



Agenda Item: Discuss and Consider Approval of 2022 Federal Legislative Agenda

Background: At the January 25, 2022, Board of Trustees meeting, Greg Burns presented an update on the 2021 Legislative agenda and shared an overview the proposed 2022 Agenda attached for your approval.

This agenda addresses the following items:

- Federal Engagement in Beach Management
- Coastal Restoration including RESTORE, GOMESA and the Land and Water Conversation Fund
- Tourism Promotion including the Lone Star Coastal National Recreation Area
- National Flood Insurance Program

Staff Recommendation: Staff recommends the approval of the legislative agenda as presented.



Park Board of Trustees
of the City of Galveston:
2022 Federal Legislative Agenda


GALVESTON
• ISLAND •
Park Board of Trustees



Prepared by Thorn Run Partners for

The Park Board of Trustees of the City of Galveston

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The Park Board of Trustees of the City of Galveston 2022 Federal Legislative Agenda

Federal Engagement in Beach Management

Galveston Island Beach Management

Support continued and regular placement of Beneficial Use of Dredged Material along the Galveston Island coastline. **Support** authorization of the Coastal Texas Ecosystem Protection and Restoration study in the next Water Resources Development Act to ultimately develop beneficial projects for Galveston Island. **Support** adequate annual funding for the Continuing Authorities Program, Section 204. **Support** a change to FEMA's reimbursement policy for beneficial use beach nourishment projects.

Coastal Restoration

RESTORE Act

Monitor federal implementation of the RESTORE Act to ensure continued benefit to Galveston Island. **Support** efforts to secure funding for projects and programs supported by the Galveston Island Park Board of Trustees.

Offshore Energy Exploration Revenue Sharing

Support increased funding to states and coastal political subdivisions – including equal distribution to cities and other political subdivisions – via adjustments to GOMESA.

Land and Water Conservation Fund; Open Space Opportunities & Park Amenities

Support the state conservation grant program of the Land and Water Conservation Fund, which would provide opportunities for the Park Board for acquisition or land preservation improvement opportunities.

Tourism Promotion

Lone Star Coastal National Recreation Area

Support the creation of a Lone Star Coastal National Recreation Area.

General Issues

National Flood Insurance Program

Support efforts to improve the National Flood Insurance Program for the benefit of all participants. **Monitor** FEMA's implementation of the Risk Rating 2.0 program.

FEDERAL ISSUE: Galveston Island Beach Management

BACKGROUND; HOW IT MAY AFFECT THE PARK BOARD: Galveston Island is the second most popular tourist destination in Texas. 7.2 million people visited the Island in 2018, generating an estimated \$1.2 billion in total business sales. Thirty-five percent of all jobs on the Island are sustained by tourism, and state and local tourism tax receipts offset the average household tax burden by \$4,233 per household. Beaches are by far the largest attraction of visitors to Galveston Island, delivering approximately 200 percent more beach-related visits and four times the financial impact of its other nearest local attraction.

Galveston Island is a roughly 32-mile long barrier island with a long history of utilizing engineered solutions to combat its chronic erosion issues. The island conditions range from accreting on the east end, which is adjacent to the ship canal and south jetty area that provides access to the ports of Galveston, Houston, and Texas City; to the central portion where sand is trapped in a groin field; to the south end of the Island where sand is lost through the San Luis Pass inlet. Furthermore, there are sporadic areas of higher erosion along the island with losses of 8 feet per year, which endangers primary evacuation routes, as well as public and private infrastructure.

Given these factors, the Galveston Island Park Board of Trustees continues to engage with the U.S. Army Corps of Engineers (Corps) on several endeavors to secure federal investment for coastal restoration.

Beneficial Use of Dredged Materials

The Corps defines Beneficial Use of Dredged Material (BUDM) as “Utilizing dredged sediments as resource materials in productive ways which provide environmental, economic, or social benefit.” The nourishment of beaches provides benefits in all three of these areas.

In 2015, 2019, and 2021, the Corps conducted routine dredging activities in the Galveston/Houston region. Rather than dumping the material offshore and removing it from the nearshore system, the Corps partnered with the Park Board and others (often including the Texas General Land Office and the City of Galveston and most recently using RESTORE funding) to place it on the beach, thereby nourishing the shore of Galveston Island.

Finally, the Park Board continues to explore sand harvesting to utilize new technology to take sand from areas of the Island where sand accretes, like East Beach, and move it to the areas of the beaches where sand is lost to erosion.

