

**PORT OF IBERIA DISTRICT
BOARD OF COMMISSIONERS
REGULAR MEETING - TUESDAY, DECEMBER 18, 2012
PORT ADMINISTRATIVE OFFICE - 5:30 P.M.
MINUTES**

The regular meeting of the Port of Iberia District Board of Commissioners was called to order by Commissioner Millie Martinez, Board President, at the Port of Iberia Administrative Office, on Tuesday, December 18, 2012, at 5:30 P.M.

In attendance were Commissioners Millie Martinez, President, Gene Jefferies, Secretary-Treasurer, Mark Dore', Mike Resweber, Danny J. David Sr., and Larry G. Rader.

Commissioner Frank Minvielle, Vice-President, was absent.

Also present were Roy Pontiff, Executive Director, Joanna Durke, Administrative Assistant, Holly Breaux, Secretary-Bookkeeper, and Ray Allain, Port Attorney.

Thus, with a quorum being acknowledged, Commissioner Danny J. David, Sr., recited the opening prayer and the Pledge of Allegiance.

I. APPROVAL OF MINUTES

On a motion by Commissioner Gene Jefferies, seconded by Commissioner Mark Dore', the Commission approved the minutes of the Special meeting held on Friday, November 16, 2012.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

On a motion by Commissioner Gene Jefferies, seconded by Commissioner Mark Dore', the Commission approved the minutes of the Regular meeting held on Tuesday, November 20, 2012.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

II. DISCUSS AND/OR DISTRIBUTE THE FOLLOWING:

- (a) Budget Summary for Five (5) Months Ending November, 2012.
- (b) Listing of Tenant Lease Billings.
- (c) Listing of Boat Stall Lease Billings.
- (d) Approve Payment of Bills & Checks Issued During Interim Period.
- (e) Computer Summary of Lease Agreement Activity Sheet.
- (f) Status of Invoices Report.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Danny J. David, Sr., to approve and authorize the payment of bills for December 2012, and ratify those paid during the interim period.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

III. RATIFICATION OF REDEMPTION OF NINE (9) CERTIFICATES OF DEPOSITS & DEPOSITING THE FUND BALANCES INTO POI CAPITAL PROJECTS & IMPROVEMENTS CHECKING ACCOUNT.

A motion was made by Commissioner Mike Resweber, seconded by Commissioner Larry Rader, to approve and ratify the redemption of Certificates of Deposit Numbers 40000327646, 40000327638, 40000327654, 40000327662, 40000327670, 40000327689, 40000327697, 40001288695 and 40001288709, which matured on November 20, 2012 with Iberia Bank, and further approve and ratify the deposit of the fund balances of each Certificate into the Port of Iberia District's Capital Projects & Improvements Checking Account; in order to realize a better rate consisting of an index set at the 90-day US Treasury Bill plus 30 basis points adjusted monthly, in accordance with the Port's Fiscal Agent Agreement.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

IV. ELECTION OF 2013 OFFICERS - PRESIDENT, VICE PRESIDENT, SECRETARY-TREASURER.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Larry Rader, and unanimously carried, to open the nominations for Board President of the Port of Iberia District Board of Commissioners for the year 2013.

A motion was made by Commissioner Mark Dore', to nominate Commissioner Gene

Jefferies, to serve as President of the Port of Iberia District Board of Commissioners for the year 2013.

There being no further nominations for President, a motion was made by Commissioner Mark Dore', seconded by Commissioner Larry Rader, and unanimously carried, that the nominations for President be closed, and further that Commissioner Gene Jefferies, be elected President of the Port of Iberia District Board of Commissioners for the year 2013 by acclamation.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

A motion was made by Commissioner Danny J. David, Sr., seconded by Commissioner Mike Resweber, and unanimously carried, to open the nominations for Vice-President of the Port of Iberia District Board of Commissioners for the year 2013.

A motion was made by Commissioner Danny J. David, Sr., to nominate Commissioner Mark Dore', to serve as Vice-President of the Port of Iberia District Board of Commissioners for the year 2013.

There being no further nominations for Vice-President, a motion was made by Commissioner Danny J. David, Sr., seconded by Commissioner Mike Resweber, and unanimously carried, that the nominations for Vice-President be closed, and further that Commissioner Mark Dore', be elected Vice-President of the Port of Iberia District Board of Commissioners for the year 2013 by acclamation.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Larry Rader, and unanimously carried, to open the nominations for Secretary-Treasurer of the Port of Iberia District Board of Commissioners for the year 2013.

