

I N D E X

PORT COMMISSION
OF THE
PORT OF HOUSTON AUTHORITY
OF THE PORTS OF HARRIS COUNTY, TEXAS
April 8, 2019

<u>Minute No.</u>	<u>Event/Action</u>
	General
2019-0408-01	Chairman Campo convened the Port Commission meeting and provided opening remarks
	Appearances
2019-0408-02	Chairman Campo recognized Shareen Larmond, WGMA, who addressed the Port Commission
	D. Executive
2019-0408-03	Review and discussion regarding Houston Ship Channel matters
2019-0408-03(a)	U.S. Army Corps of Engineers and the Houston Ship Channel feasibility study (“Mega-Study”) and proposed channel improvements
2019-0408-03(b)	Port Authority financial responsibilities, as the non-federal sponsor, regarding Houston Ship Channel construction and operation and maintenance
2019-0408-04	Review, discussion, and action to approve a budget for a Houston Ship Channel traffic management group (as amended)
2019-0408-05	Continued deliberation regarding measures to address one-way traffic impacts on the Houston Ship Channel, including possible limitations on ships calling Port Authority container terminals
	E. Recess Open Meeting and Convene Executive Session
	F. Reconvene Open Meeting
2019-0408-06	Continued deliberation and action to approve a resolution addressing one-way traffic impacts on the Houston Ship Channel including limitations on ships calling Port Authority container terminals
	G. Adjourn Meeting

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

**Houston, Texas
April 8, 2019**

A special public meeting of the Port Commission of the Port of Houston Authority of Harris County, Texas was convened on April 8, 2019 at 10:00 a.m., at the Port of Houston Authority Executive Office, Fourth Floor Boardroom, at 111 East Loop North, Houston, Texas 77029. The following Commissioners, staff, and counsel were present:

Ric Campo, Chairman
Theldon R. Branch, III, Commissioner
Dean E. Corgey, Commissioner
Stephen H. DonCarlos, Commissioner
Clyde E. Fitzgerald, Commissioner
John D. Kennedy, Commissioner
Roy D. Mease, Commissioner
Roger Guenther, Executive Director
Erik Eriksson, Chief Legal Office
J. Kent Friedman, outside counsel

(2019-0408-01) Chairman Campo convened the meeting of the Port Commission and gave opening remarks.

Chairman Campo announced that the special meeting was being held to discuss two-way/one-way Houston Ship Channel traffic and widening of the channel, and he followed with brief remarks on the history of the Port of Houston. He noted that ingress and egress to and from the federal channel was controlled by the United States Coast Guard (the "USCG") and the Captain of the Port, Captain Kevin Oditt, and that the Houston Pilots established channel safety rules, working in conjunction with the USCG, not the Port Authority.

He went on to note that the Port Authority was the non-federal local sponsor of the federal channel, and its job was to manage the public docks and act as the advocate for general commerce and improvement of the channel, for the benefit of all the constituents within the channel area, and to create value for the surrounding areas. Without the Port of Houston, this region would not be as productive and economically healthy as it was today.

Chairman Campo emphasized that the meeting today would discuss traffic management (both one-way and two-way), medium-term issues (how to maximize the efficiency of traffic in the channel over a period of time), and the longer-term issues. Due to growth in the area and the increase in vessel sizes, the channel will need to be widened and deepened. He added that the channel has been widened and deepened ten times in its 100-plus year history and another improvement project was now needed.

Chairman Campo stated that over the past couple of months multiple meetings have been held with the Houston Pilots, the USCG, the Coalition for a Fair and Open Port (the

“Coalition”), container ship companies, and other stakeholders. The purpose of this meeting would be to address the issues discussed with them.

Chairman Campo asked if there were any questions or suggestions. There were none.

(2019-0408-02) Appearances

Chairman Campo recognized Shareen Larmond, President, West Gulf Maritime Association, who addressed the Port Commission.

Ms. Larmond thanked Chairman Campo and the commissioners for allowing her to speak. She stated that she was again addressing the concerns of the container industry regarding the proposed resolution brought forth by the Coalition. Houston, the region, and the state benefit both from the oil industry and from containerized products imported and exported as a direct result of Houston’s footprint in global trade.

She stated that the container industry was encouraged by Chairman Campo’s remarks last month regarding bringing both sectors of industry together to reach a mutually-acceptable resolution, adding that decisions that have global impacts cannot be made hastily or without thorough thought and discussion.

Ms. Larmond referenced the 2002 L.A.-Long Beach 10-day lock-out labor dispute, which resulted in irreversible consequences for those ports and resulted in many shippers redirecting their cargo to the Port of Houston. She noted that the Port of Houston and the region directly benefited from that brief discord, and urged all present not to reciprocate the generosity of L.A.-Long Beach by sending cargo back to them.

Ms. Larmond suggested that all parties work with the state legislature to address port-related issues in the legislative interim, which would provide the opportunity to conduct more research into the issues and prevent hasty decisions from being made regarding very complex industries. In closing, Ms. Larmond stated that she looked forward to having more collaborative dialogue to move Houston’s maritime industry forward.

Chairman Campo thanked Ms. Larmond for her comments.

The Port Commission then considered each Request for Port Commission Action (“RCA”) attached to these minutes as Exhibit “A.”

(2019-0408-03) RCA D1 was presented, “Review, discussion, and possible actions regarding Houston Ship Channel matters:”

RCA D1(a) “U.S. Army Corps of Engineers and the Houston Ship Channel feasibility study (“Mega-Study”) and proposed channel improvements.”