The Park Board also continues to explore working through the Army Corps’ Continuing Authorities Program (CAP) Section 204 to receive a federal cost-share for ongoing beneficial use projects. Congress provides the U.S. Army Corps of Engineers with standing authorization, known as the Continuing Authorities Programs (CAP), to respond to a variety of water resource issues without the need to seek specific congressional authorization or funding for each project. In theory, this decreases the amount of time required to budget, develop, and approve potential projects for construction. The CAP 204 program authorizes the Corps to restore, protect, or create habitats in connection with maintenance dredging of an authorized federal navigation project. The Park Board has requested the Galveston District’s assistance through the CAP 204 program, efforts which have been supported by the office of Representative Weber.

Coastal Texas Protection and Restoration Study

The Coastal Texas Protection and Restoration study was authorized in the Water Resources Development Act of 2007. Since then, the Corps has worked to identify potential shoreline erosion control, storm damage reduction, environmental restoration and protection, and related improvements along the Texas Gulf Coast, from the mouth of the Sabine River to the Rio Grande.

On September 16, 2021 Lt. General Spellmon, USACE Chief of Engineers signed the Chief's Report for the Coastal Texas study, making the project eligible for authorization via the next Water Resources Development Act which is expected to be considered by Congress in 2022.

The final plan expects the project to be built over a period of 12 to 20 years, depending on congressional authorization, funding, and partnerships. The estimated cost for initial construction is projected to be about \$28 billion and the project has a cost to benefit ratio of 1.91.

As shown on the visual below, proposed projects in the Galveston region include:



Beach Nourishment after a Federally Declared Storm

The Federal Emergency Management Agency's (FEMA) current policy regarding reimbursement for beach nourishment projects following a disaster declaration may present a challenge to beneficial use projects that do not involve direct federal participation, such as the project completed by the Park Board in 2015. FEMA states that "sand placed on a beach from a channel maintenance project is not an eligible beach nourishment project." Therefore, if a storm hits the Galveston area and damages the beach, the project may not be eligible for FEMA reimbursement funding and the local, state, and federal investment would be lost.

In November 2015, Rep. Weber sent a letter on behalf of the Park Board to FEMA requesting the agency reconsider this policy. FEMA responded in January 2016 by confirming the policy and clarifying that dredged material "is not selected to meet compatibility design criteria, and the amount placed is dependent on the amount dredged, not a design." FEMA went on to state, however, that if an applicant can demonstrate compliance with the eligibility requirements set forth by FEMA, they may be eligible for



assistance in some cases. FEMA also stated they would review this policy in coordination with the Army Corps.

POSITION: **Support** continued and regular placement of Beneficial Use of Dredged Material along the Galveston Island coastline. **Support** authorization of the Coastal Texas Ecosystem Protection and Restoration study in the next Water Resources Development Act to ultimately develop beneficial projects for Galveston Island. **Support** adequate annual funding for the Continuing Authorities Program, Section 204. **Support** a change to FEMA's reimbursement policy for beneficial use beach nourishment projects.

FEDERAL ISSUE: RESTORE Act

BACKGROUND: HOW IT MAY AFFECT THE PARK BOARD: In April 2010, an explosion at the BP-operated Deepwater Horizon oil rig caused the worst oil spill in U.S. history, with millions of barrels of oil spilling into the Gulf of Mexico. In the summer of 2012, Congress passed the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies (RESTORE) Act, which established the Gulf Coast Restoration Trust Fund and mandated that 80 percent of Clean Water Act (CWA) civil damages from the spill be allocated directly to the five impacted states, including Texas.

These CWA fines will flow to the Gulf States via three channels created by the RESTORE Act: Direct Component, Council-selected projects, and the Spill Impact Component. Additional funds are provided to Texas via the Natural Resource Damage Assessment process and the National Fish and Wildlife Foundation.

