

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

Be it remembered that a regular meeting of the Port Commission of the City of Long Beach, Mississippi, was begun and held at the Long Beach School District Central Office, 19148 Commission Road, in said City at 5:30 pm, it being the third Thursday in March, 2009, and the same being the time, date, and place fixed for holding said meeting. There were present and in attendance on said Commission and at the meeting the following named persons: Commission President Phil Kies, Vice President James Hancock, Secretary Barbara Reed, Commissioners Vernon Ehlers, Kaye Couvillon, Charles Purchner, Chuck Ryan, Steve Nicosia, Port Attorney Bryan Vonder Bruegge, Harbor Master Calvin Poupart, and Deputy City Clerk Stacey Dahl.

Absent the meeting was Commissioner Mike Spruill.

There being a quorum present and sufficient to transact the business of the Port Commission, the following proceedings were had and done.

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The meeting was called to order and Commissioner Nicosia made motion seconded by Commissioner Ehlers and unanimously carried to amend the agenda to discuss Fuel/Bait Facilities with Agenda Item # V. 3. Parking Lot Striping.

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Commissioner Hancock made motion seconded by Commissioner Ehlers and unanimously carried to approve the regular Port Minutes of February 19, 2009, and the Special Meeting Minutes of March 2, 2009, as submitted.

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Port Attorney Bryan Vonder Bruegge arrived at 5:40 pm and Commissioner Kaye Couvillon arrived at 5:43 pm.

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The commission recognized Mr. David Vicknair, Project Manager of Broaddus and Associates, and Mr. David Ball, City Engineer, whereupon extensive discussion was held and the commission was apprised on the status of various harbor projects, i.e. Harbor Master Building, North Bulkhead Repairs, Katrina Pier Repairs/ Fishing Piers, Dredging, and Harbor Parking Lot and Road Paving.

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The commission recognized Mr. David Ball, City Engineer, regarding pier repairs at the harbor; whereupon the following was submitted in words and figures as follows:

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

**PROPOSAL FOR  
"HARBOR REPAIRS (HURRICANE GUSTAV)"**

MAYOR AND BOARD OF ALDERMEN  
LONG BEACH, MISSISSIPPI

Gentlemen:

Pursuant to your request for quotes, we \_\_\_\_\_  
(Name of Company) residing at \_\_\_\_\_, do hereby submit this our proposal for furnishing of labor, tools, equipment, and all materials needed to make repairs to the Smallcraft Harbor within the City of Long Beach located at S. Cleveland Avenue, as described herein. Contractor will furnish all components and materials (major, minor, and incidental) needed, as listed herein, and will also furnish all equipment and labor to install the materials, in order to restore the Harbor areas to a fully operational status.

**GENERAL REQUIREMENTS:**

- (1) Owner intends to issue a purchase order to the Contractor providing the lowest and best quote for this project, as provided for under State Law for procurements of construction contracts under \$25,000.
- (2) Contractor must furnish to the Owner proof of vehicular and public liability insurance in the amount of not less than \$1,000,000, prior to commencement of the work.
- (3) Failure of the contractor to commence work under the terms of this contract within 15 calendar days from the purchase order issue date, shall be justification for the cancellation of the contract without penalty to either party.
- (4) All work under this contract must be fully completed within 60 calendar days from the date when Owner notifies Contractor of the issuance of a purchase order. If contractor fails to complete the work within this time without cause or reason satisfactory to Owner, the payment for the completed work shall be reduced by the sum of fifty dollars (\$50) for each and every calendar day which the work remained incomplete after expiration of the allowed time.
- (5) Payment for the completed work will be made in one lump sum, after approval by the Board of Aldermen at the next Board Meeting subsequent to the completion of work. No partial payments will be allowed.
- (6) Contractor shall warrant his work against defects in materials and workmanship for a period of one year following final acceptance of the project by the City.
- (7) The price bid shall include any and all applicable taxes or fees, and shall be in full consideration of all expenses incurred in performing the work.

