

**APPENDIX**

**Philip Mark Plotch**

**October 20, 2015**

Although I can be quite critical of the Port Authority, I certainly appreciate the remarkable job that it does every day helping to move people and goods, both safely and reliably, in the metropolitan area.

I'd like to share my thoughts this afternoon, on two inter-related topics. First, on the need to increase transparency and second on priorities for the Port Authority.

I have very mixed feelings about the Port Authority and public authorities in general. They can build projects faster and more efficiently than state agencies. They also take better care of their facilities. Many state agencies have allowed their infrastructure to deteriorate, which just costs all of us much more in the long run.

But, because of the way that authorities are funded, they can become more accountable to their bondholders rather than to the general public. In the NY metropolitan area, the authorities' interest in generating more revenue has undermined the region's efforts to reduce the number of cars on its roads -- which is important for both the region's economy and its environment.

### **Legislation**

I applaud your efforts to increase the Port Authority's transparency. At a minimum, the Port should be subject to New York's FOIL and NJ's OPRA laws.

I also think the NY and NJ legislatures should require the Port Authority to provide more information about its services and planning efforts. The Port Authority should provide the same type of information that NY state law requires the MTA to provide. If you look at Section 1269-D of New York's Public Authorities Law, you will see that the MTA must prepare annual

strategic plans and provide information about on-time performance, cleanliness, safety, crowding, and other performance measures.

I personally know how frustrating it can be to obtain basic information from the Port. I'll tell you two very recent stories.

A few months ago, a reporter asked me about the increased crowding at PATH stations in Jersey City. I figured I could answer his questions by getting some data from the Port Authority's web site. I was surprised and disappointed to find that the Port had very limited information on its site.

I remembered though the Port had conducted an *EIS* for the WTC PATH station and I figured I could find some relevant info from that document. But, I couldn't find the *EIS* on its web site. That really surprised me since the PATH station isn't even completed yet.

So, I contacted the Port Authority and after waiting much longer than I should have, I received the *EIS*.

Any other agency would have sent me a pdf document that had been converted from a word document. Then you can just search on certain words like ridership and Journal Square.

That's not what the Port did, though. They had put the 2,416 pages through a scanner, like you scan photos. So, when I looked at the *EIS* document, I couldn't search on any of the words. And, when I asked the Port about it, they said they wouldn't give me an electronic version that I could search on.

Now, the Port had to send me an EIS because it was related to a federally funded project and federal law requires the Port to make the EIS available to the public. But, the Port made it available to me in the most inconvenient way that they could.

### **Priorities**

I know you would like input on the Port's capital priorities, but if the public AND legislators cannot obtain basic information, we can't really you give an informed opinion. Let's take the proposed AirTrain at LaGuardia as an example.

Earlier this year, NY's Governor Cuomo announced that the Port would be building a new \$450 million LaGuardia Air-Train. A WNYC reporter asked me what I thought about it.

To provide a well-thought out answer, I said I needed more information about the proposal. I requested it from the Port. I'm still waiting.

I suspect that the \$450 million project would probably cost more than \$1 billion. And, I don't think that a new AirTrain would save travelers any time compared to existing taxis and shuttle buses, because LaGuardia is only 4 miles from Manhattan.

Maybe it makes sense to build the LaGuardia AirTrain. Maybe extending the PATH to Newark Airport is also a worthwhile investment. The trouble is that the Port Authority isn't providing us with information that we need to give an informed opinion.

Whether or not these are worthwhile projects, Cuomo's announcement exposes how the governors of NJ and NY are using Port Authority funds to promote their own pet projects rather than as part of a coordinated effort to improve the region.

When I worked on redeveloping the World Trade Center site, I remember the two governors made a deal to split \$6 billion of Port Authority funds: \$3 billion would be used for the ARC project and \$3 billion to bring JFK Air Train to Lower Manhattan.

A more rational way to allocate funding is to develop a sense of priorities in a transparent way.

