

Minutes of Port Commission Regular Meeting
November 16, 2023
In Person & Videoconference

A Regular Meeting of the Port Commission of Port Freeport was held November 16, 2023, beginning at 1:05 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. Ravi Singhania, Chairman
Mr. Rob Giesecke, Vice Chairman
Ms. Barbara Fratila, Secretary
Mr. Kim Kincannon, Asst. Secretary
Mr. Rudy Santos, Commissioner
Mr. Dan Croft, Commissioner

Staff Members Present:

Mr. Grady Randle, 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
Mr. Brandon Robertson, Director of Information Technology
Ms. Missy Bevers, Executive Assistant
Ms. Mary Campus, Controller
Mr. Jesse Hibbetts, Operations Manager
Ms. Christine Lewis, Safety Coordinator
Mr. Cecil Booth, Project Engineer
Mr. Rico Arbolante, Help Desk Technician
Ms. Tricia Vela, Public Affairs Assistant
Ms. Darlene Winkler, Communications Specialist
Ms. Bailee Anderson, Accounting Analyst

Also, present:

Mr. Chris Moore, Texas Port Ministry
Ms. Jodie Moore, Texas Port Ministry
Ms. Dara Grogue, Texas Port Ministry
Ms. Patricia Leowe, Texas Port Ministry
Mr. Gavin Massingill, Carriage House Partners
Mr. James Mathis, Carriage House Partners
Mr. Jonathan Frels, Bracewell LLP
Mr. Drew Masterson, Masterson Advisors
Ms. Kristin Blomquist, Masterson Advisors
Mr. Harold Monical
Mr. Mark Friudenberg, Local 1817
Ms. Brandei Goolsby, Gulf Coast Employee Benefits Services, LLC
Mr. Thorn Cowley, Cigna
Mr. David McGinty
Mr. Zach Starns
Ms. Melanie Oldham

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 Singhania noted that all Commissioners were present in the board room.
5. Safety Briefing – Ms. Christine Lewis provided home safety tips.
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 by Commissioners.

7. Public Comment – There were no public comments.
8. Public Testimony – There was no public testimony.
9. Recognition of Veterans.

Commissioner Singhania asked all Veterans in the audience to please stand and thanked them for their service.

10. Receive update from Carriage House Partners, LLC regarding legislative affairs.

Gavin Massingill and James Mathis with Carriage House Partners gave an update on current activities in Austin. They gave a recap of the regular session along with subsequent special

sessions noting the first two sessions were dedicated to property tax issues while the last two have been dedicated to border security issues and public education. As a recap, the Senate has 19 republicans, 12 democrats while the House has 85 republicans and 64 democrats. At the end of last session, there was an expulsion and impeachment moving into very active political election with 13 announced retirements with more members anticipated. One retirement what will impact this area is Ed Thompson who has always been a friend and ally to the Port. 14 constitutional amendments with many related to infrastructure with only one that didn't pass for retired judges. Historically, about 20% has passed with 15% this year. Approximately, 8400 bills filed with 1259 bills passed. Recap for last regular session, 280 bills were identified for possible tracking. Over the course of the session, this was paired to 35 bill track. A number of bills were companion bills (filed in both House & Senate) with 5 passing including the Port's CSHB5336 that was related to the powers and duties of Port Freeport. The other bills were:

SB818 – Easements Bill

SB1499 – Related to the funding of certain port projects

SB1500 – Omnibus Bill

HB5409 Gulf Coast Protection District cleanup

He gave a recap of what the five bills encompassed.

11. Presentation of check to Texas Port Ministry from proceeds of Port Freeport Golf Tournament.

Commissioner Singhania stated that on October 16, Port Freeport hosted the 12th annual golf tournament benefiting Texas Port Ministry at The Wilderness in Lake Jackson. A total of 37 teams participated, 78 sponsors and more than 15 volunteers helped make the tournament a success. He thanked staff, Commissioners and Port partners for supporting this event. The net total for the 2023 Port Freeport Golf Tournament was an all-time high of \$84,000 which brings the total presented and sponsored over the last 12 years to \$606,220. A check was presented to Mr. Chris Moore and staff of Texas Port Ministry. Mr. Moore addressed members of the Board, Port employees and sponsors to thank them for their efforts and success of this tournament as well as their partnership with Texas Port Ministry to provide more opportunities to seafarers and truck drivers. Ms. Saathoff commented that it's exciting to see the response from the harbor community and their support for the TPM and the work they do. She also thanked Public Affairs for all their hard work in organizing and executing the event.

