

Minutes of Port Commission Regular Meeting
February 23, 2023
In Person & Videoconference

A Regular Meeting of the Port Commission of Port Freeport was held February 23, 2023, beginning at 2:33 PM at the Administration Building, 1100 Cherry Street, Freeport, Texas.

This meeting agenda with the agenda packet is posted online at www.portfreeport.com

The meeting will be conducted pursuant to Section 551.127 of the Texas Government Code titled "Videoconference Call." A quorum of the Port Commission, including the presiding officer, will be present at the Commissioner Meeting Room located at 1100 Cherry Street, Freeport, Texas. The public will be permitted to attend the meeting in person or by videoconference.

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Commissioners present in person:

Mr. John Hoss, Chairman
Mr. Rudy Santos, Vice Chairman
Mr. Dan Croft, Secretary
Mr. Rob Giesecke, Asst. Secretary
Mr. Ravi Singhania, Commissioner
Mr. Shane Pirtle, Commissioner

Staff Members Present:

Ms. Grady Randle, Legal Counsel
Ms. Phyllis Saathoff, Executive Director/CEO
Mr. Rob Lowe, Director of Administration/CFO
Mr. Mike Wilson, Director of Economic Development & Freight Mobility
Mr. Jason Hull, Director of Engineering
Mr. Chris Hogan, Director of Protective Services
Mr. Jason Miura, Director of Business & Economic Development
Mr. Brandon Robertson, Network Systems Manager
Ms. Missy Bevers, Executive Assistant
Ms. Mary Campus, Controller
Ms. Tricia Vela, Public Affairs Assistant
Mr. Jim Perouty, Safety Technician
Mr. Jesse Hibbetts, Operations Manager
Mr. Nick Malambri, Engineering Specialist
Ms. Emily Henderson, Sales & Marketing Specialist
Mr. Don Mullett, Crane Maintenance Manager

Also, present:

Mr. Kevin Cadenhead, KM&L
Mr. Chris Moore, Texas Port Ministry
Mr. Stephen Whalley, Arthur J. Gallagher
Mr. Rick Stephanow, Gulf LNG Services
Mr. James Nash, WGMA
Ms. Megan Mikutis, RLO
Mr. Wade Fielding, McCarthy
Mr. Kim Kincannon
Mr. Kyle Plaisance

1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:
2. Invocation – Mr. Chris Moore, Texas Port Ministry
3. Pledge of Allegiance – U.S. Flag and Texas Flag
4. Roll Call – Commissioner Hoss noted that all Commissioners were present in the board room.
5. Safety Briefing – Mr. Jim Perouty provided a safety moment regarding drowsy driving.
6. Call to identify and discuss any conflicts of interest that may lead to a Commissioner abstaining from voting on any posted agenda item.

There were no conflicts noted from Commissioners.

7. Public Comment – There were no public comments.
8. Public Testimony – There was no public testimony.
9. Approval of minutes from the Regular Meetings held February 9, 2023.

A motion was made by Commissioner Santos to table the minutes until the next meeting. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

10. Approval of the FY2022 Annual Comprehensive Financial Report.

Ms. Campus presented the Annual Comprehensive Financial Report for FY 2022. Ms. Campus reported on the financials of the report noting the State of Port is on page 7, introduction on page 12 and the auditor's report is on page 17. Ms. Campus encouraged reading of the MD&A on page 20 and noted that financials begin on page 32 with a snapshot of statistics on page 67. Ms. Campus reviewed the operating revenues (page 35) stating the total operating revenues was \$47.3 million, while expenses were 20.1 million, leaving an operating income of \$27.15. Net non-operating revenues, which include ad valorem taxes, investment income, debt and miscellaneous is negative \$48 million. Ms. Campus noted that because of the contributions to the channel project (\$45.6 million), there is a negative change in net position of \$20,959,841.

Commissioner Giesecke pointed out an error regarding the tax rate history stating the current numbers were not included for 2021 and 2022. Ms. Campus noted that the document is a year in arrears with regard to taxes, but staff will double-check and make correction.

Mr. Kevin Cadenhead with KM&L addressed the Board regarding the letters included in the report. Mr. Cadenhead stated the audit went well and the firm has no audit adjustments. The letters that accompany the financial statements are required by auditing standards to communicate to the government body if there are any issues. These are clean letters. Mr. Cadenhead noted there is a phenomenon on the financial statements where the unrestricted net position or equity is in deficit because the Port borrowed money, then used that money as part of the Port's contribution to the channel project. KM&L requested staff put together financial reporting information and management discussion analysis that explains the deficit which is included in the report. Additionally, recognizing that additional bonds are coming, Mr. Cadenhead followed-up with the bond community to get a sense of how they are responding and found it has continued to remain very strong.