Chairman Campo asked Mr. Guenther to explain the process. Mr. Guenther stated that a Dredge Task Force meeting was held in December and at the following Port Commission meeting, staff received permission to move forward with various items including the Mega-Study and improvements to the channel. Mr. Guenther asked Rich Byrnes, Chief Infrastructure Officer, to address the commission on the status of these matters.

Mr. Byrnes advised that the Mega-Study was conceived in 2010, following the completion of the tenth channel improvement project. The major goals of the study were to accommodate larger vessels of all types (tankers, bulkers, and container ships) and to widen and deepen the channel upstream toward Beltway 8 and the Turning Basin. Mr. Byrnes noted that the cost could exceed \$1 billion; however, to put that into perspective, the cost would equate to 10 cents per ton for the 50-year life of the asset.

Mr. Byrnes presented a power point summarized below.

The Army Corps of Engineers (the “Corps”) National Economic Development (the “NED”) recommended plan is as follows:

- 1a. Bolivar Roads to Redfish – approximately 11.5 miles, widen to a minimum of 700 feet;
2. Bayport Ship Channel – approximately 4 miles, widen to approximately 445 feet;
3. Barbours Cut Ship Channel – widen channel to approximately 455 feet;
4. Boggy Bayou (Shell) to Sims Bayou – widen channel to 530 feet, deepen from existing 41 feet to 46.5 feet;
5. Sims to IH 610 – deepen from the existing 37 feet to 41.5 feet; and
6. IH 610 to Turning Basin – deepen from the existing 37 feet to a potential 39 feet.

Not included in the NED were the following:

- 1b. Redfish to Bayport – approximately 8.3 miles, widen channel to a minimum of 700 feet; and
- 1c. Bayport to Barbours Cut – approximately 5 miles, widen channel to approximately 700 feet.

Mr. Byrnes emphasized that it was imperative that items 1b and 1c also be included in the NED. To simplify, he commented that it would otherwise be akin to having a four-lane highway culminate into a two-lane bridge.

The Chief's Report is due to Corps leadership this October, and the Port Authority's request to incorporate items 1b and 1c in the report will be permitted if the two elements are authorized by some other means. The challenge is to get the full bay width (1a, 1b, and 1c) widened as soon as possible and obtain approval from Congress.

In January Mr. Guenther requested that the Assistant Secretary of the Army (the "ASA") provide a categorical exemption, i.e. override the local Corps district and include the missing elements in the NED Plan, for reasons of safety. This request was followed up with a letter from fifty members of the Greater Houston Port Bureau, a letter from the Texas congressional delegation (a dozen representatives and two senators), and a second Port Authority letter, from Chairman Campo, to emphasize the importance of the request to include the upper bay reaches (1b and 1c) into the widening project. In addition, staff and members of the Economic Alliance Houston Port Region visited Washington D.C. to continue to press for the message.

Key talking points included the necessity of the channel and that the time had come to widen it to ensure safety, efficiency, and economic growth.

- The Houston Ship Channel is a critical strategic infrastructure with national impacts and national interests.
- Projects of this magnitude take a long time and with the "business as usual" process take too long.
- The Port Authority was working in partnership with the Corps, the federal government, and industry to support the widening effort, and it could be a model project for the nation, just as the original plan was a model for the nation 100 years ago.
- The economy that depends on the Houston Ship Channel was in a state of significant change, including exported oil which has risen sharply in the past few years, and this growth was predicted to continue.
- Chemical demand was expected to increase 45% over the next decade, resin exports have increased, and the growth in this area was exceeding United States averages.
- Over the last decade, non-container exports have increased 227% by weight and 167% by value.

- Containerized cargo, both import and export, has increased 130% by weight and 261% by value.
- The opening of the Panama Canal was allowing larger vessels to come to Houston.

Mr. Byrnes stated that the channel currently has the capacity to handle the current 9,000 annual vessel calls and in the near term requires better communication and collaboration. However, based on the above increases, the channel needs to be widened and deepened as soon as possible. He quoted Jack Welch:

“If the rate of change on the outside exceeds the rate of change on the inside, the end is near.”

Things were changing quickly, and this message needed to be delivered to Congress.

Mr. Byrnes also noted the 2018 economic impact report for the Port of Houston indicated a 15% increase in jobs, a 28% increase in total economic value, and a 13% increase in taxes. He quoted Secretary of State Mike Pompeo:

“[the]administration is working strongly, based on its firmly held conviction that we must further America’s interests by widening the tools we have available to our diplomats, especially the tool of American energy abundance.”

He added that Secretary Pompeo spoke those words during a speech at Cambridge Energy Research Associates’s CERAWEEK held in Houston, this year on March 11 through 15, and which is acclaimed as the world’s premier energy event, providing analysis on energy markets, geopolitics, industry trends, technology, and strategy.

Mr. Byrnes also shared some catchwords shared by Rickey “R.D.” James, Assistant Secretary of the Army for Civil Works, during the National Waterways Conference, March 5, 2019.

“Move Dirt”

“Faster, Better Processes”

Mr. Byrnes remarked that the “business as usual” approach would result in construction commencing in 2026, and emphasized that the Port Authority needs to work on appropriations, funding the non-federal outlays, authorization, and design all at the same time so that the project could be accelerated four years ahead of the “business as usual” scenario.

Channel users would prefer that construction started yesterday; however, Mr. Byrnes stated that the many moving parts included stakeholder engagement, environmental

matters, dredge disposal areas, and details on sequencing. Staff was working to address these aspects in order to present practicable, doable plans. Many questions were still unanswered, such as when approvals would take place, what would be approved, and what could be done within the restraints and policy guidance of the Corps and funding availability.

