

**CALHOUN PORT AUTHORITY
REGULAR MEETING
October 13, 2021**

A regular meeting of the Calhoun Port Authority was held on Wednesday, October 13, 2021 at 9:00 a.m. in the Calhoun Port Authority Board Room, Calhoun Port Authority Office, Point Comfort, Texas

Board Members attending in person or via telephone were:

Commissioner # 1 – Marty Strakos
Commissioner # 2 – Jay Cuellar – via telephone
Commissioner # 3 – J.C. Melcher, Jr.
Commissioner # 4 – Luis De La Garza
Commissioner # 5 – Johnny Perez
Commissioner # 6 – Dan Krueger

Staff Members attending were:

Charles R. Hausmann – Port Director
Forrest Hawes – Deputy Port Director
Alan Sanders – Moore Landrey Law Firm
Felicia Harral – Director of Engineering
Miranda Malek – Administrative Assistant

Others attending were:

Carl Smith – NGL
Rhonda Cummins – Point Comfort Seafarers Center
Meg Thorton – Mott McDonald – via telephone
Aaron Horine – Mott McDonald – via telephone
Alfred Aparicio – Alcoa
Mark Rosenberg – *The Advocate*
DD Turner – *The Wave*
Joyce Turner

Agenda Item No. 1: Call to Order:

Board Chair Luis De La Garza called the Regular Meeting to order at approximately 9:00 a.m. He announced that the agenda of the meeting was posted in accordance with the provisions of the Texas Open Meetings Act.

Agenda Item No. 2: Safety Briefing, Pledge of Allegiance and Invocation.

Board Chair Luis De La Garza briefly spoke on safety practices that should be exercised in an office setting. All attendees of the meeting were briefed on the location of life saving devices and the closest assembly point in the event of a Shelter In Place incident. The Pledge of Allegiance was led by Board Chair Luis De La Garza followed by a brief prayer over the proceedings.

Agenda Item No. 3: Public Comment Written or Oral.

Ms. Rhonda Cummins spoke on behalf of the Point Comfort Seafarers Center.

Agenda Item No. 4: Approve the minutes of the Wednesday, September 8, 2021 Regular Meeting.

The Board Members reviewed the minutes from the Wednesday, September 8, 2021 Regular Meeting. Pursuant to further review and discussion, a motion was made by Board Member J. C. Melcher, Jr. to approve the minutes as presented. The motion was seconded by Board Member Dan Krueger and the motion carried unanimously.

Agenda Item No. 5: Review of Financial Reports: All Funds.

Deputy Director Forrest Hawes presented the following financial information to the Board Members for Review:

Fund Balance Report as of September 30, 2021:

- 1.) Accounts Receivable Report as of September 30, 2021
- 2.) Mr. Hawes reported to the Board Members that the accounts receivable report specified that the accounts receivable was 94% current as of September 30, 2021.

Agenda Item No. 6: Approval of Disbursements and Transfers: All Funds

The Board Members reviewed the October 13, 2021 Port Operations Account disbursements. Pursuant to review, a motion was made by Board Secretary Johnny Perez to approve disbursements and the corresponding transfers for October 13, 2021. The motion was seconded by Board Member Marty Strakos and the motion carried that the disbursements and the corresponding transfers be approved.

TRANSFER NO.	FUND ACCOUNT	AMOUNT
GROSS REVENUE FUND		
2021-053	To Port Operations Fund	\$75,530.79
2021-054	To Port Operations Fund	\$75,787.53
2021-056	To Port Operations Fund	\$923,291.71
	Total	\$1,077,610.03
BUSINESS DEVELOPMENT FUND		
2021-056	To Port Operations Fund	\$234.28
	Total	\$234.28
MAINTENANCE & OPERATIONS FUND		
2021-056	To Port Operations Fund	
	Total	
AN/NH3 OPERATING FUND		
2021-056	To Port Operations Fund	\$41,521.62

Total	\$41,521.62
TOTAL TRANSFERS TO PORT OPERATIONS ACCOUNT	\$1,119,365.93

INTERFUND TRANSFERS

DATE	FROM	TO	AMOUNT
10/13/21	AN/NH3 Operating	AN/NH3 Dep M/R	\$7,500.00
	Total		\$7,500.00

Agenda Item No. 7: Port Director’s Report.

Charles R. Hausmann, Port Director, reported the following:

- A. Harbor Traffic Statistics for the month of September:
 That a total of 98 vessels had arrived at the public port facilities during the month of September; 25 deep draft arrivals and 73 inland barges and a total of 216 invoices were issued. Further, that 19 deep draft vessels were already on schedule for October arrival.
 Total revenue tons for the month of September were 419,959.5 short tons. Total throughput for the first quarter of the fiscal year were 1,200,048.2.
- B. NGL loaded out 6 crude oil barges totaling 19,693.8 short tons.
- C. Harvest loaded out 2 crude oil barges totaling 7,214.7 short tons.
- D. Port Maintenance continued to work on electrical repairs to the cathodic protection system, continued installing new lighting and continued to do their weekly inspections of port equipment.
- E. Due to Hurricane Nicholas the Port was at -35.0 feet of draft. One foot of draft was lost due to shoaling.