Mr. Lowe stated that staff recommends approval of the report with corrections to Table 8 as noted by Commissioner Giesecke.

Commissioner Giesecke also noted an error in the footnote on page 79 where it states, "Property taxes levied for the 2022 fiscal year were based on 2021 market valuations", stating it should read taxable valuations. After reviewing, it was noted the footnote should be moved to the correct column (taxable valuations) and the footnote updated to reflect same.

A motion was made by Commissioner Pirtle to approve the report as presented with corrections noted. The motion was seconded by Commissioner Giesecke with all Commissioners present voting in favor of the motion.

11. Approval and award of contract for Property, Boiler and Machinery, and Terrorism insurance coverage for a one-year term beginning March 1, 2023, as obtained by broker Arthur J. Gallagher & Co.

Mr. Lowe noted that representative Stephen Whalley from Gallagher was in the audience and available for questions. Mr. Lowe highlighted sections of the Executive Summary noting that coverage came in at \$2,168,860, an increase of 65% in year over year. The first of the elements contributing to the increase are exposure and rate with insurable values rising from \$304M to \$355M, a 16.51% increase, and a rate increase of 42.1% on the valuation. The Port fell into the "Non-Catastrophe" loss category with the business interruption claim which includes a range of +35% to 150% of a premium adjustment with the Port coming in at 42.1%. Underwriters put a pause on the Port's continuity credit until 2025. Gallagher successfully negotiated to keep the Contingent Business Interruption language the same which triggered the Freeport LNG coverage. Mr. Lowe noted that the Freeport LNG claim is \$8.4M with \$4.5 paid to date and \$3.92M outstanding. Staff expects closure very soon. Finally, Gallagher has arranged for a group of 11 Underwriters to tour Port Freeport facilities April 28. Mr. Lowe stated that staff asked Gallagher for various pieces of information with the first piece showing how storms affect the market (ex., Hurricane Ian), second showing how CPI impacts insurers followed by a table showing our values going from \$304 to \$355 million which accounted for 16.5% increase. Because of the Port's good record, and without the business insurance claim, Gallagher estimates the Port would have seen a 25% rate increase. Staff also asked Gallagher for comparatives of other Gulf Coast ports to see what rates they are seeing on insurance limit

without a claim. The results in the table included show Port Freeport is still favorable. The last graph shared shows billion-dollar disaster events from 1980 to 2022. The insurance premiums are noted on the last table which include property, boiler and machinery and stand-alone terrorism for a total cost of \$2,168,860. While staff recognizes it's a drastic increase, extensive conversations were held with Gallagher about the breakdowns to understand why it went up.

Commissioner Singhania asked how long the business insurance claim will affect the insurance rates. Mr. Stephen Whalley with Gallagher stated that it will affect the rates for about 3-5 years. With respect to the \$8.4M claim, the increased premium would take 25 years to amortize out over the claim.

A motion was made by Commissioner Croft to approve the property, boiler and machinery, terrorism insurance coverage for a one-year term beginning March 1, 2023, through broker Arthur J. Gallagher & Co in the amount of \$2,168,860. The motion was seconded by Commissioner Pirtle with all Commissioners present voting in favor of the motion.

12. Receive reports from Executive Staff on activities and matters related to COVID-19 health safety matters, administrative affairs, financial results, facility engineering matters, operations and vessel activity, port safety matters, port security matters, Port tenant updates, USCOE, and other related port affairs.

A. Executive Director/CEO

Ms. Saathoff reported speaking at the Angleton Chamber Luncheon where she announced the U.S. Army Corps of Engineers has the final package for the remaining work on the Freeport Harbor Channel Improvement Project out for bids. Bids will be opened March 20 and will know then if all or a portion of the contract will be awarded. The Galveston District will host the Deputy Commander's Summit with a tour of the upper coast via helicopter; however, if there is inclement weather, the district has requested Port Freeport host them. This will take place March 9. Ms. Saathoff also reported attendance at Texas Ports Day in Austin was productive. Staff and Commissioners Hoss, Santos and Croft assisted with delivering information and bags to about 16 offices, extending invitations to the reception while highlighting the importance of Texas ports to the state's economy noting that Texas ports represent 26% of the state's GDP and move 25% of the nation's tonnage. Staff was also able to deliver the message that Port Freeport is 5th in the state of Texas and 11th overall in the nation in foreign waterborne export tonnage. They also stopped by the offices of Representative Vasut, Representative Thompson, Senator Huffman and Representative Greg Bonnen. Ms. Saathoff reported that the legislative reception was well attended but noted additional events taking place, Texas Manufacturer's Day, opening evening of Pearland Day and Texas Chemistry Day. Ms. Saathoff also noted Brazoria County Day taking place February 28 and the National Waterways Legislative Summit in March which she and Commissioner Santos will be attending.