12. Approval of minutes from the Regular Meeting held October 19, 2023.

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

13. 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 that Congress passed another Continuing Resolution with the President's signature pending. It's split into two different expirations with Agriculture Energy, Water, Military, Construction, VA and Transportation and HUB extended through January 19, 2024 while all others are extended through February 2, 2024. Key points are that it sets everything at the FY2023 levels with no policy changes in the resolution and avoids a shutdown during the holidays. Budget discussions will resume after the first of the year. Staff and Commissioners attended the Corps Executive Governance Quarterly Meeting where it was reported that bids were opened for the annual maintenance dredging. Contract will be awarded in November and dredging is to commence in December. FY2023 budgeted money will be spent on this project with another dredging cycle anticipated next year around September. Ms. Saathoff noted that operating under the continuing resolution does not have any negative impacts to Port Freeport from a maintenance dredging standpoint right now or a construction standpoint. The Corps also reported the President's budget for FY2024 included \$8.5 million with an additional capability of \$4.9 million that could be allocated back to Port Freeport once the appropriations bills are passed and see how waters of the United States was also discussed and how it will impact the jurisdictional determination of wetlands. The dredging under Contract 4 with Great Lakes Dredge & Dock is progressing with no issues. Also discussed was the funding schedule for accounting's use for cash flow management as well as an update on the Sabine to Galveston project. Ms. Saathoff noted the original design for the Brazoria County section of the levee system did not consider flanking issues. In order to eliminate those issues at the original design height or designing to a 100-year flood plan to extend the levees, adding billions to the project. They are requesting a change to design a 75-year project which would remove the flanking issue and will not require much of a raise inside the Port (if any) and will eliminate the need for structures running through the Port that would impact operations. Design, analysis and recommendations will have to be prepared to get approval from Headquarters. Staff has asked for the scope of work to ensure that everything has been scoped appropriately for inside the Port. Work will commence in 2024. Commissioner Singhanian added that everyone should be proud of how the Corps respects the Port adding that comments have been made on how easy Port Freeport are to work with. Commissioner Santos echoed Commissioner Singhanian's comments adding that it reflects all the way up to Washington. Ms. Saathoff also reported on the Panama Canal and the severe impact the drought has had on the canal. Vessel transits have now been reduced to 18 which is half of what it is under normal conditions. Relief is not expected until sometime next year. The next CAP Meeting will be held December 5. Ms. Saathoff and Mr. Miura will be making customer visits November 27-29, and the next Port Commission meeting will be December 14. Finally, Saathoff noted a proposed meeting calendar for 2024 has been uploaded to BoardPaq for review.

B. Director of Engineering

Mr. Hull reported the Galveston Island hopper dredge will be coming to Port Freeport in the next few weeks. The Ellis Island dredge has moved on for scheduled repairs but will return. He also shared a photo from his written report of the Port-Wide Pavement Repairs project. With regard to the Sabine to Galveston project alternative analysis mentioned earlier, he stated the JV (Joint Venture) will be looking at different elevations, height, etc., explaining that with a lower wall, water will splash over, and you have to account for more water. Options include the following: 1) do nothing; 2) increase

pumping capacity to count for the additional water; 3) raise the wall which will impact port operations and growth; and 4) create large regional detection ponds. All of the alternatives and cost will be put together and submitted for consumption sometime next year.

C. Director of Operations

Mr. Durel reported on vessel statistics noting the Port handled 45 vessels for the month of October vs 34 last year. There were 19 LNG, 11 Ro/Ro, 3 steel and 9 container vessels with 93,000 tons of steel handled in October. Security coordinated a quarterly BMAT Meeting while safety hosted a CPR & First Aid Training class. Lastly, Mr. Durel noted that all departments of port operations, maintenance, security, safety, stevedores and labor are working together to prepare for the arrival of Volkswagen and Del Monte.

D. Director of Business & Economic Development

As mentioned earlier, Mr. Miura reported that he and Ms. Saathoff will be traveling after Thanksgiving to visit customers in Jacksonville and Charlotte. He had nothing further to add to his written report.

E. Chief Financial Officer

Mr. Lowe reported that financials will be ready to approve at the December meeting noting that operating income ended at \$18.8 million for the year which is through traditional operations. He reminded the Commission there was an accounting change last year with regard to lease accounting noting there will be an additional accounting entry of \$4.2 million that will show in the revenue (non-cash item). He also shared a couple slides related to the revenue bonds that are on the agenda for approval which included projected net revenue vs debt service as well as projected cash flow for FY24 - FY28.

14. Approval of pay legal bills submitted for the month of October 2023.

Mr. Lowe noted for the record the legal are normally included with the financials however, as reported earlier, the financials will not be ready to approve until next month; therefore, staff requests approval of the legal bills submitted for October.

A motion was made by Commissioner Giesecke to pay the legal bills submitted for the month of October. The motion was seconded by Commissioner Kincannon with all Commissioners present voting in favor of the motion.

15. Receive report from Commissioners on matters related to:

A. November 13 Finance Committee Meeting – Commissioner Giesecke reported the committee reviewed the quarterly investment report and also discussed electricity rate renewal for the Port which is on the agenda for consideration. Commissioner Giesecke reported the Port has a consultant who obtains rates from competing proprietors in the competitive market and received only one proposal. Commissioner Giesecke stated that he didn't like that only one bid was received noting that the Port's consultant currently has health issues and staff has not been able to communicate with her. He reached out to a consultant he uses for real estate brokerage to ask his opinion who indicated the Port should have received 4-5 proposals and also indicated the Port could get a better rate than the one proposed. He further stated that it would not be a huge amount of savings and feels staff should look at trying to obtain more than one bid and not accept what has been

