

Minutes of Port Commission Regular Meeting October 28, 2021 In Person & Videoconference

A Regular Meeting of the Port Commission of Port Freeport was held October 28, 2021, beginning at 1:05 PM at the Administration Building, 1100 Cherry Street, Freeport, Texas.

Commissioner Hoss noted the following information that was included on the posted agenda.

This meeting may be attended virtually or in person.

The meeting will be conducted pursuant to Section 551.127 of the Texas Government Code titled "Videoconference Call." This statute provides public officials, employees and members of the public may participate remotely in a public meeting by videoconference call. The Port Commission is utilizing this existing statute to ensure the greatest amount of access to the public and ensure the ability of all Commissioners to participate in meetings during the COVID-19 pandemic.

The quorum of the Port Commission will be located at the Commissioner Meeting Room located at 1100 Cherry Street, Freeport, Texas ("Meeting Location"). The Port Commission intends to have a quorum at the Meeting Location. The presiding Commissioner of this meeting will be physically present at the Meeting Location. The public will be permitted to physically attend the meeting at the Meeting Location.

Public comment will be available at the beginning of the meeting during the agenda item devoted to public comment. Public comment may be communicated virtually and in person, but in either event public comment will be limited to 5 minutes per participant and must be communicated verbally. Following public comment, the public will not be permitted to communicate with the Port Commission.

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

The videoconference is available online as follows:

Join Zoom Meeting

<https://us02web.zoom.us/j/87870667575?pwd=NUtCbUY2d1FiZnFJOGFRS2lGY1JhZz09>

Meeting ID: 878 7066 7575

Passcode: 162990

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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:

Mr. Jason Cordoba, 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
Mr. Jesse Hibbetts, Operations Manager
Ms. Tricia Vela, Public Affairs Assistant
Mr. Nick Malambri, Engineering Specialist

Also, present:

Mr. Bobby Fuller, Texas Port Ministry
Mr. Nathan Ferrington, K-Bin, Incorporated
Mr. Jason Mills, Terracon
Mr. Kirk Glasby

1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:
2. Invocation – Mr. Bobby Fuller, Texas Port Ministry
3. Pledge of Allegiance – U.S. Flag and Texas Flag
4. Roll Call – Commissioner Hoss stated that all Commissioners were present in the Board Room.
5. Public Comment – There were no public comments.
6. Approval of minutes from a Regular Meeting held October 14, 2021.

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

7. Adoption of a Resolution approving the application for tax abatement between Port Freeport and Shintech Incorporated and K-Bin Incorporated regarding a \$30 million expansion of their PVC Compounding facility for property located in Brazoria County Reinvestment Zone 21-03, approving Tax Abatement Agreement on the same terms and conditions as granted to Shintech Incorporated and K-Bin Incorporated by Brazoria County and authorizing Chairman and Secretary to execute said agreement.

Mr. Lowe stated that Shintech, Incorporated and its subsidiary, K-Bin, Incorporated is evaluating the expansion of their PVC compounding process and noted the following considerations. The project is a \$30 million investment and is a 7-year term of tax abatement with a requested variance of 8 years in the application. The estimated value after the

abatement expires is \$23,700,000. 10 permanent jobs will be created with 20 construction jobs at start, 40 at peak and 20 upon completion. After conducting an assessment and reviewing with the Finance Advisory Committee, staff recommends approval of a 7-year term abatement which is consistent with the agreement approved by Brazoria County. Mr. Nathan Ferrington, Operations Manager for K-Bin also gave a brief overview of the project and was available for questions from board members.

A motion was made by Commissioner Singhania to approve the tax abatement agreement as recommended by staff. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

8. Approval of an Award of Contract for Port Freeport Broker of Record for business insurance.

Ms. Campus stated that the Port's current contract for broker of record, Artur J. Gallagher, expires November 30, 2021. Staff received three proposals in response to a request for proposals. After reviewing all the proposals with the Finance Advisory Committee, staff recommends awarding a contract to Arthur J. Gallagher for a term of three years with up to two one-year term renewal options beginning December 1, 2021. Arthur J. Gallagher has met all of the bid requirements and works with the preferred market.

A motion was made by Commissioner Pirtle to award the contract as recommended by staff. The motion was seconded by Commissioner Giesecke with all Commissioners present voting in favor of the motion.