Mr. Byrnes noted that typical cost share of a project was 75% from the federal government and 25% from the local entity, and the local entity would be responsible for an additional 10% following completion of the project. Based on that, for a billion dollar plus project, the implication for the local outlay was approximately \$370 million.

Another scenario presumed that segments 1b and 1c would continue outside the Corps's NED Plan; if they were going to get built they were going to have to have funding earlier, which meant that the non-federal outlay would have to be greater. The exact amounts would depend on the speed of the necessary approvals and could be as much as \$600-\$700 million. On the other hand, if approvals came through more quickly, execution might be more efficient and cost less, by eliminating delays, making contracts more scalable and predictable, and reducing mobilizations costs.

In closing, Mr. Byrnes stated that the life-cycle cost of maintenance was approximately 70% of the construction costs, and as this is a federal waterway, the maintenance costs needed to be covered by the federal government, paid from the Harbor Maintenance Trust Fund, and this needed to be made known to all parties. He asked if there were any questions; there were none.

RCA D1(b) "Port Authority financial responsibilities, as the non-federal sponsor, regarding Houston Ship Channel (i) construction and (ii) operation and maintenance."

Tim Finley, Chief Financial Officer, stated he would advise the commission of financing options, reiterating that the Port Authority would usually be required to provide the 25% cost share in advance to the Corps, and an additional 10% could be expended throughout the life of the project or over a 30-year period.

He added that regarding operations and maintenance, the Corps was 100% responsible for routine maintenance of the channel, but if an interim major repair or capacity project for placement areas occur, the Port Authority would be responsible for a 35% cost share.

Mr. Finley noted that as the commission considers funding options, ultimately a solution path outside of a "business as usual" approach with the Corps could influence the local share, meaning the "threshold" of 25% plus 10% may well be exceeded. If that were

the case, there were avenues for reimbursement from the Corps that, however, could be somewhat complicated.

Mr. Finley presented the following four options for consideration:

1. Traditional *ad valorem* tax-supported or General Obligation (“G.O.”) bonds, which would give the lowest cost of financing, given the tax base of Harris County;
2. State Legislature action could (a) amend the existing Ship Channel Security District, or create a new district made up of facilities and parcels that border the ship channel and (b) then authorize that district to sell bonds to pay all or a portion of the local share, and assess an *ad valorem* tax on those properties.

A benefit of this approach was of course tying the obligation to those facilities which would benefit more directly from a deeper, wider channel, though a smaller funding base could reduce debt capacity and/or increase the debt service burden on the members.

3. The creation of a district like a municipal utility district or “MUD” was an option, also requiring State Legislature action; a tax or assessment to support the debt service for a bond issuance would be levied on entities within the district.

Again, much like the district concept mentioned above, this would tie the funding to entities which would benefit from an expanded channel, though providing a smaller tax base than county-wide G.O. bonds.

As mentioned, options 2 and 3 require legislative involvement and due diligence regarding federal law to ensure proper structuring.

4. There were also several configurations of revenue bonds that could be leveraged to fund the local share.

The Port Authority has an historical precedent of engaging private industry to facilitate construction of navigation improvements, the Bayport Channel (working with Humble Oil in the 1960’s) being the prime example.

In this example, the Port Authority would contract with those industries most interested and favorably impacted by a wider and deeper channel, to bear a portion or all the debt service, with the Port Authority potentially bearing a portion of that burden as well, given the capacity offered to the container industry.

This has the advantage of not requiring legislative action. In addition, the bond markets were currently interested in “new debt profiles” such as this, which could potentially lead to reasonable financing terms.

On the other side of the coin, this more limited participation would increase the financing costs for the third parties and the Port Authority.

Finally, the debt service for a revenue bond issuance could be fully funded by the Port Authority. This would be the quickest means of raising money for the project, without requiring action by government agencies, though it would potentially carry with it some downside risk:

- a. The ability to continue to grow to meet regional and customer demand for capacity would be restricted, and in worst case begin a downward spiral, as Port Authority customers may be hesitant to commit strategically if the Port Authority’s ability to match their own growth plans was in question; and
- b. There was the possibility that if the Port Authority executed this option, other funding mechanisms as discussed previously could be reduced or taken off the table completely.

Discussion ensued regarding Mr. Finley’s comments. Commissioner Mease stated emphatically that something needed to be done today, noting that the Port Commission had been discussing this issue for the past seven years. It was also discussed that the revenue bonds would be the quickest route to take, and Chairman Campo had stated that he felt that industry would buy into the revenue bonds if the interim problems could be solved.

Commissioner Fitzgerald asked, if the Port Authority had the money available, whether it would speed up Congressional approval, and Mr. Byrnes replied that ports that are “putting skin the game” are getting authorized much more quickly. Commissioner Fitzgerald noted the first issue to be dealt with was starting the financing process. Commissioner Corgey asked Chairman Campo if he believed that industry would step up and pay a portion of the monies needed for widening and deepening, and he responded in the affirmative, noting that the Port Authority can pay a bigger portion, but that industry needs to contribute along with the federal government. He added that all parties needed to get together to discuss this matter, but the Port Authority did have the financial strength to increase its percentage and to take some risk associated with the program.

Commissioner DonCarlos inquired of Mr. Finley whether an additional one cent placed on the tax rate would raise approximately \$500 million; Mr. Finley replied that the Port Authority’s outstanding balance was currently \$700 million, and going the route of an

ad valorem tax, the Port Authority could receive approximately \$500 million and be looking at an equivalent of debt services payment, of anywhere from \$60-\$80 million.