B. Chief Financial Officer

Mr. Lowe gave a presentation regarding the financial results for the month of January.

C. Director of Engineering

Mr. Hull shared photos of progress on current projects including the excavation in the bend easing in Reach 2 of the channel project and Berth 8 construction. He noted that the Gate 8 Guardhouse Expansion will be pushed back to March 14 due to give bidders more time to consider submitting a bid. He also shared a photo of rail expansion on Parcel

14. Commissioner Pirtle inquired about the sheet pile repairs to docks 1, 2, 3 and 5. Mr. Hull stated that repairs are still ongoing to Dock 5. Contractor is only able to work when the vessel schedule allows as they are not allowed to dive when a vessel is in berth. Mr. Hull showed a picture of an area from a previous dock repair on Dock 2 where prop wash from tugs had washed out an area that needed repair. The current repair on Dock 5 is not in danger of collapsing nor is it the size of the previous repair on Dock 2. Commissioner Hoss noted concern that repairs are taking longer than usual and moving into another inspection cycle. Mr. Hull agreed but again stated it's a matter of vessel schedule and berth availability that dictate when the repairs are done.

D. Director of Operations

Mr. Durel provided an update on January statistics for the Port stating that if you take away the LNG totals and their cargo, the Port saw more cargo in January than prior year. The total number of vessel arrivals for January was 80, while prior year was 96 (19 LNG). Total vessels this fiscal year is 96 compared to 186 (76 LNG) last year. Port wide vessels for fiscal year is at 329, compared to 417 last year. Total vehicles handled year-to-date is 41,969 (29,000 last year). Activity for February shows 7 vessels scheduled for LNG.

Mr. Durel stated that all departments are working closely together with Oceanus and their stevedore to get the new services operational. He reported that Ms. Lewis is currently attending a BCPC technology safety forum and Mr. Hogan hosted a training course designed to give local responders education on port and vessel activity. Mr. Seth recently attended the Veterans Resource Career Fair and the noted the RoRo Rodeo will be held March 2.

E. Director of Business & Economic Development

Mr. Miura reported meeting with Volkswagen who advised they would be pouring concrete today and shared pictures of the project site. He noted that the pouring is for Building A which will be the VW building. Building B will be the Porsche and PQT building (also includes PDI). Mr. Miura explained that PDI stands for pre-delivery inspection which is the modifications process that the vehicles go through before they are sent to the fleets. In addition, VW advised that two new dual fuel LNG powered vessels will be entering into their service this year, with two more next year. Commissioner Giesecke inquired if they were on schedule. Mr. Miura stated that VW has asked if the Port could get their third-party vendor in place by December as they would like to get here before the end of the year. Commissioner Giesecke also inquired about the Vulcan hot mix asphalt plant. Mr. Hull attended the test batching noting no odor or noise from the running of the plant.

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

A. February 15, 2023 Finance Advisory Committee – Commissioner Croft reported the committee discussed the business insurance previously approved as well as the PIDP grant application which is on the agenda for discussion. Potential business opportunity was also discussed in executive session.

B. February 15, 2023 OSS Advisory Committee – Commissioner Pirtle reported the committee received update regarding implementation of a safety awareness program. Commissioner Pirtle deferred comments related to items 15 and 16 to later on the agenda.

C. Port Commission related meetings or conferences, Port presentations and other Port related matters.

Commissioner Pirtle reported attending the Dream Center Open House, 36A Coalition meeting, Quarterly Traffic Coordination & Safety Group meeting, Lincoln-Reagan Dinner and BCCA meeting.

Commissioner Croft reported attending the CP Chem CAP meeting, Alliance meetings, Business Association Group and Texas Ports Day.

Commissioner Santos reported attending Texas Ports Day as well and the Angleton Chamber Luncheon.

Commissioner Hoss reported attending Texas Ports Day, and the Government Affairs Committee Chamber meeting.

Commissioner Singhanian reported attending the Government Affairs Committee Chamber meeting, Friends of the River, Texas Ports Day and the Angleton Chamber Luncheon. Commissioner Singhanian also noted that staff is working to bring the India Consul General to visit the Port March 14. Ms. Saathoff noted that a bill was filed by Rep. Dennis Paul that provides for the creation of a Gulf Coast Protection trust fund and is being designed to for monies to be in put in, whether its donations or other state monies, and be used for projects on the Gulf Coast with Counties in the Gulf Coast Protection District being referenced. No reference was made to Brazoria County. Velasco Drainage District has been alerted to the legislation.

