

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD SEPTEMBER 4, 2019 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, September 4, 2019 at 5:30 p.m.** The following individuals were present and absent:

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

ABSENT: None

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

STAFF MEMBERS: Donna Eymard
Bea Rosenbaum
Ariel Chavez
Steve Tyndal
Carlos Martinez
Lorena Hernandez
Jaime Martinez
Chief Carlos Garcia
Manuel Martinez
Jose Herrera
Oscar Garcia
Tony Rodriguez
Debby Duke
Margie Recio
Memo Rico
Jorge Montero

OTHERS PRESENT: Rev. Andreas Lewis
Kevin Garcia
Robbie and Kim Walsdorf
Joe Linck
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.

2. Public Audience

No person registered to address the Board.

3. Receive Director's Report

a. Receive Port Monthly Operations Summary Report

The Board received the reports.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Public Hearing and Regular Board Meeting of August 21, 2019.
- b. Approval to authorize payments over \$25,000.00:
 1. HDR, Inc., the amount of \$138,834.27, for Brazos Island Harbor Project – Task Order 1, 2, and 3, Dike 5B Relocation Project;
 2. Russell Marine, LLC, the amount of \$249,005.70, for BND Bulk Cargo Dock Improvements Project; and
 3. Triton Marine Construction, the amount of \$329,168.00, for Oil Dock 6 and Maintenance Dredging.

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

Mr. Campirano noted that a portion of the amount in Item 4b1 is reimbursable to the Port.

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

Mr. Tyndal addressed the Board regarding the following items:

1. AEP Texas Central Company (Authority to negotiate)

AEP Texas Central Company, under BND Contract 2515, is working on a project off of Cantu/Chemical Road, and North of Highway 48 to re-route the Union Carbide Transmission line and the Loma Alta Transmission line into the new Sharyland Stillman substation and have requested an amendment to their lease to reflect the changes. NewForce Group has been hired to make the changes. Commissioner Lopez moved to authorize the Staff to negotiate an Amendment to BND Contract 2515 with AEP Texas Central Company, for the re-routing of power lines between the AEP, BPUB, and Sharyland substations, Commissioner Wood seconded, and the motion passed unanimously.

2. TransMontaigne Operating Company, L.P (Pipeline Easement)

This Pipeline Easement to TransMontaigne Operating Company, L.P., under BND Contract 2823, is to connect from their terminal to the NuStar Logistics L.P. lease, under BND Contract 4394, for the purpose of receiving diesel and gasoline from the NuStar pipeline; which product will then travel through the Razorback, LLC, d/b/a Diamondback, LLC pipeline under BND Contract 3654. Commissioner Lopez moved to approve the Pipeline Easement, Commissioner Cowen seconded, and the motion passed unanimously.

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3. TransMontaigne Operating Company, L.P. (Easement)

The proposed Road Crossing Easement with TransMontaigne Operating Company, L.P. is to cross product lines under Highway 48 from their terminals under BND Contracts 2823, 3165 & 3307 to the Liquid Cargo Docks on the north side of the Channel. Commissioner Guerra moved to approve the Road Crossing Easement, Commissioner Cowen seconded, and the motion passed unanimously.

6. Consideration of and Action to set the 2019 Ad Valorem tax rate for the Brownsville Navigation District at \$.035920 per \$100 valuation. This rate is comprised of a debt portion of \$.011132 per \$100 valuation and a maintenance and operations portion of \$.024788 per \$100 valuation.