A motion was made by Commissioner Mark Dore', to nominate Commissioner Mike Resweber, to serve as Secretary-Treasurer of the Port of Iberia District Board of Commissioners for the year 2013.

There being no further nominations for Secretary-Treasurer, a motion was made by Commissioner Mark Dore', seconded by Commissioner Larry Rader, and

unanimously carried, that the nominations for Secretary-Treasurer be closed, and further that Commissioner Mike Resweber, be elected Secretary-Treasurer of the Port of Iberia District Board of Commissioners for the year 2013 by acclamation.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

V. MR. JOHN ISTRE WITH BROUSSARD, POCHE', LEWIS & BREAUX, L.L.P., TO ADDRESS THE COMMISSION- PRESENTATION OF 2011-2012 AUDIT.

Mr. John Istre, Broussard, Poche', Lewis & Breaux, L.L.P., presented the Port of Iberia District's Financial Audit Report for the fiscal year 2011-2012. He also presented a letter dated December 11, 2012 which summarized various matters which must be communicated to the Board under auditing standards generally accepted in the United States of America. This satisfies the Government Auditing Standards (GAS) requirements.

The Port's audit was very favorable with total assets @ June 30, 2012 of \$70,988,353. This represents an increase of \$4,717,047 from the prior year. Total liabilities reached \$2,951,220, for a decrease of \$19,140, and total net assets were \$68,037,133, for an increase of \$4,736,187. The total operating revenue of \$3,612,147 increased by \$31,941 from the previous year, and total operating expenses were \$2,340,226 which also decreased by \$76,157 from the previous year; Thus, ending the year with revenues over expenses in the amount of \$1,271,921. There were no management findings cited.

VI. MR. SCOTT RICHARD, EXCALIBAR MINERALS, MR. SAM SMITH, NEWPARK DRILLING FLUIDS, AND MR. BRADY FOREMAN, NEWPARK DRILLING FLUIDS TO ADDRESS THE BOARD REGARDING THE CONSIDERATION/APPROVAL OF A SUBLEASE AGREEMENT BETWEEN EXCALIBAR MINERALS, LLC, AND NEWPARK DRILLING FLUIDS LLC REGARDING LOTS 11A, 11B, & 14 AT THE PORT OF IBERIA.

The Executive Director reported to the Board that Excalibar Minerals currently leases 11.179 acres from the Port of Iberia, identified as Lots 11A, 11B, & 14. He presented the Board with a visual plat shown on the TV Monitor Screen. Excalibar Minerals also subleases Lot 12 (4.490 acres) from Mr. Herman Schellestede. Lot 12 is adjacent to Lots 11A, 11B, & 14. Excalibar Minerals, LLC is requesting to enter into a sublease arrangement with Newpark Drilling Fluids, LLC (a sister company of Excalibar Minerals, LLC) for four (4) acres adjacent to Lewis Street.

Mr. Sam Smith, Newpark Drilling Fluids, LLC, addressed the Board and presented a Powerpoint Presentation. It is anticipated that a 100ft x 200ft warehouse will be placed on the property site, along with a movable office building consisting of approximately ten (10)

offices. The Port Attorney has reviewed and approved the Sublease Agreement. The Executive Director has reviewed the Agreement and it complies with the Port's Sublease Rate Policy. Discussion ensued.

A motion was made by Commissioner Danny J. David, Sr., seconded by Commissioner Larry Rader, to approve and authorize the Board President to execute the Sublease Agreement between Excalibar Minerals, LLC, and Newpark Drilling Fluids, LLC regarding Newpark Drilling Fluids, LLC subleasing approximately 4.0 acres of the 11.179 acres located on Lots 11A, 11B, & 14 at the Port of Iberia.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

VII. REPORT FROM MR. DAVID MOORE, FREYOU, MOORE AND ASSOCIATES, INC. ON:

- (a) Maintenance Dredging of the Port's Marina Slips due to Siltation Affecting the Water Depths of the Boat Slips.**

The Executive Director reported that Mr. David Moore could not attend the Board meeting due to a conflict in his schedule; however, a Request for Proposals is planned to be sent out sometime in January 2013. It is being determined if the Port's General Permit will be able to be used for this project. In addition, the surveying work is approximately 50% complete. It appears that the current siltation is approximately the same amount as when the previous maintenance dredging was performed.

