

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND  
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS HELD DECEMBER 7, 2011 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, December 7, 2011 at 5:30 p.m.** The following individuals were present and absent:

**PRESENT:** John Reed, Chairman  
Ralph Cowen  
Sergio "Tito" Lopez  
Martin C. Arambula  
Carlos R. Masso

**ABSENT:** None

**ALSO PRESENT:** Eduardo A. Campirano, Port Director and CEO  
Daniel Rentfro Jr., District Counsel

**STAFF MEMBERS:** Donna Eymard  
Debby Duke  
Bea Rosenbaum  
Joe Garza  
Ariel Chavez  
Michael Davis  
Cristina Valdez  
Vicky Mercado  
Luis Lopez  
Manuel Chacon  
Manuel Ortiz  
German Rico  
Tony Rodriguez  
Rosie Hinojosa  
Sergeant Andres Jimenez

**OTHERS PRESENT:** Reverend Andreas Lewis  
Chief Carlos Garcia  
Kevin Garcia  
Carlos Garcia  
David Irwin  
Bill Irwin  
Jon Sawicki  
Javier Mendez  
Claudia Ayarzagoitia  
Jovan Coblenz  
Michael Gonzalez

### **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**

Mr. Chacon introduced Michael Davis, the new Harbormaster, who made brief remarks.

Mr. Campirano then introduced Carlos Garcia, the new BND Chief of Police.

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

The Board discussed the monthly operating reports.

### **CONSENT AGENDA**

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

- a. Approval of the Minutes of the Regular Board Meeting of November 16, 2011.
- b. Approval of the following leases:
  1. Southern Recycling, LLC (4.64 acres) (Amendment)
  2. Southern Recycling, LLC (17.86 acres) (Amendment)
- c. Consider and take action on an application for renewal of the Line Handling Permit to:
  1. Brownsville Mooring
  2. M&M Mooring

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

#### **5. Consideration and Action on the adoption of the District's Operating and Capital Budget for Fiscal Year 2012.**

Chairman Reed asked to table item 5. Commissioner Lopez moved to table item 5, Commissioner Masso seconded, and the motion passed unanimously.

#### **6. Consideration and Action on amending the Port of Brownsville Tariff No. 6, Item 345 - Dockage.**

Mrs. Duke addressed the Board requesting approval of amendment of the Port of Brownsville Tariff No. 6, Item 345 - Dockage. One recommended clarification of the language in this item is to remove the reference to "barges under tow" from the item and to replace this term with "river barges", which is the intent and the customary application of the Item. A second clarification to this item would amend the item to specify that tugs taking services in the port will pay regular, not layberth, dockage. After discussion, Commissioner Lopez moved to adopt the recommended amendments to Tariff No. 6, Item 345 - Dockage, with an effective date of January 1, 2012, Commissioner Cowen seconded, and the motion passed unanimously.

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

Mrs. Rosenbaum addressed the Board regarding the following items:

1. Loma Alta Skeet & Trap, Inc. (Authority to Negotiate)

Loma Alta Skeet & Trap, Inc. under BND Contract 3366, has a contract for a gun club that is due to expire on April 30, 2013. In order for them to receive a grant from the National Rifle Association to build a house for clay pigeon throwers and to purchase new throwers; they will need to extend the lease. They are requesting a five year extension with a five year renewal option. They have been leasing this site for over 33 years, since May of 1978. After discussion, Commissioner Cowen moved to authorize the Staff to negotiate an amendment to extend the lease and add any new lease provisions to the Loma Alta Skeet & Trap, Inc. lease, Commissioner Masso seconded, and the motion passed unanimously.

**8. Consideration and Action on approval of additional task order under the professional services agreement with O'Brien's Response Management (ORM) to provide program/project management for Projects 2 and 3 under Round 9 of the Port Security Grant Program.**

Mrs. Eymard addressed the Board requesting the approval of additional task order under the professional services agreement with O'Brien's Response Management (ORM) to provide program/project management for Projects 2 and 3 under Round 9 of the Port Security Grant Program. The Board approved a professional service agreement with Response Management Associates (RMA) (now O'Brien's Response Management (ORM)) to act as the project/program manager for all projects under our Round 7, and 8 Port Security Grant Programs and Project 1 under Round 9. ORM is now ready to move on to projects 2 and 3 in Round 9 and are requesting the board approve a new task order under the same contract to allow them to continue their role as project/program manager for the additional two projects under Round 9 of the Port Security Grant Program. Commissioner Masso moved to approve the additional task order under the professional services agreement with O'Brien's Response Management (ORM) to provide program/project management for Projects 2 and 3 under Round 9 of the Port Security Grant Program, Commissioner Lopez seconded, and the motion passed unanimously.

**9. Consideration and Action to authorize the issuance of a purchase order to Philpott Motors for the purchase of an Aerial Bucket Truck in the amount of \$52,286.00 and to authorize the payment of the invoices for this purchase.**

Mrs. Duke addressed the Board requesting the Board to authorize the issuance of a purchase order to Philpott Motors for the purchase of an Aerial Bucket Truck in the amount of \$52,286.00 and to authorize the payment of the invoices for this purchase. A suitable unit has been located through the Buy Board. The base truck is a Ford F350 cab and chassis with a Versalift 29' lift bucket. This purchase is being made from Philpott Motors, a Waco vendor. Joe Garza has attempted to obtain this equipment locally, to no avail. Commissioner Lopez moved to approve the purchase of an Aerial Bucket Truck and to authorize the payment of the invoice when it is received, Commissioner Cowen seconded, and the motion passed unanimously.

