

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD JUNE 5, 2024 AT 5:30 P.M.**

The Board of Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas, held a regular meeting on **Wednesday, June 5, 2024 at 5:30 p.m.**

The following individuals were present and absent:

PRESENT: John Reed, as acting Chairman
John Wood
Ernesto Gutierrez

ABSENT: Esteban Guerra
Sergio Tito Lopez

ALSO PRESENT: William Dietrich, Interim Port Director and CEO
Daniel Rentfro, Jr. District Counsel
William Irwin, District Counsel

STAFF MEMBERS: Miguel Barajas
Ariel Chavez
Michael Davis
Arturo Gomez
Jose Herrera
Jorge Montero
Margie Recio
Memo Rico
Tony Rodriguez
Julio Romo
Janie Velasquez
Zeus Yanez

OTHERS PRESENT: Rev. Andreas Lewis
Jorge De La Colina
Noe Hinojosa
Rene Mariscal
Ricardo Rivera
Alberto Ochoa
Ricardo Quiroga
Kevin Garcia
Monica Tellam

REGULAR MEETING

1. Meeting Called To Order

Commissioner Reed, acting Chairman, called the meeting to order at 5:32 p.m. Reverend Lewis offered a prayer. The Chairman then led those present in the Pledge of Allegiance to the United States and Texas flags.

2. Public Audience

No person registered to address the Board.

3. Directors Report

Commissioner Reed asked for an update regarding the water treatment plant project. Mr. Chavez and Mr. Dietrich addressed the Board.

Commissioner Gutierrez asked Mr. Chavez about the warranty for the Ostos Road project and for a meeting regarding areas of concern on Ostos Road.

Prior to consideration of the Consent Agenda, Mr. Dietrich asked that Items 7, 10, 12(3), and 12(6) be tabled. Commissioner Wood moved to table these items, Commissioner Gutierrez seconded, and the motion passed unanimously.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Regular Board Meeting of May 15, 2024 and Special Board Meeting of May 29, 2024.
- b. Approval to authorize payments over \$25,000.00:
 1. RLB Contracting, Inc., the amount of \$682,416.90, for 2022 Placement Areas 5B, 7 & 8 Improvements Project;
 2. Braun Intertec Corporation, the amount of \$26,057.06, for pre-dredging sediment/elutriate sampling of Cargo Dock #10.

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

5. Consideration and ACTION to approve Letter of Agreement between Port of Brownsville and BISSD Adult Continuing Education for participation as a collaborating partner.

BISSD as a participating member of the BISSD Adult Consulting Education Consortium for Cameron County, has developed programs for delivery of basic education skills to educationally disadvantaged adults in Cameron County. Since 2021, District has participated as a collaborating partner. District would provide presentations and tours of the Port and collaborate on workforce and job skills development. Commissioner Wood moved to approve the Letter of Agreement, Commissioner Gutierrez seconded, and the motion passed unanimously.

PRESENTATION

6. Presentation on drought update by Brownsville Public Utilities Board.

Rene Mariscal of Brownsville Public Utilities Board made a presentation to the Board regarding the drought being experienced in South Texas. Discussion followed regarding measures being taken to mitigate the effects of the drought.

ACTION ITEMS

7. Consideration and ACTION on approval of an amendment to the Project Partnership Agreement for the Brazos Island Harbor (BIH) Channel Improvement Project.

This item was tabled.

8. Consideration and ACTION to approve a Resolution authorizing staff to apply to the Texas Department of Transportation Ship Channel Improvement Revolving Fund.

Mr. Yanez addressed the Board that the Ship Channel Improvement Revolving Fund (SCIRF), administered by TxDOT, was established by the Legislature during the 85th Legislative Session to enhance the funding capabilities of entities responsible for the local share of qualified project costs. The 88th Legislative Session appropriated \$400 million in general revenue to fund the (SCIRF). The intent is to use SCIRF program as a source of funding to meet the District's cost share requirements under the Project Partnership Agreement between the Department of the Army and the Brownsville Navigation District for the Brazos Island Harbor Channel Deepening Project. Mr. Hinojosa also addressed the Board. Commissioner Gutierrez moved to approve a Resolution authorizing Interim Port Director and CEO and Director of Finance to apply to the TxDOT Ship Channel Improvement Revolving Fund, Commissioner Wood seconded, and the motion passed unanimously.

9. Consideration and ACTION authorizing Interim Port Director and CEO to sign Memorandum of Understanding (MOU) between Brownsville Navigation District and Texas A&M Engineering Service (TEEX) a member of the Texas A&M University System.

Mr. Dietrich addressed the Board that the MOU is an agreement for parties to work cooperatively to establish clear unambiguous communication and collaboration between Workforce Solutions Cameron "Board," District, and Texas A&M Engineering Extension Service "TEEX." This MOU shall commence as of the date of the last signature and terminate in August 31, 2025, unless terminated by either party. Any party may terminate the MOU upon giving thirty days advance written notice. Under the MOU, Board, District, and TEEX would work cooperatively to establish clear unambiguous communication and collaboration between all parties to set forth the relative responsibilities of the parties as they relate to planning and implementation of individual and mutual duties and obligations in support of the recruitment, hiring, and retention of workers at and around the Port of Brownsville relating to the operations and maintenance of zero emissions technology. Commissioner Wood moved to approve the proposed MOU, Commissioner Guterrez seconded, and the motion passed unanimously.

10. Consideration and ACTION to acknowledge receipt of the independent audits of the financial statements of the Brownsville Navigation District and the “Retirement Plan for Employees of the Brownsville Navigation District” for Fiscal Year ended December 31, 2023.

This item was tabled.