1. Natural Resource Damage Assessment (NRDA) -- ~\$105 million to date
2. National Fish and Wildlife Foundation -- ~\$155 million
3. RESTORE
 - o Direct Component (Bucket 1) -- Expected total of \$375 million through 2031
 - o Council-selected Projects (Bucket 2) -- Expected total of \$1.6 billion competitively awarded to all Gulf states and federal Council members through 2031
 - o Spill Impact Component (Bucket 3) – Expected total of \$121.5 million through 2031

Direct Component (Bucket 1)

The Direct Component portion makes up roughly 35 percent of the total Trust Fund and is equally divided among the five Gulf States. The RESTORE Act grants states with significant discretion as to how they will use the funding for restoration activities. In March 2016, the Park Board submitted two applications to the Texas Commission on Environmental Quality (TCEQ) for RESTORE funding through the Director Component. Those two projects are: 1) Routine beneficial use of material dredged from the ship channel; and 2) The construction of public facilities within the East End Lagoon Park and Preserve. TCEQ submitted their multi-year implementation plan (MYIP) to Treasury in October 2017. The MYIP included both projects, with a combined award amount of \$10.4 million. Treasury accepted the plan in December 2017. The Park Board continues to wait on the funding for these projects as the process is extremely slow.

Council-selected Projects (Bucket 2)

The RESTORE Act also established the Gulf Coast Ecosystem Restoration Council (the Council), which is responsible for administering 60 percent of the total funding allocated to the Trust Fund. Thirty percent of the Trust Fund is to be used by the Council to develop and fund a Comprehensive Plan for the restoration of the entire Gulf Coast ecosystem, and the remaining thirty percent is to be distributed under the Spill Impact Component. The Council includes the Secretaries of the Interior, Commerce, Agriculture, the Administrator of the Environmental Protection Agency, Secretary of the Army for Civil Works, the head of the Coast Guard, and the Governors of each state. The Council is projected to receive approximately \$1.6 billion for Council-selected projects. TCEQ Commissioner Toby Baker is Governor Abbott's designee.



In 2015, the Council approved the Initial Funded Priorities List (FPL). The FPL funds approximately \$156.6 million in restoration activities and prioritizes 12 additional projects in the future, subject to further environmental and Council review. It included Category I and Category II projects, with Category I projects to receive funding once the FPL is finalized and Category II projects to be considered for funding in the future. The draft FPL includes \$355,450 in Category 1 funding and \$6,753,550 in Category 2 funding for the Bayou Greenways project, as well as \$968,000 in Category 1 funding for the planning of the Texas Beneficial Use and Marsh Restoration project. Both are environmental restoration projects within the Galveston Bay watershed.

More recently, the RESTORE Council has announced an update to the process for the next round of Bucket 2 funding opportunities, FPL 3. The Council will develop the FPL 3 in two phases, a and b. Developing the FPL 3 in two phases will enable the Council to respond to urgent ecosystem needs, save money, and take advantage of important partnership opportunities to advance large-scale ecosystem restoration in the near term. For FPL 3a, the Council is considering two ecosystem projects, one in Louisiana and one in Alabama. In the second phase, FPL 3b, the Council will consider restoration projects and programs that address additional ecosystem needs across the Gulf, including Texas.

Spill Impact Component (Bucket 3)

In early 2019, TCEQ received approval of Texas' Initial State Expenditure Plan. The initial SEP focuses on Hurricane Harvey recovery efforts and is a programmatic plan addressing the distribution of approximately \$31 million in RESTORE Bucket 3 funds. Other plans will be developed in later years as additional Bucket 3 funds become available. Texas is expected to receive a total of \$121 million by the end of 2031.

POSITION: **Monitor** federal implementation of the RESTORE Act to ensure continued benefit to Galveston Island. **Support** efforts to secure funding for projects and programs supported by the Galveston Island Park Board of Trustees.

FEDERAL ISSUE: Offshore Energy Exploration Revenue Sharing

BACKGROUND: HOW IT MAY AFFECT THE PARK BOARD: There has been a long history of providing revenue to states and local governments derived from oil and gas drilling in federal waters off the coast of those government entities. In 2006, Congress passed the Gulf of Mexico Energy Security Act (GOMESA) as a more permanent, albeit imperfect, solution to revenue sharing. GOMESA created revenue sharing provisions for the four Gulf oil and gas producing states of Alabama, Louisiana, Mississippi, and Texas, and their coastal political subdivisions (CPS's, or in this case, counties). GOMESA funds are to be used for coastal conservation, restoration and hurricane protection. There are two phases of GOMESA revenue sharing:

Phase I: Beginning in Fiscal Year (FY) 2007, 37.5 percent of all qualified OCS revenues, began to be shared among the four States and their coastal political subdivisions from new leases issued in the 181 Area in the Eastern planning area (also known as the 224 Sale Area) and the 181 South Area. Additionally, 12.5 percent of revenues are allocated to the Land and Water Conservation Fund (LWCF).