Commissioner Giesecke reported attending a BayTran Luncheon, ABC Contractors Luncheon, Alliance meeting, Hispanic Chamber Gala as well as the briefing on the Freeport LNG incident, Lincoln-Reagan Dinner and Friends of the River.

Commissioner Singhanian noted that the Brazosport Chamber Annual Awards Luncheon will be held March 8.

14. Approval of financial reports presented for the period ending January 31, 2023.

A motion was made by Commissioner Singhanian to approve the reports as presented. The motion was seconded by Commissioner Giesecke with all Commissioners present voting in favor of the motion.

15. Approval of a new Stevedore License Application submitted by APS Stevedoring, LLC.

Ms. Holly Soria presented the application submitted by APS Stevedoring noting their insurance is in line and a wire transfer was sent January 5 for the fee. APS's TRIR rate is 5.41 with 13 loss time injuries in the last 12 months with the majority of losses occurring in Jacksonville. APS will be the stevedore for Volkswagen.

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

16. Approval and award of contract to DataVox for the EOC Audio-Visual Upgrade, for an amount not to exceed \$68,762.96.

Mr. Hogan stated that an RFP was published to upgrade the EOC AV System, replace aging equipment and add video conferencing capabilities to both the Command Center and Situation Room. Staff received two proposals out of Houston from AVI SPL and DataVox. Local vendor BCOS did not submit a bid because they decided to stop doing installations. With the focus on cost, experience, safety and reputation, staff did a weighted score with DataVox coming in at 9.9 an AVI 9.2, with the biggest difference being that DataVox has done work for the Port before with no issues. Because of supply chain challenges with equipment, the RFP allowed an Option B that allows replacement of a vendor specified in the RFP with a quality vendor that has less supply chain issues. DataVox was the only vendor to submit that option and was the only option that could deliver the project completed by October 1. In order to meet budget and have it completed this fiscal year, staff recommends awarding the project to DataVox to upgrade the Command Center only, and update the Situation Room later, with Option B for an amount not to exceed \$68,762.96.

A motion was made by Commissioner Pirtle to approve the contract as presented. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

17. Approval of Construction Contract with McCarthy Building Companies, Inc. for the Parcel 14 Pump Station project, for an amount not to exceed \$1,442,485.00.

Mr. Hull stated this Pump Station is on Parcel 14 and part of the Volkswagen agreement to rebuild the existing pump station. Three bids were received with McCarthy submitting the lowest bid and who met all qualifications of the bid. Staff recommends approval of a contract in the amount of \$1,442,485.00 to McCarthy.

Commissioner Giesecke asked if the costs were in line with staff's expectation with the discounted cash flow analysis. Mr. Hull stated that the budget for this project was \$575,000.00 so the bid is over anticipated budget. Supply chain issues and inflation contributed to the difference.

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

18. Approval of a Professional Services Agreement with Moffatt & Nichol for the Underwater Inspections of Berths 1, 2, 3, 5 & 7 project, for an amount not to exceed \$78,100.00.

Mr. Hull stated that Docks 1, 2, 3 and 5 are inspected every two years, and Dock 7 every four years because it is much newer. The scope and fee is in line with what the Port has paid Moffatt & Nichol in the past as they have not experienced any significant inflation.

A motion was made by Commissioner Singhania to approve the agreement in the amount of \$78,100.00. The motion was seconded by Commissioner Pirtle with all Commissioners present voting in favor of the motion.

19. Approval of an Amendment to the 2022 PIDP Grant Application prepared by The Goodman Corporation for the Cross-Dock Facility.

Mr. Wilson updated the Commission on the PIDP grant process stating on February 8, 2023, the U.S. Department of Transportation's Maritime Administration (MARAD) announced a Notice of Funding Opportunity (NOFO) making available more than \$662 million in Federal Fiscal Year (FY) 2023 funding for MARAD's Port Infrastructure Development Program (PIDP). In 2022, the Port submitted a PIDP Grant Application for the Velasco Terminal Sustainable Expansion Project with project components 1) Refrigerated Cross Dock, 2) Security Gate 12. Staff recommends submitting a 2023 application with the same or similar project components. The application must consider the new statutory requirements per the NOFO, and requirements outlined by the administration. The cost estimates for the project components will also have to be updated due to inflation. Staff requested a proposal from the Goodman Corporation (TGC) to prepare Port Freeport's 2023 PIDP Grant application. The proposal cost is \$25,850. TGC is familiar with this project and its components and has jointly attended the debrief meetings between the Port and MARAD. Staff recommends proceeding with TGC to prepare the application and seeks the Commission's support. Staff recommends approval of an agreement with TGC.

