Minutes of the Regular Meeting of the Board of Commissioners of the Lake Charles Harbor and Terminal District held at 5:00 P.M., Monday, June 29, 2020 in the Boardroom of the Port of Lake Charles located at 1611 West Sallier St., Lake Charles, Louisiana.

In attendance and constituting a quorum, were:

David J. Darbone, President

Carl J. Krielow, Vice President

Thomas L. Lorenzi, Secretary/Treasurer

M. Keith Prudhomme, Assistant Secretary/Treasurer (By Conference Phone Call)

Dudley R. Dixon, Commissioner

Michael G. Eason, Commissioner

Judy A. McCleary, Commissioner

Absent:

None

Also Present:

Richert Self, Executive Director

Jon Ringo, General Counsel

Cameron Landry, Director of Administration and Finance

Channing Hayden, Director of Navigation

Todd Henderson, Director of Operations and Trade Development

Nick Pestello, Director of Engineering and Maintenance

Michelle Bolen, Executive Administrative Assistant

Mr. Darbone called the meeting to order at 5:00 P.M. Mr. Dixon gave the invocation. Ms. McCleary led the Board and audience in the Pledge of Allegiance.

Mr. Darbone made a statement reminding the public of the Port’s procedure for the public to address an agenda item to the Board.

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1. Approval of the May 18, 2020 Special Meeting Minutes.

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Mr. Dixon offered a motion to approve the May 18, 2020 Special Meeting Minutes. Mr. Lorenzi seconded the motion and it carried unanimously.

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2. Submission 2020 – 014 approving the Board of Commissioners Election of Officers.

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Mr. Krielow asked Mr. Ringo if it was correct under the By-Laws, a current officer could serve two consecutive terms. Mr. Ringo replied it was correct.

Mr. Krielow offered a motion that the current slate of officers be nominated for another term since they have only served a partial term. Mr. Lorenzi seconded the motion.

Mr. Dixon stated he understands where Mr. Krielow is coming from, but what he would like to do is just keep moving up in the progression so that everyone gets an opportunity to serve. That is what they have been doing in the past and he would like to see that continue. Mr. Dixon stated there is a motion on the floor and he would like to offer a substitute motion that the Board uses the process that they have been using in the past. There is nothing that says that they can leave the President in the same seat forever. He asked if the By-Laws say the President can serve two years. Mr. Ringo replied that it does. The Board shall elect officers prior to July 1 of each year. Each officer shall serve for a term of not more than one (1) year. An officer may serve only two consecutive complete terms.

Mr. Ringo said an officer can serve a term of not more than one year. The term is one year and an officer can serve two consecutive terms.

Mr. Krielow stated his point was the current slate of officers have not had a full term. The way the progression is and the appointments, there is enough time for the revolving to happen to where everyone will get an opportunity to move up into a position. Based on that, that is his motion.

Mr. Eason said they do have some people serving their last term. The concern he has is the ability for someone to be termed out and not be able to have the opportunity to move up to the Chairman seat.

Mr. Krielow asked who is on their last term. Mr. Eason replied Mr. Dixon is on his last term. Mr. Krielow asked if Mr. Dixon had already served in every capacity. Mr. Dixon replied that he had.

Mr. Dixon stated he thinks it is much better that way. There are no problems with it. It does not seem to cause any problems and if they can do it that way, everyone would be in agreement with it. It was a short term for Mr. Darbone, but he was replacing a man. He thinks this would be the way to do it. He offered this as a substitute motion.

Ms. McCleary asked if the wording of the By-Laws is consistent relative to election of officers with what is in the statute. Mr. Ringo asked for further explanation. She said she read the statute first about election of officers. Since she has never been on the Board when that happened, she went to the statute. She then read the By-Laws and she recalled she saw some inconsistency.