proposed. Additionally, he will ask that the item be tabled until the December meeting. Ms. Saathoff stated that she will support that and perhaps by then, staff will be able to contact the consultant who can provide feedback she's received. Commissioner Giesecke stated that in the meantime, his consultant volunteered to look at rates for the Port. Ms. Saathoff noted the current contract expires December 31, 2023 and staff may have other options to consider (an extension) in December. Commissioner Croft noted since there has been an increased number in single bids, he would like to see what can be done to prompt more bids. Commissioner Giesecke concurred asking that he would like to see a future item on the agenda for discussion, adding that what really brought it home for him was back in October, two bids were received for the administration building repairs with almost a \$200,000 difference, noting the Port went with the low bid. His concern was that if the low bid had not been submitted, the Port would have gone with the higher number. Ms. Saathoff stated there is always an engineer's estimate and if it has been 200% of the estimate, staff would have most likely thrown out the bid and reevaluated it adding that staff doesn't automatically go with the bid received. This is why we have the engineer's estimate going in, so we have a gauge as to what to expect. Electricity contracts are different. Staff knew what the market was doing and anticipated at least a 25% increase because the last time the Port went out for proposals, rates were much lower, but receiving one proposal wasn't anticipated. She reiterated that staff does their due diligence ahead of time with engineer's estimate and if the bid doesn't make sense, they start over. Commissioner Giesecke also noted that he spoke with a County Commissioner who stated the County is in the same boat of only receiving one bid or no bids. He further stated that this is not a personnel issue, he just wants to see if there is a way to improve the process in order to receive more bids or if there is someone else out there who has figured it out. Ms. Saathoff stated that staff notifies all of the prospective bidders, noting a database is kept of vendors who have asked to be put on the list. The Port requires pre-bid conferences and attendance for prospective bidders to understand the project, so they aren't preparing bids that isn't in line with the project specifications. Staff is doing all the right things, just don't have an answer as to why the number of proposals is low. Cost is a factor. If bidders don't feel they can compete, they don't want to spend the money to prepare a package for consideration.

- B. November 13 Personnel Committee Meeting – Commissioner Singhania stated the committee discussed the health insurance renewal as well as the retirement plan contribution which are both on the agenda for approval and deferred his comments until that time.
- C. Port Commission related meetings or conferences, Port presentations and other Port related matters.

Commissioner Kincannon reported attending AAPA Annual Convention, Board Strategic Workshop Nov. 2, Special Board Meeting Nov. 6, Finance Committee Meeting and the Quarterly Traffic Coordination Meeting.

Commissioner Croft reported attending the Brazoria County Fair Junior Livestock Auction, Cattlemen's Association Dinner, Brazoria County Transportation & Infrastructure Summit, Alliance Executive Committee Board of Directors Meeting, CCA Executive Committee Meeting and the Brazosport Chamber Meeting.

Commissioner Giesecke reported also attending the Brazoria County Transportation & Infrastructure Summit, SPCA Event, Freeport City Council meetings, BC Hispanic Chamber Luncheon and BCCA Meeting.

Commissioner Fratila reported attending many of the same meetings as well as attending the AAPA Annual Convention.

Commissioner Singhanian reported that he and Ms. Saathoff met with the new chief operating officer at Freeport LNG. He also attended the AAPA Annual Convention, met with the University of Houston distribution contact, attended Executive Leadership Board of Houston meeting, presented at the Legislative Committee Meeting and attended the Hispanic Chamber Luncheon.

16. Approval of Construction Contract with McDonald Municipal and Industrial for the Fiber Optic Extension Project, for an amount not to exceed \$363,469.00.

Mr. Hull stated that this project received only one bid noting the original bid date was October 17 however it was extended an additional two weeks because no one attended the pre-bid meeting. Staff then called all contractors who do this type of work. The engineer's estimate on this project was \$350,000 with the bid coming in at \$363,469. Mr. Hull stated this is not the same fiber that Comcast and AT&T may install and showed a piece of the innerduct tube that is buried in the ground and runs from the EOC Building throughout the Port to strategic locations called tube distribution units (TDU). He explained that once the tubes are connected, the fiber is blown in by air and demonstrated the strength of the tube. With the ground not constantly being dug up every time a new fiber has to be run to the EOC, it provides less risk of hitting an existing line and is better for the Port. Mr. Robertson added that it has saved the Port money in the past giving an example of how they were able re-blow in new fibers to replace bad ones without bearing the cost to dig and rebury new fiber. Additional money was saved when extending fiber to the cranes and to Parcel 19 by connecting to existing fiber. It's not only beneficial to the Port but to its customers who use the warehouses and can't get internet. Mr. Hull stated this particular tube he showed has 19 individual tubes. Larger tubes can be used and/or multiple tubes, depending on what part of the Port they are connecting to. Gate 12 will have 7 tube/units that run to the closest TDU to the gate. Mr. Hull compared the tube to a breaker box in your home. Instead of running individual circuits from each individual room back to the breaker box, the Port runs larger wire and has sub-panels throughout the Port. Instead of running a circuit all the way back to the main breaker panel, we're running something to the closest sub-panel in the building. Once this fiber is installed, the only reason more fiber would need to be added would be for expansion reasons. Mr. Hull added this is a specialize service that not everyone can do. Since Mr. Hull has been at the Port, they've had three projects like this with one bid submitted for each project, explaining that if there are very few people who specialize in this work and there are a lot of jobs to do, they have to pick the projects to bid on based on the amount of work required, schedule, bonding capacity, etc. Mr. Robertson added the Port is very specific how the fiber is to be installed so the machinery used is very expensive. Additionally, part of the deliverable after installation is to show actual test results of the fiber that has to meet a certain specification the Port deems acceptable to completion. Commissioner Giesecke commented that with a specialize project like this, one bid doesn't give him heartburn as opposed to a construction project on the administration building where there are a lot of more people qualified to do the work adding the two situations are