Agenda Item No. 8: Review and Consideration of Approval of Board Members Committee/Attendance, Committee Travel Request.

Pursuant to further review and discussion, a motion was made by Board Secretary Johnny Perez to approve the Executive Committees’ trip to Port Arthur. The motion was seconded by Board Member Jay Cuellar and the motion carried with Board Member J. C. Melcher, Jr. voting against the motion.

Agenda Item No. 9: Review and Discuss Committee Reports.

No action was taken.

Agenda Item No. 10: Review and Consideration of a 4th Amendment to the Lease between the Calhoun Port Authority and NGL Crude Terminals LLC Reducing the 10.45 Acre Tract to 9.83 Acres.

The Board Members reviewed copies of the 4th Amendment to the Lease by and between the Calhoun Port Authority and NGL Crude Terminals LLC with the new plat and description of the tract. This reduction was due to the new access road into the Joslin tract that was constructed by Max Midstream for the Port. Future rent payments will be reduced by 0.62 acres in the remaining years of the

lease. Pursuant to further review and discussion, a motion was made by Board Member J. C. Melcher, Jr. to approve the 4th Amendment to the Lease between the Calhoun Port Authority and NGL Crude Terminals LLC. The motion was seconded by Board Secretary Johnny Perez and the motion carried unanimously.

Agenda Item No. 11: Review and Consideration of an Amendment to the Lease between the Calhoun Port Authority and NGL Crude Terminals LLC Reducing the 35.55 Acre Tract to 34.12 Acres.

The Board Members reviewed copies of an Amendment to the Lease by and between the Calhoun Port Authority and NGL Crude Terminals LLC with the new plat and description of the tract. This reduction was due to the new access road into the Joslin tract that was constructed by Max Midstream for the Port. Future rent payments will be reduced by 1.43 acres in the remaining years of the lease. Pursuant to further review and discussion, a motion was made by Board Member J. C. Melcher, Jr. to approve the Amendment to the Lease between the Calhoun Port Authority and NGL Crude Terminals LLC. The motion was seconded by Board Member Marty Strakos and the motion carried unanimously.

Agenda Item No. 12: Review and Consideration of an Easement between the Calhoun Port Authority and NGL Crude Terminals LLC for access to the Joslin Tract of Land.

The Board Members reviewed a copy of the easement that was comprised of the new access road built by Max Midstream for the port tenants to access their leaseholds without going through the middle of Max Midstream Lease. This lease also covered a thirty-foot easement that runs alongside the western boundary of the NGL 9.83-acre tract. Pursuant to further review and discussion, a motion was made by Board Secretary Johnny Perez to approve an Easement between the Calhoun Port Authority and NGL Crude Terminals LLC for access to the Joslin Tract of Land. The motion was seconded by Board Member J. C. Melcher, Jr. and the motion carried unanimously.

Agenda Item No. 13: Review and Consideration of an MOU with the Calhoun Port Authority, the City of Point Comfort and Calhoun County.

No action was taken on this agenda item.

Agenda Item No. 14: Review and Consideration of Contractors/Consultants for Step 3, Conduct Investigations, for the Bean Tract Mitigation Site to include Geophysical and Environmental Soil Sampling Consultant Proposals.

The Board Members reviewed an email from Port Engineer Felicia Harral discussing additional work that needed to be completed for the Bean Tract Mitigation Project. Ms. Harral provided two proposals for the Boards consideration; one from Tolunay Wong Engineers for the Geophysical sampling costing \$101,205.00 and the other from Lloyd Engineers for Environmental Sampling costing \$40,850.25. Pursuant to further review and discussion, a motion was made by Board Secretary Johnny Perez to accept the two proposals presented by Port Engineer Felicia Harral for Step 3: Conducting Investigations, for the Bean Tract Mitigation Site to include Geophysical and Environmental Soil Sampling. The motion was seconded by Board Member J. C. Melcher, Jr. and the motion carried unanimously.

Agenda Item No. 15: Review and Consideration of Contractors/Consultants of MSCIP, Maritime Archeology Proposal.

The Board Members reviewed an email from Ms. Meg Thornton with Mott McDonald depicting a table showing the comparison of the two firms that were contacted to conduct the Maritime Archeology work on the relocation of Pipelines for the Matagorda Ship Channel Improvement Project. Ms. Thornton recommended the firm of Gary and Pape at a cost of \$303,870 to complete the Maritime Archeology portion of the pipeline relocations and the entire dredging project. Pursuant to further review and discussion, a motion was made by Board Secretary Johnny Perez to approve the use of Gary & Pape for the Maritime Archeology portions of the project. The motion was seconded by Board Member J. C. Melcher, Jr. and the motion carried with Board Member Marty Strakos voting against the motion.