A motion was made by Commissioner Croft to approve the proposal in the amount of \$25,850. The motion was seconded by Commissioner Santos with all Commissioners present voting in favor of the motion.

20. Discuss and consider approving proposal from Paul Bridges & Associates.

Mr. Durel stated that in order to accommodate the growing container business and new business, staff initially searched for two used cranes which has been unsuccessful thus far. Staff has not quit looking for used cranes but for now is looking at the purchase of two new cranes. Paul Bridges (PBA) has submitted a proposal to negotiate and research the price for two new cranes. The proposal is broken down into eight tasks for the process that includes design, build and delivery of new cranes to the Port's specs. This is only PBA's fee for this process, not the cranes. Mr. Durel stated that staff will continue to search for used cranes and should something become available during this process, the fees will be paid according to the number of hours/tasks already completed in the process to procure new cranes. This contract will close, and staff will shift gears to a new proposal to include procurement of used cranes. This proposal will be attached to a professional services agreement which will be reviewed by legal counsel. Commissioner Singhania asked if money was in the budget for the cranes. Mr. Lowe stated that the Port currently carries \$30 million in the capital plan.

A motion was made by Commissioner Singhania to approve the proposal submitted by Paul Bridges & Associates in the amount of \$484,900 and with a possibly optional trip of \$27,400. The motion was seconded by Commissioner Santos with all Commissioners present voting in favor of the motion.

At this time, Commissioner Giesecke asked if Item 23 was an indication that this item would be discussed in executive session since it was on the agenda for consideration after closed session. Ms. Saathoff stated that she thought there might be questions of legal counsel on changes to the Open Meetings Act regarding contracts, but this bill has been pulled out of the package. Ms. Saathoff stated the Commission can discuss now.

21. 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 under Government Code Section 551.071(1) (to seek or receive attorney's advice on pending or contemplated litigation).
 - 2. Consultation with attorney under Government Code Section 551.071(2) (to seek or receive attorney's advice on legal matters that are not related to litigation).
 - B. Under authority of Section 551.087 (Economic Development Negotiations or Incentives):
 - 1. To discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.
 - 2. To deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
 - C. Under authority of Section 551.072 (Deliberation Concerning Real Property Matters) for discussion regarding:
 - 1. Discussion regarding the potential exchange, lease, or value of real property located in Freeport, Texas, including but not limited to the are known as the East End of Freeport and bordered by or adjacent to the following streets: FM1495; East 2nd Street; Terminal Street and East 8th Street in Freeport, Texas.
 - 2. 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, 7 and 8.
 - 3. The potential exchange, lease, or value of real property located at Port Freeport, including but not limited to Parcels 12, 13, 14, 19, 27, 34 and property on Quintana Island.
 - 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 Port Director/CEO, Chief Financial Officer, Director of Operations, Director of Engineering, Director of Protective Services, Director of Economic Development, Director of Business & Economic Development and Director of Information Technology.
22. RECONVENE OPEN SESSION to review and consider the following:
23. Discussion of and action on supporting the Texas Ports Association proposed bills for the current legislative session.

Ms. Saathoff stated that when they were in Austin, staff knew TPA was still working with the Transportation Committee Chairs in House and Senate to carry the TPA Omnibus Bill and the Chapter 55 Port Infrastructure Projects Bill. Additionally, Carol Alvarado had not filed the Open Meetings bill, but that bill is now off the table. The resolution has been revised to reflect

that. On Wednesday, Representative Canales filed the Omnibus Bill for the House side and the Port Infrastructure Projects Bill. The Chair of the Senate Transportation Committee is considering filing the bills but has asked that the section in the Omnibus Bill that addresses the 3P transactions be pulled out. Additionally, he requested clarification language regarding what is considered an emergency because it provided the opportunity, in certain emergency situations, to forgo competitive bidding, asking that it be more tightly defined. The portion within the Chapter 55 Bill regarding dredge material, it was asked for a reference in cooperation with the U.S. Army Corps of Engineers. Ms. Saathoff expects this bill to be filed next week. The resolution has been revised to reflect that Port Freeport supports and advocates for the Omnibus Bill with Senate revisions as discussed, the Easement Bill (already filed) and the Chapter 55 Port Infrastructure Projects Bill. If anything changes, Ms. Saathoff will not advocate without briefing the Commission. She noted that staff did not advocate these bills while in Austin, they simply delivered the message that bills were being filed and an information sheet was included in the packet.