Mr. Dixon asked for a second to his substitute motion. Mr. Eason seconded the motion

Mr. Ringo stated the statute says, “The Board shall elect its officers prior to July 1 each year.” This is Louisiana revised statute 34:204. “An officer shall serve in such positions until July 1 of the following year. No person shall be elected to serve for more than two consecutive years in the same office. After serving two consecutive years in a particular office, a member shall not be eligible to hold that office for a period of one year.” Mr. Krielow stated it was consistent with the By-Laws.

Mr. Darbone asked Mr. Ringo if they had any meeting violations about what they are talking about here. He would hate for someone to come back and say the Board broke some kind of a rule. Mr. Ringo replied that there were no violations. Everything was properly noticed and it is at the purview of the Board.

Mr. Ringo said procedurally, they have a motion, then a substitute motion, which is allowed on the second, so they need to vote on Mr. Dixon’s motion. If that passes…Mr. Lorenzi asked for a definition of what Mr. Dixon’s motion is. Mr. Ringo asked for the current slate of officers and how that would progress. Mr. Dixon’s motion is to follow the progression, meaning that the current Vice President would become President.

Mr. Dixon clarified that the substitute motion would adopt Resolution 2020 – 014 electing Mr. Krielow President, Mr. Lorenzi Vice President, Mr. Prudhomme Secretary/Treasurer and they would have to appoint someone for the Assistant Secretary/Treasurer. He stated he would like Ms. McCleary to have that position. That is his substitute motion. Mr. Lorenzi asked Mr. Eason, who seconded Mr. Dixon’s first substitute motion, if he agreed with the latest motion. Mr. Eason stated he was in agreement.

Mr. Darbone asked for a vote. All Board members voted unanimously for the substitute motion.

The new Board Officers are as follows:

President Carl Krielow

Vice President Thomas Lorenzi

Secretary/Treasurer Keith Prudhomme

Asst. Sec./Treasurer Judy McCleary

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3. Submission 2020 – 015 authorizing a Real Estate Lease Option Agreement with Lake Charles LNG Export Company, LLC for 120 +/- acres of District property.

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Mr. Self stated this submission and the next two are related to option agreements with Lake Charles LNG. This one is for 160 acres of which 120 acres are owned by the Port and 40 acres are leased by the Port. The Port leases them from Prairie Land and in turn sub-lease them to Lake Charles LNG. This submission staff is requesting approval on is for 160 acres and an extension of a previous option that Lake Charles LNG had on the same site.

Mr. Eason offered a motion to adopt Resolution 2020 – 015 to authorize a Real Estate Lease Option Agreement with Lake Charles LNG Export Company, LLC for 120 +/- acres of District property. Mr. Dixon seconded the motion and it carried unanimously.

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4. Submission 2020 – 016 authorizing a Real Estate Lease Option Agreement with Prairie Land Company.

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Mr. Self stated there are three in the series that relate to Lake Charles LNG, this is the second. This is the lease the Port will have with Prairie Land for their 40-acre site. With Board approval, they will enter into an option agreement with Prairie Land then lease that land to Lake Charles LNG. It is really an option.

Ms. McCleary offered a motion to adopt Resolution 2020 – 016 to authorize a Real Estate Lease Option Agreement with Prairie Land Company. Mr. Lorenzi seconded the motion and it carried unanimously.

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5. Submission 2020 – 017 authorizing a Real Estate Lease Option Agreement with Lake Charles LNG Export Company, LLC for the District’s Lincoln Road property .

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Mr. Self stated staff would like to extend an option with Lake Charles LNG for a 25-acre site for a parking area for their LNG project. This is another two-year extension to their existing option.

Mr. Dixon offered a motion to adopt Resolution 2020 – 017 to authorize a Real Estate Lease Option Agreement with Lake Charles LNG Export Company, LLC for the District’s Lincoln Road property. Mr. Eason seconded the motion and it carried unanimously.

Mr. Dixon asked if there was any increase in value in these options. Mr. Self replied there was. In each one of these extensions, on their options, the Port is increasing the amount they are charging. Prairie Land is increasing the amount they are charging the Port as well. The 25-acre lease is increasing from $27,500 to $28,875. It is a small increase, but there is an increase.

