

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

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

**PRESENT:** John Reed, Chairman  
Sergio Tito Lopez  
Ralph Cowen  
Esteban Guerra (arrived after Pilot Board Meeting)

**ABSENT:** John Wood

**ALSO PRESENT:** William J. Irwin, Associate District Counsel

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

**OTHERS PRESENT:** Rev. Andreas Lewis  
Jorge de la Colina  
Fabian de la Garza  
Roberto Ruiz  
Joe Linck  
Grant Wilson  
Robert Berry  
Scott Donnaho

## **PILOT BOARD MEETING**

The Chairman called the Pilot Board meeting to order at 5:30 p.m.

### **a) Consider and re-commission Branch Pilot Captain Grant S. Wilson**

Captain Wilson addressed the Board and requested that he be re-commissioned as Branch Pilot for a term beginning November 1, 2018 through November 1, 2022. The Board commended Captain Wilson for his service to the Port of Brownsville. Commissioner Cowen moved to re-commission Grant S. Wilson as Branch Pilot for a term beginning November 1, 2018 through November 1, 2022, Commissioner Lopez seconded, and the motion passed unanimously.

Commissioner Cowen then moved to adjourn the Pilot Board meeting, Commissioner Lopez seconded, and the motion passed unanimously.

Commissioner Guerra arrived.

### **1. Regular Meeting Called To Order**

The Chairman called the meeting to order at 5:34 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 Mrs. Duke for clarification regarding the calculation of the tax rates included in the agenda backup. Mrs. Duke addressed the Board.

Chairman Reed asked Mr. Davis for an update on the report of a crane that fell in the ship channel. Mr. Davis reported that the situation had been resolved and the crane had been removed. Oscar Garcia reported that the work on the lights on Dock 15 had been completed.

General discussion followed regarding the reports.

## **CONSENT AGENDA**

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

- a. Approval of the Minutes of the Regular Board Meeting of August 22, 2017.
- b. Approval to authorize payments over \$25,000.00:
  1. HDR, the amount of \$74,851.50, for Construction Admin. and Observation Services for Oil Docks 3 & 6, Maintenance Dredging;
  2. CCRMA, the amount of \$48,543.44, for Development of Design/Engineering plans for the South Port Connector Road Project;
  3. CCRMA, the amount of \$65,800.01, for Development of Design/Engineering plans for the South Port Connector Road Project;

4. Triton Marine Construction, the amount of \$625,843.29, for Oil Dock 6, Oil Dock 3 Fender Replacement, Oil Dock 3 Facility Enhancements, and Maintenance Dredging;
5. ZIWA Corporation, the amount of \$257,608.79, for BND Admin Complex Rehab & Bldg. Add;
6. Environmental Evolutions, the amount of \$324,534.60, for Transportation and disposal sludge at Ballast Pit #2; and
7. Russell Marine, the amount of \$45,000.00, for BND Bulk Cargo Dock Improvements.

Commissioner Lopez moved to table Consent Agenda Item 4b6, Commissioner Cowen seconded, and the motion passed unanimously.

Chairman Reed asked Ariel Chavez and Mr. Roberto Ruiz for details regarding the final punch list on the Administration Rehabilitation and Building Addition project. Mr. Ruiz addressed the Board.

Commissioner Cowen moved to approve all other Consent Agenda items, Commissioner Guerra seconded, and the motion passed unanimously.

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

Mrs. Rosenbaum addressed the Board regarding the following items:

1. John Whelan d/b/a Whelan Industries (**New Lease**)

Mrs. Rosenbaum requested that this item be tabled. Commissioner Lopez moved to table this item, Commissioner Cowen seconded, and the motion passed unanimously.

6. **Consideration and Action to set the 2018 Ad Valorem tax rate for the Brownsville Navigation District at \$.035920 per \$100 valuation. This rate is comprised of a debt portion of zero and a maintenance and operations portion of \$.035920 per \$100 valuation. The rate is projected to increase tax revenues by \$200,588.00 and is higher than both the rollback tax rate and the effective tax rate. This rate is the same rate that was adopted in 2016 and 2017.**

Mrs. Duke addressed the Board requesting authorization to set the 2018 Ad Valorem tax rate for the Brownsville Navigation District at \$.035920 per \$100 valuation. This rate is comprised of a debt portion of zero and a maintenance and operations portion of \$.035920 per \$100 valuation. This is the official action required to adopt the Ad Valorem Property Tax Rate for 2018. The Effective and Rollback Tax Rate Calculations were published in the Brownsville Herald on August 7, 2018 and have been posted on the District's web site, as required. The Proposed Property Tax Rate for 2018 is equal to the 2016 and the 2017 Adopted Tax Rate. This rate is higher than both the rollback tax rate and the effective tax rate. Commissioner Cowen moved that the property tax rate be increased by the adoption of a tax rate of \$.035920 per \$100 of valuation, which is effectively a 2% increase in the tax rate. The tax rate moved for adoption includes a debt rate of zero and a maintenance and operations portion of \$.035920 per \$100 valuation, Commissioner Guerra seconded, and the motion passed unanimously.

