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PORT COMMISSION  
OF THE  
PORT OF HOUSTON AUTHORITY  
OF THE PORTS OF HARRIS COUNTY, TEXAS  
January 5, 2021

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<b>Minutes</b>	
2021-0105-01	Approve the minutes of the December 10, 2018 Dredge Task Force meeting
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2021-0105-03(d)	Chairman Campo recognized Juan Parras, Executive Director, Texas Environmental Justice Advocacy Services, who addressed the Port Commission
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2021-0105-04	Chairman Campo recognized Mr. Eriksson to provide a report of the Executive Division agenda item
2021-0105-05	Award a professional services contract to Weisser Engineering Company, Inc. to perform surveying and title research services for the Barbours Cut Container Terminal

Minute No.

Event/Action

**General**

2021-0105-06

Staff briefing, deliberation, and possible action regarding Houston Ship Channel Expansion Channel Project (Project 11)

- a. Developments since 2018 Port Commission Dredge Task Force meeting
- b. Design progress, including technical issues, contracts, and costs
- c. Federal approvals, including congressional and U.S. Army Corps of Engineers status
- d. Construction procurement analysis, including potential strategies and structures
- e. Environmental stewardship and sustainability update

2021-0105-07

Staff briefing, deliberation, and possible action regarding Project 11 financial matters

- a. Port Authority funds flows, including general obligation bond proceeds and associated property tax receipts, and other funds sources and uses
- b. Financing Port Authority Project 11 fiscal responsibilities, including revenue bond issuance and liquidity projections
- c. Update on proposals by ship channel industry stakeholders to participate in funding Project 11

**Recess Open Meeting and Convene Executive Session**

**Reconvene Open Meeting**

2021-0105-08

Authorize the Port Authority to amend its employment agreement with Roger Guenther on the terms discussed in Executive Session, and authorize the Chairman and General Counsel to do any and all things necessary to give effect to the foregoing

**Adjourn Meeting**

**Port of Houston Authority  
Port Commission Public Meeting**

**Houston, Texas  
January 5, 2021**

A public meeting of the Port Commission of the Port of Houston Authority of Harris County, Texas was convened on January 5, 2021 at 10:30 a.m., via Cisco WebEx. The following commissioners, staff, and counsel were present:

Ric Campo, Chairman  
Wendy Cloonan, Commissioner  
Dean Corgey, Commissioner  
Cheryl Creuzot, Commissioner  
Stephen DonCarlos, Commissioner  
Clyde Fitzgerald, Commissioner  
Roy Mease, Commissioner  
Roger Guenther, Executive Director  
Erik Eriksson, Chief Legal Officer  
Tom Heidt, Chief Operating Officer  
J. Kent Friedman, outside counsel

Chairman Campo informed those in attendance that Congress passed the Water Resources Development Act (WRDA) bill which included the deepening and widening project. This was a massive hurdle to get through and Chairman Campo recognized the Project 11 team for this accomplishment, adding that it was a team effort and one department was not more important than another in that work. Chairman Campo also recognized members of industry that were present, for their time and effort in advancing the project.

(2021-0105-01) Chairman Campo called for a motion to approve the minutes of the December 10, 2018 Dredge Task Force meeting. Commissioner Fitzgerald moved for approval, seconded by Commissioner Corgey. The minutes were approved as written.

(2021-0105-02) Roger Guenther, Executive Director, presented a summary of selected operational matters as follows. He emphasized the monumental milestone of the passing of the WRDA bill – a great achievement. There was still a lot to do as the start of construction, and, ultimately, its completion neared.

Mr. Guenther concluded by mentioning that the intent of the special meeting was to talk about Project 11 in detail, including talking about next steps and discussing industry funding.

(2021-0105-03) Appearances

(a) Chairman Campo recognized Adrian Shelley, Director, Texas Office, Public Citizen, who addressed the Port Commission.

Mr. Shelley congratulated the Port Authority on its accomplishments related to Project 11 and also for the time invested in meeting with various environmental communities in recent months. He noted that extensive comments had been made with regard to Project 11 over the previous weeks, and he wanted the environmental impact, that the project would have, to be recognized. Best estimates suggested that an additional 1,330 tons of nitrogen oxide pollution would result.