Commissioner DonCarlos then asked Mr. Finley to explain how the Port Authority would collect the funds to repay revenue bonds and whether the Port Authority would require the users to pay a fee. Mr. Finley noted that the Port Authority could not levy a fee on the federal channel, and rather it would be proposed that the industry partners be responsible for a portion of the debt service and enter into such an agreement with the Port Authority.

Mr. Eriksson added that working with industry partners would allow the Port Authority to have access to more revenue streams to service a larger principal amount of bonds, and therefore enable it to bring more dollars to the table as far as the federal government was concerned. Chairman Campo added that it would be the contractual obligation of industry to pay a certain amount of the debt service on behalf of the Port Authority, and that payment terms would need to be worked out prior to the issuance of the revenue bonds, but this method would accelerate the project.

Commissioner DonCarlos asked how much the Port Authority could comfortably issue in revenue bonds serviced just by the Port Authority. Mr. Finley advised that he did not have an approximate number at that time but would report back, possibly at the April Port Commission meeting.

Commissioner Don Carlos inquired of Mr. Byrnes, based on the current plan and benefits to the petrochemical vessels, whether we knew how large the vessels could be and accommodate two-way traffic, and would it accommodate the larger tankers that currently have to sit off shore and off load.

Mr. Byrnes noted he would defer the second part of the question to Captain Mitchem, adding that there was currently a limit on combined beams of 310 feet in a 530-foot channel, and if the channel went to 700 feet, the combined beam would be proportionally larger, so larger ships would be able to fit two-way.

Captain Mitchem noted that very large container carriers (“VLCCs”) were 1,100 feet long and 200 feet wide, and the new Panamax container vessels were 1,200 feet long and 168 feet wide. The pilots felt that the channel would need to be widened to 800 feet to allow two-way traffic for these big vessels. He added that he knew that was not in the current plan but was advising that it would probably be the width needed in the future. He predicted that there might be traffic limitations for the bigger vessels in the future with a 700-foot width; however, for the present class of ships he did not expect limitations in a 700-foot channel, adding that he would have to do additional research on 1,200-foot vessels.

Mr. Guenther stated that modeling done by the Corps showed that the largest ship able to go thru the Panama Canal was 1,200 feet by 168 feet.

Commissioner Branch questioned why the Port Authority was not looking at the optimal sizing now, adding he did not feel that it was in the best interests of all to be looking at widening the channel another 100 feet if in the next 10 years we would be back at the same place when it sounds like Captain Mitchem is saying where we need to be is 800 feet, and whether it would be less expensive for the Port Authority to widen the channel to 800 feet now. Mr. Guenther agreed with Commissioner Branch; however, he stated that in the federal government's eyes, even going to 700 feet wide was not sufficiently beneficial to fund. Commissioner Corgey asked whether the difference in funding required for 700 feet versus 800 feet was known, and Mr. Guenther responded no.

Mr. Byrnes added that the process included an engineering cycle, from design to detailed design to implementation design. In conceptual design the alternatives ranged from 650 feet to 820 feet, and that math was done in terms of costs, benefits, etc. The current middle ground was set at 700 feet; but when the project gets into detailed design there could be conversations with the Pilots to perform more simulations or update what the real costs were based on the market, and optimize the width. Chairman Campo commented that the size was not currently set in stone and it does get down to money.

Commissioner Fitzgerald asked Captain Mitchem if he had done studies on passing lanes from where the Pilots board the vessel and Bayport, and Captain Mitchem replied that the Pilots did not think it was beneficial to do that, given the number of ships (approximately 55 or 60) that pass through the channel each day. He stated that it would be just as easy to dredge the whole channel as to dredge passing lanes, and passing lanes were more beneficial to ports that handled just a few vessels a day.

Commissioner Corgey asked Captain Mitchem how many VLCCs the Port of Houston would be looking at in the next 5-10 years. Captain Mitchem could not estimate how many would be coming, but noted that there were a few in the Gulf and there are a couple of proposals to put in very large crude carrier berths. He added that they were currently making regular calls to Texas City once a week. Mr. Guenther asked if the vessels influence one-way traffic on Houston Ship Channel ships, and Captain Mitchem replied there is a one-mile segment that was affected, which causes an approximate 6-7-minute delay. Mr. Guenther noted that the one-mile stretch was to get through to the Texas City "Y." Commissioner Corgey commented that parties needed to be careful and not dig a channel for ships that may not come, and Captain Mitchem replied that he did not know the answer to that but added "if you dig it, they will come."

Chairman Campo stated that it was like any other major construction project: “you can make it as big as you want if you can fund it.” The decision needs to be made as to how wide it should be and how it should be funded. Commissioner Corgey noted that in the 1990’s everyone appeared to be building bigger ships, but they faded out. Captain Mitchem responded that the ships built in the 1990’s were not built to code or current law.

Commissioner Mease asked what was going on in Washington. He remarked that the Port Authority pays its consultants in Washington a lot of money and was wondering what the Port Authority received in return. Mr. Guenther stated that the Port Authority had gone to the ASA and gotten a Congressional delegation letter, and it has industry support, and he felt the next steps were to continue to talk to the Administration and include the industry partners to get the deepening and widening authorized.