**7. Consideration and Action to declare assets 615B-1991 16' boat, 615C-1991 Mercury Motor and 615D-1991 Shorelander Trailer as surplus and to authorize their sale by the salvage Auction Team.**

Mrs. Duke addressed the Board requesting authorization to declare assets 615B-1991 16' boat, 615C-1991 Mercury Motor and 615D-1991 Shorelander Trailer as surplus to the District's needs and to authorize their sale by the salvage Auction Team. The 1991 16' aluminum boat, with its motor and trailer are listed as assets on the District's books, and by policy require the Board's declaration as surplus to the District's needs or as salvage prior to their disposition. This boat has been sitting on its trailer unused for a number of years, and the District staff has no further for this equipment in its current condition. Oscar Garcia has requested that the Salvage Auction Team dispose of these items. As assets, they originally went onto the books in 1991 at a total cost of \$10,730.00 but have now been fully depreciated with a current book value of zero. Commissioner Cowen moved to declare the assets 615B, 615C, and 615D as surplus to the District's needs and that the Board authorize the Salvage Auction Team to dispose of these assets, Commissioner Guerra seconded, and the motion passed unanimously.

**8. Consideration and Action on Amending Procurement Policies and Procedures C203 (Local), C204 (Local) and C206 (Exhibits A & C).**

Mrs. Duke addressed the Board requesting authorization on amending Procurement Policies and Procedures C203 (Local), C204 (Local) and C206 (Exhibits A & C). The Texas Legislature has passed two bills, SB 252 and SB 253, that prohibit Texas public entities from doing business with "Foreign terrorist organizations". SB 252 addresses purchasing and SB 253 addresses investments. This item proposes adding language to the District's procurement policies and procedures to bring them into compliance with SB 252. Staff has requested that this amendment be effective September 5, 2018 as it affects only internal operations. Commissioner Guerra moved to authorize the amendment of the Policies and Procedures – Policy C203(Local), Policy C204 (Local) and Policy C206 (Exhibits A&C) as presented by staff, to be effective September 5, 2018, Commissioner Lopez seconded, and the motion passed unanimously.

**9. Consideration and Action on Amending Procurement Card Policy C206 (Local).**

Mrs. Duke addressed the Board requesting the amendment of Procurement Card Policy C206(Local). Lorena Hernandez, the new Finance Director, has reviewed the Procurement Card Program and made a number of recommendations to streamline the process without losing control. This resulted in a near re-write of the procedures sections of this policy. An additional revision to the policy is that the procedures have been separated from the policy section and are now incorporated as Exhibit D to the policy. Commissioner Guerra moved to authorize the amendment of the Procurement Card Policy – Policy C260 (Local), as presented by staff, to be effective September 5, 2018, Commissioner Lopez seconded, and the motion passed unanimously.

**10. Consideration and Action to authorize BND Staff to advertise for Bids on the Public Vessel Assembly and Erection Pad project, and to open bids thereof.**

Mr. Chavez addressed the Board requesting authorization for BND Staff to advertise for Bids on the Public Vessel Assembly and Erection Pad project, and to open bids thereof. BND Staff has been working with the Lower Rio Grande Valley Development Council (LRGVDC) on an EDA grant to partially fund the construction of a Public Vessel Assembly and Erection Pad at Keppel AmFELS (AmFELS). BND Staff is requesting authorization to publish the advertisement for bids

upon approval of the plans for the facility by LRGVDC and EDA. Commissioner Cowen moved to authorize BND Staff to prepare an invitation to bid on the Public Vessel Assembly and Erection Pad project, to publish same in the local newspaper, and to open bids once they are received, Commissioner Lopez seconded, and the motion passed unanimously.

**11. Consideration and Action on bids received for the 2018 BND Spot Repairs and Asphalt Surfacing project.**

Mr. Chavez addressed the Board requesting an award on bids received for the 2018 BND Spot Repairs and Asphalt Surfacing project. The bid opening was held on August 30, 2018; BND received only one bid from G&T Paving, L.L.C., in the amount of \$178,644.37. After discussion, Commissioner Lopez moved to award the contract for the 2018 BND Spot Repairs and Asphalt Surfacing project to G&T Paving, LLC for the bid amount of \$178,644.37 and to authorize BND Staff to issue the Notice of Award, Commissioner Cowen seconded, and the motion passed unanimously.