To do so, the Port needs to provide more information about the problems it's trying to solve and the potential solutions to solving those problems.

To help the legislators and the public compare various options, we will need information about the costs and benefits of those potential solutions. The costs include capital costs, ongoing subsidies, and a realistic assessment of the Port's ability to leverage other funding sources.

The benefits include those that relate to ridership, travel time savings, and the improvement to the environment and the economy.

When we get this information, we may find a tendency for the Port to overestimate the benefits and underestimate the costs of its favorite projects. That is why the two state legislatures should set aside funds to have outside experts independently review the Port's estimates and the assumptions behind these estimates. This will add even more transparency to the decision-making process.

### **Prioritizing Trans-Hudson Improvements**

I do hope that the Port Authority prioritizes projects that simultaneously provides benefits to both states. The Port is the only entity with the resources, the jurisdiction, and the responsibility to improve rail and bus services across the Hudson River.

I'm a bit cynical after writing *Politics Across the Hudson*, though. The book is a story about how New York wanted to build a new rail crossing over the Hudson River along a new Tappan Zee Bridge, because at that location it would stay in New York's borders. At the same time, New Jersey officials preferred ARC, a new rail tunnel under the Hudson River to Penn Station.

Transportation planners in the region overwhelmingly preferred the ARC project because it was expected to carry ten times as many passengers as a new rail line over the Tappan Zee.

I asked the senior aides to two different governors, why didn't NY help promote the ARC project. One said to me: "If we said it's a good project then we would have had to help pay for it." The other said "It's New Jersey, who cares?"

Clearly, this is short-sighted. Manhattan's commercial success relies upon attracting workers from a wide geographical area. And, NJ residents who work in NY pay income taxes on their salaries to NY, not to NJ.

But, instead of cooperating on one project, the two states competed. Nobody won; instead we all lost.

I'm now delighted to see that you've been working with your counterparts across the river on ways to increase the Port's transparency because I'm hoping that going forward, we'll all going to be winners.

## STATEMENT TO NJ PANEL

October 20, 2015

Good afternoon, Ladies and Gentlemen.

My name is David Gallagher. I am pleased to be invited here to discuss the legislative proposals regarding reform measures affecting the Port Authority. I am a retiree from the Port Authority having served there for 33 years in a variety of positions including Human Resources, Engineering and the Tunnels, Bridges and Terminals (TBT) Departments. At the time of my retirement, I held the position of Assistant Director of the TBT department having responsibility for all non-field activities including budget, customer information, project engineering and planning, and tenant leasing. In addition, I concurrently served as the project director for the E-ZPass program during its final testing and initial implementation stages prior to it being launched across the PA's facilities.

The events that have occurred at the Port Authority over these past several years have been most disheartening and they fly in the face of long standing Port Authority policy and by-laws. As a Port Authority retiree, I share your frustration - -and your anger - - at the actions that were taken by some individuals. They do not reflect the Port Authority that I knew over more than three decades of service there. I wholeheartedly agree that there is a need for some change and indeed I'm happy to see that a number of positive changes have already taken hold.

I have followed the media reports from the very outset of the revelations regarding Bridgegate and the various other issues which have surfaced as well. For me and for many of my retiree colleagues and current staff, they are shocking and jaw dropping to put it mildly. I am very pleased that there has been a good deal of scrutiny in these past months in an effort to address these problems - in an appropriate way - and I appreciate the opportunity to share my views on the proposed legislation and to discuss these matters with you today. I fully support the effort to "get it right".

So, as I have followed the reports over these many months and have listened to the epithets being hurled at "**the** Port Authority" and then as I read through this bill, I continue to ask myself: "What exactly went wrong?" and "What are the specific problems that are needed to be solved?". We certainly are all very aware of the circumstances and the particular actions that have caused much of this controversy. But I ask myself: What is the underlying root cause? And - -to what extent does this legislation address that?" In each case the genesis - the initiation of these highly questionable actions - comes back to individuals assigned or appointed to the Port Authority from outside. None of the actions were the work of the PA's career professionals. **All of it was undertaken by those whose allegiance was directed to**

**others - - but not to the Port Authority or to the region.** So I ask myself – and I ask you - “Does this bill address these key problems?”