Chairman Campo responded that he felt the Port Authority had positioned themselves and the industry partners to be able to talk to parties in Washington and get them to listen. The reason for the meeting today was that the Port Authority obviously will need more money and the bottom line is it cannot do business as usual. It needs to be done as quickly as possible, so more cash needs to be committed than originally planned, and it will be necessary to take more risk. The Port Authority will have to take design risk on the front end before the approval process is completed. It takes a long time to design so the Port Authority needs to bring the risk to industry partners, and bring forth some financing mechanisms, and advise them of what the Port Authority was looking for from them as far as financial assistance.

Commissioner DonCarlos stated that he personally thought it was the responsibility of the commissioners to keep the Port of Houston competitive and a leader among U.S. ports, and it was his opinion that the Port Authority needed to take whatever reasonable risk was necessary and show up at the table and have the money ready to go. He also noted that it needed to be made clear to industry partners that they could not take a year to consider how they were going to help, and it was time for everybody to put everything on the table and proceed. All the commissioners agreed.

Chairman Campo asked if there any additional comments or questions. There were none.

(2019-0408-04) RCA D2 was presented, “Review, discussion, and possible action to fund a Houston Ship Channel traffic management group in an amount not to exceed \$500,000.”

Chairman Campo again reiterated the reason for the meeting was to try and solve the issues of trust and communication between industry partners and the Coalition. He noted that he had been talking to all groups and one of the mechanisms discussed was the

creation of a Pilot Board Ship Channel Management Group, where all the constituents could have a representative on the board so that everybody can come together to share data and try to improve the logistical efficiency of traffic on the channel. Ultimately, channel traffic control would still lie with the Pilots and the USCG, but the management group would be aware of what was happening on the channel and would be able to share the information with all.

Commissioner Branch inquired how this data was to be shared and stored. Chairman Campo stated that it would be part of the group's responsibility to ascertain how the information would be accessible. Chairman Campo proposed that the Port Authority authorize up to \$500,000 as start-up money, but emphasized that the group would be overseen by the Pilot Board. He noted that he had thought about asking other industry leaders to participate in the start-up money but felt time was of the essence and wanted to get the group started as soon as possible.

Commissioner Branch expressed concern that the commissioners would not be aware of how the money was going to be spent. Mr. Eriksson explained that this was just a proposal and that the stakeholders, Pilots, USCG, and industry members would have to come together and agree on a charter regarding what exactly this group would do. He noted there were already a lot of different groups, and some of the necessary data was also available for a price. The idea was to address the communication issue, and propose an item to act on today, so the process can start. Commissioner Corgey stated that he has served on a couple of these groups and they were very effective, and this would put the Port Authority in a position to let everybody know that it was willing to sit down and talk about the issues.

Commissioner Corgey moved for approval of \$500,000 for the Pilot Board to create and maintain a traffic management group. Commissioner Kennedy commented that he was hesitant to commit that amount of money to an organization that had no charter, and requested that the commission review the charter and proposed budget and after review and acceptance of the charter and budget, the money would be deposited. Commissioner Fitzgerald amended Commissioner Corgey's motion to reflect that the charter and budget be approved by the Port Commission before funds are deposited. Commissioner Branch seconded.

Chairman Campo, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy and Mease voted Aye. Nays none. RCA D3 PASSED.

(2019-0408-05) RCA D3 was presented, "Continued deliberation, public comment, and possible actions regarding measures to address one-way traffic impacts on the Houston Ship Channel, including possible limitations on ships calling at Port Authority container terminals."

Chairman Campo gave a brief history of events of the last two months. He stated that there had been meetings with all the constituents of the Port including last week; when he and Mr. Guenther visited Charlotte and Charleston and met with representatives of Mediterranean Shipping Company (“MSC”) and Maersk, which make up a little over one third of the container business coming to the Port Authority. Moreover, MSC is the only entity that is today bringing in ships that are larger than 1,100 feet. He added that there have been ten ships that have arrived since August of last year and another four are expected through the end of July.

The challenge with this issue was that the Port Authority did not want to negatively impact the shipping business and cause cargo to go elsewhere, while the Coalition had issues with obtaining some level of certainty in terms of making current investments and issues with the delays that one-way traffic caused.

Chairman Campo advised that he inquired of MSC if a limit of one ship per week and one sailing a day would negatively impact its business in 2019, and MSC answered probably not. Since the Port Authority has had only ten ships and four were expected thru July, if the commission agreed that the container business would not be negatively impacted, the proposed resolution provided for a business rule to be enacted for the container terminals stating that the Port Authority will accept only one very large container carrier per week and permit one sailing a day. It was not exactly the language the Coalition had proposed, as the Coalition language implied that the Port Authority had the right to regulate the channel – which it does not – but it does have the right to make a business decision to accept one ship per week and one sailing per day.

Chairman Campo felt that the proposed resolution would solve the problem with the Coalition in the interim period and allow the Port Authority to move forward with the other two items, i.e. with the traffic management group and over the long term aligning us with the energy businesses to finance the widening and deepening of the channel.

Commissioner Fitzgerald asked Chairman Campo what would happen six months from now if another carrier wanted to bring in one VLCC per week – what would the Port Authority do with them? Chairman Campo responded that the Port Authority would need to deal with the situation as it arose. This rule would be in place and if another ship sought to come in, the Port Authority would just have to make sure it managed the matter in a way that did not create a problem with one-way traffic that week.

Commissioner DonCarlos asked that this matter be addressed in Executive Session as was noted on the agenda.

Commissioner Fitzgerald asked Captain Mitchem if the Houston Pilots had met to discuss the issue of smaller vessels passing the large container vessels on the ship channel. Captain Mitchem responded that they had not yet met, but it was his feeling that if more than one very large container carrier per week arrived, the Pilots would be able to arrange traffic so that there would be minimal disruption. Safety was the number one priority, noting that with 1,100-foot vessels some small ships could pass, but with larger vessels that would create a one-way traffic situation until the channel got widened.

