

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND  
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS HELD MAY 17, 2017 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, May 17, 2017 at 5:30 p.m.** The following individuals were present and absent:

**PRESENT:** John Wood, Chairman  
Ralph Cowen  
John Reed  
Carlos R. Masso

**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:** Bea Rosenbaum  
Steve Tyndal  
Ariel Chavez  
Steve Fitzgibbons  
Jaime Martinez  
Chief Carlos Garcia  
Lieutenant Mario Esquivel  
Tony Rodriguez  
Patty Gonzales  
Debby Duke  
Margie Recio

**OTHERS PRESENT:** Rev. Andreas Lewis  
Joe Linck  
Roberto Ruiz  
Kevin Garcia  
Mike Donald  
Jeff Dehner  
Bob Berry  
Ismael Olivares  
William Berg  
KBSD

**1. Meeting Called To Order**

The Chairman called the meeting to order at 5:30 p.m. Reverend Lewis offered a prayer. The Chairman then led those present in the Pledge of Allegiance to the United States and Texas flags.

Chairman Wood announced that the workshop meeting and update on the progress of the Administrative Building Project would take place next door. The Board, Staff, and members of the public attended the workshop meeting and received an update from Roberto Ruiz, project architect.

Chairman Wood reconvened the meeting in the Board room at approximately 6:02 p.m.

## **2. Public Audience**

Ismael Olivares addressed the Board regarding Down by the Border, a project to assist special needs children and their families.

William Berg addressed the Board in opposition to Agenda Items 8-11.

Joe Linck addressed the Board in support of Agenda Items 8-11.

## **3. Receive Director's Report**

### **a. Receive Port Monthly Operations Summary Report**

Mr. Fitzgibbons made the report to the Board. Discussion followed.

## **CONSENT AGENDA**

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

- a. Approval of the Minutes of the Pilot Board Meeting of May 3, 2017.
- b. Approval of the Minutes of the Regular Board Meeting of May 3, 2017.
- c. Approval to authorize payments over \$25,000.00:
  1. ZIWA Construction, the amount of \$188,559.23, for BND Administration Complex Rehab & Building Addition;
  2. HDR, the amount of \$37,425.75, for Construction Administration and Observation Services for Oil Docks 3&6 Maintenance Dredging.
- d. Approval of the following leases:
  1. Brownsville International Seafarer Center (New lease)
  2. Friends of the Rio Grande Valley Reef, Inc. (New lease)
  3. Fel Glo, Inc. (Bill of Sale)
  4. Robert L. Hunter / Boca Chica Beach Club, LLC (Assignment)

Chairman Wood asked that Consent Agenda Item 4d4 be considered separately and noted that he would abstain.

Commissioner Masso moved to approve all consent agenda items, except Consent Agenda Item 4d4, Commissioner Cowen seconded, and the motion passed unanimously.

Commissioner Reed asked Staff regarding Boca Chica Beach Club, LLC's intended activities at the fish camp. Mrs. Rosenbaum briefly addressed the Board. Commissioner Masso moved to table Consent Agenda Item 4d4, Commissioner Cowen seconded, and the motion passed by a vote of 3-0. Chairman Wood abstained.

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

Mrs. Rosenbaum addressed the Board regarding the following items:

**1. General Pipe & Industrial Constructors-LA, LLC (Authority to negotiate)**

General Pipe & Industrial Constructors-LA, LLC is requesting to lease the former Gayman site at the Fishing Harbor near Everglades Road for the purposes of fabrication of piping & structural facilities. Commissioner Reed moved to authorize the Staff to negotiate with General Pipe & Industrial Constructors for a new lease, Commissioner Masso seconded, and the motion passed unanimously.

**2. Brownsville Acquisition, Inc. (Authority to negotiate)**

Brownsville Acquisition, Inc., is requesting a new lease for site currently covered by the Texas Best Recycling lease. The purpose of the lease will be for commercial recycling and processing scrap metal, and equipment sales. Commissioner Reed moved to authorize the Staff to negotiate a new lease with Brownsville Acquisition, Inc., Commissioner Cowen seconded, and the motion passed by a vote of 3-0. Chairman Wood abstained.

