

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND  
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS HELD JULY 11, 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 11, 2018 at 5:30 p.m.** The following individuals were present and absent:

**PRESENT:** John Reed, Chairman  
Ralph Cowen  
John Wood  
Sergio Tito Lopez  
Esteban Guerra

**ABSENT:** None

**ALSO PRESENT:** Eduardo A. Campirano, Port Director and CEO  
William J. Irwin, District Counsel

**STAFF MEMBERS:** Donna Eymard  
Bea Rosenbaum  
Memo Rico  
Lorena Hernandez  
Maggie Doxsee  
Patty Gonzales  
Steve Tyndal  
Ariel Chavez  
Steve Fitzgibbons  
Jaime Martinez  
Chief Carlos Garcia  
Lieutenant Mario Esquivel  
Oscar Garcia  
Michael Davis  
Tony Rodriguez  
Margie Recio

**OTHERS PRESENT:** Rev. Andreas Lewis  
Peter Schmar  
Scott Donnaho  
Jorge de la Colina

**1. Meeting Called To Order**

The Chairman called the meeting to order at 5:35 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.

## **2. Public Audience**

No person registered to address the Board.

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

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

Chairman Reed asked Mr. Tyndal for a report on his marketing trip to New York. Mr. Tyndal addressed the Board.

Mr. Tyndal addressed the Board regarding the AVA digital awards recently awarded to the Port. Mr. Tyndal acknowledged the contributions made by staff, including Jorge Montero and Patty Gonzales.

Mr. Tyndal also presented the newly issued Port directory to the Board.

Chairman Reed then asked Mr. Rodriguez for an update on changes in tariffs and their impact on the Port. Mr. Rodriguez addressed the Board and discussion followed. Mr. Rodriguez noted that according to the Port's customers their business has not yet been affected.

Chairman Reed then asked Mr. Chavez for an update on the progress of removal of debris from the channel in connection with the Oil Dock No. 6 project. Mr. Chavez addressed the Board.

## **CONSENT AGENDA**

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

- a. Approval of the Minutes of the Regular Board Meeting of June 20, 2018.
- b. Approval to authorize payments over \$25,000.00:
  1. O'Briens Response Management, the amount of \$29,443.39, for Marine Metals soil sampling;
  2. Vulcan Material Company, the amount of \$216,311.40, for crushed limestone;
  3. HDR, Inc, the amount of \$190,592.22, for Construction Observation Services for Valley Crossing Pipeline project, Construction Administration and Observation Services for Oil Docks 3 & 6, Maintenance Dredging;
  4. ZIWA Corporation, the amount of \$432,930.73, for BND Administration Complex Rehab & Building addition;
  5. G&T Paving, LLC, the amount of \$188,465.40, for Foust Road Truck Parking Facility; and
  6. Triton Marine Construction, the amount of \$1,600,793.73, for Oil Dock 6 Construction, Oil Dock 3 Fender System Replacement & Facility Enhancements, & Maintenance Dredging.
- c. Approval of the following leases:
  1. Firebird Bulk Carriers, Inc. (Amendment)
  2. Paul Shane, d/b/a TLO Logistics (New lease)
  3. Optimum Quality Transfer, Inc. (New lease)
  4. Max Alonso Gonzalez Perez, d/b/a Transportes De Carga Tornado (New Lease)

Commissioner Lopez noted that he would like to abstain from Consent Agenda Items 4c1-4.

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

**5. Presentation of District Funds Investments Report for the Period April 1, 2018 through June 30, 2018.**

Mr. Fitzgibbons addressed the Board regarding the investment report for the District for the period April 1, 2018 through June 30, 2018. The report shows earnings for investments with CD's from First Community Bank, Texas Regional Bank, and Lone Star Bank of \$107,402. All CDs have matured. The report also shows interest from TexasTerm Local Government Investment Pool of \$125,079 and interest from the daily deposits at Lone Star National Bank of \$67,371 for total interest earned during this period of \$309,851. As of June 30, 2018, the District had \$28,295,751 invested with TexasTerm and \$21,236,663 at Lone Star National Bank for a total of \$49,532,414 in investments and bank balances. The report also includes an estimated allocation of the \$49,532,414 in investments and bank balances by fund as of June 30, 2018. Discussion followed regarding Mr. Fitzgibbons' report.