VIII. REPORT FROM MR. O'NEIL MALBROUGH & MR. GLENN LEDET, SHAW COASTAL, INC., ON:

- (a) LA DOTD Port Construction & Development Priority Program: State Project Number 578-23-0018 Port-Site Bulkhead Relocation Phase II A-(for the AGMAC Bulkhead Relocation & Design Project (Public Property)).**

{1} Port Attorney Report- Pending Litigation(Executive Session).

****James Const. Group, L.L.C. ET AL vs. POI Board of Commissioners.**

(Joint Motion to Dismiss).

****Approval of Biggs, Supple, Cremaldi & Curet, LLP**

(Co-Counsel) Invoice.

The Port Attorney reported that Judge Charles Porter has ruled in favor of the Port of Iberia District. An executed copy of the Joint Motion to Dismiss depicting the stamped filing receipt of the Clerk filed on Tuesday, December 4, 2012 was presented to the Board for review. A copy of the Order was also presented for review. The Port Attorney reported to the Board that the Port can now award the bid to the lowest responsible bidder Coastal Bridge Company, L.L.C.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Mike Resweber, to approve and authorize the payment of the invoice dated October 18, 2012 in the amount of \$8,784.00 to Biggs, Supple, Cremaldi & Curet, L.L.P., for the period August 21, 2012 thru September 28, 2012, for legal fees (incurred by James B. Supple) regarding the AGMAC Port-Site Bulkhead Relocations Phase II-A, Bulkheads 2 thru 4a (Phase I of State Project No. 578-23-0018/h.009021) Project (bid protest filed by James Construction Group, L.L.C.), in accordance with the Resolution adopted by the POI Board of Commissioners on September 18, 2012.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Mike Resweber, to approve and authorize the payment of the invoice dated December 5, 2012 in the amount of \$2,085.00 to Biggs, Supple, Cremaldi & Curet, L.L.P., for the period November 1, 2012 thru December 4, 2012, for legal fees (incurred by James B. Supple) regarding the AGMAC Port-Site Bulkhead Relocations Phase II-A, Bulkheads 2 thru 4a (Phase I of State Project No. 578-23-0018/h.009021) Project (bid protest filed by James Construction Group, L.L.C.), in accordance with the Resolution adopted by the POI Board of Commissioners on September 18, 2012.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

{2} Discuss/Consider Award of Construction Contract.

Mr. Glenn Ledet, Shaw Coastal, Inc., presented a letter dated December 14, 2012 regarding the Bid Evaluation & Award Recommendation. Shaw Coastal, Inc., recommends the award of the Construction Contract to the lowest responsible bidder Coastal Bridge Company, L.L.C. in the amount of \$4,305,007.00 (Base Bid). Shaw Coastal, Inc., does not recommend, however, that the additive Alternate Bid be awarded because the base bid is already above the published budget of \$4,184,224.00. The Base Bid includes Bulkheads 3, 4, & 4a (Dynamic's Bulkhead). Bulkhead 2 (Chart Energy & Chemicals) is included in Additive Alternate Number 1 in the amount of \$407,357.85.

A motion was made by Commissioner Mike Resweber, seconded by Commissioner Danny J. David, Sr., to accept and award the bids received on July 11, 2012 for the LA DOTD Port Construction & Development Priority Program AGMAC Port-Site Bulkhead Relocations Phase II-A, Bulkheads 2 thru 4a (Phase I of State Project No.

578-23-0018/h.009021), to Coastal Bridge Company, L.L.C. in the Base Bid amount of \$4,305,007.00; and motion further acknowledges that the additive Alternate Bid not be awarded due to the Base Bid being above the published budget of \$4,184,224.00; and motion further authorizes the Board President to execute the necessary Contract Documents regarding same.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

(b) Status of the AGMAC Project.

{1} Dr. Bob Gramling, ULL Economist, Comparison of BOEM-EIS 2012-2017 Offshore Lease Sale Platform Activity to GEC'S 2010 Economic Report.

Mr. Glenn Ledet, Shaw Coastal, Inc., reiterated that BOEM is in the process of reviewing the Port's questions presented to them at a recent meeting, and will get back with the Port accordingly on exactly what information can be provided and released.