Ms. Hernandez addressed the Board requesting to set the 2019 Ad Valorem tax rate for the Brownsville Navigation District at \$.035920 per \$100 valuation. This rate is comprised of a debt portion of \$.011132 per \$100 valuation and a maintenance and operations portion of \$.024788 per \$100 valuation. The District is required to adopt its Ad Valorem Tax Rate by recorded vote and Resolution. The District's 2019 Effective and Rollback Tax Rate calculations were published in the Brownsville Herald on August 7, 2019 and have been posted on the District's web site. This 2019 Proposed Tax Rate is higher than the lower of the Effective Tax Rate of \$.034549 / \$100 valuation or the Rollback Tax Rate of \$.048427 / \$100 valuation. Setting the 2019 Proposed Tax Rate higher than the lower of the Effective or Rollback Tax Rates required that the District run two ¼ page notices, which were published on August 13, 2019 and on August 27, 2019, and to hold two public hearings. The public hearings were held on August 21, 2019 and August 27, 2019. Ms. Hernandez read the required motion to adopt the tax rate as follows: "I move that the property tax rate be increased by the adoption of a tax rate of \$.03592 per \$100 valuation, which is effectively a 3.968277% increase in the tax rate." Commissioner Lopez moved to adopt the resolution as stated by Ms. Hernandez and to adopt the proposed 2019 Ad Valorem Tax Rate of \$.035920 per \$100 of valuation, which is a debt rate of \$.011132 per \$100 valuation and a maintenance and operations portion of \$.024788 per \$100 valuation, Commissioner Cowen seconded, and the motion passed unanimously with each commissioner voting Aye in a roll call vote.

7. Consideration of and Action on an application for a Steamship Agent's License from Gulf Marine Contractors.

Mrs. Duke addressed the Board requesting approval on an application for a Steamship Agent's License from Gulf Marine Contractors. Gulf Marine Contractors has submitted an application for a Steamship Agent's License at the Port of Brownsville. Port staff has reviewed the application submitted by Gulf Marine Contractors and was ready to recommend them to the Board of Commissioners for approval. The next step would be to have their representative meet with Chief Garcia for their security briefing and signing of the Memorandum of Agreement (MOA) regarding security requirements at the Port of Brownsville prior to being allowed to represent vessels at the Port. Once this final action has been completed, the license will be issued. The applicant is aware of the District's requirements that they have a representative in Port for each of their vessel visits. Chairman Reed asked about the terms of the MOA listed in packet which requires sit down visit with Chief Garcia. Mrs. Duke noted that the visit with Chief Garcia and the execution of the MOA had not yet occurred. Commissioner Lopez moved to authorize the issuance of a Steamship Agent's License to Gulf Marine Contractors for a term of three years subject to

completion of the required meeting with Chief Garcia and execution of the Memorandum of Agreement regarding Port of Brownsville security requirements, Commissioner Wood seconded, and the motion passed unanimously.

8. Consideration of and Action on amending Leasing Policies C305(Local) Table of Lease Rental Rates and Leasing Policies C305(Local) Throughput regarding throughput rate and reporting requirements.

Mrs. Duke addressed the Board requesting the amendment of Leasing Policies C305(Local) Table of Lease Rental Rates and Leasing Policies C305(Local) Throughput regarding throughput rate and reporting requirements. Port staff recommended that the rate for throughput be removed from the Table of Lease Rental Rates and handled in the separate Throughput item. This would enable the rate to be based on the Tariff rate for the product moving through the pipeline and to be adjusted as the Tariff rate is adjusted. An additional 1.5¢ will be added to the Tariff rate to arrive at the throughput rate to be charged. This throughput charge is only assessed when the product does not move through the Port via water on one of the legs of its transit. Commissioner Guerra moved to authorize the amendment of Policy C305(Local) Table of Lease Rental Rates to remove the rate for Throughput and to amend Leasing Policy C305(Local) Throughput to link the throughput rate to the Tariff rates and to augment the reporting requirements, to be effective September 4, 2019, Commissioner Lopez seconded, and the motion passed unanimously.

9. Consideration of and Action on bids received for the annual contract for Disposal of Oily Water from the Fishing Harbor Sewer Treatment Plant.

Mr. Garcia addressed the Board requesting to award contract on bids received for the annual contract for Disposal of Oily Water from the Fishing Harbor Sewer Treatment Plant. On July 31, 2019 Staff received and opened one bid from J.W. Rentals, Inc., d.b.a. Environmental Evolutions National, for \$0.39 per gallon of material removed. Although this was the only bid received, the bid price is the same as what is currently being paid for these services. Discussion followed regarding efforts by staff to secure additional bids and efforts to prevent oily water from entering the sewer system. Commissioner Cowen moved to award the annual contract for Disposal of Oily Water from the Fishing Harbor Sewer Treatment Plant to J.W. Rentals, Inc. d.b.a. Environmental Evolutions National, for \$0.39 per gallon of material removed, Commissioner Wood seconded, and the motion passed unanimously.

