

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD JULY 25, 2018 AT 5:30 P.M.**

The Board of Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas, held a regular meeting on **Wednesday, July 25, 2018 at 5:30 p.m.** The following individuals were present and absent:

PRESENT: John Reed, Chairman
Ralph Cowen
John Wood
Esteban Guerra

ABSENT: Sergio Tito Lopez

ALSO PRESENT: Eduardo A. Campirano, Port Director and CEO
Daniel Rentfro Jr., District Counsel
William J. Irwin, Associate District Counsel

STAFF MEMBERS: Donna Eymard
Steve Tyndal
Lorena Hernandez
Patty Gonzales
Maggie Doxsee
Manuel Martinez
Oscar Garcia
Lieutenant Mario Esquivel
Ariel Chavez
Steve Fitzgibbons
Jaime Martinez
Chief Carlos Garcia
Michael Davis
Tony Rodriguez
Cristina Valdez
Debby Duke
Margie Recio

OTHERS PRESENT: Scott Donnaho
Carlos Barrera
Jorge de la Colina

1. Meeting Called To Order

The Chairman called the meeting to order at 5:37 p.m. Mr. Chavez offered a prayer. The Chairman then led those present in the Pledge of Allegiance to the United States and Texas flags.

2. Public Audience

Albert Rodriguez registered to address the Board regarding Item 11 but reserved his comments until Item 11 was taken up for discussion.

3. Receive Director's Report

a. Receive Port Monthly Operations Summary Report

Ms. Hernandez made the report to the Board. Discussion followed.

Mr. Campirano addressed the Board regarding Steve Fitzgibbons' upcoming retirement. Mr. Campirano thanked Mr. Fitzgibbons for his years of service to the BND. Mr. Fitzgibbons addressed the Board and thanked the Board and his colleagues for the opportunity and for their support. Commissioner Cowen asked that a resolution be prepared recognizing Mr. Fitzgibbons for his service to the BND.

CONSENT AGENDA

4. Consideration and Action on the Following Consent Agenda Items:

a. Approval of the Minutes of the Regular Board Meeting of July 11, 2018.

b. Approval to authorize payments over \$25,000.00:

1. Vulcan Materials Company, the amount of \$161,933.67, for crushed limestone;
2. Mor-Wil, LLC, the amount of \$149,339.78, for Keppel Amfels Water Line Relocation project; and
3. HDR, Inc, the amount of \$112,274.86, for Construction Observation Services for Valley Crossing Pipeline, DMPA 5B Dike Relocation Project and Oil Docks 3 & 6, Maintenance Dredging.

5. Consideration and Action on amending the Brownsville Navigation District Foreign Trade Zone No. 62, Zone Schedule, administration page to include newly elected board.

Commissioner Wood asked if the BND would be reimbursed by Valley Crossing Pipeline for a portion of the amount listed in Item 4b3. Mr. Campirano confirmed that the amount attributed to the construction observation services for Valley Crossing Pipeline would be reimbursed to the BND.

Commissioner Cowen moved to approve all consent agenda items, Commissioner Guerra seconded, and the motion passed unanimously.

6. Consideration and Action on Assignments, Negotiations, Easements, Subleases, and Contracts in General.

1. Sugaright, LLC (Landlord's Agreement)

Mr. Campirano asked that this item be tabled. Commissioner Wood moved to table this item, Commissioner Cowen seconded, and the motion passed unanimously.

7. Consideration and Action on request for a release of lease and a return of the security deposit from Max Alfonso Gonzalez Perez, d/b/a Transportes de Carga Tornado.

Mr. Rodriguez and Mr. Campirano addressed the Board requesting a release of lease and a return of the security deposit to Max Alfonso Gonzalez Perez, d/b/a Transportes de Carga Tornado. The Board approved a new lease for Max Alfonso Gonzalez Perez, d/b/a Transportes de Carga Tornado at the meeting of July 11, 2018. This lease was for a 1.446-acre site to be used as a freight transport yard. The terms of this lease required that the tract be stabilized and fenced. Mr. Gonzalez has determined that the costs of stabilizing and fencing this site are prohibitive to his business. He submitted a request that the Board release him from this lease. This lease was effective on July 11, 2018, and he is requesting that this be the date of termination of the lease. He submitted a security deposit in the amount of \$1,450.80. He requested that the security deposit be refunded to him. He has not started operations on the site. Commissioner Wood moved to grant a release of lease to Max Alfonso Gonzalez Perez, d/b/a Transportes de Cargo Tornado with an effective date of the release of July 11, 2018 and to authorize the refund of the security deposit of \$1,450.80, Commissioner Cowen seconded, and the motion passed unanimously.

8. Consideration and Action to acknowledge receipt of the audit of the District's Financial Statements for Fiscal Year Ended December 31, 2017.