Mr. Shelley emphasized that mitigation of the additional emissions was needed, in order to work toward ozone attainment. The Texas Commission on Environmental Quality (TCEQ) approved Project 11 but had made recommendations for air pollution reduction which should be undertaken. Mr. Shelley referenced a recent op-ed in the *Houston Chronicle* by the Port Authority which stated it would implement some of the TCEQ recommendations, but no specifics were mentioned.

Mr. Shelley wished to know specifically which recommendations the Port Authority intended to implement. The purchasing of nitrogen oxide credits was recommended by the TCEQ to offset the additional 1,330 tons, and he added this was one option to be undertaken. A direct investment in pollution reduction was another strategy that would provide direct and quantifiable reduction. There were very large vessels that would be used in Project 11, including a 5,000-horsepower tug and a 5,000-horsepower barge that would be emitting pollution throughout the duration of the project.

Mr. Shelley stated that direct investment to eliminate pollution reduction made a lot of sense, and wanted the Port Authority to find a way to mitigate or eliminate the pollution and quantify the reductions and costs. It was known that an increase in efficiency would result from Project 11, but there would also be induced demand similar to a highway project that saw an increase in traffic due to an increase in capacity, and wanted to see in future emissions inventories and clean air strategy plans a measure of efficiency against the induced demand increase.

(b) Chairman Campo recognized Juan Flores, Community Outreach Coordinator, Air Alliance Houston, who addressed the Port Commission.

Mr. Flores voiced concern about Project 11, and wanted to know if increased activity around the Galena Park dredge site would result from it, as he had already seen an increase in truck activity. Many people in his community walked the trails around the dredge sites, and he was concerned that these people, and specifically, the safety of the children who walked to school, would be impacted. He asked that the communities be informed of any increase in traffic around the dredge sites.

Mr. Guenther explained that Project 11 had not started, and the activity at the dredge site may have been related to normal maintenance dredge disposal. He promised

to inform the communities about any increase in traffic, and that safety precautions would be taken.

Chairman Campo advised that there was an upcoming Port Commission Community Advisory Council meeting and hoped for feedback from members of the council to help with ways to reach out and communicate with communities.

Mr. Byrnes emphasized that the trail that Mr. Flores mentioned had been designed with ongoing operations in mind, and should not be affected by ongoing maintenance.

Mr. Flores asked if traffic would increase after commencement of Project 11. Mr. Byrnes explained that traffic would increase only if the levies were raised, and he did not think that was part of the plan.

Mr. Flores asked what precautions were being taken to ensure the dirt taken from the channel was not contaminated, and Mr. Byrnes explained that dredge material was tested before being sent to a dredge disposal site.

Mr. Flores asked how high the levy would eventually get, and Mr. Byrnes replied that he thought that all dredge placement sites had an additional lift of approximately five feet, and reiterated that he did not think there was a plan to raise any site due to Project 11.

Commissioner Corgey thought Mr. Flores raised great points and wanted to see Port Authority staff work to accommodate his concerns.

Commissioner Cloonan echoed Commissioner Corgey's comments and liked the idea of working with the Port Commission Community Advisory Council to communicate to the various communities what was forthcoming.

(c) Chairman Campo recognized Rachel Powers, Executive Director, Citizens' Environmental Coalition, who addressed the Port Commission.

Ms. Powers was not pleased that she had only learned of the meeting the prior day. She felt that it was not a lot of notice and that the notice posted on the Port Authority's website was not very descriptive as to what the purpose of the meeting was, and would have liked more transparency.

Chairman Campo agreed that the Port Authority should be more transparent and more responsive to the community's needs.

(d) Chairman Campo recognized Juan Parras, Executive Director, Texas Environmental Justice Advocacy Services, who addressed the Port Commission.

Mr. Parras asked the Port Commission how it would address environmental justice related to Project 11. He emphasized that construction would cause an increase in pollution along the channel.