completely different. Commissioner Singhania clarified with Mr. Hull this fiber will go to Gate 12 and connect to an existing TDU. The fiber is about 5,000 feet and will be able to connect other locations. It is the same specification, fiber, innerduct, etc. as used before. Commissioner Singhania suggested going back to the two companies used before to find out why they were not interested in bidding this job.

A motion was made by Commissioner Santos to accept the bid from McDonald Municipal and Industrial for an amount not to exceed \$363,469.00. The motion was seconded by Commissioner Giesecke with all Commissioners present voting in favor of the motion.

17. Discuss and consider proposals received for Port Freeport Electricity Contract.

This item was discussed under Item 15A with a motion made by Commissioner Giesecke to table until the December meeting. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

18. Approval of a renewal for Port Freeport Health, Dental and Vision Insurance.

Ms. Campus stated the Port group health insurance expires December 31. Last year, the Port tasked Brandei Goolsby, the Port's agent, with looking at different options because of changes in the legislation that affected small groups. The Port's current provider, Blue Cross Blue Shield (BCBS), offered a renewal with a premium increase of 1.2%. Ms. Campus noted the budget was calculated using a 10% increase. Cigna offered a similar plan with only a slight difference in the pharmacy portion that is a level funded plan whereas BCBS is a group health insurance policy that's fully insured. Cigna's plan offers a 15.16% savings in premiums when compared to the BCBS renewal plan. Mr. Lowe explained level funding is where the insurance company takes the Port's profile and returns an annual premium based on the company's employee database vs. being group with all companies with same number of employees. Based on the Port's employee database, an assumption was made as to what the Port's health cost would be for the year. The premiums are then divided into three buckets. The largest portion of the premium goes to pay for doctor visits, prescriptions, surgeries, etc. The second is for administrative fees while the third portion goes to a stop gap insurance payment. At the end of the year, if the estimated premiums are underutilized, the Port will have an opportunity to share in the savings either directly at that time or rolled into the following year's premium. If the estimate is exceeded, the premium will be raised for the year going forward. The Port would not be obligated to make up the difference and would also have the option to go back to a fully insured plan. Staff feels the savings with Cigna would be significant to the Port as well as to the employees. In addition, they researched doctors and area hospitals and have not found any gaps or red flags with Cigna. The overall savings will be approximately \$120,000/year in total premiums shared between the Port and staff. Management's recommendation is to enroll with Cigna while maintaining the existing cost share portions. Concerns were expressed that Cigna may have been a bit optimistic with their underwriting for the first year. Ms. Brandei Goolsby, the Port's agent spoke to this stating that with level funding, groups are getting underwritten based on the conditions, prescriptions of the group...they look at everything that's in the group so they can calculate the numbers that are most precise and accurate for the group. Mr. Thorn Cowley with Cigna explained the biggest difference between the two plans stating that if a group runs at a 30% loss ratio, all the profit will go back to the fully insured carrier with no advantage to share in

the savings; however, with level funding a portion of the surplus is returned back and submitted back as a credit on next year's bill.

Ms. Campus then presented the proposed plan for dental/vision stating the current plan is through Principal, who offered a renewal premium increase of 2.5%. Two plans will continue to be offered with the main plan offering an annual maximum of \$1500 and second plan offering a \$2000 annual maximum. The Port's cost will remain the same and the employee will absorb additional cost. Staff recommends approval of this plan.

A motion was made by Commissioner Croft to approve the Port's health insurance through Cigna and dental/vision through Principal as recommended by staff. The motion was seconded by Commissioner Fratila with all Commissioners present voting in favor of the motion.

19. Adoption of a Resolution Authorizing a Contribution to the Port Freeport Retirement Plan.

Ms. Campus stated the Port has a 401A Profit Sharing Plan and needs to set the contribution rate that will be made in January. For refresher for new commissioners, the Port offers two plans. With the 457 Plan, which is similar to a 401K, employees can participate and contribute money with the Port matching a certain portion. The first 2%, the Port will match the employee 100% and the next 2%, the Port will match the employee 50%. In addition, the Port also has a 401A Plan that only the Port contributes to. The contribution is set annually and is a percentage of employee's base salary. The contribution has traditionally been set at 6% and is staff's recommendation to continue with that percentage. Commissioner Singhania noted this was discussed in Personnel Advisory Committee echoing what Ms. Campus explained adding that he would like to see the Port continue with the plan.

A motion was made by Commissioner Fratila to approve staff's recommendation. The motion was seconded by Commissioner Kincannon with all Commissioners presents voting in favor of the motion.