**CONSTRUCTION REQUIREMENTS:**

- (1) Repair Harbor areas in accordance with the attached itemized "Work List"
- (2) All items, materials, and construction must comply with the attached Technical Sections: "Demolition", "Wood Pier Substructure", and "Wood Pier Decking".

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

**PRICE:**

Bidder proposes to furnish all labor, tools, equipment, and minor materials necessary to make the listed repairs to the Long Beach Smallcraft Harbor, as described herein, at the following prices:

BID ITEM 1 – HARBOR REPAIRS (HURRICANE GUSTAV)

\_\_\_\_\_ (\$ \_\_\_\_\_) LUMP SUM

BID ITEM 2 – FINGER PIER MODIFICATIONS

\_\_\_\_\_ (\$ \_\_\_\_\_) LUMP SUM

**TOTAL AMOUNT OF BID (BID ITEM 1 + BID ITEM 2): (\$ \_\_\_\_\_)**

RESPECTFULLY SUBMITTED: \_\_\_\_\_

DATE \_\_\_\_\_

FIRM NAME OF BIDDER \_\_\_\_\_

SIGNED BY (Name & Title) \_\_\_\_\_

ADDRESS OF FIRM \_\_\_\_\_

CITY AND STATE \_\_\_\_\_ TELEPHONE \_\_\_\_\_

# PORT COMMISSION MINUTES

## MARCH 19, 2009

### Work List – Bid Item No. 1 Harbor Repairs (Hurricane Gustav) Long Beach Smallcraft Harbor

#### Pier 1

- Replace finger pier between slips 19 and 20
- Replace finger pier between slips 34 and 35
- Replace finger pier between slips 36 and 37
- Replace cross pier (tee pier) at end of pier
- Replace railing on north side of pier entrance

#### Pier 2

- Replace finger pier between slips 36 and 37
- Replace cross pier (tee pier) at end of pier

#### Pier 3

- No damage

#### Pier 4

- Replace finger pier between slips 11 and 12
- Replace finger pier between slips 14 and 15
- Replace finger pier between slips 20 and 21

#### Pier 5

- Replace finger pier between slips 4 and 5
- Replace finger pier between slips 33 and 34
- Launch Ramp: replace one of the launch piers

# PORT COMMISSION MINUTES

## MARCH 19, 2009

### Work List – Bid Item No. 2 Finger Pier Modifications Long Beach Smallcraft Harbor

#### Pier 1

- Cut off bolts protruding through finger piers: Slip 2&3, 4&5, 9&10, 11&12, 13&14, 23&24, 25&26, 32&33, 38&39, 40&41, 41&42, 45&46, 47&48

#### Pier 2

- Cut off bolts protruding through finger piers: Slip 3&4, 5&6, 15&16, 17&18, 21&22, 22&23, 42&43, 44&45, 48&49, 53&54, 57&58, 59&60, 61&62

#### Pier 3

- Cut off bolts protruding through finger piers: Slip 11&12, 13 &14

#### Pier 4

- Cut off bolts protruding through finger piers: Slip 9&10, 17&18, 21&22

#### Pier 5

- Cut off bolts protruding through finger piers: Slip 2&3, 9&10, 15&16, 17&18, 26&27, 31&32, 34&35

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

**ITEM NO. 400**

**DEMOLITION**

**(A) SCOPE OF WORK**

- (1) This work shall consist of the furnishing of all labor, tools, and services needed to remove damaged components of the Long Beach Harbor which are designated herein for replacement under this contract.

**(B) MATERIALS**

- (1) None.

**(C) CONSTRUCTION REQUIREMENTS**

- (1) All materials removed by Contractor under this item shall become the property of Contractor, and shall be disposed of off-site at Contractor's expense. Disposal of all materials in this contract shall comply with all applicable local, state, and federal laws and regulations. Contractor shall provide documentation proving that materials were disposed in accordance with such laws.
- (2) Contractor shall carefully disassemble the existing wave baffle wall which is to be removed, using care to avoid the loosing of hardware or other objects into the water.
- (3) Piles which are designated or authorized for removal must be withdrawn using a pile extractor or other approved means. Contractor must demonstrate that all parts of all piles have been removed down to an elevation at least 8.0 feet below Mean Low Water.

