

The Port of Virginia Structural Review Committee
Open Session Minutes
July 26, 2005

Committee Members Present:

Conway W. Sheild, III, Committee Chair
Joshua P. Darden, Jr.
Deborah K. Stearns
Mark B. Goodwin
Regina P. Brayboy
John G. Milliken, Ex Officio

Staff:

J. Robert Bray, Executive Director
J. J. Keever, Deputy Executive Director
Rodney W. Oliver, Director of Finance
Thomas D. Capozzi, Senior Managing Director of Marketing Services
Gregory J. Edwards, Managing Director of Marketing – Midwest,
South America & Intermodal
Linda G. Ford, Director of Port Promotion
Kevin D. Burwell, Director, Business Analysis and Strategy
Joe Harris, Media Relations Manager
Debra J. McNulty, Clerk

Guests:

Richard L. Walton, Jr., Senior Assistant Attorney General and
Section Chief for Transportation
Edward L. Brown, Sr., International Vice President, International Longshoremen's Association
B. W. (Bill) Franks, Division President, Lydall Logistics Management
John M. Ryan, Vandeventer Black, LLP (VIT Corporate Counsel)
Joseph D. Dorto, General Manager, VIT
W. Millard Meiggs, Chief Financial Officer, VIT
Arthur W. Moye, Jr., Executive Vice President, Hampton Roads Maritime Association
Roger Geisinger, President, Hampton Roads Shipping Association
Don Faircloth, CP&O, LLC

Members of the Media:

Carolyn Shapiro, *The Virginian-Pilot*
Peter Dujardin, *The Daily Press*

Pursuant to call by Mr. Sheild, The Port of Virginia Structural Review Committee convened an open meeting on this date at 2:00 p.m., at Norfolk International Terminals (NIT) – Crumbley House, Norfolk, Virginia.

Mr. Sheild presented the minutes of the June 30, 2005 meeting, for approval. Mr. Goodwin had one revision to the minutes clarifying his question regarding certification of ILA employees.

Action: Upon motion by Ms. Brayboy, seconded by Mr. Darden, the minutes of The Port of Virginia Structure Review Committee meeting of June 30, 2005, were approved with the revision as noted by Mr. Goodwin.

Mr. Sheild introduced Mr. Edward L. Brown, Sr., International Vice President, International Longshoremen's Association (ILA). Mr. Brown shared some of his experiences on the Hampton Roads' waterfront. He announced that next year marks his 50-year anniversary as a member of the ILA. Mr. Brown remembered that he was told, "...over and over again that my Port would be a feeder port", to New York, Baltimore and Charleston or Savannah. He said he never believed that.

Mr. Brown said the partnership between VPA/VIT and ILA contributes to the success and growth of The Port of Virginia. Mr. Brown said increased man-hours, due to the Port's growth, provide ILA employees with good pay, benefits, and scholarships. He said none of that would have been possible if management and labor did not have a good working relationship. Mr. Brown also talked about his efforts in marketing the Port in his travels throughout the world.

Mr. Brown mentioned the recent ILA contract negotiations. He said the contract provides fair and reasonable compensation to workers and also maintains the opportunity for the port to remain competitive in order to "meet and beat the competition".

Each of the Committee members expressed their appreciation to Mr. Brown for his testimony. Ms. Stearns explained that the Committee was tasked to study the relationship between VIT and VPA and also other operating companies. She asked Mr. Brown if he believed there should be any change to the relationship between VPA and VIT. Mr. Brown advised that the Port needed to continue attracting distribution centers and industries to Hampton Roads, however, he felt that the relationship between VPA and VIT is one that has worked well and did not need to change.

Ms. Brayboy congratulated Mr. Brown on 50 years' of service. Ms. Brayboy asked Mr. Brown for his opinion regarding the disclosure of VIT salaries. Mr. Brown felt that disclosure of salaries would not impact users of the port but that the subject needed to be looked at very carefully because other ports do not disclose salaries. He added that management might have to release other confidential formulas once salaries are disclosed.