Phase II: The second phase of GOMESA revenue sharing began in FY 2017. It expanded the definition of qualified OCS revenues to include receipts from Gulf leases issued either after December 20, 2006, in the 181 Call Area, or, in 2002–2007 Gulf of Mexico Planning Areas subject to withdrawal or moratoria restrictions. A revenue sharing cap of \$650 million per year for the four Gulf producing States, their CPS's and the LWCF applies for fiscal years 2020 and 2021. A \$500 million cap will return through 2055 if additional changes are not made.

Phase II has drastically increased the amount of revenue sharing that is available. For example, Galveston County received \$2,039.76 from GOMESA in FY 2017, however, the County received \$1,662,926 in FY 2020 while the state of Texas received over \$76 million. Unfortunately, such funds are not mandated to be shared with cities or other political subdivisions of the state.

There are several bills in Congress that deal with increasing or diverting GOMESA or offshore oil and gas drilling revenues. It may be that the expiration of the ban on drilling in the eastern Gulf in 2022 may spur additional deal making.

POSITION: **Support** increased funding to states and coastal political subdivisions – including equal distribution to cities and other political subdivisions – via adjustments to GOMESA.

FEDERAL ISSUE: Land and Water Conservation Fund; Open Space Opportunities & Park Amenities

BACKGROUND; HOW IT MAY AFFECT THE PARK BOARD: The Land and Water Conservation Fund Act of 1965 was enacted to help preserve, develop, and assure access to outdoor recreation facilities for our nation. The law created the Land and Water Conservation Fund (LWCF) in the U.S. Treasury as a funding source to implement outdoor recreation goals.

The LWCF has been the principal source of monies for land acquisition for outdoor recreation by four federal agencies—the National Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service. The LWCF also funds a matching grant program via the National Park Service to assist states (and local governments as sub-recipients) in acquiring recreational lands and developing outdoor recreational facilities. A portion of the appropriation is divided equally among the states, with the remainder apportioned based on need, as determined by the Secretary of the Interior. The states award their grant money through a competitive selection process based on statewide recreation plans, as well as establish their own priorities and criteria. This state program could offer opportunities for the City of Pismo Beach to either purchase open space opportunities or for additional public park amenities.

The LWCF is authorized at \$900 million annually. The Great American Outdoors Act, which became law in 2020, mandates that the LWCF will receive its authorized funding with 40 percent, or \$360 million, allocated annually to the state grant program. Given relatively recent funding of between \$100 and \$125 million to the program from Congress for the past several years, this is basically a tripling of the funding and should increase the monies available to Texas from about \$10 million to at least \$30 million, thereby increasing the Park Board's future opportunities. This funding results in a variety of grant programs administered by the Texas Parks and Wildlife Department for which the Park Board can apply.

Apart from mandatory funding for the LWCF, the Great American Outdoors Act also creates a National Parks and Public Land Legacy Restoration Fund that will be funded by up to \$1.9 billion per year for the next five years to help restore maintenance backlogs on National Park Service and other federal lands.

POSITION: **Support** the state conservation grant program of the Land and Water Conservation Fund, which would provide opportunities for the Park Board for acquisition or land preservation improvement opportunities.

FEDERAL ISSUE: Lone Star Coastal National Recreation Area

BACKGROUND; HOW IT MAY AFFECT THE PARK BOARD: The proposed Lone Star Coastal National Recreation Area (LNCRA) is envisioned to preserve critical coastal habitat and historical landmarks, while protecting the Upper Texas Gulf Coast from storm surge damage and providing economic benefits to the surrounding communities. According to the National Parks Conservation Association (NPCA), the LNCRA is "...conceived as part of an integrated, long-term flood mitigation system, focuses on the low-lying tidal and brackish marshlands and the surrounding upland areas....While providing flood protection benefits, the LSCNRA would also help realize the significant potential economic value these lands have for geotourism--bird-watching, kayaking, history trails, and hiking, and more traditional uses such as fishing and hunting... A National Recreation Area for the Upper Texas Coast would include only those public and private land owners who voluntarily chose to participate. It is envisioned as a non-contiguous cluster of lands, historic sites and structures within Matagorda, Brazoria, Galveston and Chambers Counties, to be managed under a custom-built partnership agreement between these participating land owners and the National Park Service, which provides a coordinating presence for visitor services and tourism marketing."