20. Adoption of a Resolution of the Port Commission of Port Freeport Approving a Plan of Finance; Authorizing the Financial Advisory and Bond Counsel to proceed with the necessary arrangement to facilitate the Plan of Finance, including providing notice of and conducting a Public Hearing pursuant to Section 147(F) of the Code; and Declaring an Official Intent to Reimburse Certain Expenditures; and Approving other Matters Related Thereto.

Mr. Lowe introduced Drew Masterson and Kristin Blomquist with Masterson Advisors who are the Port's financial advisors as well as Jonathan Frels with Bracewell who is the Port's bond counsel. He explained this is a standard practice that authorizes staff to work with the financial advisors and bond counsel to move forward with the steps necessary to engage in the bond offering. Staff will come back in subsequent months for additional approvals. Mr. Lowe noted a correction in the prepared documents that the maximum principal amount was corrected to \$27,000,000 vs. \$25,000,000 previously. He explained that \$25,000,000 is what the project funds will be and what will be used to source projects. The Port has historically issued bonds with the reserve and fees associated with the bonds included. The modeling and information shared in the Finance Committee was correct. This resolution is needed to

begin the process and to conduct the TEFRA (Tax Equity and Fiscal Responsibility Act) hearing. It also allows the ability to reimburse expenditures.

A motion was made by Commissioner Croft to adopt the resolution approving a plan of finance. The motion was seconded by Commission Santos with all Commissioners present voting in favor of the motion.

21. Discuss and consider approving appointment to the Board of Directors of the Brazos Harbor Industrial Development Corporation.

Ms. Saathoff gave a brief history of the Brazos Harbor Industrial Development Corporation (BHIDC) and how it came to be. In 1979, the state legislature passed a bill that allowed certain entities to create industrial development corporations with the intent of creating economic development by providing another way of financing for infrastructure development that may include manufacturing or maritime facilities. Shortly thereafter, Port Freeport created the BHIDC with the first project being American Rice which was supported by the new capability as a conduit for issuance of bonds and used to finance some of their infrastructure development. The IDC has been used by area industry when pollution control facilities had to be installed at their existing plants as well as various other opportunities with other businesses. The IDC has not issued any bonds since 2007. All of the prior bonds have been refunded or paid back. The governing body for the IDC is set up with nine Board members with the six Port Commissioners and three additional appointments made by the Port Commission. The appointments are made for 6-year terms with one position currently open. The agenda item today is to consider and approve the Commission's appointment to the vacancy. Commissioner Singhanian noted that Lonnie Key and Preston Phillips are the other two current members. He then introduced Mr. Harold Monical, president of First National Bank of Lake Jackson and resident of Brazoria County. He is well-respected in the community and will bring the right kind of experience to the IDC.

Mr. Monical thanked the Port for the opportunity and looks forward to serving.

A motion was made by Commissioner Giesecke to approve the appointment of Harold Monical. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

22. Approval of Certified Tax Report 502C for the 2023 Tax Roll in compliance with Texas Property Tax Code 26.09(e).

Mr. Lowe stated this new step for the Port is in regard to Property Tax Code 26.09(e) explaining that it takes the tax rate the Port adopted and applies it back against the tax roll (as of a certified date). Staff uses a certified estimate for the budget (as of July 25). Mr. Lowe showed the taxable value of \$21,296,507,966 which was the certified value of non-contested, not under review value as of July 31. The County took this value and applied the Port's tax rate of \$0.016007 to get \$3,410,139.56. He further explained the Commission is approving a motion acknowledging what the County has done noting the actual collections will be higher because it does not include \$1.6 billion of property still under review. He further stated that the taxable value number is ever-changing. Commissioner Singhanian commented that approximately \$250,000 or less will be the impact. Commissioner Giesecke inquired what would become of the excess. Mr. Lowe stated if there is an overage it would be credited to

the Port and will be included in next year's tax data. Assuming collection is at 100%, staff estimates the overage at \$100,000.

A motion was made by Commissioner Giesecke to approve the report. The motion was seconded by Commissioner Fratila with all Commissioners present voting in favor of the motion.

23. Adoption of a 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.

Mr. Lowe stated this is a single property that has no relevance to the Port's location and recommends approval.

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

24. Approval of Executive Director/CEO and Commissioners' travel for the months of November 2023 – March 2024.

Ms. Saathoff reviewed the proposed travel presented noting her travel with staff after Thanksgiving to Florida and Charlotte for customer visits. The big travel item is for a Crane Construction Kick-Off Meeting to be held in China with personnel who will be constructing the new cranes. Management recommends Al Durel and Don Mullett make the trip. An estimate was given of approximately \$12,000/person. Signed documents have been received with this meeting expected to take place the second week of December. The AAPA Powers Summit is scheduled in January with Commissioners Singhanian, Fratila and Kincannon attending. Ms. Saathoff will also attend. National Waterways Conference Legislative Summit will be held in March with Ms. Saathoff attending followed by the AAPA Legislative Summit the following week with Commissioner Singhanian and to be determined commissioners attending. Finally, the Port Authority Advisory Committee will meet again during the 1st quarter of the year in Austin. Staff requests approval of the travel. With regard to the two Washington, DC trips, Commissioner Santos noted the Brazos Pilots wanted to possibly meet with NOAA to ensure the Ports charts were correct.

