance

increased to \$1,153,200, an increase of 8% over the 2019 forecasted. The Port saw a 7% increase in property insurance March 1, 2019 and based on recent meetings with underwriters, staff anticipates a 10% increase. Other services and charges is a 12% increase to \$515,300. The main new item included is the pilot dispatch services. Maintenance and repair has decreased to \$928,000. Staff does anticipate an additional \$150,000 of berth sheet pile repairs still underway. Depreciation expense of \$7.9 million is an increase due to the addition of Parcel 14 rail to the Port's assets. Regarding debt service and fees, staff has estimated an \$80 million revenue bond issuance. Staff continues to focus on the Port's strategic initiatives which include the Freeport Harbor Channel Improvement Project, buildout of Port container handling facilities, development of warehousing and OEM distribution facilities, support of the rail and highway transportation corridor and the port infrastructure support for a total budget of \$116,325,700. Finally, Ms. Campus shared a graph showing a breakdown of cost for the different Reaches of the Freeport Harbor Channel Improvement Project for a total cost at \$295,432,492. This is cost-shared with the USACE.

Ms. Saathoff stated that when you look at the budget, it is prudent and shows we are good stewards of our resources whether it is tax dollars or revenues generated from the Ports facilities and leases. Ms. Saathoff highlighted that if you break it down to cash flows and look at where the funds will be going, 82% of the money to be spent next year goes to infrastructure. It shows the Port's commitment to making financial and budget decisions in line with the strategic initiatives. The Port has seen tremendous growth in ship traffic and tonnage. With the planned strategic infrastructure investments, we'll continue to see steady growth in the port, and the \$98.8 billion annual economic impact on statewide basis will grow significantly. It is an exciting time for the Port and the jobs created for the community and the ability for the port to continue to support the other infrastructure investments by companies that rely upon the port to deliver a safe navigable waterway that can handle the types and sizes of ships that want to call the port.

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

14. Adoption of a Resolution of the Port Commission approving a plan of finance; authorizing the financial advisory and bond counsel to proceed with the necessary arrangements to facilitate the plan of finance, including providing TEFRA notice and conducting TEFRA hearing and approving other matters related hereto.

Mr. Lowe reminded the Board the Port is planning the issuance of a revenue bond in the Fall. This resolution authorizes staff to move forward with financial advisors and bond counsel with necessary steps to put this in motion. Commissioner Kresta noted language difference in the recitals within the resolution as to who is authorized to work with bond counsel. Mr. Cordoba suggested editing the resolution to make the recitals match to make it consistent throughout.

A motion was made by Commissioner Singhania to approve the resolution with amendments to recitals as recommended by counsel. The motion was seconded by Commissioner Kresta with all Commissioners present voting in favor of the motion.

15. Adoption of a Resolution of the Port Commission approving the reimbursements of certain expenditures related to the design, construction, improvement, development and equipment of a levee stabilization project necessary for channel navigation improvements.

Mr. Lowe stated this reimbursement resolution is an extension for the bond issuance in the Fall and will included the levee stabilization project. It will also allow the bond to be offered in two different segments, an AMT section and a non-AMT section, allowing a Series A and Series B. Ms. Saathoff also noted the non-AMT section could yield a lower the interest rate.

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

16. Approval of a Purchase Order to Maintenance of Way Construction Services in the amount of \$38,887.00 for Riviana Railroad Track Repairs.

Mr. Hull stated an inspection was done August 8 on the Riviana lead track and was found to need maintenance. Proposals were obtained from three contractors with Maintenance of Way Construction Services submitting the lowest bid in the amount of \$38,887. Staff recommends approval.

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

17. Approval of a Memorandum of Understanding between Port Freeport and the Department of the Army for Reach 1 (Entrance and Jetty Channel) of the Freeport Harbor Channel Improvement Project.

Mr. Hull stated this MOU is a first step in the process to make sure the Port is eligible for work-in-kind credit for performing work the Corps would have normally done. This MOU is for Reach 1 which includes the Entrance and Jetty Channel. Mr. Hull reminded the Board he has requested a fee proposal from a consultant but needs this MOU approved and executed prior to approval of the proposal. Staff recommends approval of this agreement.