Commissioner Fitzgerald inquired if the 1,100-foot restriction applied to all vessels on the channel, and Chairman Campo noted that the resolution stated “any vessel that imposes one-way traffic.” Mr. Eriksson added that the resolution was worded to refer to one-way within Galveston Bay, and was not intended to address other one-way restrictions in other reaches of the channel but rather the one-way restriction to Barbours Cut and Bayport Terminals.

At 11:23 a.m., Chairman Campo called for a brief recess and advised that the Executive Session would follow. At 11:35 a.m., Chairman Campo instructed Mr. Eriksson to make the following announcement:

It is now 11:35 a.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 possible limitations on ships calling Port Authority container terminals. The Port Commission will reconvene in public session after the closed meeting is adjourned.

Immediately thereafter the Port Commission retired into closed session.

At 12:07 p.m., Chairman Campo reconvened the open meeting at the Port of Houston Authority Executive Office Boardroom, at 111 East Loop North, Houston, Texas 77029, with the following Commissioners, staff and counsel in attendance:

Ric Campo, Chairman
Theldon R. Branch, III, Commissioner
Dean E. Corgey, Commissioner
Stephen H. DonCarlos, Commissioner
Clyde E. Fitzgerald, Commissioner
John D. Kennedy, Commissioner

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

Mr. Eriksson asked Chairman Campo that he proceed to explain what was intended in the proposed resolution, first noting that a change should be made to the draft to clarify that it was addressing only “subject vessels” calling on a Port Authority terminal.

- A “subject vessel” was a vessel that imposes a one-way rule in Galveston Bay, and that was why the resolution stated “Port of Houston,” as it applies to all vessels.
- Only one subject vessel could call on a Port Authority terminal a week and only one arrive or depart on the same day.

Mr. Eriksson noted that there was currently one-way traffic in other reaches of the ship channel. For example, at its upper reaches the Houston Pilots have imposed one-way traffic for many years for car carriers, and separately, if the combined beams of vessels exceed “x” they cannot pass one another, so one-way traffic is not a new thing.

- Item 1 on the Resolution should read as follows:

“Only one vessel that imposes “one-way traffic” on all deep-water ships transiting the Houston Ship Channel ~~through~~ within Galveston Bay to call on all facilities within the Port of Houston (a “Subject Vessel”) may call on a Port Authority terminal in a given week, and no Subject Vessel shall call and depart from a Port Authority terminal on the same day.”

- Mr. Eriksson explained item 2 which read:

“Every Subject Vessel must be capable of turning around within the turning basin serving the applicable Port Authority terminal.”

Mr. Eriksson noted that the Coalition resolution used that language, and added he thought the intent was to address the possibility that a vessel might turn around in the ship channel.

- Mr. Eriksson explained item 3 which read:

“The Executive Director of the Port Authority is authorized to do and perform all acts and things, and to execute and deliver in the name and on behalf of the Port Authority, all instruments and other documents, including tariff amendments, as are necessary or desirable to carry out this Resolution.”

He noted that there was an item on the upcoming agenda to address some of the financial impacts that certain vessels experience because of other one-way traffic, and similarly staff expected there would be an opportunity to put in place tariff amendments regarding the resolution to present at the next Port Commission meeting, so not only would there be a resolution, but there would also be a tariff.

Commissioner DonCarlos moved to adopt the Resolution with the amendments as noted by Mr. Eriksson. He also requested that administration and staff explain to customers the steps taken today and in the next meeting to alleviate the one-way traffic situation. Commissioner Branch seconded the motion.

Commissioner Fitzgerald asked if he voted in favor of the Resolution and six months from now if the container businesses needed some additional capacity into Houston, would the commission have a right to discuss and handle that situation. Chairman Campo informed him that the commission has the right to discuss anything relating to the Port Authority's business or overall welfare. Chairman Fitzgerald also concurred with Commissioner DonCarlos's request that Chairman Campo sit down and explain to all the customers what is being done to alleviate the one-way traffic issue. Chairman Campo stated that he would be happy to do so.

Commissioner Mease noted that it was not the Port Commission that decided on one-way traffic, it was the Houston Pilots, and was not sure what the resolution was going to accomplish other than playing politics with the Coalition. He felt very strongly that the oil industry and Jim Teague of Enterprise Products Partners L.P. in particular had not treated the commission with any respect. He asked that if the Coalition members were so concerned, why did they not participate in the public meetings?

Commissioner Corgey stated that the commission was negotiating in good faith and that was what has made the Port Authority a success. Commissioner Mease commented that the Coalition didn't negotiate in good faith. Commissioner Branch said that Commissioner Mease's point was well taken. He added that from the very beginning of the start of the Coalition to now, the commission had done everything possible to try and work with them and give them a comfort level that the commission would continue to work with them. The resolution was an affirmation that it was the intent to continue to work with them to resolve the issues that need to be resolved to make all the stakeholders equal and whole.

Commissioner Mease agreed with Commissioner Fitzgerald's request that Chairman Campo meet with all industry members, and also felt it had been very one-sided, that only a couple of weeks ago did the Port Authority even take the time to talk to the other side and that was not right. If the commission was going to take the time to meet with all stakeholders, he would support the resolution, if not, he was against it.

Chairman Campo stated that fundamentally the Port Authority needed to make sure that all its constituents have the right information that exists on the table today and the Port Authority needed to listen to all stakeholders, adding that was the reason for the long meetings.