Chairman Campo explained that the Port Authority wanted to be a good environmental steward and would be meeting with all the constituent and environmental groups to make sure all the information was made available and feedback could be provided. There would be plenty of forums to help the Port Authority prioritize the environmental investment.

(2021-0105-04) Chairman Campo recognized Mr. Eriksson to provide a report of selected Executive Division agenda items.

Mr. Eriksson addressed Item F1, a contract for a boundary survey and title research services for Barbours Cut Container Terminal. Mr. Eriksson explained that the property was acquired through numerous transactions, and as a result, it made sense to comprehensively understand title for the entire property.

(2021-0105-05) RCA F1 was presented, moved by Commissioner Mease, seconded by Commissioner Corgey. Chairman Campo, and Commissioners Cloonan, Corgey, Creuzot, DonCarlos, Fitzgerald, and Mease voted Aye. Nays none. RCA F1 PASSED.

(2021-0105-06) Chairman Campo recognized Mr. Byrnes to provide a staff briefing regarding the Houston Ship Channel Expansion Project (Project 11).

Mr. Byrnes remarked that he and Mr. Finley would be presenting, but in fact it would be a discussion rather than a presentation and he encouraged comments throughout it. Discussion topics included: developments since the last Dredge Task Force meeting; design progress, including technical issues, contracts, and costs; federal approvals, including congressional and U.S. Army Corps of Engineers (Corps) status; construction procurement analysis, including potential strategies and structures; and an environmental stewardship and sustainability update. Additionally, Project 11 financial matters included: a discussion on Port Authority funds flows, sources, and uses; the financing of Project 11; and an update on the financing proposal by industry stakeholders.

Mr. Byrnes reviewed a timeline of the developments since the last Dredge Task Force meeting, including government milestones, such as enactment of the WRDA bill; updates designed to inform the Port Commission and the public as the project progressed, key approvals by the Port Commission, and external engagements.

Next, Mr. Byrnes highlighted the numerous actions the Port Commission had taken in support of Project 11. The bottom line was that the Port Commission put up the money,

committing over \$53 million to date, as well as adopting the September 2020 resolution to help finance construction.

Mr. Byrnes continued: the design and technical team members had been burning the candle at both ends and deserved thanks for all their diligence in working through the issues. Cost estimates had been reduced by about \$200 million, but research into the pipeline situation had identified about a dozen assets that needed to be moved, at a cost of about \$200 million, though part of the cost would be covered by the pipeline owners.

The design team targeted 100% design by February 2021 for segments 1-4 and subsequently advertising for contracts in the summer of 2021, but this all depended upon getting certain agreements in place with the federal government. One exception was that the Port Authority could move forward with site preparation of the Beltway 8 property.

Mr. Byrnes went into more detail regarding the agreements with the federal government, referencing a roadmap slide which showed all that had been accomplished since the prior update to the Port Commission, including WRDA and procurement preparations.

The Port Authority was still campaigning to get the Assistant Secretary of the Army (ASA) to approve assumption of maintenance by the federal government. Mr. Guenther added that discussions continued with the ASA, noting that by the Corps's own determination, the assumption of maintenance was economically justifiable.

Chairman Campo added that congressional delegations were pushing for the assumption of maintenance as well – the Harbor Maintenance fee was collected by all ships entering the channel and the majority of it was sitting in a trust fund not being spent.

Mr. Byrnes explained that there were multiple pathways that the Port Authority could pursue to construct the project. One was with a “new start” appropriation which was the preferred method, and included executing a project partnership agreement. If a “new start” designation was not granted, the next option would be a “204” process and would take time.

Chairman Campo asked Mr. Byrnes to go into further detail regarding the procedure for the “new start” appropriation. Mr. Byrnes explained that the passage of WRDA only authorized the project; it did not appropriate money. A separate bill was required for appropriations, and there were no earmarks for said appropriations bill for specific port projects.

Chairman Campo asked for further clarification. Mr. Byrnes explained that the Port Authority was competing with other ports for award of the “new start” funding, part of a separate appropriations bill.

Chairman Campo emphasized that the appropriation bill had passed but the “new start” had not been awarded and Mr. Byrnes confirmed that was correct. Chairman Campo further summarized that although WRDA had passed, there were still hurdles to go through before the commencement of construction.