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

Mrs. Rosenbaum addressed the Board regarding the following items:

**1. Brownsville Gulfside Warehouse, Inc. (Subordination)**

Brownsville Gulfside Warehouse, Inc., under BND Contract 3932, has requested the Board's consent to subordination of its lien in favor of Lone Star National Bank for a loan to rebuild a warehouse on the lease site. The purpose of the lease is for material handling and dry warehouse storage. Commissioner Cowen moved to consent to subordination of its lien in favor of Lone Star National Bank under BND Contract 3932 with Brownsville Gulfside Warehouse, Inc., Commissioner Wood seconded, and the motion passed unanimously.

**2. Magic Valley Concrete, Inc. (Subordination)**

Magic Valley Concrete, LLC, under BND Contract 3730, has requested the Board's consent to subordination of its lien in favor of Regions Equipment Finance Corporation, Regions Commercial Equipment Finance, LLC and/or one of their affiliates ("Regions") to induce Regions to enter into one or more leases or loans or otherwise extend credit to Magic Valley Concrete, Inc. from time to time. The purpose of the lease is for a concrete batch plant. Commissioner Guerra moved to consent to subordination of its lien in favor of Regions Equipment Finance Corporation, Regions Commercial Equipment Finance, LLC and/or one of their affiliates ("Regions"), Commissioner Cowen seconded, and the motion passed unanimously.

**3. Seahorse Transportation, Inc. (Consent, Assignment and Subordination)**

Seahorse Transportation, Inc., under BND Contract 3793, has requested the Board's consent to subordination of its lien in favor of International Bank of Commerce for a loan to finance the internal buyout of the stock of the company. Chairman Reed asked legal counsel regarding the nature of the transaction. Mr. Irwin addressed the Board. Commissioner Cowen moved to consent to the Assignment and Subordination of Real Estate Lease and Agreement and to authorize Mr.

Campirano to sign the document, Commissioner Guerra seconded, and the motion passed unanimously.

**4. Port Warehouse Properties, LP / CSC Sugar, LLC / Sugaright, LLC (Consent to Sub-Sublease)**

Port Warehouse Properties, LP, under BND Contract 3599, has a sublease with CSC Sugar, LLC. CSC Sugar, LLC has requested that the Board consent to a Sub-Sublease to Sugaright, LLC, a related entity to CSC Sugar, LLC. The purpose of the sub-sublease is for storage and distribution of sugar. Commissioner Cowen noted that he would be abstaining from this item. Commissioner Wood moved to consent to the Sub-Sublease to Sugaright, LLC, Commissioner Lopez seconded, and the motion passed, with Commissioner Cowen abstaining.

**7. Consideration and Action on adjusting meeting schedule for August 2018 Board meetings.**

Mr. Campirano addressed the Board to discuss adjusting the meeting schedule for the Regular Board meetings of August 2018. Commissioner Cowen moved to schedule the August 2018 board meetings for August 8<sup>th</sup> and 22<sup>nd</sup>, each at 5:30 p.m., Commissioner Wood seconded, and the motion passed unanimously.

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

Mr. Campirano addressed the Board and requested that this item be tabled. Mr. Fitzgibbons addressed the Board and noted that the draft audit would be ready in August. Commissioner Lopez moved to table this item, Commissioner Guerra seconded, and the motion passed unanimously.

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

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

**10. Consideration and Action amending an agreement with SEDCO by ratifying a change order payment of \$2,058 increasing the amount of SEDCO's agreement from \$26,193 to \$28,251 for additional repairs necessary to keep the Fishing Harbor Waste Water Treatment Facility operational.**

Mr. Fitzgibbons addressed the Board requesting amendment on its agreement with SEDCO by ratifying a change order payment of \$2,058 increasing the amount of SEDCO's agreement from \$26,193 to \$28,251 for additional repairs necessary to keep the Fishing Harbor Waste Water Treatment Facility operational. Unanticipated work was required to keep the plant operational due to conditions discovered during the project. This work has already been performed, and the Staff believes the required additional work was done at a fair price. Commissioner Cowen moved to ratify a change order payment in the full amount of \$2,058 paid to SEDCO for additional work needed to keep the Fishing Harbor Waste Water Treatment Facility in operation, Commissioner Guerra seconded, and the motion passed unanimously.