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

**ITEM NO. 410**

**WOOD PIER SUBSTRUCTURE**

**(A) SCOPE OF WORK**

- (1) This work shall consist of the furnishing of all materials, labor, tools, and services needed to replace missing or damaged main support beams which support the pier deck stringers, cross-brace members between pilings, and/or 3"x8" whalers which run along the sides of the piling.

**(B) MATERIALS**

- (1) Wood Timbers & Hardware (All Timbers other than Deck Stringers & Decking)
- (2) Timbers shall match the existing damaged components which are authorized for replacement in nominal size and length.
- (3) Timbers furnished under this item shall be Southern Pine, not more than 1/2 inch less than the nominal size called for in either dimension, free of knots, splits or other defects which in the Engineer's judgment will materially weaken the piece.
- (4) All Timbers shall be treated with approved "oxide" form of CCA preservative, meeting A.W.P.A. Standard P-5 and Federal Standard TT-W-550.
- (5) The treating process and results thereof shall meet Federal Specification TT-W-571. Not less than 2.50 pounds of preservative per cubic foot of wood shall be injected, as determined by assay in accordance with a.w.p.a. Standard C-2. Supplier must certify that this requirement is met.
- (6) All bolts, washers and nuts, used shall be heavily hot-dip galvanized. Washers are required under all bolt heads and under all nuts, whether specifically shown in the Drawings or not. All washers shall be of the heavy duty "O.G." type, except where flat washers are required to avoid undesirable protrusion. Existing hardware may be re-used, but only if in like-new condition.

**(C) CONSTRUCTION REQUIREMENTS**

- (1) Wood Timbers
  - (a) Timbers shall be accurately cut and fitted to fit as shown. No "springing" of the piling will be permitted.
  - (b) Position of whalers and braces shall be accurately controlled so as to result in pleasing and uniform lines to the eye.
  - (c) Hot-dip galvanized hardware shall not be field cut.

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

- (d) This work shall consist of the furnishing of all labor, tools, and services needed to remove damaged components of the Long Beach Harbor which are designated herein for replacement under this contract.

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*Long Beach Smallcraft Harbor  
Hurricane Gustav Repairs*

410 - 2

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*Item No. 410  
Wood Pier Substructure*

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

**ITEM NO. 420**

**WOOD PIER DECKING**

**(A) SCOPE OF WORK**

- (1) This work shall consist of the furnishing of all materials, labor, tools, and services needed to construct wood pier deck, including deck stringers between pile bents.

**(B) MATERIALS**

(1) Wood Decking

- (a) Decking material or handrails which are exposed to view shall be #1 Pine per the Southern Pine Inspection Bureau. Wane is limited to no more than 1/4" x 1/4", except that an occasional piece may have wane of 3/8" x 3/8" for no more than 12" along the length of the piece. These materials shall be pres-sure treated with ACQ Preservative in accordance with AWPA C1 and P5. Not less than 0.40 pounds of preservative per cubic foot of wood shall be in-jected and retained, in accordance with AWPA C2, C4, C9, C14, C15, C16, or ICBO ER4981 as appropriate. Supplier must certify that this requirement is met.
- (b) Material used for stringers, which will not be exposed to view or readily touched by the public, shall be #2 Common Pine, pressure treated with Wol-man CCA preservative meeting A.W.P.A. Standard P-5 and Federal Standard TT-W-550. The treating process and results thereof shall meet Federal Specification TT-W-571. Not less than 0.60 pounds of preservative per cubic foot of wood shall be injected, as determined by assay in accordance with A.W.P.A. Standard C-2. Supplier must certify that this requirement is met.
- (c) All pieces shall be of nominal trade dimensions (not more than 1/2" smaller than nominal size in each dimension), surfaced S4S, and shall be free of knots, splits, and other defects which in the Engineer's judgment will materially weaken the piece.
- (d) Nails used shall be 16d (minimum) Type 316 Stainless Steel Ring Shank common nails, except that nails used to toe-nail deck stringers to beams shall be 20d (minimum) type 316 Stainless Steel Ring Shank common nails. Supplier must certify conformance with this requirement.
- (e) Bolts, washers, and nuts shall be heavily hot-dip galvanized. Heavy duty "O.G." type washers are required under all bolt heads and under all nuts.