**3. CMG Brownsville II, LLC (Authority to negotiate)**

CMG Brownsville II, LLC is requesting a License Agreement for a Pipeline Easement to run from their terminal to the Liquid Cargo Dock. Commissioner Cowen moved to authorize the Staff to negotiate with CMG Brownsville II, LLC for a pipeline easement, Commissioner Reed seconded, and the motion passed unanimously.

**4. Captain Memo Corp. (Authority to negotiate)**

The lease to Captain Memo Corp. under BND Contract 3613 expired on April 4, 2017 and the Lessee is requesting a new lease. The purpose of the lease is for seafood unloading and boat repairs. Commissioner Masso moved to authorize the Staff to negotiate a new lease with Captain Memo, Corp., Commissioner Cowen seconded, and the motion passed unanimously.

**5. Titanium Metals Corporation (Authority to negotiate)**

Titanium Metals Corporation is requesting to lease BND Shed 15 East for the storage and handling of rutile ore. The ore will come in via vessel and will be shipped out via rail. They are planning to handle 30,000 MT per year. Mr. Tyndal addressed the board regarding Titanium Metals Corporation's intended activities at the Port. Commissioner Masso moved to authorize the Staff to negotiate with Titanium Metals Corporation for a new lease, Commissioner Reed seconded, and the motion passed unanimously.

**6. Border Financial Services, Inc. d/b/a A-Mex (Authority to negotiate)**

Border Financial Services, Inc., d/b/a A-Mex under BND Contract 3938 is requesting to amend their purpose clause to add truck parking to their current purpose of financial services and check cashing. Discussion followed regarding truck parking at the lease site and Staff's monitoring of the proposed activities. Commissioner Masso moved to authorize the Staff to negotiate with Border Financial Services, Inc. to amend their purpose clause to add truck parking, Commissioner Reed seconded, and the motion passed unanimously.

**6. Consideration and Action to approve License Agreement between Brownsville Navigation District and Cameron County for the use of ISLA Blanca Park for the arrival of the USS Independence.**

Mr. Campirano addressed the Board requesting the approval of a License Agreement between Brownsville Navigation District and Cameron County for the use of ISLA Blanca Park for the arrival of the USS Independence. Port Staff has been working with International Shipbreaking (ISL) and Cameron County Parks Department to plan an event for the arrival of the USS Independence. ISL proposes to host an event for invited guests at Isla Blanca Park. This agreement allows the use of Dolphin Cove area of the park for this event. The Port is assisting ISL in planning and organizing the event. All expenses associated with the event will be paid for by ISL, Port will provide Staff support and in-kind services. The USS Independence is scheduled to arrive the last week of May of the first week of June. Captain Berry addressed the Board. Discussion followed. Commissioner Masso moved to approve the license agreement, Commissioner Cowen seconded, and the motion passed unanimously.

**7. Consideration and Action to amend Procurement Policy C201 (Local) through C212 (Legal) to extend purchasing authority to Level 2 Supervisors, to amend Procurement Procedures to reflect the new accounting system procedures, to remove the text of Texas statutes and to make other technical corrections.**

Mrs. Duke addressed the Board requesting authorization to amend Procurement Policy C201 (Local) through C212 (Legal) to extend purchasing authority to Level 2 Supervisors, to amend Procurement Procedures to reflect the new accounting system procedures, to remove the text of Texas statutes and to make other technical corrections. The District has purchased a new computerized accounting system that includes a Purchase Requisition and Purchase Order system. This system will "go live" the week of May 15<sup>th</sup>, and various revisions to the Procurement Policy are required to take advantage of the new features offered by the system. One revision to the policy that is being recommended is the extension of purchasing authority of \$500.00 to Level 2 Supervisors (Department Directors). While this Policy was under revision, Staff took advantage of the opportunity to address some other technical corrections that they have noted were needed. One major correction is the removal of the text of the Texas statutes that govern the District's purchasing. They are included by reference, but as they are amended by the Legislature, Staff needed to make sure that the version included in the District's policy was updated. It is not necessary to include the text of these statutes in the policy as the text of the statutes are available online in their current versions. Commissioner Masso moved to approve the amendment to the District's Procurement Policies and Procedures, Policies C201 (Local) through C212 (Legal) as proposed by the staff with an effective date of May 18, 2017, Commissioner Cowen seconded, and the motion passed unanimously.

Chairman Wood asked that Items 8-11 be tabled until after Executive Session. Commissioner Reed moved to table Items 8-11, Commissioner Cowen seconded, and the motion passed unanimously.