9. 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 reminded the Port Commission that the regular meeting for November will be held Wednesday, November 17 at 1:00 p.m. Additionally, a special meeting will be held Wednesday, November 3 at 10:00 a.m. to adopt a resolution related to the disaster declaration issued by Governor Abbott for Brazoria County in relation to Hurricane Nicholas. Ms. Saathoff reported on a very successful golf tournament that was held October 18 with preliminary numbers coming in at approximately \$77,000. She also thanked all the golfers, sponsors and volunteers who helped make the event a success as well as a big thank you and congratulations to Darlene Winkler for all her efforts in spear-heading the event. Ms. Saathoff reported on a recent port visit by staff from Senator Cruz and Senator Cornyn's offices. The dredging of Reach 3 is complete and the contract for the widening of Reach 2 has been signed; however, staff does not expect dredging to commence until February. Ms. Saathoff also gave an update on federal funding related to the channel project. Staff has uploaded new House and Senate District maps to the BoardPaq library. Ms. Saathoff noted the Port remains in state District 25 – Representative Cody Vasut and also remains in Senator Huffman's district and Congressman Weber's district. County Judge's for the region will be speaking at a HGAC virtual event November 4. Details will be forthcoming. Lastly, Ms. Saathoff noted that with September 30 closing out the fiscal year, the Port had a very good year with a record number of vessel calls port wide and in the inner harbor as well as a record level of vehicles handled at the Port and vessels at LNG.

B. Chief Financial Officer

Mr. Lowe stated that staff is still working toward closing out fiscal year end and anticipates presenting September financials at the November 17 board meeting. Additionally, staff will present another tax abatement agreement for approval at the November meeting for Maxter Healthcare.

C. Director of Engineering

In addition to his written report, Mr. Hull shared current photos of the Berth 8 construction.

D. Director of Operations

Mr. Jesse Hibbetts, Port Terminal Manager, reported on the vessel and cargo activity for the month of September stating the Port finished the year strong handling 14 LNG vessels, 14 Ro/Ro vessels, 10 container vessels, 2 steel ships which totaled 40 vessels for the month. He also shared YTD stats with the Port inner harbor and tenants handling 17 million tons of cargo in 2021 vs. 8.7 million tons in 2020. Total vessel arrivals in 2021 for the Port inner harbor and tenants was 531 vs. 412 in 2020. The Port saw 106,629 autos in 2021 compared to 80,604 in 2020. Railcar activity for 2021 was 1,703 vs. 359 for 2020. Port wide, there was a 12.6% increase in vessel activity with 1,230 vessels vs. last year at 1,092. Looking ahead to October, 18 LNG vessels have been scheduled along with 13 Ro/Ro, 10 container vessels, 2 steels and 112 railcars. Commissioner Singhania inquired about measures staff is taking to enhance safety at the Port. Mr. Hibbetts stated that staff met with ILA's Charles Montgomery and crew to address safety matters. Charles suggested purchasing and replacing banners throughout the Port. Staff is also working with Amports to review their processes for handling the cargo in the leased areas and try to mitigate some of the flow of traffic and incidents.

E. Director of Business & Economic Development

In addition to his written report, Mr. Miura reminded the Port Commission of the Greater Houston Port Bureau Annual Maritime Dinner to be held November 5 at the Bayou Event Center.

10. Receive report from Commissioners on matters related to:

A. October 14 Finance Advisory Committee – Commissioner Croft reported the committee discussed award of contract for Broker of Record, temporary exemption from taxation for qualified property damage by disaster and an application for tax abatement agreement submitted by Shintech Incorporated and K-Bin Incorporated.

B. Meetings and conferences attended, Port presentations and other related Port Commission matters.

Commissioner Singhania reported attending City of Freeport Police Department Golf Tournament, ACIT Golf Tournament, Houston Leadership meeting,

Commissioner Croft reported attending the Texas Gulf Link Hearing (virtually) and the Phillips 66/CP Chem CAP meeting.

Commissioner Pirtle reported attending the Port Freeport Golf Tournament, 100 Club Director meeting, the Livestock Auction and also noted the 36A Luncheon has been moved to a breakfast meeting November 18.

Commissioner Hoss reported attending the USACOE meeting (virtually) held October 22.

11. Discuss and consider Commissioner medical, dental and vision insurance.

Commissioner Giesecke stated that he had previously brought this item up during the budget discussion and was told the budget was a placeholder and would discuss this at a later date. He felt now was the time to discuss the medical, dental and vision benefits for Commissioners. He went on to state that he knew of no other governing body in the county or district that provides employment-based benefits to members of the elected body nor any other Texas port that provides same to their commissioners. He noted that in Policy 4.1, a full-time employee is defined as someone who works more than 32 hours per week whereas Commissioners meet two times a month and receive same benefits as the employees who come to work every day. He then proposed the Commissioners eliminate these benefits for the elected Commissioners.

Commissioner Hoss responded by directing Commission Giesecke to Section 2.9 of the Policy manual which directly addresses this item and stated the following from the policy, *“Pursuant to Chapter 172 of the Texas Local Government Code and Chapter 60 of the Texas Water Code, all current Port Commissioners (“Commissioners”), in recognition of their service to Port Freeport, are eligible for benefits as provided by Texas law, including but not limited to “health and accident, group dental, accidental death and dismemberment, and hospital, surgical and medical expense”.* Commissioner Giesecke inquired whether or not the code addresses Port Freeport specifically or all governing bodies that fall under that jurisdiction. Staff responded that it applies to all of them. Commissioner Giesecke then commented that all the other governing bodies have made the decision not to offer the benefits to their elected officials. Commissioner Hoss then stated it applies to special districts which is what he looked at; he didn’t know about cities. Commissioner Giesecke stated he was only referring to other ports to which Commissioner Hoss stated he would have to look at those who were considered special districts. He is concerned with this port. Commissioner Giesecke stated that he also reviewed Chapter 172, stating its permissive in saying you “may” offer the benefits, not that you “shall” offer benefits. It’s not a requirement. Commissioner Hoss stated that further down the language it states you do not have to take them, as an employee.