Agenda Item No. 16: Review and Consideration of Continuation of the MSCIP, Pipeline Relocation Services with additional Proposals.

The Board Members reviewed task order #03 from Mott McDonald detailing the total estimated cost to continue with the pipeline relocation including program management and engineering management in the amount of \$284,080.00. Pursuant to further review and discussion, a motion was made by Board Member J. C. Melcher, Jr. to approve the continuation of the MSCIP, Pipeline Relocation Services with the additional proposals totaling \$284,080.00. The motion was seconded by Board Member Dan Krueger and the motion carried unanimously.

Agenda Item No. 17: Review and Consideration of a Consent and Agreement Regarding Collateral Assignment of Lease (as amended by and between Calhoun Port Authority as Lessor and Port Comfort Power, LLC as Lessee, together with their respective permitted assigns or successors), by and between said Lessor, said Lessee, and Investec Bank, PLC as Collateral Agent for Secured Parties (as more particularly set forth in a Collateral Agency and Intercreditor Agreement dated effective as of September 24, 2021 by and among Peaker Holdings, LLC; Texas Peaker Power LLC; Port Comfort Power LLC; Investec Bank, PLC.)

The Board Members reviewed a copy of the Consent and Agreement Regarding the Collateral Assignment of Port Comfort Power, LLC's improvements on their 1.95-acre tract leasehold to the Investec Bank, PLC. Pursuant to further review and discussion, a motion was made by Board Secretary Johnny Perez to approve the Consent and Agreement Regarding Collateral Assignment of Lease (as amended by and between Calhoun Port Authority as Lessor and Port Comfort Power, LLC as Lessee, together with their respective permitted assigns or successors), by and between said Lessor, said Lessee, and Investec Bank, PLC as Collateral Agent for Secured Parties (as more particularly set forth in a Collateral Agency and Intercreditor Agreement dated effective as of September 24, 2021 by and among Peaker Holdings, LLC; Texas Peaker Power LLC; Port Comfort Power LLC; Investec Bank, PLC.) The motion was seconded by Board Member J. C. Melcher, Jr. and the motion carried unanimously.

Agenda Item No. 18: Closed Session: As Authorized by Tex. Gov't Code §551.087(1); to discuss or deliberate regarding commercial information that the Port has received from a business prospect that the Port seeks to have locate, stay, or expand in or near the territory of the Port and with which the Port is conducting economic development negotiations. No discussions or deliberations shall be conducted in the presence of any business prospect, the presence (if any) of which shall be limited to presentation of information relevant to the potential economic development activity and with respect to such information if it is of a confidential or business-proprietary nature.

As Authorized by Tex. Gov't Code §551.072 for the purpose of discussion with respect to the purchase, exchange, lease or value of real property. No discussions or deliberations shall be conducted in the presence of any business prospect, the presence (if any) of which shall be limited to presentation of information relevant to the potential economic development activity and with respect to such information if it is of a confidential or business-proprietary nature.

As Authorized by Tex. Gov't Code §551.071(2): to seek the advice of its attorney. No discussions or deliberations with legal counsel shall be conducted in the presence of any business prospect or any other third party that may result in waiver of the attorney-client privilege.

Board Chair Luis De La Garza announced that As Authorized by Tex. Gov't Code §551.087(1); to discuss or deliberate regarding commercial information that the Port has received from a business prospect that the Port seeks to have locate, stay, or expand in or near the territory of the Port and with which the Port is conducting economic development negotiations. No discussions or deliberations shall be conducted in the presence of any business prospect, the presence (if any) of which shall be limited to presentation of information relevant to the potential economic development activity and with respect to such information if it is of a confidential or business-proprietary nature.

As Authorized by Tex. Gov't Code §551.072 for the purpose of discussion with respect to the purchase, exchange, lease or value of real property. No discussions or deliberations shall be conducted in the presence of any business prospect, the presence (if any) of which shall be limited to presentation of information relevant to the potential economic development activity and with respect to such information if it is of a confidential or business-proprietary nature.

As Authorized by Tex. Gov't Code §551.071(2): to seek the advice of its attorney. No discussions or deliberations with legal counsel shall be conducted in the presence of any business prospect or any other third party that may result in waiver of the attorney-client privilege.

"No action or consensus would be taken in closed session". The Board convened in Closed Session at 10:37 a.m. after a 5-minute recess.

Agenda Item No. 19: Return to Open Session and take any action deemed necessary based on discussion in Closed Session.

The Board adjourned the Closed Session at 11:13 a.m. Board Chair Luis De La Garza announced that "No action or consensus had been taken in closed session".

Agenda Item No. 20: Receive Chief Executive and Commissioners Comments.

No action was taken.

Agenda Item No. 21: Adjourn.

There being no further business to be brought before the Board, a motion was duly made that the meeting be declared adjourned at approximately 11:15 a.m. on Wednesday, October 13, 2021.


Luis De La Garza, Board Chair

ATTEST:


Johnny Perez, Board Secretary