**12. Consideration and Action to authorize Port Staff to solicit Statements of Qualification for Professional Land Surveying Services to perform surveys required for the Brazos Island Harbor Easement Releases as provided in the Water Resources Development Act of 2016.**

Mr. Chavez addressed the Board requesting authorization for Port Staff to solicit Statements of Qualifications for Professional Land Surveying Services to perform surveys required for the Brazos Island Harbor Easement Releases as provided in the Water Resources Development Act of 2016. After adoption by the Congress of the United States of the Water Resources Development Act (WRDA) of 2016, which included the release of easements and portions of easements in the Brazos Island Harbor (BIH) Ship Channel, BND Staff has been working with the U. S. Army Corps of Engineers (USACE) towards completing the approved releases. In a Teleconference on May 3, 2017, concurrence was achieved on the type and category of the surveys required for disposal of the easements by the Corps. The BND, therefore, needs to engage one or several land surveying consultants for this work. To that end, Port Staff needs to solicit Statements of Qualifications (SOQs) from interested and qualified land surveying consultants, BND Staff is in the process of developing the Scope of Work which will be used to request the SOQs. The land boundary surveys will be submitted by the BND to the USACE to proceed with the releases of the easements and portions thereof. Commissioner Reed moved to authorize the Port Director and Port Staff to solicit Statements of Qualifications for Professional Land Surveying Services pursuant to the Brazos Harbor Easement Releases, to evaluate them, and to present them in the near future to BND Commissioners with a selection recommendation, Commissioner Cowen seconded, and the motion passed unanimously.

**13. Consideration and Action on Change Order No. 1 to the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, and Maintenance Dredging project, adding Mooring Bollard for Oil Dock #3 and Demolition Budget.**

Mr. Chavez addressed the Board requesting the approval on Change Order No. 1 to the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, and Maintenance Dredging project, adding Mooring Bollard for Oil Dock #3 and Demolition Budget. On December 21, 2016, BND Commissioners awarded the contract on the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, and Maintenance Dredging project to lowest bidder Triton Marine Construction Corp. (Triton), in the amount of \$23,649,529.40. After receiving all pertinent documents and executing the Agreement, and after completing the release of the 5 Acre site by TransMontaigne of the area to be used for staging, BND Engineering Staff issued the Notice to Proceed on March 20, 2017. During the demolition process, it was discovered that some of the existing bollards for Oil Dock #3 that are to be removed needed to be replaced. Additionally, unanticipated structures and concrete were found underground that require demolition for the Oil Dock #6 construction. This Change Order No. 1 will add one Steel Pile mooring bollard on the proposed bulkhead, and one Wooden Cluster mooring bollard just East of the proposed bulkhead, to replace the two existing bollards being demolished, and provide a budget for the additional unanticipated demolition. Triton proposes to install the Steel Pile bollard for \$107,570.44 and the Wooden Pile bollard for \$29,045.39, and HDR recommends providing \$120,000.00 for additional demolition for a total of \$256,615.83, for a 1.09% increase of the original contract price. Commissioner Reed moved to approve Change Order No. 1 to the contract with Triton Marine Construction Corp. on the Oil Dock No. 6

Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, and Maintenance Dredging project, increasing the contract price by \$256,615.83 for a new contract price of \$23,906,145.23, subject to HDR's evaluation of the additional steel pile bollard's effect on the bulkhead, Commissioner Cowen seconded, and the motion passed unanimously.

**14. Consideration and Action on bids received for the yearly contract to dispose of oil from the Fishing Harbor Sewer Treatment Plant.**

Mr. Chavez addressed the Board requesting review and award of the contract for service on bids received for the yearly contract to dispose of oil from the Fishing Harbor Sewer Treatment Plant. On February 15, 2017 BND Commissioners authorized staff to advertise for and open bids on the Yearly Contract to Dispose of Oil from the Fishing Harbor Sewer Treatment Plant. BND Engineering Staff proceeded to prepare the Request for Proposals (attached), and also to publish an Advertisement for Bids in the local newspaper on May 1<sup>st</sup> and May 8, 2017. Staff also sent the Advertisement by email to known providers of the required service. BND Staff is scheduled to receive and open these bids on May 16, 2017, after which the bids will be tabulated and presented to BND Commissioners for review and possible award of the contract for this service at Board Meeting time. Commissioner Masso moved to award the Yearly Contract to Dispose of Oil from the Fishing Harbor Sewer Treatment Plant to J W Rentals, Inc. d/b/a Environmental Evolutions National (EEN), the lowest qualified and responsive bidder, Commissioner Reed seconded, and the motion passed unanimously.