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

25. Continuation of the November 2, 2023 Workshop, including but not limited to the following:
- A. Review of Port-Owned Parcels, Use, Remediation/Valuation.
 - B. Financial Update.
 - C. Website Update.
 - D. Review of Travel Policy & Expenses Allowed.
 - E. Open Meetings Act Discussion.

Review of Port-Owned Parcels, Use, Remediation/Valuation.

Mr. Hull began showing a map of land available for development and highlighting those areas followed by the City of Freeport Zoning Map noting the Port zone and the agreed upon

protected zones the Port will not expand into without voter approval. Commissioner Singhania inquired which zone Parcel 14 falls in. Mr. Hull stated that it does not fall into either category as its zoned industrial. The Port can issue its own permit for its own land. There is no difference between the Port zones and industrial zone adding that the Port can issue its own permit in the Port zone which can be industrial but not heavy industrial. Everything else outside of the port zone can be heavy industrial. Commissioner Giesecke asked about Parcel 15 noting it is zoned R1 in the protected zone outside the Port zone and as part of the legislation, the Port is subject to the City's zoning ordinance that was in effect at the time the bill was passed. He stated that he had a recent conversation with a developer who became very interested in this particular tract after learning the Commission would be discussing their excess land in Freeport. Commissioner Giesecke added that he wanted to have the discussion about the Port's intentions with parcels like this one adding that if the Port has no use for it, why not make it available to the public. Mr. Hull explained the process for declaring the land surplus goods which means the Port can't use it for any purpose (which is hard to do with real estate), then going to public auction with sealed bid going to the highest bidder. Commissioner Fratila suggested another way to go about it is to seek competitive proposals to lease the property while still owning the land. Commissioner Kincannon asked for a brief history of how and when the Port acquired the parcels. Mr. Hull explained that Freeport and the Town of Freeport was owned by Freeport Terminal Company who developed Freeport as a company town for the purpose of Freeport Sulphur (Freeport Minerals) which was a sulphur mine. In 1982, when Freeport Sulphur went out of business, they began selling their land and reached out to the Port. The Port Commission went out to the voters and got approval to issue \$20 million in bonds but were \$4 million short to complete the transaction. BASF brought the \$4 million to the transaction, which is how they obtained the tract next to the Port where the ammonia terminal is located and how the Port acquired all of the acreage. With regard to Parcel 15, Mr. Hull stated that as development inside the levy, the most valuable property is by the water and as you move away, it becomes less conducive to the Port. He explained the development in the Expansion Area will need detention. The thought is you put the detention pond on lower value property that will provide more flood control benefit to the City and its citizens. Additionally, there is a pump station and a drainage ditch nearby and the proximity to the sewer treatment plant is another issue. Detention could also be considered for Parcels 16 and 17. The Port would be fulfilling its obligation for flood control mitigation, provide a benefit to citizens in that area of Freeport with better drainage conditions and less likely for flooding. There are also some isolated lots that staff needs to look at to see if something else can be done or possibly pursue putting them back out on the market. Staff will gather information and bring back to the Commission for discussion. Commissioner Giesecke stated that he would like further discussion regarding Parcels 15, 16 and 17 and whether there will be detention and how much adding that he would still like to see Parcel 15 go for single family residential. With the Port taking 90 acres of single family residential in the East End, he feels the Port should put something back for use to the community with property it has no use for. Ms. Saathoff pointed out there may be other businesses that might want to develop the area for office building construction, not necessarily residential. Mr. Hull explained that if a developer acquired Parcel 15 and wanted to replat it, they would need to provide detention (storm mitigation) of some kind and consider the 27-foot easement that CenterPoint has. Discussion regarding these parcels will continue in January as there is still quite a bit more discussion left on the agenda for both open session and executive session.

Mr. Hull then discussed the Sackett Rule which was a Supreme Court decision where the EPA was sued by the Sacket family. The Supreme Court agreed there was quite a bit of overreach and came out with a new instruction to the Corps and EPA. Mr. Hull read through and discussed the following amendments...

- Significant nexus out as a jurisdictional test. Mr. Hull explained that a significant nexus is when a scientist looks at the property (the plants, animals and soil) to make a recommendation to the Corps whether its jurisdictional or not. It may or may not be a physical connection to waters of the U.S. (no longer allowed under Sackett)
- Continuous surface connection between a wetland and a traditional navigable water (TNW) or a relatively permanent (RP) tributary required.
- Isolated wetlands (like vernal pools, playa lakes, prairie potholes) and ephemeral waters are out.
- Adjacent wetlands must have a continuous surface connection to a TNW or RP tributary so that you cannot tell where the water ends, and the wetlands begin.
- Wetlands separated by a barrier such as a man-made dike, barrier, natural river berm, beach dune and the like are no longer jurisdictional.
- Perennial and many intermittent ditches will be in.

Mr. Hull stated that the Corps has relayed to him that they and the EPA are going to consult each other for the first nine months on a case-by-case basis and try to come up with an agreement on what they're doing so they aren't doing their own thing. Ultimately, the Corps and EPA have the authority until the Supreme Court steps in. Ms. Saathoff thought it should be relayed that things have changed but should make it easier to move forward with development on properties. Mr. Hull noted that everything the Port on the books or on the horizon is fine because its either already permitted or it's not needed because its redevelopment and the Port is categorically excluded, meaning it has a NEPA (National Environmental Protections Act) document on it or doesn't need one.