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

24. Discussion of and action on approval of legislative initiative of Port Freeport.

Ms. Saathoff stated that a lot of thought has gone into the decision of this agenda item and has not been taken lightly. Ms. Saathoff reminded everyone that it was the decision of the voters of Brazoria County in 1925 to create Port Freeport and then authorize the issuance of the first bonds for the Port to get established and move forward as the local government entity to engage with the U.S. Army Corps of Engineers projects and create economic development in the County. It went to the state legislature in 1927 to have the Port enacted which was successfully carried out. Port Freeport's mission was to be a governmental entity, according to the state, "to make improvements for the navigation of inland and coastal waters, and for the preservation and conservation of inland and coastal waters for navigation and for control and distribution of storm and flood waters of rivers and streams in aid of navigation." Additionally, to carry out the purposes for which it was created, Port Freeport is authorized to acquire land and to construct wharves, docks, warehouses, grain elevators, storage facilities, and other facilities in aid of navigation and the movement of navigation-related commerce. Since its creation in the 1925, Port Freeport has grown to be one of the largest ports in the United States. The Port is the 5th largest in the state of Texas, the 11th largest U.S. port in total foreign waterborne export tonnage handled and is a leading port in the export of crude oil, natural gas liquids and other petrochemicals. Also, the Port is the 26th largest U.S. port in containers and is a leading port in the movement of roll-on/roll-off cargo, including automobiles. Port Freeport's facilities and operations have tremendous economic impacts on regional, statewide and national levels. Just looking at the impacts from the state-wide and local level, over 109,800 jobs statewide (12,000 jobs in Brazoria County alone). It generates an annual economic output of \$64.6 billion in Brazoria County and \$84.3 statewide and \$1.8 billion in local and state tax impacts. Port Freeport was created and exists to facilitate international commerce and has a history of seeking out projects that promote economic growth for our community and region and the expansion of the Port has and will continue to accomplish this goal. The Port's expansion supports local job opportunities, creates economic prosperity through the region and the increase in labor demand and taxes supports the cities and other governmental entities in Brazoria County. Over the years, Port Freeport has gone to great lengths to work collaboratively and in good faith with the communities and other state and local agencies to ensure that the needs of key stakeholders were

properly considered before development decisions were made. Sadly, not all stakeholders are interested in having a constructive dialogue which prevents Port Freeport from carrying out its mission regardless of the effect that may have on other key stakeholders within the navigation district. After years of unsuccessfully attempting to negotiate important development issues with the City of Freeport in good faith, the Port is now faced with the difficult decision on how to proceed, with legislation being one way to resolve some of these issues. The attempts to negotiate with the city have involved different city councils, different city managers and different mayors over many years, have been frustratingly gone unproductive. Despite every possible effort to open a constructive dialogue by the executive director, various Port Commissioners, Port Staff and Port Counsel, the Port continues to receive either no response from the City, or no reasonable communication from the City. There simply is not a clear path forward. The Port had proposed to the community, in some of the acquisitions adjacent to the Port, they would expand and use the area to allow the efficient management of truck traffic transiting to/from the Port to create new access to support installation of new Customs and Border Protection facilities and equipment necessary to maintain secure operations, add new truck gate interchange facilities along with other facilities necessary to house and support Port activities. This again would be used for the secure and efficient handling of international commerce. The area can also support warehousing facilities for cargo storage or truck transloading operations and administrative offices and also include buffer areas to minimize any impact on adjoining landowners. The Port is still committed to doing all the things told to the community that would be happening in this area and has made attempts over the last 8-10 years to further the redevelopment in the area but has not progressed and is hindering the redevelopment of the area by Port that has been acquired. The proposed legislative changes being considered would relate to nonsubstantive additions to enacted codes, and include, limiting the authority of certain municipalities to regulate land use by a navigation district and the express preemption of such local regulation, and to requiring certain municipalities to disannex land owned by a navigation district. The legislation is designed to allow the Port to proceed with the development of its land. The Port is its own governmental body with elected officials, and can and should be able to proceed with the governmental purposes for which it was created and develop projects that create jobs and economic opportunities for all residents of the navigation district and Brazoria County. Ms. Saathoff further stated that the decision to place this item on the agenda was not taken lightly by herself or the Port Commission. While the Port is seeking resolution through legislation, the Port also remains willing, able and ready to have a constructive dialogue with the City, and we do hope that will happen. But the Port must get resolution and must be able to proceed with projects on its lands that will produce jobs, revenue and opportunities for businesses and individuals in Brazoria County. Ms. Saathoff then presented a revised resolution for approval showing the two additions that include the language about the legislative initiative and what would be authorized to be included in the legislative changes as previously communicated which are, “...relating to nonsubstantive additions to enacted codes, to limiting the authority of certain municipalities to regulate land use by a navigation district and the express preemption of such local regulation, and to requiring certain municipalities to disannex land owned by a navigation district; and