The motion carried unanimously.

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6. Submission 2020 – 018 authorizing an Addendum Number One to Ground Lease Agreement with the Calcasieu Parish Sheriff’s Office.

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Mr. Self said the Port has an existing agreement with the Calcasieu Parish Sheriff’s Office for their Marine Safety unit, which is located just inside City Docks. They would like another access road into their facility to prevent them from having to go in the main gate and go all the way around City Docks to get to their facility. The Port budgeted about $600,000 in 2023 for this project. The Sheriff’s Department is very interested in moving forward with it. It includes the cost of installing card readers so they will have access in and out using their card readers. Also, it will ensure they have TWIC because that is what they use to access their facility. The Sheriff’s Department will split the cost, estimated to be about $180,000. It is a significant savings for the District. The Port budgeted $600,000 in 2023 and overall, the Port will spend $90,000. It will be $180,000 total but split 50/50 with the Sheriff’s Office, the Port will spend $90,000.

In addition, staff is requesting approval to amend their agreement to provide janitorial services for them at their facility.

Mr. Krielow offered a motion to adopt Resolution 2020 – 018 to authorize an Addendum Number One to Ground Lease Agreement with the Calcasieu Parish Sheriff’s Office. Ms. McCleary seconded the motion and it carried unanimously.

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7. Submission 2020 – 019 authorizing an Amendment Number Two to Lease Agreement with G2O Technologies, LLC (Formerly GEO Specialty Chemicals, Inc.).

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Mr. Self stated the Port has an existing 1.6-acre site that is leasing to GEO Specialties. They are now G20 Technologies and the Port would like to amend their lease to increase the rent to $55,000 per year and provide for an initial two-year term along with two additional two-year terms. The Port is also adjusting the rate for the thru-put, unloading fee and wharfage.

Mr. Dixon offered a motion to adopt Resolution 2020 – 019 to authorize an Amendment Number Two to Lease Agreement with G2O Technologies, LLC (Formerly GEO Specialty Chemicals, Inc.). Mr. Lorenzi seconded the motion.

Ms. McCleary asked how much per year or per month is the current lease agreement. Mr. Self replied that it is less than $55,000, but he would have to find the number. What they did was there were two interested parties at the site. They received proposals from both and selected the one that was the most beneficial for the Port. He does not remember their current lease arrangement. The rate for the unloading of their material is $4.75 per ton. The Port is going up to $5.25 per ton. The wharfage rate is going from $.50 to $1.18 for caustic. They have increased the rate and also the rental. He does not remember what they are paying now, but this is more than they were.

The motion carried unanimously.

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8. Submission 2020 – 020 authorizing the District to enter into a Professional Services Agreement with Meyer & Associates, Inc. for the design of the Industrial Park East Railcar Storage Yard.

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Mr. Self stated the Port is interested in pursuing a project that will allow the Port to add about 20,000 linear feet of additional rail storage at the Industrial Part East. Staff would like to enter into an engineering Professional Services Agreement with Meyer & Associates, Inc. to do the engineering for the project. Not only will it provide for additional rail storage at the facility, but will also allow transloading from truck to rail or rail to truck, which they do not have the capability now of doing it at Industrial Park.

Mr. Dixon offered a motion to adopt 2020 – 020 to authorize the District to enter into a Professional Services Agreement with Meyer & Associates, Inc. for the design of the Industrial Park East Railcar Storage Yard. Mr. Eason second the motion and it carried unanimously.

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9. Submission 2020 – 021 receiving and accepting the audited financial statements as of and for the year ended December 31, 2019.

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Mr. Self stated each year, as part of the audit process the Comprehensive Annual Financial Report (CAFR) is submitted to the Board to receive the results of the audit.

Mr. Landry will recap the CAFR along with Jason Guillory of MQB.

Mr. Landry gave an overview of the CAFR. The CAFR is on file in the Executive Offices.