Port Authority outside counsel Lowry Crook, Partner, Best Best & Krieger LLP, clarified that the appropriation bill contained extra money for the Corps, and there were seven “new start” appropriations included in the appropriations bill, but only one was assigned to a coastal navigation project. The Port Authority was in competition with other entities for the designation, and the funds were expected to be allocated by mid-January.

Chairman Campo remarked that if the “new start” was not received, there was still a pathway, albeit longer and more complicated, and Mr. Byrnes confirmed this was correct.

Mr. Byrnes moved on to note that the Port Authority would have to bring the conversation with industry and its share of funding to a close: a clear funding plan was needed to link the execution plan and actual contracts and commence construction. He emphasized that the Port Authority had committed to its funding obligation and industry needed to do the same.

Mr. Guenther noted that the process for the “204” process had already been initiated, in the event that the Port Authority did not receive the “new start.”

Mr. Byrnes continued his presentation by explaining that there was an execution plan in progress. The six segments to Project 11 translated to twelve contract packages, with nine led by the Port Authority under an accelerated construction schedule. Staff had done its homework to determine how the accelerated construction could be carried out efficiently and was preparing for large, complex contracts. However, uncertainties existed that could impact how the execution plan rolled out.

Commissioner DonCarlos asked if the Port Authority’s preference for electric dredges had been discussed with the various competing companies.

Mr. Byrnes explained how that level of detail had not been reached at the time. Electric dredges would have to be close to the land in order to work in the channel, and many of the locations of dredging for Project 11 would not be conducive for the use of electric dredges. However, the dredging industry had showed a focus of sustainability, including upgrading to hybrid engine technology.

Commissioner DonCarlos commented that it should be emphasized that the Port Authority favored companies that were aware of environmental impacts.



Commissioner Corgey stated that the Port Authority should focus on dredge companies that operated with Tier 4 engines that reduced emissions. Mr. Byrnes agreed and added that all the companies – including tug companies – had been in the process of upgrading to cleaner engines, as there had been a large uptick in demand.

Mr. Byrnes continued by referencing an environmental presentation given in December 2020. As an update to that presentation, Mr. Byrnes noted that the general conformity determination had been finalized, which meant the project fit within the state implementation plan for emissions, and the federal government agreed with the state's assessment.

Mr. Byrnes emphasized the Port Authority's aspiration to be an environmental leader, and appreciated the comments during the public comment portion of the meeting. Staff was working with an idea of establishing an action team to sort out which recommendations made sense and could be pursued.

Mr. Byrnes explained how various companies, universities, and non-governmental organizations (NGOs) had focused a lot of energy on climate, air quality, and environmental issues, and the Port Authority was playing an active role in this. These groups included presidents and senior executives of major energy and marine transportation companies.

Chairman Campo referenced a few questions posed by the public in the chat function, including whether the Port Authority had taken a position on the Corps's Buffalo Bayou and Tributaries Resiliency Study and whether Project 11 had considered the Corps's proposed Ike Dike project.

Mr. Byrnes explained that the Port Authority's position on the resiliency study was that any effort at flood control on the land side should also incorporate sedimentation control, i.e. capturing the sediment on the land and keeping it from entering the channel. The Port Authority had been working with the Corps, Harris County, and the City of Houston for approximately two years on the issue.

Mr. Guenther added that Project 11 and the Ike Dike were separate but complimentary projects.

(2021-0105-07) Chairman Campo recognized Mr. Finley to provide a staff briefing regarding Project 11 financial matters.

Mr. Finley began his portion of the Project 11 presentation by explaining that the Port Authority currently had just over \$500 million in outstanding Government Obligation (GO) bonds, with the last bond authorization in 2007 in the amount of \$250 million.

Approximately \$60 million in taxes on Harris County property was used exclusively to service the GO bond debt.

Chairman Campo explained to the public the acronym for GO Bonds and the concept of Harris County taxpayers funding the investments made by the Port Authority. He added that it had been a very good investment.