10. Consideration of and Action to accept work performed by contract Russell Marine, LLC on the contract for the BND Bulk Cargo Dock Improvements project and to authorize Final Payment of \$764,537.14, which includes all completed work and release of retained amounts.

Mr. Chavez addressed the Board requesting acceptance of work performed by contract Russell Marine LLC on the contract for the BND Bulk Cargo Dock Improvements project and to authorize Final Payment of \$764,537.14, which includes all completed work and release of retained amounts. The contract completion date was revised through change orders to the contract to August 31, 2019, but Russell completed the work on August 15, 2019 and BND Staff and consultant EDG Staff conducted a final inspection on August 16, 2019, finding that all work in the contract was completed. Commissioner Cowen moved to accept the work performed by contractor Russell Marine, LLC on the contract for the BND Bulk Cargo Dock Improvements and to authorize final payment of \$764,537.14 which includes all completed work and retained amounts, Commissioner Guerra seconded, and the motion passed unanimously.

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11. Consideration of and Action on Bids received for the Oil Dock #5 Bulkhead Repairs project.

Mr. Chavez addressed the Board requesting action on bids received for the Oil Dock # 5 Bulkhead Repairs project. Bid opening for the project was August 13, 2019. The low bid was from R.M. Walsdorf, Inc. (Walsdorf) in the amount of \$353,150.00 for the Alternate Bid of Helical Anchors. Walsdorf included an additive bid of \$222,050.00 for the enhanced Revetment System. The total cost of the Helical Anchors with the Revetment System would be \$492,750.00. Commissioner Cowen moved to award the project to R. M. Walsdorf, Inc. for the Alternate Bid of the Helical Anchors in the amount of \$353,150.00 only and to authorize BND Staff to issue the Notice of Award, Commissioner Wood seconded, and the motion passed unanimously.

12. Consideration of and Action to authorize the Port Director to accept proposal from consultant CH2M HILL Engineers, Inc. to provide Construction Phase Engineering Services on the Oil Dock #5 Bulkhead Repairs project.

Mr. Chavez addressed the Board requesting the authorization for the Port Director to accept the proposal from consultant CH2M HILL Engineers, Inc. to provide Construction Phase Engineering Services on the Oil Dock #5 Bulkhead Repairs project. Upon completion of the Design Phase of the Bulkhead Repairs project BND Engineering staff requested and received a proposal from CH2M for two (2) options on Construction Phase Engineering services. Option 1 would provide Full-Time Construction Phase Services for an estimated fee of \$81,425.00, and Option 2 would provide limited Part-Time Construction Phase Services for an estimated fee of \$39,780.00. Discussion followed regarding the services to be provided and the cost for the same. Commissioner Cowen moved to accept the proposal from CH2M HILL Engineers, Inc. for Part-Time Construction Phase Engineering Services for the Oil Dock #5 Bulkhead Repair project for an estimated fee of \$39,780.00, which will not be exceeded without approval of the Board, Commissioner Lopez seconded, and the motion passed unanimously.

13. 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.

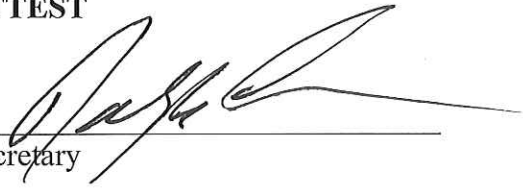
14. Possible action on matters or items discussed in Executive Session.

There was none.


15. Adjournment.

Commissioner Cowen moved to adjourn the meeting, Commissioner Lopez seconded, and the meeting was adjourned by unanimous consent at 6:00 p.m.

ATTEST



Secretary



John Reed
Chairman of the Board