Commissioner Giesecke noted that with regard to the valuation portion of this item he would like to discuss the lease of the Port's property (in proximity to the container terminal) and try to get a better benchmark of what that land is worth to evaluate lease rates and get a better picture of the discounted cash flow analysis. Ms. Saathoff replied stating staff is happy to advance this and get quotes on what it will cost but needs the direction clarified as to what the scope and priority is. Primary focus for staff will be the berth and expansion area. Mr. Miura suggested also adding Parcels 19, 27 and 34.

Financial Update.

Mr. Lowe gave a brief financial update starting with the revenue and expense forecast September 30, 2023 with a forecast of \$18,685,000 of operating income. Exclusive of the GASB 87 adjustment, the Port will be at \$18,820,000. Outstanding debt shows \$175 million in revenue bonds, \$123 million in general obligation and the upcoming final payment of the capital lease of \$1.56 million for a total of outstanding debt of approximately \$300 million. He shared a table of various projects for the debt issuances noting that even though it has been communicated that the revenue bonds are geared toward the cranes, to allow the Port to maximize the cash flow, the bond will be written in a manner to use towards other capital projects that are included in the capital plan. Standard & Poors' debt rating published ratings for the Port's bonds of an A+/Stable rating for outstanding revenue bonds. The debt service coverage is net revenue divided by scheduled debt service while the net revenue is operating

income and depreciation. The 2023 modeling by Masterson advises the Port to attempt to maintain a 1.80 debt service coverage for an A+ rating. The Port plans to get them here in person to show off what they have rated before and what it's doing for us. Finally, the debt coverage projections chart is based on FY24 budget, the addition of two new customers and the growth rates associated with both. As the chart moves further out towards 2030, the debt service coverage continues to strengthen so future boards and staff will continue making infrastructure decisions that are inclusive of future debt offerings.

Website Update.

Mr. Miura gave an update on where staff is with regard to the website. He stated that an outline has been prepared of the current website and analyzed which pages are clicked the most. The next steps are as follows:

- Senior Management Team meets to discuss what pages can be removed from the website due to redundant/lack of info or lack of clicks.
- RFQ will be prepared (already drafted) based on the feedback from SMT and input/requests from Port Commission (November). Mr. Miura noted this item will be pushed to December. He also noted a request made for an easier use for making public information requests (PIR); a clickable form that once complete goes to a designated for. Staff has created a form and is finalizing for inclusion on the website. This will also carry over to the website redesign.
- RFQ will go public, and staff will also make web designers aware that it is available (December). Mr. Miura noted this item most likely will be pushed to the new year.
- Staff will recommend a web designer and seek the Port Commission's approval of a contract with said designer to redevelop portfreeport.com (February '24).
- Website Redevelopment (March-September '24). Mr. Miura stated that staff wants to roll out the new website within FY24 noting it's a tight deadline as the last redesign took approximately a year to complete.

Mr. Miura stated that part of the website design is to make it cohesive with the message staff is trying to communicate to both the business community and the community at large and tie that into the Port's goals, mission and vision. He also stated the Port needs to have a new advertising campaign which may be added on to the website redesign, so it is all cohesive.

Commissioner Giesecke suggested as part of the analysis is to look at what pages could be included or added to the website that might be of interest to the public. Visit other port websites to ensure we are not omitting something that would be advantageous to add. Commissioner Giesecke also noted from a transparency point of view, make it easy to find meeting agendas/notices and possible live stream the meetings rather than have a zoom meeting. IT and staff will have to look into it before its considered as something to incorporate.

Review of Travel Policy & Expenses Allowed.

Ms. Campus reviewed travel policy authorization. She stated there is a hierarchy of travel authorization as well as approval of expense reports, noting she always looks to follow the policy and make sure it's being applied correctly. Port travelers are expected to exercise the

same care as if you were traveling personally. There are certain things that are not allowed such as...

- Fines for parking or moving vehicle violations
- Movies, plays, concerts, or sporting event tickets (unless associated with a pre-approved third-party Meals and Business Entertainment)
- Personal items, such as alcoholic beverages, personal entertainment, newspapers, toiletries, cigarettes, laundry and dry cleaning etc. and more than one personal phone call a day
- Expenses for persons not employed by the Port who accompany a Port Traveler. Additionally, expenses for persons who accompany Port Travelers and who are included in business entertainment must be reported by employee and will be deducted from any funds due to the employee
- Port Travelers who travel on Port business on behalf of or with third parties shall not benefit financially by retaining any expense reimbursement from such other parties
- Unless otherwise agreed to in a valid, authorized written agreement with the Port, consultants, contractors, or other vendors who travel on Port business shall be reimbursed for travel expenses based on the same policies as apply to Port Travelers

Transportation Expenses:

- Reasonable
- Air travel, coach class (with extended leg room if needed), unless international flights exceeding four hours
- Early check in
- Travel to and from airport will be reimbursed
- Ground transportation
- Parking

Lodging:

- Reasonable based on location and availability

Meals:

- Reasonable, no alcohol
Registration Fees etc. associated with event

Business Meals and Entertainment:

- Must have a Port business purpose
- Reasonable
- The Port shall not reimburse for the cost of alcoholic beverages in connection with business meals and entertainment at which no third party is in attendance
- Highest ranking Port employee present at the meeting should incur the cost of the business meals and entertainment
- Expense report requirements:
 - Date, location, description, and purpose
 - Name, title and organization of attendees
 - Certain activities are not reimbursable under federally funded programs and Port reserves the right to decline approval of such expenses

- Travel/Expense Statement (Port has an excel form) reports are required.
- Must be submitted with required documentation (receipts) monthly or if a special trip or activity within 30 days after completion.
- Port carries a commercially insured travel accident policy that provides emergency medical, security evacuation, emergency travel and travel information services.