Mr. Finley explained that the Port Authority has maintained and administered the assets, in turn used the assets to generate general revenues, and reinvested that money back into various projects.

Chairman Campo remarked on how investments approved by the county promoted the cash flow of the Port Authority.

Mr. Finley noted that the process for putting the finance infrastructure in place had begun, so that the Port Authority was ready to fund when the time came. He explained the pro forma estimate of a total \$1 billion cost for Project 11, of which the Port Authority was financing half. The Port Authority began the year with \$372 million available and anticipated generating approximately \$2 billion in liquidity over the next ten years. When capital improvements and debt service were factored in, the ending cash flow in the ten-year period was projected at \$165 million.

Mr. Finley expanded upon revenue bond characteristics: the all-in “true” interest cost hovered just over three percent based on projections.

Chairman Campo asked what the bond rating was, and Mr. Finley reference the slide which showed a very strong credit rating. He walked through the credit-related metrics and announced the Port Authority was anticipating a AA rating.

Mr. Finley then reviewed the projected 2021 revenue bond financing calendar, which was contingent upon the schedule assumptions described by Mr. Byrnes. If the schedule held, then the financing arrangement would be proposed as early as the next month.

Commissioner Fitzgerald commented he had lived through two of the GO bond issues, noting that at one time the Port Authority was the only entity to receive bond approval, owing to its economic impact on the community, and did not want to close the door completely on GO bonds if they were in fact needed down the road.

Chairman Campo agreed, adding that financial flexibility was paramount. If the Port Authority’s cash flow changed over the next ten years, then it would go for the bonds. However, the AA rating showed the strength of the Port Authority.

Commissioner Fitzgerald voiced a concern that dredging for Project 11 may slow down Port Authority revenues.

Chairman Campo remarked that the previous commissioners had done an impressive job of creating financial flexibility. He would put the Port Authority's balance sheet up against that of any port in America.

Mr. Finley moved on to discuss the topic of industry funding its share of Project 11. He reviewed the various options for funding and explained the current proposed industry user fee, adding that industry was working on revising its proposal.

Chairman Campo emphasized that industry had committed to paying for half the cost of Project 11, but the question of how such payment would be made was still being discussed. It was imperative that the cost of entering and exiting the port not be a detriment to business.

Mr. Guenther noted that discussions with industry on the topic of funding were still ongoing and the proposal was still user-fee based, which was not much different from the original proposal. Federal law requirements for a user fee-based arrangement were being looked at as well.

Commissioner DonCarlos commented that the user-fee concept struck him as a reimbursement for money already spent. He wanted to know if the initial payment would come from industry and be repaid through user fees. Mr. Guenther stated that Commissioner DonCarlos was correct in his assessment.

Commissioner DonCarlos asked if industry should then administer its own program rather than the Port Authority incurring the hassle and expense, and Mr. Guenther stated that it would have to be part of the discussion.

Chairman Campo noted that if there were a user fee, the Port Authority would have to be involved to act as the mechanism that would allow such a fee to be charged under federal law. He wanted to be clear that the Port Authority's balance sheet would not be used.

Commissioner DonCarlos remarked that if the Port Authority was not careful with the user fee, then it could end up costing business and defeat the purpose of Project 11 altogether.

Chairman Campo fully agreed with Commissioner DonCarlos' assessment.

Mr. Finley finished the presentation by discussing next steps.

Commissioner Mease asked for clarification regarding the user fee. He wanted to be sure that it would apply to incoming boats only, not outgoing.

Chairman Campo stated that the fee would be applied to all transits. There was a number of federal law issues involved that needed to be complied with. Part of the challenge was that no port had ever implemented such a user fee.

Mr. Guenther added that the fees could not lawfully be based upon cargo tonnage and needed to be tailored to the improvement benefits to the ships calling upon the channel.

Mr. Eriksson added that the distinction of entering vs. exiting the channel applied to the Harbor Maintenance tax and did not apply to the proposed user fee.