Mr. Darden remarked that he and Mr. Brown go back a long way when they "started NIT on a shoestring".

Mr. Sheild agreed with Mr. Brown that there are competitive factors to consider and the need to maintain the cost structure, from a pricing standpoint. Mr. Sheild asked Mr. Brown, "Do you see any changes that need to be put in place to study that periodically?"

Mr. Brown mentioned the HRMA/ILA Productivity Committee that studies ways and means at all terminals. The committee is comprised of labor and management. He said they are continually aware of technological advances that could improve productivity in every operating area. Mr. Dorto advised that there are two VIT representatives who sit on the Productivity Committee.

Mr. Milliken expressed appreciation for the ILA's contributions at the Port. Mr. Milliken asked Mr. Brown to describe the industries that are served by ILA. Mr. Brown explained that ILA employees work for the organizations that make up the HRSA (ex: terminal operators, stevedores, steamship lines, freight forwarders and customhouse brokers). He advised that ILA is made up of 10 locals, each with different work jurisdictions. Mr. Milliken asked about the number of ILA employees who work for VIT. Mr. Dorto reported that there are anywhere from 800 to 1,200 ILA workers at the terminals, depending on the workload.

Mr. Goodwin requested that the Committee be provided with a list of every member of HRSA and the type of work that is provided by that member. Mr. Dorto asked Mr. Moyer to provide that information.

Mr. Sheild introduced Mr. B. W. (Bill) Franks, District President of Lydall Logistics Management - a customer of the Port. Mr. Franks described the joint negotiations that took place in 1998 among Lydall, VPA/VIT, HRSA, and the ILA in order to meet the needs of Lydall in their plan to establish business in Hampton Roads. He advised that Lydall Logistics Management began their operation in Newport News in late 2001, thanks to the cooperation of the port community. Mr. Franks explained that Lydall is a private consolidated distribution company dealing in pulp and paper for various news agencies (i.e: *The Virginian-Pilot*, *The Daily Press*). Mr. Franks explained that Lydall initially wanted their own labor force and did not want unionized labor. He commended Joe Dorto, Ed Brown, and Roger Geisinger for successfully negotiating a cooperative ILA labor force.

Mr. Franks referred to the recent news articles concerning VIT and he said they have caused concern among his customers. He explained that Lydall is a publicly held company that is a contract carrier and not a common carrier, which gives Lydall the ability to do business with a private company – VIT - and maintain customer confidentiality. Mr. Franks remarked that he did not care about port salaries and he said he did not think the people in this industry cared.

Referring to the news articles, Mr. Franks described the situation as being “most unusual” and he said the news was also mentioned in Lydall's publicly held annual report. Mr. Franks said his Board and CEO were very concerned with what he described as “damaging” news articles. He said Lydall would not have signed a 15-year contract with this port if they were not pleased with VIT. Mr. Dorto noted that existing warehouse space was provided for Lydall's operation.

Mr. Shield thanked Mr. Franks and expressed his appreciation for Lydall's long-term commitment to the Port. Mr. Milliken thanked him on behalf of the VPA Board. Mr. Goodwin expressed appreciation for Lydall's decision to locate in Virginia. Mr. Goodwin asked Mr. Franks for his opinion regarding the disclosure of VIT salaries and if the decision would affect Lydall's contract with VIT. Mr. Franks expressed concern that it would be very difficult to stop with only revealing VIT salaries, as it would then be more difficult to protect individual contract information as well as important confidential trade negotiations. In other words, he said, "It would be hard to stop the "ball from rolling".

Mr. Goodwin asked, "If we come to the decision and if the contracts at VIT would not be made public, would that give you comfort?" Mr. Franks said, "I would believe you if you said it would not be released." He also advised that the "last thing you would want to have in the distribution chain is a "monkey-wrench" thrown in. It makes us nervous".