**10. Consideration and Action to authorize staff to advertise for bids for the purchase of Geo-grid Fabric.**

Mrs. Duke addressed the Board requesting the Board to authorize Staff to advertise for bids for the purchase of Geo-grid Fabric. The Staff is negotiating to bring some materials to the Port for open patio storage. This project will require the preparation of 10 to 12 acres of stabilized patio. One of the components of the stabilization is Geo-Grid fabric, the estimated cost of which is \$135,000.00 for a 10 acre site. If no suitable source can be found through the Buy Board, the Staff would like to have the authorization to advertise for bids. Mr. Campirano asked if the

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amount could be increased, Mr. Rentfro, said yes. Commissioner Masso moved to authorize Staff to advertise for bids for the purchase of Geo-grid Fabric, Commissioner Arambula seconded, and the motion passed unanimously.

**11. Consideration and Action to authorize execution of Conservation Easement pursuant to Wetlands Mitigation in connection with the development of the Fortune Ferrous lease site in the Port of Brownsville.**

Mr. Chavez addressed the Board requesting the Board to authorize the execution of the Conservation Easement pursuant to Wetlands Mitigation in connection with the development of the Fortune Ferrous lease site in the Port of Brownsville. HDR Inc., consultant to BND lessee Fortune Ferrous, has been working on plans to develop the Fortune Ferrous lease site next to International Shipbreakers, Ltd. on the South side of the Brownsville Ship Channel. Since wetlands will be affected, wetlands mitigation is required by jurisdictional entities. HDR has informed us that the U. S. Army Corps of Engineers (USACE) is requesting that the mitigation site be preserved via a Conservation Easement. USACE has very recently decided that they will accept easements held by the permittee, due to unavailability of third party "stewards" for sites. USACE is now insisting that we use an easement, as opposed to a deed restriction or comparable instrument. Therefore, on behalf of Fortune Ferrous, HDR Inc. is requesting authorization for said Conservation Easement by the BND. Commissioner Masso moved to approve the execution of the Conservation Easement pursuant to Wetlands Mitigation in connection with the development of the Fortune Ferrous lease site in the Port of Brownsville, Commissioner Lopez seconded, and the motion carried unanimously.

**12. Consideration and Action to approve Change Order No. 3 to the New Seamen's Center Building Project with Cubco Construction, Inc., of Brownsville, Texas.**

Mr. Chavez addressed the Board requesting the approval of Change Order No. 3 to the New Seamen's Center Building Project with Cubco Construction, Inc., of Brownsville, Texas. On their April 6, 2011 Board Meeting, BND Commissioners awarded the contract for the New Seamen's Center Building Project to contractor CUBCO Construction, Inc. of Brownsville, Texas. After beginning construction operations, contractor discovered the existing CMU block walls were not anchored to the foundation. Upon following standard procedures, BND Commissioners approved Change Order No. 1 to this contract in a Special Meeting held June 27, 2011. While Change Order No. 1 included a 30 day time extension to the contract, the issue of additional insurance costs was left open. Contractor's Change Order Request No. 6 requests adding payment for additional insurance coverage direct expense resulting from the 30-day extension, in the amount of \$823.54. Change Order No. 3 to this contract, if approved, would cover the additional insurance cost of the 30-day time extension to the contract. Commissioner Cowen moved to approve Change Order No. 3 to the New Seamen's Center Building Project with Cubco Construction, Inc., of Brownsville, Texas, Commissioner Masso seconded, and the motion carried unanimously.

**13. Consideration and Action on the Bahia Grande Restoration Project by Cameron County consultant Coast & Harbor Engineering on the Dredged Material Placement options and related issues.**

Mr. Chavez introduced Mr. Javier Mendez who addressed the Board requesting the Board to act on the Bahia Grande Restoration Project by Cameron County consultant Coast & Harbor Engineering on the Dredged Material Placement options and related issues. As part of the Bahia

Grande Restoration Project, the County of Cameron is intending to continue with plans to widen the channel connecting the Bahia Grande with the Brownsville Ship Channel to improve flow and curtail erosion. They have been working with consultant Coast & Harbor Engineering, who was engaged to design a channel to maximize flow into and out of Bahia Grande along the alignment of the existing Pilot Channel within the available project funding. One of the main issues is determination of the placement of dredged material. The County and their consultant have met with Port Staff, and are now prepared to present to the BND Commissioners their alternatives for handling the dredged material, and to have the Port participate in the decision as to the selection of the best option. Discussion followed. No action was taken.

**14. 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 Chairman then announced that the time was 6:30 p.m. However, Mr. Campirano and Mr. Rentfro noted that there were no items needing attention in executive session.

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

There was none.

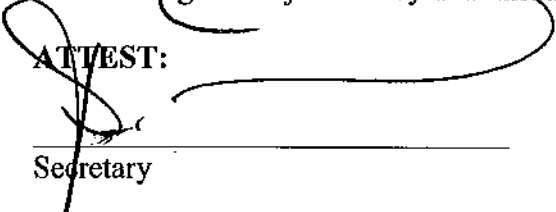
**16. Public Comment Period.**

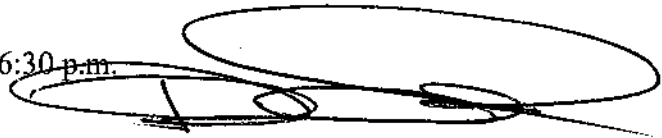
No person wished to address the Board.

**17. Adjournment.**

The meeting was adjourned by unanimous consent at 6:30 p.m.

ATTEST:

  
Secretary

  
John Reed  
Chairman of the Board