The National Park Service (NPS) manages nearly 20 national recreation areas. Many are managed in cooperation with other land management agencies, such as local, state, and federal public-private partnerships. Congress creates national recreation areas through authorizing legislation. Although Congress may authorize specific land uses in any type of park unit, in practice, activities that could damage or consume resources are more often permitted in some types of units than in others. For example, Congress has not authorized sport hunting in any national parks, whereas this activity is authorized in other types of park units, including some national recreation areas. Similarly, other activities that are prohibited in national parks, such as off-road vehicle use, may be allowed in national recreation areas. The recreational activities to be allowed or prohibited for a recreation area are often explicitly authorized in the legislation to designate the national recreation area.

The clearest benefit of a national recreation area designation is the potential increase in visitors. A 2012 analysis of NPS visitor statistics shows that national recreation areas receive an average of 2.6 million visitors per unit. In addition, some limited federal funding for such an area could be made available.

On the other hand, the costs are less clear, as authorizing legislation has not yet been drafted. However, the NPCA has stated the following regarding how maintenance of the LSCNRA may be paid for: "The business plan for the LSCNRA is tailored to an era of fiscal reform and restraint and, by relying on creative funding tools including philanthropy, recreation fees, and other revenue sources, will minimize use of public sector funding. Partners are anticipated to continue providing funding at current levels for their own sites but are under no obligation to increase expenditures."

A feasibility study has been prepared with private funding and has been reviewed by the Department of Interior. Typically, a Special Resource Study or Reconnaissance Study would have been produced by the federal government. The NPCA lists as partners in this endeavor Brazoria, Chambers, Galveston and Matagorda counties, the cities of Bay City, Freeport, Texas City, and Galveston, as well as several other organizations.

POSITION: **Support** the creation of a Lone Star Coastal National Recreation Area.

FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND: HOW IT MAY AFFECT THE PARK BOARD: In 1968, Congress established the National Flood Insurance Program (NFIP) to address the nation's flood exposure and challenges inherent in financing and managing flood risks in the private sector. Private insurance companies at the time claimed that the flood peril was uninsurable and, therefore, could not be underwritten in the private insurance market. A three-prong floodplain management and insurance program was created to identify areas across the nation most at risk of flooding, minimize the economic impact of flooding events through floodplain management ordinances, and provide flood insurance to individuals and businesses.

In mid-2012, Congress passed, and the President signed, the Biggert-Waters Flood Insurance Act (BW12), a 5-year reauthorization of the NFIP that attempted to restore the program to firmer financial footing by making changes to the program that impacted the Island's residents. Then, in early 2014, the Homeowner Flood Insurance Affordability Act (HFIAA), was enacted to address some of the so-called unintended consequences of BW12. While HFIAA delayed many of the premium increases implemented by BW12, the only real difference between rate increases envisioned by the two bills is that HFIAA reinstated grandfathering. This provision, originally ended by BW12, allows property owners to pay flood insurance rates based on original risk, not that which is determined by new community flood maps.

Authorization of the NFIP expires on February 18, 2022.

Risk Rating 2.0

The Federal Emergency Management Agency (FEMA) continues to implement the [Risk Rating 2.0](#) (RR2) pricing methodology for the NFIP. FEMA estimates that roughly 3.8 million policyholders will pay higher premiums, while 1.2 million policyholders will see rate decreases. New NFIP policies are subject to new RR2 pricing beginning on Oct. 1, 2021, while existing policyholders will face new pricing on or after April 1, 2022 if their price increases. If existing policyholders' price is scheduled to decrease under RR2, they can benefit when their policy renewal occurs after Oct. 1, 2021.

Several members of Congress and members of the Senate continue to advocate that the implementation of RR2 should be delayed and have written [letters](#), proposed [various legislation](#), and [called](#) on the Administration to carry out the delay.

Finally, House Financial Services Chair Maxine Waters (D-CA) has proposed legislation that, among other things, would limit annual flood insurance rate increases to 9 percent, down from 18 percent allowed under current law. Based on statements to the media, FEMA seems supportive of this annual rate increase cap.

For the City of Galveston (zip codes 77550, 77551, 77554), the data relating to the implementation of RR2 indicates the following expected price changes per month for participants in the NFIP: about 28% of City NFIP participants will see a decrease in their flood insurance rates while 50% will see a modest increase of less than \$10 per month. The remaining 22% of policyholders will see more significant monthly premium increases.

POSITION: **Support** efforts to improve the National Flood Insurance Program for the benefit of all participants. **Monitor** FEMA's implementation of the Risk Rating 2.0 program.