**(C) CONSTRUCTION REQUIREMENTS**

(1) Decking

- (a) Stringers and planks shall be installed in accordance with standard carpentry practice as detailed in the Drawings. Edges of deck shall be installed true to line,

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

grade and plumb, so as to present a pleasing appearance with uniform straight lines.

- (b) Deck planks shall be secured by means of three 16d nails into each longitudinal stringer. Gaps of approximately one-quarter inch shall be left between each plank.
- (c) Where required, planks shall be trimmed or cut to fit around piles or other obstructions, at no additional cost. This work shall consist of the furnishing of all materials, labor, tools, and services needed to replace missing or damaged main support beams which support the pier deck stringers, cross-brace members between pilings, and/or 3"x8" walers which run along the sides of the piling.
- (d) Where required by the work list, bolts extending through a finger pier should be cut off so that the bolt extends no more than 1" away from the pile.

*Long Beach Smallcraft Harbor  
Hurricane Gustav Repairs*

420 - 2

*Item No. 420  
Wood Pier Decking*

Commissioner Reed made motion seconded by Commissioner Purchner to accept the aforesaid Proposal.

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Upon continued discussion on the aforesaid Proposal/Work Lists, Commissioner Couvillon offered substitute motion seconded by Commissioner Hancock and unanimously carried to approve the aforesaid and to authorize the Harbor Master to seek quotes based on the aforementioned Proposal and Work Lists.

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**PORT COMMISSION MINUTES  
MARCH 19, 2009**

There came on for consideration striping the Harbor Parking Lot; whereupon, it was the consensus of the commission to direct the Harbor Master to solicit quotes.

Commissioner Kies apprised the commission that Supervisor Marlin Ladner and Bobby Weaver, of Sand Beach Authority, have given their verbal approval of the use of the parking lot east of the harbor for boat trailers, in the event of over-flow parking.

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There came on for discussion the Fuel/Bait Facility at the Harbor and the means of operation since the Fuel Dock has neared completion. Commissioner Reed made motion seconded by Commissioner Couvillon and unanimously carried to discuss this in more detail at a work session. Said work session is scheduled on Monday, March 30, 2009, at 5:30 pm, in the IT Building located at 645 Klondyke Road, Long Beach, Mississippi, adjacent to the Central Fire Station.

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There came on for discussion the Clean Marina Program; whereupon Commissioner Reed apprised the commission on the Harbor's status and the next stage in the program. It was determined by the commission that this item would also be discussed in further detail at the work session scheduled for March 30, 2009.

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Commissioner Kies informed the commission that the City of Long Beach Port Commission has been awarded FY 2009 Tideland funds in the amount of \$100,000.00 for 2009 Harbor Improvements.

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There came on for discussion the placement of the prop and anchors from the SS Camille, formerly located in Gulfport, Mississippi. It was the consensus of the commission to discuss this again at a later date as the harbor progresses with rebuilding.

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There came on for consideration the Contract for Professional Services by and between Natural Capital Development and the Long Beach Port Commission. Said contract ordered spread upon the minutes of this meeting in words and figures as follows:

**PORT COMMISSION MINUTES  
MARCH 19, 2009**



**CONTRACT FOR PROFESSIONAL SERVICES**

**Contact:**

Leah Bray, Natural Capital Development  
1004 Government Street, Ocean Springs, MS 39564  
228.875.1032, office 228.872.2798 fax

**THIS AGREEMENT** is made this 3<sup>rd</sup> day of March, 2009 (the "Effective Date"), by and between Natural Capital Development, (hereinafter referred to as "NCD") and Long Beach Port Commission, PO Box 929, Long Beach, MS 39560, (hereinafter referred to as "Client").