{2} Discuss/Consider Action on the Weeks Bay Marsh Creation and Shore Protection/Commercial Canal Freshwater Project (TV-19) CWPPRA Project.

The Executive Director presented a project illustration on the TV Monitors for the Board to review relative to the Weeks Bay Marsh Creation and Shore Protection/Commercial Canal Freshwater Project (TV-19) CWPPRA (Coastal Wetlands Planning Protection Restoration Act) Project. The Executive Director explained that at the last CWPPRA Technical Committee Meeting, there was an Agenda item to initiate de-authorization of the project. The Executive Director asked the Board if they would consider taking action to support the continuation of the project. The Executive Director justified his request for support due to the current shoreline erosion of the GIWW/Weeks Bay Land Bridge. The eroded bankline is limiting a significant source of freshwater to Iberia and Vermilion Parishes and creates a hazard to navigation due to the lack of GIWW shoreline protection. Mr. Glenn Ledet, Shaw Coastal, Inc. provided further explanation on this matter to the Board. Discussion ensued.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Larry Rader, that the Port of Iberia District Board of Commissioners expresses its opposition of the de-authorization of the Weeks Bay Marsh Creation and Shore Protection/Commercial Canal Freshwater Project (TV-19) CWPPRA Project; and motion further authorizes the Executive Director to submit the necessary documentation to the CWPPRA Technical Review Committee regarding same; and motion further acknowledges the negative impact on a significant source of freshwater to Iberia and Vermilion Parish, in addition to creating a hazard to

navigation in the GIWW.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

A motion was made by Commissioner Gene Jefferies, seconded by Commissioner Mark Dore', to approve and authorize payment of Invoice Number 720952-R8-00501 in the amount of \$487.50, to Shaw Coastal, Inc., for the period November 1, 2012 thru November 30, 2012 (not reimbursable to POI by DOTD), regarding AGMAC Project Management in accordance with the contract between the POI and Shaw Coastal, Inc., dated September 3, 2002 and Amendment Number 10 (Project Management) dated December 20, 2011.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

- {3} Discuss/Approve Authorization for Board President to Execute Amendment #11 to allow an Extension to Shaw Coastal, Inc., Project Management Contract.

A motion was made by Commissioner Mike Resweber, seconded by Commissioner Mark Dore', to approve and authorize the Board President, to execute Amendment Number 11 to Shaw Coastal, Inc., Project Management Contract dated September 3, 2002, for the Acadiana Gulf of Mexico Access Channel Project (AGMAC), to extend the original contract period of service from January 1, 2013 through December 31, 2013; and motion further acknowledges that there are no adjustment of fees associated with Amendment Number 11.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

- (c) Update on the Tax Incremental Finance District (TIF) Revenues.
 - {1} Discuss/Consider Amendment to Section 3 of the Agreement between the Port of Iberia District and the Economic Development District No. 1 to Extend the Date to Begin Actual

**Construction of the POI Millennium Expansion Phase II Project
to December 31, 2013.**

The Executive Director indicated to the Board that the Port had previously received \$2.5 Million in TIF Revenues, and the second disbursement of \$2.5 Million was not to be distributed to the POI until a Construction Contract for the POI Millennium Expansion Phase II Project was executed. According to Section 3 of the Agreement between the POI District and the Economic Development District No. 1, the Construction Contract was to be signed before the end of 2012. According to the Sunset Provision, a date extension would be necessary to extend the date to January 31, 2013.

The Executive Director went on to further explain that due to the issues which have arisen between the lowest responsible bidder and the second lowest responsible bidder, he has concerns that there may be a delay in the Project. The Executive Director addressed the Iberia Parish Council on December 12, 2012 and presented a request to extend the deadline for executing a Construction Contract into 2013. The Iberia Parish Council unanimously supported extending the Sunset date to December 31, 2013.