Improving the organization’s transparency, requiring more disclosure of its actions, protecting whistleblowers, clearly delineating the role and responsibility **and allegiance** of Port Authority commissioners, having the CEO be selected by the PA Board (not by the governor), and re-stating or clarifying the mission of the Port Authority makes all the sense in the world given the prevailing concerns. The proposed bill seems to address these items fairly well.

Just a quick aside regarding transparency and openness - - - I find it to be more than ironic – perhaps even inexplicable - - when people are pounding the table demanding transparency from the PA - - that the New York bill currently being considered for amendment here today was essentially developed behind the scenes and passed with no public meeting, no public input and no public discussion. It seems to have been done with no transparency at all. As it stands, it is hardly the model of a transparent legislation or public policy process so I applaud your efforts in these hearings.

I mentioned earlier that these events occurred **at** the Port Authority but I re- emphasize that they were neither undertaken nor initiated **by** the Port Authority professional career staff. In each case, these actions were taken by political appointees, patronage appointees whose allegiance and behavior were demonstrably **NOT** in support of the Port Authority or the region but **rather were directed to serve their patron (on the one hand) or they were taken to promote their own self interest.** The notion of acting for the benefit of the public or the region was far from their agenda. And therein lies a root cause of these recent problems. It goes directly to those who are **NOT** PA career people and these actions were undertaken in brazen defiance of the PA’s long standing policies, operating procedures and by-laws.

In my view, the root cause(s) fall into several categories: first, the inappropriate and politically driven interference in the PA’s activities and priorities. This interference was designed specifically to promote a partisan political agenda as opposed to meeting this region’s needs.

Second, more than 70 patronage appointees were spread throughout the ranks of the PA staff to serve as eyes and ears for political leaders and their allies. These individuals were **not** selected in accordance with traditional recruitment practices or because of their particular expertise or because there was a particular vacancy in the staffing ranks. They were simply directed to be appointed. These actions were - and are – absolutely wrong. They were counterproductive and divisive.

These two factors have gone a long way to tarnish the organization's reputation and they have impeded the ongoing efforts of the PA to serve this region. The presence of those patronage appointees served to create an environment riddled with dysfunction, suspicion, fear and intimidation. The remnants persist among the staff even to this day. This is most unfortunate in view of the long term challenges facing the PA as it works to modernize the airports, maintain safe bridges and tunnels, port facilities and terminals and execute a myriad of other essential tasks. It is a tribute to the current PA staff that they remain committed to fulfilling their role of public service with professionalism and dedication despite these politically motivated intrusions.

Fortunately, from what I can tell, the current chairman, John Degnan, has exercised outstanding leadership over these past 15 months or so in his effort to lead the board and to re-energize the organization and restore the public trust in the midst of a number of complex and controversial policy issues. This is no easy task after all that has happened and all of the derogatory comments about the PA over these past months. From all reports, his calm demeanor, his sense of reason and his political independence have been exemplary at this critical juncture in the PA's history. I'm fully aware of the proposed provision in the bill which calls for rotating the chair and vice-chair from one state to the other every two years beginning one year from the effective date of this bill. This proposal has merit and I support this waiting period as a way to provide this chairman with sufficient time and space to continue the effort to "get things right".

I have had an opportunity to read the proposed bill with the recommended amendments. My general comments fall into three broad areas.

First, it would seem that legislation ought to be directed mainly toward establishing key public policy requirements but in this bill there are a myriad of basic management practices which would now become a matter of legislative mandate. Many of these requirements such as issuing an annual report or a capital plan are already part and parcel of the Port Authority's management practices and this has been the case for decades. They are readily available on the PA's website. To require these practices (and others) to be a legal mandate strikes me as being superfluous and essentially results in legislating a structure of inflexibility. What happens when circumstances change or when other options develop in the future? Apparently new legislation in two states would be required. Is there really a desire for that? It's been a tortuous process already just to get to this point.