Mr. Jason Guillory reviewed the auditor’s report. Mr. Guillory stated the report details that McElroy, Quirk and Burch has been engaged to audit the financial statements of the District. The letter outlines management’s responsibilities as well as the auditors in regards to the audit. Ultimately, the result is to issue an opinion on the financial statements. They have issued an Unmodified Opinion that the financial statements are fairly presented in accordance with Generally Accepted Accounting Principles.

Immediately following the Opinion paragraph, they drew special distinction to a change in an accounting principle, which occurred this year. During 2019, the District implemented GASB89, which affected the way in which they account for interest expense. In previous years, the interest expense was capitalized as part of construction in progress. With the new standard, it now goes to interest expense and hits the income statement as most people are used to. In doing so, it required a prior period adjustment. It is a fairly significant adjustment to the prior year retained earnings, beginning retained earnings, which is further described in the notes to the financial statements.

The remainder of the note talks about their relationship as auditors to the other information found in the CAFR that Mr. Landry will go over including the required Supplementary Information, Other Supplementary Information and the Introductory and Statistical Sections. It finally makes mention of the separately issued report required by Government Auditing Standards over internal control and compliance, which he will present after Mr. Landry’s presentation of the CAFR.

Mr. Landry continued with the presentation of the CAFR.

Mr. Guillory presented the Government Auditing Standards that require they issue the supplemental reports, which look at internal control and compliance issues related to the financial statements. It is not to form an opinion on the internal control or compliance, but to examine it as it relates to the financial statements.

As a result of their procedures, they have noted two instances, which are included in the report and are referenced in the report as Findings 2019 – 001 and 2019 – 002. The body of the findings are in the report.

Finding 2019 – 001 represents a violation of Louisiana’s Open Meetings Law, which occurred on August 26, 2019. That matter has been adjudicated and resolved up to this point.

Finding 2019 – 002 represents a non-compliance with District Policy. The District may have violated its internal policy related to authorization for contracts, which is normally referred to as the Delegation of Authority. The Delegation of Authority generally has a $100,000 limit on professional services and the contract in question was a $10,000 a month contract that would have equated to $120,000. This was brought forth as a finding. The District has provided a response to that finding in which they cite case history that the 30-day cancellation clause still means that it was an appropriate or ok at the time.

He still felt prudent to include this in the report for information to the Board so they will be fully informed about this particular issue, even though from a dollar perspective, it was below their normal audit threshold.

Finally, whenever they have findings in the prior year, the subsequent year they have to report on the status of those findings. Last year they had Finding 2018 – 001, which was inadequate controls over payroll timekeeping. During 2019, the District implemented a brand new payroll timekeeping software system, which improved those controls and alleviated the finding from last year. It has been resolved.

Mr. Krielow asked a question regarding the Contract Services. In analyzing that account, they had discussions and Mr. Guillory picked up that contract issue out of that. In addition to that, there are some substantial items that are classed as services. Part of the Board’s policy adopted by the Board in 2015 deals with services that will either be Requests for Proposals or accepted bids and the Delegation of Authority goes into what level of authority the Executive Director has and what has to come to the Board. With regards to the other services in the account, did Mr. Guillory look at the dollar amount of those to determine if there were any discrepancies?

Mr. Guillory replied they did and there were six contracts under contractual services that exceeded $100,000. The first one was the insurance contract with AON, which is actually an arrangement with AON where they go out for bid on other policies. It exceeded $2 million. According to the Delegation of Authority, insurance services are specifically carved out away from the $100,000 limit. The reference Mr. Krielow is referring to service contracts $100,000 or less is all under the Executive Director’s authority. Contracts over $100,000 is under Board authority.

Terminal and stevedoring agreements one year or less are under the Executive Director’s authority and over one year requires Board authority.

Operating agency insurance and other permits are under the Executive Director’s authority.

The first contract dealt with AON insurance and that falls under Executive Director authority.