A motion was made by Commissioner Danny J. David, Sr., seconded by Commissioner Mike Resweber, to approve and authorize the Board President to execute an Amendment to the Agreement between the Port of Iberia District and the Economic Development District No. 1 (Section 3) to Extend the Date to Begin Actual Construction of the POI Millennium Expansion Phase II Project to December 31, 2013.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

- (d) **Report on Port Millennium Expansion Phase II Project.**
- {1} Representatives with Patriot Construction and Equipment, LLC (Contractor) & Breazeale, Sachse & Wilson, LLP (Attorneys At Law) to Address the Board Regarding the Construction Contract Award for the POI Millennium Expansion Phase II Project.**
 - {2} Representatives with Beverly Construction LLC (Contractor) & Shields, Mott, Lund (Attorneys and Counselors At Law) to Address the Board Regarding the Construction Contract Award for the POI Millennium Expansion Phase II Project.**

It is noted that on November 15, 2012, the Port of Iberia District accepted bids for the Port of Iberia Millennium Expansion Phase II Project. At the regular Board meeting of the Port of Iberia District Board of Commissioners held on November 20, 2012, the Board awarded the project to Patriot Construction and Equipment, L.L.C. Beverly Construction L.L.C. was the second lowest numerical bid received.

The Port Attorney presented a letter dated November 26, 2012 from Mr. Andrew Vicknair, Attorney with Shields Mott Lund, representing his client Beverly Construction, L.L.C. The letter basically informs the Port of Iberia that Beverly Construction is making a formal protest to the award of the POI Millennium Expansion Phase II Project to Patriot Construction and Equipment, L.L.C., and the letter cited two reasons for the protest.

Furthermore, the letter makes demand that the Port of Iberia District award the construction contract to Beverly Construction LLC within ten (10) days of the November 26, 2012 letter. Mr. Vicknair states in his letter that "failure to comply will result in Beverly taking all necessary action to protect its rights under the Louisiana Public Bid Law, and to receive the contract for the Project."

EXPANSION OF AGENDA:

A motion was made by Commissioner Gene Jefferies, seconded by Commissioner Mark Dore', to expand the Port of Iberia District Board of Commissioners Regular Monthly Board Meeting of Tuesday, December 18, 2012 to enter into Executive Session to discuss threatening litigation regarding the Port of Iberia District Millennium Expansion Phase II Project.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

Mr. Murphy Foster, Attorney with Breazeale, Sachse & Wilson, LLP and representing Patriot Construction and Equipment, L.L.C. addressed the Board on behalf of Patriot Construction and Equipment, L.L.C., and Mr. Andrew Vicknair, Attorney with Shields Mott Lund and representing Beverly Construction, L.L.C., addressed the Board on behalf of Beverly Construction, L.L.C. Both attorneys provided a synopsis and reasoning of why their client should be awarded the construction contract for the POI Millennium Expansion Phase II Project.

The Port Attorney stated for the record that the Port has 45 days from the receipt of the bids (November 15, 2012) to award a construction contract. The Port Attorney has spoken with both Mr. Foster and Mr. Vicknair regarding an extension of time. The Port Attorney indicated that the 45 days expires on December 31, 2012. The Port Attorney asked the representing attorneys if their clients would be in agreement to extend the time by 30 days, beyond December 31, 2012, which would allow the Port additional time to award the construction contract. Both gentleman were in agreement and had no objections; however, Mr. Andrew Vicknair will check with the subcontractors who provided their bids

in an effort to determine if the dollar amounts will remain the same beyond 30 days. Mr. Vicknair will contact the Port Attorney regarding same. The Port Attorney thanked both gentlemen for their presentations regarding this matter.

A motion was made by Commissioner Mark Dore', seconded by Commissioner Mike Resweber, that the Port of Iberia District Board of Commissioners enter into Executive Session at 6:36 p.m., to discuss threatening litigation matters regarding the Port of Iberia District Millennium Expansion Phase II Project.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

A motion was made by Commissioner Danny J. David, Sr., seconded by Commissioner Gene Jefferies, that the Port of Iberia District Board of Commissioners enter back into Regular Session at 7:04 p.m.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

The Port Attorney reported that a discussion was held in Executive Session concerning threatening litigation matters regarding the Port of Iberia District Millennium Expansion Phase II Project, and there was no action taken in Executive Session.

On behalf of the Port of Iberia District Board of Commissioners, the Port Attorney expressed the consensus of the Board about their serious concerns as it relates to their responsibility representing the public, and the very high costs (additional \$1.6 Million between the 1st & 2nd lowest bidders) associated by awarding the bid to the second lowest bidder. In addition, the Board has requested that the Port Attorney obtain a formal opinion from the Attorney General on the matter, in an effort to gain knowledge as to what options, etcetera the Board may pursue regarding this matter.