Second, I disagree with the effort to have the Port Authority be subject to direct legislative involvement as a matter of law or to have a liaison person from each state assigned to the Port Authority staff - again, as a matter of law. To me, this is a clear case of political overreach and flies in the face of long standing provisions of the Port Compact and historical precedent. As I see it, it is counterproductive and can only add to an environment of dysfunction and distrust. It provides an even greater opportunity for exerting political favoritism - - this time from hundreds of legislators in two states. I

think it is a grave mistake and I hope these provisions would be deleted from the bill. I completely understand your desire to have the legislators be more involved and I know that it has been particularly frustrating in your dealings with the executive branch. But those frustrations ought not be resolved by redefining the historical relationship of the PA with the two states. There are several other avenues to pursue that desire.

If you, as legislators, have been thwarted in exercising your “check and balance” function with the executive branch, then that is a problem for you to solve with the executive - but not by way of hamstringing the PA’s professional staff. I’m sure that this frustration is not limited to issues of the Port Authority alone. It seems to pervade the governance of the state more broadly. I urge you not to take out your frustration on the PA when the core problem is elsewhere.

Third, this goes back to my earlier comment about the root cause of these problems. As I mentioned earlier, to me the root cause is the inappropriate involvement of political outsiders and the imposition of patronage appointees into the ranks of the organization. But I see nothing in this bill that addresses that in any way whatsoever. While I completely understand the anger and lashing out, I think the growling has been directed (or misdirected) broadly at the Port Authority – including its staff - rather than at the source of these inappropriate actions. If this bill is passed what will prevent the continuation of patronage largess? What will prevent the directives from outside the organization which are **not** in the interests of the Port Authority or the region?

There is no question in my mind that patronage appointments should be halted completely once and for all. All recruiting and hiring below the position of Executive Director (or CEO) should be accomplished through normal Human Resource policies and procedures employed by the PA staff. That’s clear. Is legislation required to accomplish that? Each governor has the right to nominate six individuals to serve on the PA Board and they can only serve once they are approved by the legislature. In effect, all PA commissioners have received the legislature’s seal of approval - - for better or for worse. Is a bill needed to strengthen that legislative responsibility in order to assure a more effective outcome?

In addition, a key point - - any policy directive from outside the organization that is not consistent with the proper role, responsibility and policies of the Port Authority must be resisted by the PA Board. This is a crucial and intrinsic element of their role. It is their fundamental responsibility to act on behalf of the organization and its basic regional purpose - - but not as servants of the governor of one state or the other. They need to stand firm and resist improper requests or directives. Is legislation needed to assure that? That is the basis for the PA being an independent organization - - independent from partisan political agendas. The board definitely needs to work **with** the elected officials and business leaders in the ongoing efforts to meet the regional and public interests. Unfortunately, throughout this ordeal and prior to Chairman Degnan’s appointment, their silence has been deafening and their apparent subservience has been both disappointing and disheartening.

Finally, in the absence of context, it is not clear why some of these provisions ( eg on subsidiaries, lobbyists etc) are included in the bill so it is difficult to comment on them specifically except to say that they too seem to be superfluous and will undoubtedly add to the PA's bureaucratic load. In addition, it's not clear just how this bill impacts existing provisions as reflected in documents like the Port Compact or the PA By-laws or other laws which apply to the PA. Again, many of the items are already a matter of ongoing and long standing practice at the PA so it is hard to understand the need for legislating them. It would seem to me that the goal of having these practices to be in effect has in fact already been accomplished in great measure. For me, I encourage more continued and constructive vigilance, less legislation.