**12 Consideration and Action on Change Order No. 1 to the Old S.H. 48 Railroad Crossings - Rail and Appurtenances in the BND Port Road Improvements – Phase II project, adjusting quantities of Compromise Rail Joint Bars to actual need.**

Mr. Chavez addressed the Board requesting the Board’s consideration of Change Order No. 1 to the Old S.H. 48 Railroad Crossings – Rail and Appurtenances in the BND Port Road Improvements – Phase II project, adjusting quantities of Compromise Rail Joint Bars to actual need. On August 8, 2018 BND Commissioners awarded the purchase of rail materials for three Railroad Crossings on Old State Highway 48 in Phase II of the BND Port Road Improvements project to Menard's Railroad Materials in the amount of \$22,540.80. In the process of placing the order, BND Staff discovered that two of the bid item quantities were incorrect. For Item 4, the Joint Bars for #112 rail, staff specified 1 unit, while they need 4, and for item 5, the Joint Bars for #90 rail, staff specified 2, while they need 8. The purpose of this Change Order No.1 is to adjust the contract quantities to provide for the actual the required quantities of these two items by increasing the purchase amount by \$5,400.00, or 23.96% of the original purchase amount, for a new total purchase amount of \$27,940.80. Commissioner Cowen moved to approve Change Order No. 1 to the purchase from Menard’s Railroad Materials for the Old S.H. 48 Railroad Crossings – Rail and Appurtenances materials, increasing the current contract price of \$22,540.80 by \$5,400.00 for a new contract price of \$27,940.80, Commissioner Guerra seconded, and the motion passed unanimously.

**13. Consideration and possible Action Change Order No. 4 to the Administration Complex Rehabilitation and Building Additions project, adjusting unit price allowances, accounting for Owner-Generated additions to the Scope of Work, and adjusting contract time for additional work and inclement weather.**

Mr. Chavez addressed the Board requesting the Board’s consideration of Change Order No. 4 to the Administration Complex Rehabilitation and Building Additions project, adjusting unit price allowances, accounting for Owner-Generated additions to the Scope of Work, and adjusting contract time for additional work and inclement weather. This Change Order No. 4 adjusts the Unit Price allowances in the contract (a \$1,478.76 decrease), and accounts for labor and materials due to owner-generated additional work (a \$10,307.92 increase), for a net increase of \$8,829.16 resulting in a new total contract amount of \$7,253,190.77. Ziwa also requested a contract time extension of forty-four (44) calendar days (four [4] days due to landscaping coordination and

thirty-nine [39] days due to inclement weather impact), for a new contract completion date of October 9, 2018. Commissioner Cowen moved to approve this Change Order No. 4 to the contract with Ziwa Corporation on the Administration Complex Rehabilitation and Building Additions project, increasing the current contract price of \$7,244,361.61 by \$8,829.16 for a new contract price of \$7,253,190.77, and an extension to the contract time of forty-four (44) calendar days, for a new contract completion date of October 9, 2018, Commissioner Guerra seconded, and the motion passed unanimously.

**14. Consideration and possible Action to Change Order No. 8 to the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, & Maintenance Dredging project, for the purpose of installing Carbon Fiber Jackets to repair the old worn out pipe piles on the existing Dolphin structure at Oil Dock #3.**

Mr. Chavez addressed the Board requesting the acceptance of Change Order No. 8 to the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, & Maintenance Dredging project, for the purpose of installing Carbon Fiber Jackets to repair the old worn out pipe piles on the existing Dolphin structure at Oil Dock #3. Upon completion of the enhancements to Oil Dock #3, it was observed that the pipe piles in the existing dolphin structure on Oil Dock # 3 were too worn out and had lost thickness. Depth Underwater Services (In Depth) were engaged to inspect the thicknesses and discovered that on some areas almost 50% of the pipe pile thickness was gone. After review of the report, consultant HDR, Inc. (HDR) prepared a recommendation for repairs and submitted it to Triton for pricing. Triton proposes to perform the repairs as recommended for a price of \$141,692.46, with a credit of \$13,420.00 for pending work under the contract, for a net increase of \$128,272.46. This Change Order No. 8 would increase the contract price accordingly, for a new contract amount of \$27,823,846.80. This work has no impact on the contract completion date. Discussion followed regarding HDR's involvement in the change order and their review of the issue. After discussion, Commissioner Cowen moved to approve Change Order No. 8 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 current contract price by \$128,272.46, for a new contract price of \$27,695,574.34, with no adjustment to the contract time, Commissioner Lopez seconded, and the motion passed unanimously. The Board requested that Mr. Chavez prepare a recap of the change orders on this project.

**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).**

The Board did not adjourn into Executive Session.

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


There was none.

**17. Adjournment.**

Commissioner Lopez moved to adjourn the meeting, Commissioner Cowen seconded, and the meeting was adjourned by unanimous consent at 6:26 p.m.

**ATTEST**

Secretary



John Reed  
Chairman of the Board