The second contract was with FMT and the BT-1 contract. All stevedoring contracts one year or less are under Executive authority. The contract that is currently in place was signed in 2015 as a one-year contract. Since then it has been a month-to-month contract. Therefore there has not been a contract executed that has extended over one year. Therefore, it falls under the Executive Director’s authority.

The other major vendor, which does not actually fall under the contractor, Robichaux, Mize, Wadsack and Richardson in association with the ongoing litigation was in that account.

Also, the cooperative endeavor agreement with Port Rail and the operations the Port has with them is in the account.

There is a security services account with Vinson contractors. That properly came before the Board.

The last one is Adams and Reese, the lobbying contract, which is what was put in the finding. That was a contract that was actually signed at the end of 2016. It was a 3 year contract that ran from January 1, 2017 to December 31, 2019 with a 30-day opt out clause as management has indicated.

Mr. Krielow stated with regards to the contracts on insurance and FMT, Mr. Guillory described one that the Delegation of Authority gives it exclusively to the Executive Director and the other one deals with contracts one year or less. The contract, both of those, falls under services. The District policy that is in effect says that management will seek competitive proposals or prices from suppliers where the estimated cost of the work is within the Executive Director’s Delegation of Authority. The same procedure will occur when the work is beyond the Director’s Delegation of Authority and Board approval will be obtained. He asked if on all of those other services was Board approval obtained or did Mr. Guillory not check that.

Mr. Self replied that the statutes for the Port creations, specifically states when they reconstituted the Board, stevedoring contracts of one year or less are the authority of the Executive Director. The Delegation of Authority, when it was originally established, was set up so that it would reflect what the legislature wanted for the Port when it was reconstituted. It specifically states that the stevedoring contracts one year or less are under the authority of the Executive Director.

Mr. Krielow said the stevedoring contract is a labor contract, essentially. Maybe there is a conflict with what Mr. Self is saying and the policy that is in place, but clearly both in the Delegation of Authority and in the adopted policy of August 2015, it states that yes, the Director can go out and seek those proposals and if they are under $100,000, he has the right to do it.

Mr. Self replied that no, in the state statute there is no dollar limitation. Mr. Krielow said he was not talking about the statute. He is talking about the policy of the Board. Mr. Self said the state statute trumps anything they can do as a port – as a policy. The state statute states, and it does not have a dollar limitation, that a stevedoring contract is in the purview of the Executive Director. It is pretty clear.

Mr. Ringo read the statute. This is LA revised statute 34:204.1 outlining the responsibilities of the Port Director. Subsection 12 –

“He shall contract with superintendents, stevedores and other agents and employees and fix their compensation in terms of employment as deemed appropriate. However, the Port Director shall enter into an agreement with stevedores that extends for a period of more than one year only with the approval of the Board.”

Mr. Krielow asked what good was the Delegation of Authority with the dollar limits if they do not follow the outlines of the Delegation of Authority. Mr. Self replied that he does not think the Port’s delegation conflicts with the statute. The Delegation of Authority states that. Mr. Krielow said he could read it. He has it right here. He said there is definitely a conflict when it comes to services contracts. If that is a service contract. Mr. Self said Mr. Krielow is grouping stevedoring contracts under service contracts. The next item under service contracts says terminal or stevedoring agreements one year or less, Executive Director authority. That overrides anything that would be in that dollar amount limit. Mr. Krielow said he disagrees on that because staff should seek Board approval on anything over $100,000 in a service-oriented contract. Mr. Self said they would have to agree to disagree.

Mr. Eason asked Mr. Ringo if the Port has complied with the Louisiana statute in reference to these contracts. Mr. Ringo stated the Port is in compliance.

Ms. McCleary asked Mr. Krielow as he referred to page 38, what line item is it? Mr. Landry replied that he is looking at contractual services under Operating Expenses.

Mr. Krielow asked if the Board is approving the audit or merely receiving it. Mr. Self replied the Board is receiving it.

Mr. Eason offered a motion to adopt 2020 – 020 to receive and accept the audited financial statements as of and for the year ended December 31, 2019. Mr. Dixon second the motion and it carried unanimously.