The District's external auditors, Carr, Riggs and Ingram, LLC, completed the audit of the District's financial statements for the Fiscal Year Ended December 31, 2017. Carlos Barrera of Carr, Riggs & Ingram presented the independent audit report to the Board. Mr. Barrera recognized BND staff for their hard work in assisting Carr, Riggs, & Ingram, LLC with preparation of the audit. After discussion, Commissioner Guerra moved to accept the independent audit of the District's Financial Statements for the Fiscal Year Ended December 31, 2017 as presented by Carr, Riggs & Ingram, LLC, Commissioner Cowen seconded, and the motion passed unanimously.

9. Consideration and Action authorizing an agreement for Professional Services with Mario Martinez.

Mr. Campirano addressed the Board requesting authorization on an agreement for Professional Services with Mario Martinez. Projects that the District is working on with potential tenants will entail working with various governmental entities including state agencies and government officials. In order to assist the BND, Port Staff proposes hiring consultant Mario Martinez to assist with working with state executive and legislative branches and state agencies on matters pertaining to District projects. After discussion, Commissioner Cowen moved to approve the Professional Services Agreement with Mario Martinez with an effective date of August 1, 2018, Commissioner Wood seconded, and the motion passed unanimously.

10. Consideration and Action on the Grantee/Operators agreement between the Brownsville Navigation District Foreign Trade Zone No. 62 and Bluewing Royal, LLC.

Mr. Rodriguez addressed the Board requesting the approval on the Grantee/Operators agreement between the Brownsville Navigation District Foreign Trade Zone No. 62 and Bluewing Royal, LLC. Bluewing Midstream acquired the improvements of TX KLM (formerly RTW Terminal), the new terminal will be managed and operated under a new name: Bluewing Royal, LLC. Bluewing Royal, LLC has requested that they be allowed to become an Operator of FTZ No. 62. This will allow them to take over the activate storage tanks from RTW terminal. The purpose of

their operation is to store and transfer liquid bulk products. Commissioner Cowen moved to authorize Bluewing Royal, LLC to be an Operator of FTZ No. 62, Commissioner Wood seconded, and the motion passed unanimously.

11. Consideration and Action to accept work performed by contractor Mor-Wil, LLC on the Keppel AmFELS Water Line Relocation project, and authorize release and payment of the \$44,670.91 retainage, subject to applicable charges.

Mr. Chavez addressed the Board requesting acceptance of the work performed by contractor Mor-Wil, LLC on the Keppel AmFELS Water Line Relocation project, and authorize release and payment of the \$44,670.91 retainage, subject to applicable charges. Change Orders #1 and #2 to the contract added 21 and 19 calendar days, respectively, for a total of 40 days, changing the contract completion date from March 5, 2018 to April 14, 2018. Mor-Wil achieved substantial completion on May 4, 2018, but with 6 weather days identified in that period, the total period subject to liquidated damages was 14 calendar days. The contract specifies liquidated damages at \$500 day, resulting in a \$7,000.00 charge. Additionally, Mor-Wil is responsible for \$4,575.00 paid to BRG Railway for removing and replacing rail for an alleged obstruction. Mor-Wil has notified the BND that the project is complete and has submitted Payment Request No. 4 - Final, requesting release of the retainage amount of \$44,670.91, or 10% of the contract price. BND Engineering Services staff performed a final inspection and found the work to be satisfactory. Albert Rodriguez addressed the Board on behalf of Mor-Wil, LLC requesting that the Board agree to waive the liquidated damages for the delayed completion of the project. Mr. Rodriguez offered his explanation for the delays in finishing the project on time. After discussion, Commissioner Wood moved to accept the work performed by Mor-Wil, L.L.C. on the Keppel AmFELS Water Line Relocation contract, and to authorize release of the retainage amount of \$44,670.91, without any deduction for liquidated damages but with a deduction of \$4,575.00 for payment to BRG Railway, for a final payment of \$40,095.91, Commissioner Guerra seconded, and the motion passed unanimously.

12. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to discuss with attorneys pending or contemplated litigation and matters in which the duty of the attorneys under the Rules of Professional Conduct clearly conflict with Chapter 551; to conduct deliberations regarding real property (§551.072); to deliberate the deployment of security personnel or devices (§551.076); to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee (§551.074); and to conduct deliberations regarding economic development negotiations (§551.087).

Commissioner Wood moved to adjourn into executive session, Commissioner Cowen seconded, and the motion passed unanimously. The Chairman then announced that the time was 6:33 p.m., and that the Board would adjourn into executive session. The Chairman left the meeting before adjournment into executive session.

Secretary Cowen then assumed the seat as acting Chairman of the Board and announced that the time was 7:02 p.m. and that the Board had reconvened in open session.

13. Possible action on matters or items discussed in Executive Session.

There was none.


14. Adjournment.

Commissioner Wood moved to adjourn the meeting, Commissioner Guerra seconded, and the motion passed unanimously. The meeting was adjourned by unanimous consent at 7:03 p.m.

ATTEST



Secretary



John Reed
Chairman of the Board