Commissioner Fitzgerald asked Chairman Campo what he was planning on doing to notify everybody of the outcome. He suggested having a press conference and sending the message to the shipping community that there will be restrictions for a short period of time, while the channel was dredged and widened. The Chairman should set up a working group to immediately start the funding process so that the Port Authority move along with the improvements. Commissioner Fitzgerald also noted that it was not only about the steamship lines but was also about the people that were shipping the cargo. Chairman Campo concurred and reminded the commission that one of his five points that he spoke about three meetings ago was advancing the interests of the Port Authority and making sure that people were aware of its value to Houston, the state, and the nation.

Commissioner Mease asked Mr. Guenther for his comments. Mr. Guenther stated that he had been very engaged and had raised a lot of points during discussions about the risks involved. He felt the Port Authority had built the business and made the investments to attract growing ships and did not feel it had been a secret that the Port Authority was planning for larger vessels. He also commented that there was a lot on the table today and thought that the commission needed to make sure that they were doing everything that they could to continue to grow the Port Authority business.

He further noted that he had engaged stakeholders from the very beginning about the Port Authority's intentions for deepening and widening the channel. While he acknowledged that there were fingers pointed in his direction about not sharing things, he reiterated that he had engaged the stakeholders from the beginning and they knew about the widening and deepening of the channel. In conclusion he emphasized the Port Authority's role was to make sure that the channel was always there and do everything to make sure the channel was there to serve everybody in the future.

Commissioner DonCarlos closed the remarks by stating that while he made the motion, he was not at all pleased about having to do this. In his opinion all the entities involved, from the petroleum stakeholders to the cargo stakeholders, and all in between, should have come in and sat down and worked with the commission on a solution. He felt the most important thing to come out of this meeting was that the Port Authority was on a path forward to get the channel widened and ready to put significant amounts of its money on the table to make it happen.

Chairman Campo called the question. Chairman Campo, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald and Kennedy voted Aye. Commissioner Mease abstained. MOTION PASSED.

At 12:22 p.m. Chairman Campo adjourned the Port Commission meeting.

The above is a correct copy of the Minutes of the April 8, 2019 special meeting of the Port Commission of the Port of Houston Authority.



Ric Campo, Chairman



Erik A. Eriksson, Secretary

Meeting

Apr 8, 2019 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

Subject

D.2. Review, discussion, and possible action to fund a Houston Ship Channel traffic management group in an amount not to exceed \$500,000.

Recommended Action

The Port Commission, at its April 8, 2019 meeting, review, discuss, and take possible action to fund a Houston Ship Channel traffic management group in an amount not to exceed \$500,000, 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:

General

Department:

Executive

Staff Contact:

Erik Eriksson

Background:

Chairman Campo has proposed that the Pilot Board create and maintain a traffic management group as more particularly described on Exhibit A.

Staff Evaluation/Justification:

Staff now requests that the Port Commission review, discuss, and take possible action to fund such Houston Ship Channel traffic management group in an amount not to exceed \$500,000.

Exhibit A**Pilot Board Traffic Management Group**

The Pilot Board would create and maintain an advisory committee (the "Committee") for the purpose of (i) fairly and transparently monitoring Houston Ship Channel ship traffic, in order to secure efficient pilot services, and (ii) reviewing pilot working rule proposals and safety guideline enactments applicable to pilots or the ports and navigable waters subject to the jurisdiction of the board. The Committee would work with the Houston Area Vessel Traffic Service (VTS) and Lone Star Harbor Safety Committee in connection with these matters.

The membership of the Committee would include, at a minimum, representatives of:

- (1) the Houston Pilots Association;
- (2) the barge/tow boat operator industry;
- (3) the chemical tank vessel owner/operator industry;
- (4) the container ship operator industry;
- (5) the Galveston-Texas City Pilot's Association;
- (6) the harbor tug operator industry;
- (7) the Marine Exchange;
- (8) the non-liquid/dry cargo vessel operator industry;
- (9) the Pilot Board;
- (10) the tank vessel owner/operator industry; and
- (11) the United States Coast Guard.

Committee members would meet on a regular basis to collect information and data from Houston Ship Channel stakeholders as necessary to understand current and projected ship channel traffic conditions, and regularly report back to the Pilot Board on such matters.

In addition, except as described below, the Houston Pilots would submit working rule proposals to the Pilot Board Secretary who would distribute them to the members of the Committee for their consideration. Committee members would collect comments and data from Houston Ship Channel stakeholders to permit them to review such proposals. Such submittal and consideration would occur reasonably in advance of the time the Houston Pilots intended to act on any such proposal.

Notwithstanding the foregoing, the Houston Pilots could adopt or amend navigation safety guidelines, prior to review by the Committee, if necessary:

- (1) as a result of changed circumstances to maintain navigational safety within the ports and navigable waters under the jurisdiction of the board; or
- (2) to comply with directives issued by the United States Coast Guard, the federal Department of Transportation, including the Maritime Administration, the federal Department of Homeland Security; or any other federal or state agency with authority over the ports and navigable waters within the jurisdiction of the board.

The Houston Pilots would promptly advise the Pilot Board Secretary of such action, who would in turn distribute the adopted or amended guidelines to the members of the Committee.

The Committee would promptly meet after submittal of each working rule proposal or guideline action, and completion of data collection and outreach, to review such proposal(s) or guideline(s) and take action to advise the Pilot Board whether they maintain traffic in the Houston Ship Channel in a manner consistent with

- (1) best practices for the navigation of deep draft vessels;
- (2) fair and equitable access to the ship channel for all deep-draft vessels; and
- (3) federal law.