Mr. Dorto reported that he was recently in negotiations with customers in New York and they had brought all of the news articles to the table and expressed concern. He emphasized that VIT is a private, non-stock company that customers depend on for confidentiality.

Mr. Sheild asked Mr. Franks for his thoughts as to whether or not VIT should stay private. Mr. Franks explained that Lydall came here because VIT is a private company that encouraged good labor relationships.

Mr. Capozzi presented a comparison of various operating models of competitive ports. He explained that VPA is unique from the operating model because Virginia is a right-to-work state and VPA had to create VIT in order to negotiate with union labor. Mr. Capozzi mentioned Maryland Port Administration's plans to become more like a private operating company – similar to the relationship between VPA and VIT. Mr. Goodwin asked about the cost structure of VIT compared with other ports. Mr. Dorto reported that VIT rates are higher because the labor component here is higher.

Mr. Geisinger explained the difference between the Hampton Roads local ILA contract and the Master Contract. He explained how each terminal operates differently from Maine to Texas.

Ms. Stearns asked if budget surpluses are returned to the state. Mr. Dorto explained that a portion of VIT's revenue is turned over to VPA for operations and improvements at the terminals. He explained that VIT's equipment and construction requests are approved by the VPA.

Ms. Brayboy asked about the Maersk operation and the effect it would have on VPA. Mr. Bray talked about the benefits to the region and expressed optimism that VPA and Maersk can work together to handle the huge influx of cargo that is anticipated for Hampton Roads. Mr. Capozzi advised that, until the Craney Island Marine Terminal is in operation, Maersk would handle the overflow of cargo.

Mr. Milliken asked if contracts between ship lines and terminal operators are public. Mr. Dorto said no, however, he was not certain about New York.

Mr. Darden asked if Craney Island would be developed without a Third Crossing. Mr. Bray advised that plans for Craney Island were developed before Third Crossing, however the terminal would benefit from the interstate link for port traffic.

Ms. Stearns asked Mr. Capozzi to provide information on VPA and VIT, similar to the list of port comparisons.

Mr. Dorto referred to Virginia Code §62.1-132.4, relating to disclosure of proprietary information furnished by the Authority's private operating company that protects the VIT budget from public disclosure. Mr. Dorto advised that the VPA and VIT Boards are both entitled to the budget figures. A blank budget format was provided for the Committee members that listed each line item for each department of VIT. Mr. Dorto presented a timeline that outlines the VIT budget process, beginning with February's final numbers and ending with final approval by the VPA Board in May of each year. Mr. Dorto introduced Mr. Meiggs, VIT's Chief Financial Officer. Mr. Dorto advised that the VPA Board has the power to question anything regarding VIT's budget and he noted that several VPA staff members are involved in the budget planning process – Mr. Capozzi, who provides the marketing forecast for the determination of rates, and Mr. Oliver, VPA's Director of Finance. He announced that Mr. Bray is also an ex officio member of the VIT Board, whose members also approve the budget.

Mr. Dorto said VIT shares everything with VPA and he emphasized the importance of maintaining VIT's financials as proprietary information.

Mr. Sheild asked Mr. Dorto if he would suggest any changes to the operating model of VPA and VIT. Mr. Dorto advised that VIT is looking at the situation very carefully. He said the relationship has been a very good model that has enabled both organizations to move quickly and make decisions in reaction to changes in the market. Mr. Dorto advised that the revenue VIT is generating has been spent very wisely and he commended Mr. Bray for making decisions long-term. Mr. Dorto mentioned that customers have approached VIT to negotiate long-term contracts with the stipulation that they secure terminal space at Craney Island. He suggested that VPA/VIT investigate ways to secure public/private investors, as early as next year.

Mr. Sheild asked if the public/private investor would be similar to the relationship between VIT and VPA. Mr. Dorto said it would have to be different and totally unique from VPA/VIT. Mr. Milligan was very interested in VIT's efforts to secure long-term contracts and the ship lines' request for space at Craney Island.