A motion was made by Commissioner Larry Rader, seconded by Commissioner Mike Resweber, to defer action on the award of the Construction Contract for the Port of Iberia District Millennium Expansion Phase II Project until the Regular Board Meeting scheduled for January 15, 2013; and motion further authorizes the Port Attorney to obtain a formal opinion from the Attorney General as it relates to the legal issues presented by the attorneys representing the first and second low

bidders who submitted bids on November 15, 2012 (Patriot Construction and Equipment, L.L.C. and Beverly Construction, L.L.C.), and the options the Board has with regards to pursuing the matter and moving forwards with the POI Millennium Expansion Phase II Project.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

IX. REPORT FROM EXECUTIVE DIRECTOR ON:

- (a) Update on First Right of Refusal Agreement between National Oilwell Varco, LP and the Port of Iberia District Regarding Tracts "R" (2.88 acres) and "S" (10.92 acres) of the POI Millennium Expansion Phase II Property Site.

The Executive Director reported that National Oilwell Varco, LP hand delivered the signed First Right of Refusal Agreement on this meeting date. The Board President may now sign the Agreement and recordation will occur thereafter.

- (b) Update on All Points Equipment, L.L.C. Building "G" Repairs as a Result of Hurricane Isaac.

**Approval of Quality Concrete Commercial Contractors, Inc. Invoice.

**Approval of PENSICO Invoice.

A motion was made by Commissioner Mike Resweber, seconded by Commissioner Mark Dore', to approve and authorize the payment of Invoice Number 1933 in the amount of \$15,500.00 to Quality Concrete Commercial Contractors, Inc. regarding the labor and materials to perform the roof repairs to All Points Equipment, L.L.C. Building "G", as a result of the damages sustained by Hurricane Isaac in September, 2012.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

A motion was made by Commissioner Gene Jefferies, seconded by Commissioner Danny J. David, Sr., to approve and authorize the payment of Invoice Number 12794 in the amount of \$600.00 to PENSICO, for engineering fees regarding the roof repairs to the All Points Equipment, LLC Building "G", as a result of the damages sustained by Hurricane Isaac in September, 2012.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

(c) Status of the Repairs being Performed by Frank's Casing Crew & Rental Tools, Inc. Regarding the Damaged Power & Fiber Lines of the Port's Security Camera's Located at Frank's Casing Crew & Rental Tools, Inc.

The Executive Director indicated that he had no update to report on the above referenced Agenda item.

(d) Iberia Parish Government Bridge Replacement Project.

The Executive Director presented an email dated December 17, 2012 from Mr. T. J. Savoy, P.E., Sellers and Associates, Inc., which stated that the David Duboin Road Bridge guardrails are scheduled to be installed by December 21, 2012. Once the guardrails are in place, the stop signs may be installed and the bridge will be ready to be opened to the public.

In addition, with regards to the Port Road Bridge, Mr. Savoy indicated that all of the work that can be performed without closing the bridge has been completed. No other work will be performed at this bridge site until the David Duboin Road Bridge has been opened.

(e) Announcements.

The Executive Director indicated to the Board that if anyone is interested in attending any of the AAPA Training Sessions scheduled for 2013, to please advise the Port staff at their earliest convenience.

X. ADJOURNMENT.

On a motion made by Commissioner Mike Resweber, seconded by Commissioner Danny J. David, Sr., the meeting was adjourned at 7:10 p.m.

XI. RECONVENE REGULAR BOARD MEETING.

The Port Attorney asked the Board President if the Board would consider reconvening its Regular Board Meeting because there was a need for further discussion on Agenda Item 10(d) relating to the bids received for the Port of Iberia District Millennium Expansion Phase II Project.

A motion was made by Commissioner Mike Resweber, seconded by Commissioner Danny J. David, Sr., to reconvene the Regular Board meeting of the Port of Iberia District Board of Commissioners to further discuss Agenda Item 10(d) at 7:16 p.m.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David,

Sr., and Larry G. Rader.

Nays: None.

Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

10(d) Report on Port Millennium Expansion Phase II Project.

{1} Representatives with Patriot Construction and Equipment, LLC (Contractor) & Breazeale, Sachse & Wilson, LLP (Attorneys At Law) to Address the Board Regarding the Construction Contract Award for the POI Millennium Expansion Phase II Project.