In conclusion, I support the efforts to "get it right". Those efforts require a clear description or definition of the problem to be solved and an objective focus and assessment of the underlying cause(s). The solution in the form of legislation needs to clearly address those underlying causes. Otherwise the effort misses the target and basically serves as window dressing for the public while allowing for the continuation of the very actions that contributed to these problems in the first place. In the future, others may still be allowed to misuse the Port Authority to meet their own short term political agenda.

In the final analysis, the Port Authority Board (each member's qualifications and commitment having been reviewed and approved by the legislature) together with the senior leaders of the agency need to be able to "live with" the mandates of this bill and still be able to apply top level professionalism and political independence in executing their regional mission. I would hope they have been an integral part of the process of developing these requirements.

I've offered some observations and concerns based on my own experiences over more than three decades but it is they – the current and future leaders - who must carry on the PA mission in today's world - - and in my view they need to do so with your support and collaboration - not retribution, retaliation and punishment, with professionalism - not bureaucracy, with a regional perspective - not with political parochialism. If this bill - - whatever form it takes - - can do that then I think it may be fair to say that you've "gotten it right".

I look forward to continuing the discussion. Thank you.



# AMERICANS FOR PROSPERITY

**Senate Legislative Oversight Committee**  
**Chairman Robert Gordon, Vice Chairwoman Loretta Weinberg, Senator Tom Kean,**  
**Senator Joe Kyrillos, Senator Teresa Ruiz, and Senator Paul Sarlo**

**Port Authority of New York & New Jersey**  
**Proposed Reform Legislation & Priorities for the 10-Year Capital Program**

**Tuesday, October 20, 2015**

To the Senate Legislative Oversight Committee:

Thank you for the opportunity to speak today. My name is Erica Jedynak and I am the New Jersey State Director for Americans for Prosperity. On behalf of the over 2.5 million AFP activists in all 50 states and over 100,000 activists in the State of New Jersey, I am pleased to comment at today's Port Authority hearing.

Americans for Prosperity understands that infrastructure, including roads, bridges and tunnels, are core functions of state governments. As such, states have an obligation to ensure they are safe, up to date and meet the needs of their constituents. First rate infrastructure is also key to economic growth. With this in mind, AFP is pleased to see the recommitment to investment in key infrastructure projects, but believes that improvements can be made in several areas.

### **Commute Times**

I've personally waited at the train station for hours at a time because of a clog somewhere else with NJ Transit and Amtrak and it slows down the whole system by hours at a time. Any resident in New York City or Northern New Jersey can testify commuting in and out of the city isn't easy or efficient. A report from the office of the NYC comptroller confirms residents' feelings, finding that out of the nation's 30 largest cities, New York residents face the longest commute. On average, residents spend 6 hours and 18 minutes commuting each week. This is more than an hour longer than the city with the second longest commute; San Francisco. This is frankly unacceptable. It's crucial that NYC upgrade its outdated infrastructure so residents spend less time stuck in traffic and more time with their families. Additionally, time spent commuting is especially costly for non-salaried workers as time commuting is time that could otherwise be spent providing for their families.

### **Step in the Right Direction**

During the early years of its existence, the Port Authority served a laudable goal in the construction of transportation projects, which helped the areas of New York and New Jersey grow economically

through improved infrastructure. Unfortunately, like many other government agencies, the once narrow goal experienced mission creep as the Port Authority began to invest in economic development projects. These projects often went over budget, saddled the Port Authority with debt and failed to produce the economic results many bureaucrats hoped for. AFP is pleased to see the Port Authority return to its original mission of focusing on infrastructure projects and not economic development. Additionally, while AFP recognizes the authorities' responsibility to the World Trade Center site, we are pleased to see this ongoing expense projects to take less revenue over time.

### **Public Private Partnerships**

AFP is also encouraged by the Port Authority's use of Public-Private partnerships as with the Goethals Bridge project. Public-Private partnerships often provide higher value for commuters for lower cost. Understanding the limits of the Port Authority and taking advantage of the private sector's experience is sound governance which promises to provide a sound future for the infrastructure of this region. AFP would like to encourage the Port Authority to search for other projects in which a Public-Private Partnership might be beneficial.