Mr. Bray explained that the public/private process would involve a committee of the Board to review proposals. He advised that, if the Craney Island study stays on track, VPA would know by January 2006 if we have the ability to move forward. Mr. Bray advised that the completion of containment dikes at Craney Island is estimated near \$600 million.

Mr. Goodwin asked if Craney Island would be operated by a private party and VPA/VIT. Mr. Dorto said yes and that it would involve the development of a compensation operating scheme involving a unique opportunity to market ourselves as a total entity. Mr. Bray advised that Maersk is a worldwide company and can also negotiate rates. He added that VPA couldn't negotiate rates without partnering with a private company.

Mr. Goodwin asked Mr. Dorto if he would offer the salary information to the VPA Board. Mr. Dorto explained that he had offered to give that information to a VPA Commissioner who had declined. He mentioned that VIT uses an outside consultant to compare VIT salaries.

Mr. Milliken asked Mr. Walton to explain how salary information could be discussed in a closed meeting. Mr. Walton referenced the code section that Mr. Dorto referred to earlier and a possible revision to the FOIA language. Mr. Goodwin asked if VPA Commissioners could obtain the salary information individually, without publicly meeting. Mr. Walton said he would not recommend that as it would appear that the Board is circumventing FOIA. He referred to the court case that was discussed by Mr. Ryan at the last meeting (Little vs. RF&P) and that VPA could seek a revision in the FOIA language relating to VIT. Mr. Goodwin asked Mr. Walton, "There is a precedent in RF&P to amend FOIA to allow a private discussion?" Mr. Walton said yes.

Mr. Darden asked if a tax-exempt, public/private corporation could be created to issue debt for Craney Island. Mr. Dorto said yes. Mr. Walton mentioned the Public-Private Transportation Act that involves the creation of a nonprofit corporation under the Internal Revenue Service's Revenue Ruling 63-20, which serves as a financing vehicle. He advised that VIT and VPA members could serve on the Board of Directors of that corporation.

Ms. Stearns stated that the VPA Board appoints individuals of high integrity to the VIT Board and she said she relies on the VIT Board to adequately oversee VIT's operations. Ms. Stearns requested that Mr. Walton provide the Committee with an outline for VPA to begin the process of amending FOIA language for discussion at the September meeting.

Mr. Dorto invited Committee members to attend the VIT Board meetings that are held each month. Mr. Sheild thanked Mr. Dorto and advised him that the Committee would rely on him for further assistance with the structural issues that are being reviewed.

Mr. Milliken announced that a discussion regarding the engagement of independent counsel (item #7 on agenda) would be deferred until the September 27th meeting.

Mr. Sheild advised that he anticipates a final report by the Committee in the November-December timeframe. The Committee members agreed. He announced that the next meeting would be held on September 27th, after the VPA Board meeting, at 2:00 p.m., in Crumbley House. He added that, after minutes are completed, he would discuss agenda items for the next meeting with the members of the Committee.

Mr. Sheild said he did not think the Committee needed to hire a port consultant as that would incur additional expense to VPA. The Committee agreed. Mr. Goodwin questioned the use of independent counsel. Mr. Sheild assured Mr. Goodwin that the Committee would still seek assistance from independent counsel, as suggested at the last meeting.

At this time, Mr. Sheild asked for comments from the public.

Mr. Peter Dujardin of *The Daily Press* asked several questions regarding the salaries of VIT's senior management. Ms. Brayboy advised that the salary information was available to the VIT Board. Mr. Dujardin asked about Mr. Bray's awareness as to Mr. Dorto's salary. Mr. Bray advised that, currently, he is aware of Mr. Dorto's salary. Mr. Dujardin asked whether Mr. Dorto's salary information had been imparted to the VPA Board. Mr. Dorto said that the VPA Board did not have his salary information.

The meeting adjourned at 4:45 p.m.

Respectfully submitted,

Debra J. McNulty
Clerk to the Board
Virginia Port Authority