Chairman Campo called for an Executive Session and asked Mr. Eriksson to make the following announcement:

It is now 12:01 p.m. The Port Commission of the Port of Houston Authority of Harris County, Texas will now convene in a closed meeting, as permitted by the Texas Open Meetings Act and Government Code (1) to conduct a private Consultation with Attorneys (*Section 551.071, Texas Open Meetings Act*), including consultation regarding 33 U.S.C.A. §§5(b) and 2236; deliberate regarding (2) Real Estate (*Section 551.072, Texas Open Meetings Act*), including disposition of Barbours Cut Terminal and Beltway 8 vicinity properties; (3) Economic Development Negotiations or Incentives (*Section 551.087, Texas Open Meetings Act*); (4) Employment and Evaluation of Public Employees (*Section 551.074, Texas Open Meetings Act*), including deliberations regarding amendment to the employment agreement with the Executive Director of the Port Authority; and Security-Related Matters (*Sections 418.175-418.183 of the Texas Government Code, and Section 551.076, Texas Open Meetings Act*). The Port Commission will reconvene in public session after the closed meeting is adjourned.

Immediately thereafter the Port Commission retired into closed session.

At 12:40 p.m., Chairman Campo reconvened the open meeting via Cisco WebEx with the following Commissioners, staff, and counsel in attendance:

Ric Campo, Chairman  
Wendy Cloonan, Commissioner  
Dean Corgey, Commissioner  
Cheryl Creuzot, Commissioner  
Stephen DonCarlos, Commissioner  
Clyde Fitzgerald, Commissioner

Roy Mease, Commissioner  
Roger Guenther, Executive Director  
Erik Eriksson, Chief Legal Officer  
Tom Heidt, Chief Operating Officer  
J. Kent Friedman, outside counsel

(2021-0105-08) Commissioner Mease moved to authorize the Port Authority to amend its employment agreement with Roger Guenther on the terms discussed in Executive Session and authorize the Chairman and General Counsel to do any and all things necessary to give effect to the foregoing, seconded by Commissioner Corgey. Chairman Campo, and Commissioners Cloonan, Corgey, Creuzot, DonCarlos, Fitzgerald, and Mease voted Aye. Nays none. MOTION PASSED.

At 12:42 p.m., Chairman Campo adjourned the Port Commission meeting.

The above is a correct copy of the Minutes of the January 5, 2021 meeting of the Port Commission of the Port of Houston Authority.



Ric Campo, Chairman



Erik A. Eriksson, Secretary

## **F. EXECUTIVE**

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**Subject** 1. Award a professional services contract to Weisser Engineering Company, Inc. to perform surveying and title research services for the Barbours Cut Container Terminal in an amount not to exceed \$147,183.

**Recommended Action** The Port Commission, at its January 5, 2021 meeting, award a professional services contract to Weisser Engineering Company, Inc. to perform surveying and title research services for the Barbours Cut Container Terminal in an amount not to exceed \$147,183, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

**Category:**

Awards, Amendments & Change Orders

**Division:**

Executive

**Staff Contact:**

Erik Eriksson

**Background:**

The Barbours Cut Container Terminal area was acquired through various methods, including acquisitions, abandonments, and dedications. The proposed boundary survey and title research is intended to clearly define the boundary and verify ownership of the various tracts that make up the Barbours Cut Container Terminal.

This effort is also made in conjunction with the ongoing discussions between the Port Houston and the City of Morgan's Point regarding disannexation of Port Authority-owned property located within the City of Morgan's Point city limits.

There is no statutory requirement to use an advertised solicitation for the selection of engineers, architects, and land surveyors, but the Port Authority's historical default method for procuring such providers for contracts over \$50,000 is using an advertised request for qualifications (RFQ). However, in some limited fact situations, such providers may be selected without using an advertised RFQ, as long as the selection is solely qualifications-based and not price based, in compliance with Texas Government Code 2254.004. The Real Estate department has documented that the selection of this professional services provider was solely qualifications based, and the use of this procurement method has been approved by Procurement Services and the staff Executive Review Committee.

**Staff Evaluation/Justification:**

Staff recommends that the Port Commission award a professional services contract to Weisser Engineering Company, Inc. to perform surveying and title research services for the Barbours Cut Container Terminal.