In consideration of the mutual covenants, terms and conditions contained in this Agreement, the parties agree as follows:

1. Services. In connection with the update of the CIAP grant request (the "Project"), Client hereby retains NCD to perform the services (the "Services") defined in the proposal of NCD, dated 19 February 2009. (the "Proposal").

2. Duration and Termination. This Agreement shall commence on the Effective Date and continue until (a) 1 September 2009 or (b) thirty (30) days after either party has delivered written notice to the other party, terminating this Agreement.

3. Payment. In consideration of NCD's provision of the Services, Client shall make payment to NCD as follows:

a. NCD agrees to perform tasks as specified in the Proposal, and estimates that the Costs for such tasks shall not exceed \$ **2,250.00** (the "Estimated Total Cost").

b. The Estimated Total Cost shall be payable with "due upon receipt" terms as follows:

Bi-monthly as billed by NCD for whole hours of work performed and/or, upon full completion of the Services, including satisfactory completion of all tasks as outlined in the Proposal.

All payments shall be made to:

Natural Capital Development  
1004 Government Street  
Ocean Springs, MS 39564

Federal ID# 26-0899708.

# PORT COMMISSION MINUTES

## MARCH 19, 2009

4. Indemnification Clause. NCD agrees to jointly and severally indemnify, defend and hold Client harmless from and against all liability, loss, damage, or expense, including attorney's fees which may be incurred or sustained by reason of the failure of NCD to fully perform and comply with the terms and obligations of this Agreement. Furthermore, Client agrees to jointly and severally indemnify, defend and hold NCD harmless from and against all liability, loss, damage, or expense, including attorney's fees which may be incurred or sustained by reason of the failure of Client to fully perform and comply with the terms and obligations of the Agreement.

5. Assignment. This contract may not be assigned or transferred by either party without the prior written consent of the other party.

6. Confidential Information. During the course of the performance of this Contract, NCD may have access to materials, data, strategies, or other information relating to Client and its programs, or systems, which are intended for internal use only. Any such information acquired by NCD shall not be used, published, or divulged by NCD to any person, firm, or corporation or in any advertising or promotion regarding NCD or NCD's services, or in any manner or connection whatsoever without first having obtained the written permission of the Client, which permission Client may withhold in its sole discretion.

7. Proposal; Additional Costs. This Agreement, and the pricing set forth in the Proposal relates only to the Project and Services. If CLIENT requests a change in the scope of the Services, such change shall be made only if CLIENT and NCD agree in writing to the change of services and any modification in pricing appropriate for such changes in Services.

8. NCD Representations. NCD represents as follows:

a. All services and materials supplied by NCD are of the highest quality and meet or exceed industry standard.

b. NCD has the expertise, capacity and staffing to adequately perform the Services. NCD shall employ and train such personnel or increase capacity or supervision as is necessary to provide that the Services are performed in a professional manner and in accordance with the prevailing industry standards.

c. All Services performed by NCD in connection with this Agreement shall be performed in compliance with applicable federal, state and local laws, rules and regulations. In addition, NCD shall use its best efforts to ensure that all services performed in connection with this Agreement are performed in compliance with Client's rules and regulations.

9. Default; Remedies.

a. Events of Default. Events of Default shall include without limitation: (i) failure to complete the Services in the manner specified, (ii) breach of any covenant, representation, warranty or other provision contained in this Agreement.

b. Remedies. In the event of Default, the non-defaulting party shall have the right to recover any and all damages suffered by it by all means available to it at law or at equity.

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

10. Notice. Any notices pursuant to this Agreement shall be validly given or served if in writing and sent by registered or certified mail, postage prepaid, to the following addresses:

a. If to CLIENT:  
LONG BEACH PORT COMMISSION  
Attn: PHILLIP KIES  
PO Box 929  
Long Beach, MS 39560

b. If to NCD:  
  
NATURAL CAPITAL DEVELOPMENT, INC.  
1004 Government Street  
Ocean Springs, MS 39564  
Phone: (228) 355-1431  
Attn: LEAH BRAY

or to such other addresses as either party may designate to the other in writing. Delivery of any notice shall be deemed to be effective on the date set forth on the receipt of registered or certified mail or, if earlier, three days after mailing.