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10. May 2020 Financials Briefing Note

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The May 2020 Briefing Note was rendered to the Board and is on file in the Executive Offices.

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11. Monthly Staff report from Director of Administration and Finance Monthly Report.

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The Director of Administration and Finance Monthly Staff Report was rendered to the Board and is on file in the Executive Offices.

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12. Monthly Staff report from Director of Navigation.

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The Director of Navigation and Security’s Monthly Staff Report was rendered to the Board and is on file in the Executive Offices.

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13. Monthly Staff report from Director of Operations and Trade Development.

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Mr. Henderson stated that right now they are currently discharging a petroleum coke ship of P66 at BT-1. In July, there will be another project cargo ship with brewery tanks. Three blade ships are booked and a possible tower shipment. Also, another lumber shipment for July.

The Director of Operations’ Monthly Staff Report was rendered to the Board and is on file in the Executive Offices.

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14. Monthly Staff report from Director of Engineering, Maintenance, and Development and Security.

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Mr. Pestello stated that construction is progressing nicely and design on other projects is progressing as well. Mr. Krielow asked if there were any surprises on the damage repairs as far as any unforeseen obstacles. Mr. Pestello replied they have not and are nearing completion and getting ready to pour concrete. Mr. Krielow asked how much has it exceeded what was anticipated in the repair. Mr. Pestello replied it was an additional $20,000.

The Director of Engineering, Maintenance, and Development and Security’s Monthly Staff Report was rendered to the Board and is on file in the Executive Offices.

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15. Monthly Staff report from the State Port Lobbyist.

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Mr. Ringo stated he wanted to add to the lobbyist report. He had two items of good news. One, the three Commissioners up for confirmation were confirmed. Two, the Port is involved in the Public Private Partnership with the Port, industry and the state for funding of the ship channel. The state put their funding of $3 million into the budget and it passed both houses. They are confident it will make it all the way through. They will enter into a CEA with the Department of Transportation and the P3 will be funded. It is exciting and good for the channel.

Mr. Eason thanked Mr. Ringo for all of the hard work.

Mr. Ringo stated it was a group effort, but Ginger Corley has done a great job for the Port and has represented the Port well.

Mr. Eason stated he would like to recognize Rep. Stephen Dwight and the entire delegation, but he carried the bill.

The State Port Lobbyist’s Monthly Staff Report was rendered to the Board and is on file in the Executive Offices.

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16. Executive Session and appropriate action in any of the following matters:

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Mr. Darbone asked if they needed to enter into Executive Session. Mr. Ringo stated with the Covid 19 everything has shut down. He does not have anything to add, but it is up to the Board.

The Board did not enter into Executive Session.

* Suit against the Port of Lake Charles – Suit No. 2013-001091- 14th JDC, State of LA.
* Suit against the Port of Lake Charles – Suit No. 2014-004268-14th JDC, State of LA.
* IFG Port Holding, LLC vs LCHTD – Case: 2:16-cv-00146 U S District Court, Western District of Louisiana, Lake Charles Division.
* LCHTD vs IFG Port Holding, LLC – Case: 2:16-cv-00785 U S District Court, Western District of Louisiana, Lake Charles Division
* Discussion and appropriate action regarding the Real Estate Option Agreement with Lake Charles Methanol, LLC.

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17. Other Matters which may properly come before the Board.

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There being no further business to come before the Board, Mr. Darbone asked for a motion to adjourn. Mr. Eason offered a motion to adjourn. Mr. Krielow seconded the motion and it carried unanimously. The meeting adjourned at 5:45 p.m.

All discussions held on the above items were recorded using the FTR Gold program, and saved on the District’s main file server in the District’s office.

Please note that when the votes are shown as unanimous, it is the policy of the Board that the President does not vote except in the event of a tie vote by the rest of the Board and/or unless otherwise indicated.

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DAVID J. DARBONE, President

ATTEST:

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THOMAS L. LORENZI, Secretary/ Treasurer