### **Prevailing Wage**

Despite these reforms, more could be done to improve the cost and quality of infrastructure in this region. Currently, both New York and New Jersey are subject to prevailing wage laws. Prevailing wage artificially raises the cost of projects and requires either greater levels of debt, increased fees, or increased taxes to pay for these artificially increased wages. Prevailing wage has also been used as a tool to keep out keep smaller firms from bidding on projects, benefiting the firms that are larger or better connected. Both New York and New Jersey should look to eliminate their prevailing wage laws, especially as both states struggle to pay for vital projects.

### **Debt**

Unfortunately, economic development boondoggles have caused the Port Authority to assume billions of dollars in debt. As a result, fees and tolls which should go to maintaining and improving basic infrastructure, have to be diverted from its intended purpose. That said, the Port Authority should work to lower its debt to acceptable levels and avoid creating new debt with unrelated projects.

### **Conclusion**

The Port Authority is moving in the right direction in refocusing its core mission on infrastructure projects that will increase economic activity and help commuters. More can be done however to make better use of taxpayer dollars to ensure they are getting the most bang for the buck. Repealing the prevailing wage and continuing to leverage Public-Private Partnerships are two such methods to do so and I encourage the Authority to consider both options.

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# **AMERICANS FOR PROSPERITY®**

**NEW JERSEY**

## **AFP-New Jersey State Legislative Agenda Priorities**

As the leading advocate for New Jersey taxpayers, AFP –New Jersey supports pro-growth, free-market policies that will generate prosperity, opportunity and jobs, while improving the quality of life and economic well-being for all New Jerseyans. We have over 100,000 grassroots activists statewide. Outlined below are our legislative priorities.

### **Pension and Health Benefit Reform**

By all accounts, New Jersey's pension and health benefit system is in crisis. Unfunded liabilities are as high as \$170 billion and only expected to grow. AFP will advocate for changes to the system to put it on a more stable path, including consideration of a hybrid system which begins to move the state away from a defined benefit system and towards a defined contribution approach.

### **Budgetary Spending Restraint**

AFP will continue to advocate for fiscal responsibility and budgetary constraint. Spending in the state of New Jersey has exploded since the turn of the millennium, including roughly a 16% increase over the past five years. In that time, spending has outpaced state GDP—an unsustainable path. Trenton must begin to do more with less if we wish to see our economy grow and create jobs again.

### **Replenish the Transportation Trust Fund without a Gas Tax Hike**

AFP will vigorously oppose any gas tax hike which will only worsen the state's already onerous tax climate. AFP will apply grassroots pressure to make cuts to the budget to find the revenue for infrastructure projects, and calls on lawmakers to audit the Transportation Trust Fund to address out-of-control drivers of costs. AFP will also oppose any proposal to use gas tax revenues for projects other than roads and bridges, such as light rail, which has been a proven failure in other areas of the country.

### **Estate Tax Repeal**

New Jersey remains only one of two states to impose both Death Taxes—the estate tax and inheritance tax. The estate tax is particularly onerous for residents and business due to its low \$675,000 threshold, well below the federal \$5,000,000 threshold. AFP believes repealing the estate tax is a moral imperative and critical for keeping talent and industry in the state.

### **Oppose Trenton's Paid Sick Mandate**

The Garden State's business climate is the nation's worst thanks to high property, income, sales and corporate taxes. On top of this high tax burden, it is the perpetual stream of misguided and burdensome mandates and regulations which weigh on job creators, making it harder for them to thrive in New Jersey. AFP will continue to oppose such mandates, including the recent efforts to force all employers to offer paid sick time to their employees. For many small businesses and start-ups this is an added cost they simply cannot afford and could be the difference between staying open or shuttering their doors.