11. Independent Contractor. In the performance of this Agreement, NCD will act solely as an independent contractor. Nothing in this Agreement shall be construed or implied to create a relationship of agency, partners, affiliates, joint employers, or joint venturers. NCD is free to do work for other entities during the term of this Agreement. Neither party shall have the power or authority to act for the other in any manner or to create obligations or debts which would be binding on the other. Neither party shall be responsible for any obligation of the other or be responsible for any act or omission of the other or any employee of the other. NCD shall be responsible for all wages, salaries, taxes and expenses incurred for or by its employees.

12. Waiver. The waiver by either party of a breach or violation of, or failure of either party to enforce, any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach or violation or relinquishment of any rights hereunder.

13. Choice of Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Mississippi, without regard to conflicts of law principles thereof, regardless of its place of execution or performance. Any claims or controversy arising out of or relating to this Agreement shall be brought exclusively in any federal or state court of competent jurisdiction located in the State of Mississippi and the parties hereby consent to personal jurisdiction of and venue in said court.

14. Headings; Exhibits. The headings of paragraphs in this Agreement are for convenience only; they form no part of this Agreement and shall not affect its interpretation. All schedules, exhibits or attachments referred to herein shall be incorporated in and constitute a part of this Agreement.

**PORT COMMISSION MINUTES  
MARCH 19, 2009**

15. Integration. This Agreement, represents the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all previous agreements of whatever nature between the parties with respect to the subject matter; it may not be altered or amended except by an agreement in writing signed by both parties.

16. Counterparts. This Agreement may be executed and delivered in counterparts, all of which taken together shall constitute a single instrument.

17. Severability. If any part of any provision of this Agreement is invalid or unenforceable under applicable law, the provision shall be ineffective only to the extent of such invalidity or unenforceability without in any way affecting the remaining parts of the provision or this Agreement.

This Agreement is executed by the parties as of the date stated at the beginning.

LONG BEACH PORT COMMISSION

BY   
PHILIP KIES, PRESIDENT  
Date 3/5/09

NATURAL CAPITAL DEVELOPMENT, INC.,  
a Mississippi corporation

BY   
LEAH BRAY, VICE-PRESIDENT  
Date February 28, 2009

Commissioner Couvillon made motion seconded by Commissioner Reed and unanimously carried to approve the aforesaid signed contract.

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There came on for consideration the Election of Port Commission Officers for 2009/2010. Commissioner Ehlers made motion seconded by Commissioner Nicosia and unanimously carried to maintain the current officers for the 2009/2010 term:

|                      |                |
|----------------------|----------------|
| Commissioner Kies    | President      |
| Commissioner Hancock | Vice President |
| Commissioner Reed    | Secretary      |

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**PORT COMMISSION MINUTES  
MARCH 19, 2009**

Commissioner Purchner made motion seconded by Commissioner Ehlers and unanimously carried to approve the bills as submitted on Docket of Claims # HBR031709.

Commissioner Nicosia reviewed, with the commission, the status of the internal control worksheet in regards to revenues and expenditures projected by the commission.

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The commission recognized Mr. Bryan Vonder Bruegge for the Port Attorney's report; whereupon there was no action required or taken.

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Commissioner Reed left the meeting at 7:50 pm.

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The commission recognized Mr. Calvin Poupart for the Harbor Master's report; whereupon there was no action required or taken.

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Commissioner Hancock made motion seconded by Commissioner Couvillon and unanimously carried to adjourn until the next regular meeting in due course.

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APPROVED:

\_\_\_\_\_  
PHIL KIES, PRESIDENT

\_\_\_\_\_  
DATE

ATTEST:

\_\_\_\_\_  
STACEY DAHL, DEPUTY CITY CLERK