**15. 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 Masso moved to adjourn into executive session, Commissioner Reed seconded, and the motion passed unanimously. The Chairman then announced that the time was 6:58 p.m. and that the Board would adjourn into executive session.

Commissioner Cowen moved to reconvene in open session, Commissioner Masso seconded, and the motion passed unanimously. The Chairman then announced that the time was 7:55 p.m. and that the Board had reconvened in open session.

**16. Possible action on matters or items discussed in Executive Session.**

Chairman Wood recalled Agenda Items 8-11.

**8. Consideration and Action on designation of a Utility Corridor on BND land between SH 48 and the Brownsville Ship Channel.**

Mr. Campirano addressed the Board requesting the designation of a Utility Corridor on BND land between SH 48 and the Brownsville Ship Channel. The District would like to establish a corridor, varying in width from one hundred and fifty feet (150”) to two hundred feet (200”) for overhead electric transmission and distribution lines, underground sewer, water and telecommunications lines, and underground gas pipelines, and any other utilities as may be deemed appropriate. Commissioner Reed moved to create the designated Utility Corridor, Commissioner Masso seconded, and the motion passed unanimously.

**9. Consideration and Action on Easement Agreement between BND and Valley Crossing Pipeline, LLC in the Utility Corridor.**

Mr. Campirano addressed the Board requesting approval on Easement Agreement between BND and Valley Crossing Pipeline, LLC in the Utility Corridor. This Easement with Valley Crossing Pipeline is to provide an exclusive twenty-five foot (25”) wide right-of-way and easement for the purpose of constructing, maintaining and operating one (1) underground pipeline having a diameter of forty-eight inches (48”) or less, data and communications lines, and pipeline markers required by law for the transmission of natural gas and by-products and constituents thereof. Commissioner Cowen moved to approve and sign the easement with Valley Crossing Pipeline LLC, subject to revisions of the survey acceptable to Staff and receipt of the funds within 7 days, Commissioner Masso seconded, and the motion passed unanimously.

**10. Consideration and Action to enter into an Easement Agreement between BND and Valley Crossing Pipeline, LLC outside of the Utility Corridor.**

Mr. Campirano addressed the Board requesting authorization to enter into an Easement Agreement between BND and Valley Crossing Pipeline, LLC outside of the Utility Corridor. This Easement with Valley Crossing Pipeline is for an exclusive fifty foot (50”) wide right-of-way and easement for the purpose of constructing, maintaining and operating one (1) underground pipeline having a diameter of forty-eight inches (48”) or less, together with such above or below grade valves, fittings, cathodic/corrosion protection, data and communications lines and pipeline markers required by law for the transmission of natural gas and by-products and constituents thereof. Commissioner Masso moved to approve and sign the easement with Valley Crossing Pipeline LLC, subject to revisions to the survey acceptable to Staff and receipt of the funds within 7 days, Commissioner Cowen seconded, and the motion passed unanimously.

**11. Consideration and Action to enter into an Easement Agreement between BND and Valley Crossing Pipeline, LLC for channel crossing.**

Mr. Campirano addressed the Board requesting the approval to enter into an Easement Agreement between BND and Valley Crossing Pipeline, LLC for channel crossing. This Easement with Valley Crossing Pipeline is for an exclusive fifty foot (50") wide right-of-way and easement for the purpose of constructing, maintaining and operating one (1) underground pipeline having a diameter of forty-eight inches (48") or less, together with such above or below grade valves, fittings, cathodic/corrosion protection, data and communications lines and pipeline markers required by law for the transmission of natural gas and by-products and constituents thereof. Commissioner Reed moved to approve and sign the easement with Valley Crossing Pipeline, LLC, subject to revisions to the survey acceptable to Staff and receipt of the funds within 7 days, Commissioner Masso seconded, and the motion passed unanimously.

**17. Adjournment.**

Commissioner Masso moved to adjourn the meeting, Commissioner Reed seconded, and the meeting was adjourned by unanimous consent at 7:58 p.m.

ATTEST

Secretary



FOR

John Wood  
Chairman of the Board