**11. Consideration and Action to authorize the Port Director and CEO to execute agreement with the U.S. Army Corps of Engineers and issue payment of contribution to perform Section 408 review of the proposed -75 ft. and -95 ft. Deep Holes at Keppel AmFELS Quay.**

Mr. Chavez addressed the Board requesting authorization for the Port Director and CEO to execute an agreement with the U.S. Army Corps of Engineers and to issue payment for the Corps to perform Section 408 review of the proposed -75ft. and -95 ft. Deep Holes at Keppel AmFELS Quay. The Port Director and BND Staff have been working with BND lessee Keppel AmFELS (AmFELS) on extending the existing dredging and maintenance permit from the U.S. Army Corps of Engineers (USACE) for their .70 ft. deep hole across the AmFELS Quay, and to obtain a new permit to dredge a portion of that Quay to .95 ft. USACE is requesting \$14,000.00 as their fee to perform the Section 408 review. BND received confirmation from Keppel AmFELS that it will reimburse the BND for those fees. Commissioner Lopez moved to authorize the Port Director and C.E.O. to execute the Agreement on contribution to the U.S. Army Corps of Engineers to perform Section 408 Review on the proposed -75 ft. and -95 ft. Deep Holes at Keppel AmFELS Quay and to issue payment in the amount of \$14,000.00 to USACE for this concept, Commissioner Guerra seconded, and the motion passed unanimously.

**12. Consideration and Action to ratify agreement with the U.S. Army Corps of Engineers and payment of contribution to perform a Section 408 review of the proposed Bulk Cargo Dock Improvements project.**

Mr. Chavez addressed the Board requesting the ratification of the agreement with the U.S. Army Corps of Engineers and payment of contribution to perform a Section 408 review of the proposed Bulk Cargo Dock Improvements project. BND, as landowner, received a request for advance payment of fees in the amount of \$17,560.00 from the USACE Galveston District (SWG) to perform a Section 408 review on the project. West Plains has stated that they will cover these fees, and the Port Director has signed the Agreement and instructed issuance of payment to USACE. Commissioner Lopez moved to ratify the Port Director's action to execute the Agreement on contribution to the U.S. Army Corps of Engineers to perform a Section 408 Review on the proposed Bulk Cargo Dock Improvements project and to ratify issuance of payment in the amount of \$17,560.00 to USACE for this concept, Commissioner Guerra seconded, and the motion passed unanimously.

**13. Consideration and possible Action on bids received for rail materials and appurtenances for the railroad crossings on Old State Highway 48 in the BND Port Road Improvements – Phase II project.**

Mr. Chavez addressed the Board requesting rejection of bids received for rail materials and appurtenances for the railroad crossings on Old State Highway 48 in the BND Port Road Improvements – Phase II project. BND Staff published an advertisement for bids on the material for the railroad crossings on April 23 and April 30, 2018 and received bids on June 11, 2018. Two bids were received for the rail materials and appurtenances, one of which was deemed ineligible since it was received by email and not as a sealed bid. Due to the disparity in the bids received, BND Staff considers that the best course of action is to reject the bids on the rail materials and appurtenances and re-bid these materials as allowed by applicable law. Commissioner Cowen moved to reject the bids received for the Rail materials and appurtenances for the Railroad

Crossings on Old State Highway 48 in the BND Port Road Improvements – Phase II project and to authorize staff to rebid the materials as allowed by applicable law, Commissioner Wood seconded, and the motion passed unanimously.

**14. Consideration and possible Action on bids received for composite planks and ties materials for the railroad crossings on Old State Highway 48 in the BND Port Road Improvements – Phase II project.**

Mr. Chavez addressed the Board requesting to award bids received for composite planks and ties material for the railroad crossings on Old State Highway 48 in the BND Port Road Improvements – Phase II project to the lowest bidder. BND Staff published an advertisement for bids on the material for the railroad crossings on April 23 and April 30 and received bids on June 11, 2018. Three bids were received for the Planks and Ties, one of which was deemed ineligible since it was received by email and not as a sealed bid. The apparent lowest responsive bidder on the Planks and Ties was L.T. Resources, with a bid of \$67,132.80 for these materials. Commissioner Cowen moved to award the purchase of the Planks and Ties materials for the Railroad Crossings on Old Highway 48 in the BND Port Road Improvements – Phase II project to the lowest responsive bidder L.T. Resources, in the amount of \$67,132.80, and place the order for the materials, Commissioner Guerra 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).**

There was none.

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


There was none.

**17. Adjournment.**

Commissioner Wood moved to adjourn the meeting, Commissioner Lopez seconded, and the meeting was adjourned by unanimous consent at 6:33 p.m.

ATTEST

  
Secretary

  
John Reed  
Chairman of the Board