BE IT FURTHER RESOLVED, that the executive staff of Port Freeport be, and is hereby, authorized and directed to take such actions as may be necessary or appropriate to further the legislative initiative and the legislative changes approved hereby, including, without limitation, publication of any required notices and working with consultants and legislative officials; and
BE IT FURTHER RESOLVED, that the executive staff of Port Freeport is directed to request a meeting during the month of March 2023 with representatives of the City of Freeport, representatives of the Port Commission and one or more of the legislative sponsors for purposes of mediation.”

Commissioner Singhania stated that a mediator, who is not a representative from each entity, should be present for the negotiations in the presence of a mediator. Ms. Saathoff will add that language the resolution.

Commissioner Hoss stated that this resolution is to direct staff to move forward with both a mediation effort and legislative effort to attempt to move this Port forward.

Commissioner Singhania echoed what Ms. Saathoff stated in that the Port has been working very diligently to make a reasonable resolution to proceed with plans for future development of the Port for all the land acquired so painstakingly, and to start I'd like to say contributing the Port economics, but really the economics of the City of Freeport, the surrounding areas, the state and the country. After having a (new) customer close to backing out because of timing, and using up all other avenues and resources, he concluded this is the avenue to try if nothing else works out. Commissioner Hoss concurred.

With that, Commissioner Singhania made a motion that if the Resolution is approved, executive staff work with legislative sponsors to have mandatory disannexation apply only to land owned by the Port on September 1, 2023 or in active condemnation proceedings on September 1, 2023 and not to future lands acquired by the Port after September 1, 2023. The motion was seconded by Commissioner Santos.

Commissioner Croft asked for clarification on the first motion. Commissioner Hoss stated that the first motion puts a stipulation on the second motion if its approved, rather than amend it, at the direction of Counsel.

Commissioner Giesecke clarified that this motion is to require staff to work with sponsors of the legislation to narrow the scope, adding that he is going to vote in favor of this because it does make a bad bill, better.

Commissioner Hoss called for a vote with all Commissioners presence voting in favor of the first motion.

Staff then recommended adoption of a Resolution authorizing actions on proposed legislative initiatives with the amendments presented and the addition of "*with the presence of a mediator*" added to the resolution.

Commissioner read the following resolution for the record....

**RESOLUTION AUTHORIZING ACTIONS ON
PROPOSED LEGISLATIVE INITIATIVE**

At the regular meeting of the Port Commission of Port Freeport held at the Administration Building of Port Freeport at 1100 Cherry Street, Freeport, Texas, on February 23, 2023, among other business, on motion duly made and seconded, the following resolution was passed and adopted:

FINDINGS

1. *Due and proper notice of the date, time, place and purpose of this meeting has been duly given in accordance with the provisions of the Texas Open Meetings Act, and such meeting has been conducted in accordance with said Open Meetings Act.*

2. *Port Freeport was created under Section 59, Article XVI, Texas Constitution, to make improvements for the navigation of inland and coastal waters, and for the preservation and conservation of inland and coastal waters for navigation and for control and distribution of storm and flood waters of rivers and streams in aid of navigation.*

3. *To carry out the purposes for which it was created, Port Freeport is authorized to acquire land or interests in land and may construct, among other improvements, wharves and docks, warehouses, grain elevators, storage facilities, and all other facilities incidental to or useful in the operation or development of Port Freeport's ports and waterways which may, in the judgment of the Port Commission, be necessary or useful in aid of navigation and navigation-related commerce in the ports and on the waterways.*

4. *The Texas Legislature has found that all property in Brazoria County situated in the district of Port Freeport benefits from the improvements constructed by Port Freeport.*

5. *The Port Commission has determined that certain legislative changes should be pursued for the benefit of Port Freeport and its constituents and to aid Port Freeport in carrying out the purposes and mission for which it was created.*

NOW, THEREFORE, BE IT RESOLVED, that Port Freeport advocate for and pursue a legislative initiative in the 88th Legislative Session of the Texas Legislature; and

BE IT FURTHER RESOLVED, that the legislative initiatives hereby authorized include legislative changes relating to nonsubstantive additions to enacted codes, to limiting the authority of certain municipalities to regulate land use by a navigation district and the express preemption of such local regulation, and to requiring certain municipalities to disannex land owned by a navigation district; and

BE IT FURTHER RESOLVED, that the executive staff of Port Freeport be, and is hereby, authorized and directed to take such actions as may be necessary or appropriate to further the legislative initiative and the legislative changes approved hereby, including, without limitation, publication of any required notices and working with consultants and legislative officials; and

BE IT FURTHER RESOLVED, that the executive staff of Port Freeport is directed to request a meeting during the month of March 2023 with representatives of the City of Freeport, representatives of the Port Commission and one or more of the legislative sponsors in the presence of a mediator for purposes of mediation.