Ms. Campus also noted that she does check the budget.

Open Meetings Act Discussion.

Commissioner Singhania asked that Mr. Randle discuss requirements of the Open Meetings Act and if the Port is in compliance with those requirements. Mr. Randle stated there is the Open Meetings Act and the Port is legal, he makes sure of that every month when reviewing the agendas. As long as the topic of discussion is given on the agenda, you are good. It doesn't have to be a robust description of the discussion versus two or three words. Mr. Randle reiterated the Port is fine with posting of agendas and the wording used. He went on to say there has not been any litigation on open meetings violations, but it goes in cycles and depends on how active the DA (district attorney) is. The general rule is if you have a question as to whether or not a topic can take place in open session versus closed session, always default to open. The Port occupies a little different area because it's a revenue generating entity and here for business, it's not a city, but a port. He went on to say communication between his office and the Port is great and if there is a question of open or executive session discussion, they work together to determine if there is a proper exception for it.

Commissioner Giesecke stated that he just wants to make sure the Port's minimum standard is not whether it's going to get indicted nor not, strive for a much higher level than that. Mr. Randle commented the Port's standard is above the minimum required by law.

Commissioner Singhania commented that if the Port's objective is to be as open with the public as possible, it should provide as much information as possible short of compromising the business or personnel. For example, how can the Port expand on the information provided to an item approved in open session after discussing in executive session. Mr. Randle stated that the Commission as a group needs to agree on how much information is given in open session on something discussed in executive session because it may put the Port at a competitive disadvantage. Commissioner Giesecke commented that it's not what the law requires, like with the real property exception, the test is if disclosure in open session would be to the detriment of the entity. Commissioner Singhania then mentioned the previous meeting where part of the open meetings was the public information act with staff begin presenting what requests come in, responses, etc. Mr. Randle stated that port does not have many public information requests, adding that other governmental entities have had to hire staff to handle the requests. Ms. Saathoff commented that a report has been put together for the last two years with about ten requests total. Staff is finalizing and will present to the Commission to see if it's how they want the information reported. Commissioner Santos asked Mr. Randle to address walking quorums. Mr. Randle stated that as elected officials you will talk but what you can't do is count votes. He gave an example of a situation where county commissioners met off site on a Saturday to discuss water rates to come to a consensus. They were indicated by the district attorney. With the rule that it takes four to vote, it takes a little pressure off a discussion however he advises not to push it. You can pick up the phone and ask a question, but you can't say "I understand Parcel 16 and I want your vote to be no". Commissioner Singhania also asked if it's a violation to send sending a note to other commissioners and staff if he wants to cancel a meeting because he won't be in town. Mr. Randle stated that in practical sense, it is not. Commissioner Giesecke asked

about committees, with the example of having three committee members at the meeting and one talks to another commissioner who wasn't present at the meeting. Mr. Randle said its close and does not advise it, it keeps you clean. Mr. Randle also discussed a recent editorial regarding elected officials private Facebook pages. Private pages should remain private without it being public information. Its best to keep campaign page separate from your private page. The campaign page can be part of your official political office page however it will all be an open record. If an open record request is made for your social media posts on this issue, legal will be asking for your information. He also gave an example of an open record request made for all the texts of the phones of all the elected officials during a public meeting because they saw the lights of all the phones go off at various times during the meeting. They were on private phones but were discussing public business during a public meeting. Your personal phone could be subject to an open records request.

26. 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.
 - i. Business and Economic Development Reports.
 - 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 area known as the Expansion 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 14, 19, 27, 34 and property on Quintana Island.
- D. Under authority of Section 551.076 (Deliberation of 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.
- E. 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, 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.

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

28. Affirm to pay increases for 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.

Mr. Lowe stated the Executive Director/CEO has conducted performance evaluations on executive staff and provided those ratings which were applied to a grid and resulted in increases that were discussed with the Port Commission. The resulting merit increase resulted in a 4.5% increase overall for the executive staff for a combined total of \$54,556.84. Staff recommends the Commission affirm with staff implementing changes on next regular payroll, retroactive to October 1, 2023.

A motion was made by Commission Croft to approve staff's recommendation. The motion was seconded by Commissioner Giesecke with all Commissioners present voting in favor of the motion.

29. Adjourn.

With no further business before the Commission, the meeting adjourned at 7:15 PM.

Ravi K. Singhania, Chairman

Rob Giesecke, Vice Chairman

Barbara Fratila, Secretary

Kim Kincannon, Asst. Secretary

Dan Croft, Commissioner

Rudy Santos, Commissioner