To carry out these responsibilities, the Committee would elect a chair, set policy, adopt rules and procedures, and prepare and approve budgets, and could create subcommittees and working groups to support its work. In addition, it would have the power to request that the Pilot Board hire staff, consultants, and vendors to provide manpower, expertise, data, and equipment to assist with carrying out its responsibilities.

The Committee would be funded by the Port Authority as reasonably required by its Committee-approved budget.

Meeting

Apr 8, 2019 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

Subject

D.3. Continued deliberation, public comment, and possible actions regarding measures to address one-way traffic impacts on the Houston Ship Channel, including possible limitations on ships calling Port Authority container terminals.

Action**Recommended Action**

The Port Commission, at its April 8, 2019 meeting, continue to deliberate, hear public comment, and take possible actions regarding measures to address one-way traffic impacts on the Houston Ship Channel, including possible limitations on ships calling Port Authority container terminals, 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:

General

Department:

Executive

Staff Contact:

Roger Guenther

Background:

Last summer, the Houston Pilots announced that several safety protocols for handling vessels over 1,100 feet in length would begin to affect Houston Ship Channel traffic. Those measures limit these larger ships to daylight passage and one-way traffic, beginning north from the point the channel narrows to 530 feet at the intracoastal waterway.

Ten container vessels have now been subject to this protocol since the first arrived in September.

Port Authority staff, the Houston Pilots, and representatives of the liquid bulk industry (including members of the "Coalition for a Fair and Open Port"), container lines, and other cargo carriers calling Houston have worked to review these protocols and resolve short-term stakeholder concerns, the Pilots have taken several measures as a result, and these developments have been previously reported to the Board of Pilot Commissioners. Legislation has also been filed by Texas legislators to potentially address these matters.

Meanwhile, it is also the Port Authority's highest priority to obtain authorization, funding, and completion of the widened ship channel, to allow it to best handle the growth in our thriving region. Though this work will take several years, the Port Authority is working with the U.S. Army Corps and others to accelerate the process, and the widened channel (as well as vessel experience) should result in easing these protocols.

Staff Evaluation/Justification:

The Port Commission most recently considered these matters at its March 26, 2019 meeting. Staff now requests that the Port Commission again deliberate, hear public comment, and consider guiding staff regarding measures that the Port Authority may undertake, in collaboration with ship channel stakeholders, to continue to minimize or prevent impacts to traffic on the Houston Ship Channel, including one-way traffic impacts. Attached as Exhibit A is a draft resolution of the Port Commission that would impose limitations on ships calling Port Authority container terminals, as more particularly set forth therein.

Exhibit A

RESOLUTION REGARDING CERTAIN VESSELS
CALLING PORT AUTHORITY TERMINALS

THE STATE OF TEXAS §
COUNTY OF HARRIS §
PORT OF HOUSTON AUTHORITY §

A. The Port Commission (the “Port Commission”) of the Port of Houston Authority of Harris County, Texas (the “Port Authority”) facilitates navigation within, and helps improve, the Port of Houston and the Houston Ship Channel and its tributary waterways, and manages, governs, and controls the operations and development of the Port Authority;

B. The Houston Pilots Association represents the branch pilots licensed by the State of Texas to provide pilot services for Harris County ports including the Port of Houston and the Houston Ship Channel;

C. The “Working Rules, Including Navigation Safety Guidelines for the Houston Ship Channel” (the “Guidelines”) promulgated by the Houston Pilots Association currently provide that vessels greater than 1,100 feet in length shall not meet any other ships in the Houston Ship Channel north of “Buoy 18;”

D. Unlike other provisions of the Guidelines that similarly bar vessels from meeting other ships in the Houston Ship Channel, when this limitation is in effect it imposes “one-way traffic” on all deep-water ships transiting the Houston Ship Channel through Galveston Bay in order to call facilities within the Port of Houston (the “One-way Limitation”);

E. The Port Authority is working with the U.S. Army Corps of Engineers and other representatives of the federal government, as well as Port of Houston and Houston Ship Channel stakeholders, to obtain authorization, and accelerated funding and completion, of the widened ship channel, which together with vessel experience, should result in easing the One-way Limitation.

F. Until the Galveston Bay reach of the Houston Ship Channel north of Buoy 18 can be widened to accommodate all traffic, an interim solution to address the One-way Limitation may help maintain two-way traffic during daylight hours along that portion of the ship channel; and

G. Failing to implement an interim solution to the One-way Limitation may give undue or unreasonable preference or advantage, or impose undue or unreasonable prejudice or disadvantage, with respect to Port of Houston and Houston Ship Channel participants.

NOW THEREFORE BE IT RESOLVED, that

1. Only one vessel that imposes “one-way traffic” on all deep-water ships transiting the Houston Ship Channel through Galveston Bay to call facilities within the Port of Houston (a “Subject Vessel”) may call on a Port Authority terminal in a given week, and no Subject Vessel shall call and depart from a Port Authority terminal on the same day.

2. Every Subject Vessel must be capable of turning around within the turning basin serving the applicable Port Authority terminal.

3. The Executive Director of the Port Authority is authorized to do and perform all acts and things, and to execute and deliver in the name and on behalf of the Port Authority all instruments and other documents, including tariff amendments, as are necessary or desirable to carry out this Resolution.

PASSED AND APPROVED this _____, 2019.

Chairman, Port Commission
Port of Houston Authority of
Harris County, Texas

ATTEST:

Secretary, Port Commission
Port of Houston Authority of
Harris County, Texas