A motion was made by Commissioner Croft to approve the Resolution read. The motion was seconded by Commissioner Santos.

Commissioner Giesecke stated that when he ran for this office, he made a number of promises and he's worked hard to fulfill those promises. One of the promises made was he was going to work to foster a better relationship between Port Freeport and its neighbors. He can't vote for this resolution and keep that promise and he is not going to break that promise. He wants the Port to grow as much as anybody but he is not going to do it by running roughshod over our

neighbors and forced disannexation is not something he is going to support. The ends do not justify the means, so he is a no vote on this.

Commissioner Hoss stated that after having been on the Board for close to 12 years that one of his first items to tackle was a relationship between the City of Freeport and Port Freeport, having been born here and a citizen, he felt like it was the right thing to do. It's been now a decade of frustration and things he's witnessed which are well documented, so he stands in support of this because he believes it will handle the greater good of the Port district which is essentially about 80% of the county, state and country. We have one entity who is trying to leverage themselves over the rest of the citizens.

Commissioner Santos added that he feels with this action taken tonight that it will help fulfill Commissioner Giesecke's promise and open up good communication with our neighbor and city which commissions in the past have tried. He feels going to the table with this mediation will be a brand-new step forward for this community, the Port and for our County.

Commissioner Giesecke responded stating this is not a mediation bill, this is a forced disannexation bill. This is not requiring them to come to mediation, not requiring them to go to arbitration, this is a hammer that says we are going to use disannexation as a threat, just the way people in the East End were threatened with eminent domain before the eminent domain was invoked. It's the same pattern repeating itself. Today we want to go to mediation with you, by the way if you don't agree with me, we're going to the legislature to get them to force you to disannex the Port, that's not an effort in good faith. There's no way he can support this.

Commissioner Santos responded saying this is a hammer that needs to be swung.

Commissioner Hoss stating that he supports the mediation clause in the resolution adding that it's right step forward for adults to get in a room and resolve their problems but we're asking legislature to step in.

Commissioner Croft commented while we share the name Freeport, but to that extent, that's where it ends. We represent an entire District. Our names have Freeport in it we are not beholding to Freeport but yet they made that very clear that they wish that to be true. While they the legislation proposed is not introduced, it is a step forward to opening a dialogue they have been unwilling to do for the last 10+ years. While he appreciates Commissioner Giesecke's position, he is in favor of these steps being taken.

Commissioner Pirtle stated that we've talked about the history over and over and wishes there was an alternative. Efforts have been stifling for a long time trying to get somewhere with numerous council members and city managers, but the Port has to move forward somehow.

Commissioner Singhania stated that he has wanted a relationship with the City of Freeport and why he held on until he had the September 1 clause on the resolution, so it is not perceived as open-ended. The Port is focusing primarily on the land owned today. The Port has tried to negotiate but cannot get anybody to negotiate. As stated before, it's to the point that it is hurting the business, business that can come here and create jobs. The city, county and state will benefit from new business.

Ms. Saathoff added that the legislature has once before instructed the City to disannex port owned property. The Port has not waived to work with the community to do something to

honor the history of the area that will be the expansion area of the container terminal. That commitment is still there, we just have to get past this to be able to focus on doing more positive things for the community.

At this time, Commissioner Hoss called for a vote on this item with Commissioners Pirtle, Croft, Santos, Hoss and Singhanian voting yes. Commissioner Giesecke voted no. The motion passed 5-1.

25. Discuss and consider action resulting from Executive Session for Director of Information Technology.

Mr. Lowe stated that staff recommends moving forward with a promotion of Brandon Robertson into the Director of Information Technology role. Commissioner Singhanian stated that the Personnel Advisory Committee has previously reviewed and agrees with staff. The Commission recognizes Mr. Robertson's tenure at the Port adding that he has done an excellent job with the Port's information and technology and has depicted a good leadership role. Mr. Lowe added that the IT responsibilities have grown with the importance of keeping the Port's assets, servers and overall cyber environment safe and supports the need to have an increased role.

A motion was made by Commissioner Singhanian to grant a promotion to Brandon Robertson as Director of Information Technology and adjust his compensation to grade 133. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

26. Adjourn.

With no further business before the Commission, the meeting adjourned at 8:54 PM