{2} Representatives with Beverly Construction LLC (Contractor) & Shields, Mott, Lund (Attorneys and Counselors At Law) to Address the Board Regarding the Construction Contract Award for the POI Millennium Expansion Phase II Project.

Mr. Murphy Foster, Attorney representing Patriot Construction and Equipment, L.L.C., addressed the Board. Mr. Foster reported to the Board that his client, Patriot Construction, recognizes the objection raised by Beverly Construction and understands that there are issues which are subject to rightful litigation. As a result of the threatening litigation by Beverly Construction relative to the issues raised, both Patriot Construction and Equipment L.L.C. and Beverly Construction L.L.C. have discussed the possibility of working together to amicably resolve this matter, and work together on the POI Millennium Expansion Phase II Project in the future, if the Board would consider approving some sort of agreement regarding same.

Mr. Foster went on to stipulate that his client, Patriot Construction, will accept the rejection of its bid submitted on November 15, 2012 and agree not to challenge the award of the bid to Beverly Construction, L.L.C. In addition, Beverly Construction, L.L.C. is amending its original bid to \$4.6 Million, which will result in approximately a net savings of \$900,000 to the Port of Iberia District. Furthermore, Mr. Foster asked the Board if they would consider waiving the 50% rule. The 50% rule means that the contractor awarded the job as "general" has to perform at least 50% of the work themselves. In this particular case, to facilitate this proposed settlement, Patriot Construction and Equipment L.L.C. would be performing over 50% of the work. Patriot Construction would be a subcontractor to Beverly Construction.

Mr. Andrew Vicknair, Attorney representing Beverly Construction L.L.C., confirmed to the Board that his client was in agreement to the proposed terms offered by Mr. Foster on behalf of Patriot Construction and Equipment, L.L.C.

Commissioner Mark Dore' expressed his concern with the legality of Beverly Construction L.L.C. changing its bid after being submitted since November 15, 2012. The Port Attorney indicated that this could be done by a Change Order, which is completely appropriate. Mr. Foster indicated to the Board that it was the intention for a "deduct" Change Order to be submitted and not an "alteration" or "amended bid" to Beverly Construction's original bid submitted on November 15, 2012. Discussion ensued.

A motion was made by Commissioner Larry Rader, seconded by Commissioner Danny J. David, Sr., to authorize that the Patriot Construction and Equipment L.L.C. bid submitted to the Port of Iberia District on November 15, 2012 in the amount of \$3,839,900.00 be rejected, and motion further accepts and awards the Port of Iberia District Millennium Expansion Phase II Project to the second lowest responsible bidder Beverly Construction, L.L.C. in the amount of \$5,495,110.00 (base bid), contingent upon the preparation of Change Order Number 1 reflecting a deduction of \$895,110.00 with said deduct being proportionate to the unit prices; and motion further approves and authorizes the waiver of the requirement that the general contractor (Beverly Construction, L.L.C.) perform 50% or more of the work for the Project; and motion further authorizes the Board President to execute the necessary Construction Contract Documents and "deduct" Change Order Number 1 in the amount of \$895,110.00 with the revised contract amount being \$4,600,000.00, all contingent upon the legal review and approval of the Port Attorney.

This motion having been submitted to a vote, the vote thereon was as follows:

Yeas: Millie Martinez, Gene Jefferies, Mark Dore', Mike Resweber, Danny J. David, Sr., and Larry G. Rader.

Nays: None.

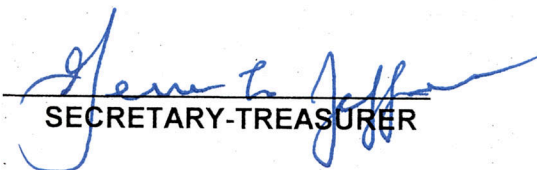
Absent at Voting: Frank Minvielle.

And the motion was therefore passed on this the 18th day of December 2012.

The Board thanked the two contractors and their attorneys for working together to reach an amicable solution to the issues presented.

XII. RE-ADJOURNMENT

On a motion made by Commissioner Mark Dore', seconded by Commissioner Mike Resweber, the meeting was re-adjourned at 7:25 p.m.


SECRETARY-TREASURER


PRESIDENT