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

18. Approval of a Change Order to HDR, Inc. for additional geotechnical sampling on Reach 3 (Lower Stauffer Channel) of the Freeport Harbor Channel Improvement Project, in the amount of \$353,297.00.

Mr. Hull stated that Reach 3 includes the area between Berth 8 (West) and the levy on the Dow Thumb (East). The existing PSA includes geotechnical sampling for Reach 2 which extends from the G&H tug facility to the Upper Turning Basin. The Corps is now saying we must collect additional samples in Reach 3 to ensure we receive work-in-kind credit. The cost includes collection of the sample and testing. Staff recommends adding this sampling of Reach 3 to the PSA currently in place for a change order amount of \$353,297.00.

A motion was made by Commissioner Kresta to approve the change order as recommended by staff. The motion was seconded by Commissioner Hoss with all Commissioners present voting in favor of the motion.

19. Approval of Amendment No. 1 to the Professional Services Agreement between Port Freeport and David Miller & Associates, Inc.

Ms. Saathoff is proposing an amendment to the PSA with David Miller & Associates. The first task was to analyze the benefit to cost ratio analysis done by the Corps on the FHCIP and determine if there were areas of opportunity for a re-analysis using current data to improve the BCR. Based on the analysis, there are additional benefits that are not captured based on the amount of energy products moving through the Port, the increased size of vessels and the distances in which they are transiting now. DMA has provided a proposal for the additional work increasing their contract by \$44,100. Staff recommends approval of the amendment.

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

20. Approval of Port Policies 5.1-5.4 (Attendance/Compensated Absences).

Mr. Kresta stated that Personnel Advisory Committee has reviewed these policies and made changes as recommended by staff.

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

21. Approval of a Form of Credentials appointing Phyllis Saathoff as delegate to the Annual Convention and Annual Meeting of the American Association of Port Authorities.

A motion was made by Commissioner Singhanian to approve the form of credentials with Ms. Saathoff as delegate and Commissioner Pirtle as an alternate. The motion was seconded by Commissioner Hoss with all Commissioners present voting in favor of the motion.

22. Approval of Commissioners travel for the month of September 2019.

Commissioner Pirtle stated the travel before the Board is for the Ms. Saathoff, Commissioner Hoss and himself to travel to Dallas for meeting with the Corps Southwest Division.

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

23. 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.

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 551.071 (Consultation with Attorney) and Section 551.072 (Deliberation of Real Property Matters) for discussion regarding:
 1. Consultation with attorney regarding request for temporary waiver of insurance requirements under Lease Agreements.
 - D. Under authority of Section 551.074 (Deliberation of Personnel Matters) for discussion regarding:
 1. Deliberation regarding the appointment, employment, evaluation, reassignment, duties of a public officer or employee, including but not limited to: Executive Director/CEO.
24. RECONVENE OPEN SESSION to review and consider the following:
25. Consideration and possible approval of request for temporary waiver of insurance requirements under Lease Agreements.

Mr. Cordoba stated a resolution has been prepared and read the following from the resolution...

The Port hereby authorizes the Port CEO to execute a temporary waiver of the property insurance requirements set forth in Article 9 of the Leases, which temporary waiver shall be subject to the following limitations:

1. *The term of the temporary waiver shall not exceed a term of twelve (12) months from the date the waiver is signed;*
2. *The temporary waiver will approve Marsh as the consulting agency to prepare the estimated maximum loss report ("EML Report");*
3. *The temporary waiver will be limited to allowing (i) a \$10 million deductible on Property Damage insurance, and (ii) \$500 million in coverage for Flood, Windstorm and Earthquake insurance, which is \$50 million less than the EML for such hazards as set forth in the EML Report;*
4. *The document granting the temporary waiver shall not be executed until the Port has received a copy of the EML Report, which EML Report shall be addressed to the Port;*
5. *This resolution and the document granting the temporary waiver shall not act as a waiver of any other provision of the Leases;*
6. *The document granting the temporary waiver shall contain such additional terms as may be required by the Port CEO consistent with this Resolution; and*
7. *The Port CEO is authorized to take any additional further action necessary to carry out the intent of this resolution.*

A motion was made by Commissioner Hoss to adopt the resolution as read by legal counsel. The motion was seconded by Commissioner Santos with all Commissioners present voting in favor of the motion.

26. Adjourn.

With no further business before the Commission, the meeting adjourned at 5:35 PM.