Commissioner Giesecke noted that health benefits were not afforded to Commissioners until 2017 and asked why the change was made to start offering these benefits to Commissioners. Commissioner Hoss responded stating that it goes back to the history of pay, auto allowances, car, cell phone, etc. Auditors found that the IRS says they should be handled as employees and caused the change from getting a 1099 to getting a W-2. When they started looking further, section 172 of the government code and chapter 60 of the water code showed they were eligible. Commissioner Giesecke commented that the law doesn’t say you have to do this, it says you’re eligible. Making Commissioners eligible for the benefits when they come here for two meetings a month but forcing employees to hit the hurdle of 32 hours per week is a slap in the face.

Commissioner Singhania stated that he does not care what other ports do, we are elected because we volunteer. We pay our employees competitively and fairly. Commissioners volunteered to get elected. We volunteered to the community, and they put a trust in Commissioners to steer the port to the best of the community. Commissioners respond to the community that elected us, not anyone else. He has been a commissioner for 14 years and nobody ever complained about what the Commissioners received but invariably in the last

election, everybody wanted to know why in the heck is Port Freeport giving health insurance benefits to commissioners. That's coming from our constituents that elected me and feel very strongly Commissioners should not have that perk available.

Commissioner Pirtle stated that saying the commission only meets two meetings a month is a total misrepresentation of what's actually happening because everyone puts in hours ahead of a meeting and its typically 5 hours or more per meeting. They also attend committee meetings and are out in the public representing the port at different charities, functions, fundraisers and can guarantee that any amount of pay the board gets is far surpassed back into the community, its multiplied multiple times. Commissioner Giesecke stated that it comes down to part of the service. He attends lots of meetings as well and would attend them whether he was on the board or not, adding that every time you go to a chamber function, you don't rack that up as hours or filling out a timecard. Commissioner Pirtle argued that is hours and there are a lot of things they might not attend if they were not representing the Port.

Commissioner Hoss asked if there were any additionally comments stating that Commissioner Singhania had some very good points and while Commissioner Giesecke's questions are valid, he's made no secret about his intent, this it's part of his campaign, but he isn't sure what his intent is to do. He assured him discussions took place before this policy was modified and accepted. Commissioner Hoss stated that he looked back at the history to see what the previous board did. In 1958-59, the Board received \$200/month with \$50 car allowance to the Chairman which would equate to about \$1900-\$2000 today. Currently, the Commissioners get \$800/month, plus car allowance and cell phone and some are taking the benefits which is another way of looking at it. Commissioner Giesecke stated that he still feels it's important to look at Port Freeport and see we are an absolute outlier among other similar governing bodies. Commissioner Pirtle stated that other comparisons to make are possibly Port of Houston or Corpus Christi where they are appointed rather than elected and make contacts that benefit their private or personal companies. He does not personally benefit from any of that, other than shaking a hand. Commissioner Hoss stated that he is more likely to compare Port Freeport to Beaumont, maybe Brownsville. Commissioner Giesecke stated that Beaumont does not offer health benefits to their elected boards, neither does Port Arthur. No car allowance.

Commissioner Croft stated that it is in their enacting legislation that they be paid. He added there are other things in the legislation the Board may want to take up moving forward and possibly incorporate this into the legislation that the Board may want to consider. If we are going to expand on the dialogue, we need to look at in total. Commissioner Giesecke stated that he isn't sure where Commissioner Croft is going with his statement, but he has a motion on the table. Mr. Cordoba stated the Board should keep discussion to just how it states on the agenda, medical, vision and dental insurance.

Commissioner Singhania added that this topic needs to be put to bed one way or another because it is taking the focus away from more important things that are necessary for the Port.

After a discussion among Commissioners, a motion was made by Commissioner Giesecke to remove eligibility of Commissioners for employment-based health benefits that include medical, dental and vision benefits. The motion was seconded by Commissioner Singhania with Commissioners Singhania and Giesecke voting yes and Commissioners Pirtle, Santos, Croft and Hoss voting no.

12. 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 regarding Chapter 551 of the Texas Government Code.
2. Consultation with attorney to discuss pending litigation.
3. Consultation with attorney to discuss pending litigation.

B. 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 and 7.
3. The potential exchange, lease, or value of real property located at Port Freeport, including but not limited to Parcel 14.

13. RECONVENE OPEN SESSION:

14. Adjourn.

With no further business before the Commission, the meeting adjourned at 3:37PM.