11. Consideration and ACTION to declare Police Patrol Boat and Trailer, Unit 614 and Unit 614B, C, and D, as salvage to the District’s needs and to authorize its disposition.

Mrs. Recio addressed the Board that on January 8, 2024, the vessel M/V Chang Hang Hui Hai broke loose from its mooring on Dock 12. As a result, Signet Tug was dispatched to return the vessel back to its dock. During this operation, the propwash from the harbor tug caused damage to the JetDock, resulting in the capsizing of the police patrol boat. A technician and insurance adjuster have evaluated the boat (Unit 614) and its associated equipment. Due to the extent of the damage, it has been determined that repair is not feasible. The trailer’s (Unit 614B) frame and axels are rusted and compromised. Commissioner Wood moved to authorize the declaration of Unit 614, 614B, 614C, and 614D as salvage and to authorize the Salvage Auction Team to dispose of it according to the Policy for Disposition of surplus and Salvage, Commissioner Gutierrez seconded, and the motion passed unanimously

12. Consideration and ACTION on Leases, Assignments, Negotiations, Easements, Subleases, and Contracts in general.

Mr. Dietrich addressed the Board regarding the following Items:

1. Bluewing One LLC (Authority to Negotiate)

Bluewing One LLC, a current lessee, has requested a new lease for an additional site of 0.5 acres located at 2100 Calloway Drive. The purpose of this new lease is for an ingress and egress to terminal. Commissioner Wood moved to approve the authority to negotiate a new lease, Commissioner Gutierrez seconded, and the motion passed unanimously.

2. Chemical & Schutz High Performance Lubricants S.A. de CV (Authority to Negotiate)

Chemical & Schutz High Performance Lubricants S.A. de C.V. is seeking a new lease in leasing 5 acres located at 9600 Old SH 48. The purpose of this new lease is for a terminal: mineral oil (base oil), storage of waxes and additives, trans bulk/transload, lubricant manufacturing, and a blending laboratory. Commissioner Gutierrez moved to approve the authority to negotiate a new lease, Commissioner Wood seconded, and the motion passed unanimously.

3. Motus Energy LLC (Authority to Negotiate)

This item was tabled.

4. Triple E Coating & Services, LLC dba Industrial Performance (**Lease Amendment**)

Triple E Coating & Services, LLC dba Industrial Performance is seeking an amendment to the lease for BND Contract #4685 to amend the purpose clause. The current purpose of the lease is for coating applications, specialty blasting, fireproofing applications, metalizing, and welding services. The lessee wishes to amend the purpose clause to include employee parking and storage of equipment, such as compressors, moisture traps, forklifts, manlifts, and to add a 0.344-acre tract to the existing 2.715 acres. Commissioner Gutierrez moved to approve the amendment to lease, Commissioner Wood seconded, and the motion passed unanimously.

5. Bechtel Energy Inc. (**New Lease**)

Bechtel Energy Inc. seeks a new lease for 26.117 acres located at 11950 S.H. 48 for a three year term with four renewal options of one year each. The purpose of the lease is for a laydown yard for lessee's storage of project materials and equipment, employee parking, locating a temporary office trailer, and other related uses. Discussion followed regarding the boundaries of the lease site which now allow for access to District property behind the lease site. Commissioner Gutierrez moved to approve the new lease, Commissioner Wood seconded, and the motion passed unanimously.

6. CSC Sugar LLC (**New Lease**)

This item was tabled.

7. South Texas Railways, Inc. (**New Lease**)

South Texas Railways, Inc. is seeking a new lease for 4.97 acres located at 3960 Dry Dock Court for a term of one year with four renewal options of one year each. The purpose of this new lease is for a dry dock and marine repair facility. Commissioner Gutierrez moved to approve the new lease, Commissioner Wood seconded, and the motion passed unanimously.

13. Consideration and ACTION to authorize BND Staff to purchase two right lay cables & one left lay cable hoist ropes for GHMK 6507 Model 6 cranes.

Mr. Davis addressed the Board that the harbormaster office is requesting permission to purchase two right lay cables and one left lay cable-hoist ropes to prevent any crane delays due to damaged cables. This item qualifies as a sole source under section 60.412: it is for captive replacement parts or components for equipment. Commissioner Wood moved to purchase two right lay cables and one left lay cable-hoist ropes in the amount of \$85,918.08 from Konecranes, Inc., Commissioner Gutierrez seconded, and the motion passed unanimously.

14. Consideration and ACTION to ratify authorization for BND Staff to solicit Bids for removal of oily sludge at the North Side Wastewater Treatment Plant and to open bids thereof.

Mr. Herrera addressed the Board that BND Staff are seeking ratification to solicit bids for the removal of oily sludge at the North Side Wastewater Treatment Plant, and to open bids once received. Bids will then be tabulated and presented to the Board for consideration to award a contract for services. Staff is seeking services for the disposal of oily sludge from the oil water separator as well as the disposal, transportation, and final placement of the materials. The District's procurement policy allows for the Port Director and CEO to authorize staff to proceed with the advertising requirements pending Board approval; however, the bids may not be opened until the Board has approved the solicitation of the bids. The Bid documents were first published on May 18, and the bidding is scheduled to close June 11, 2024. Commissioner Gutierrez moved to ratify authorization for BND Staff to solicit bids, Commissioner Wood seconded, and the motion passed unanimously.

15. Consideration and ACTION to authorize BND Staff to contract with Jet Dock Systems, Inc. for the repairs to the Jet Dock in accordance with GSA contract – A7QWA24D00G.

Mr. Davis addressed the Board that on January 8, 2024, the vessel M/V/ Chang Hang Hui Hai broke loose from its mooring on Dock 11. As a result, Signet Tug was dispatched to return the vessel back to Dock 11. During this maneuver, the propwash from the harbor tug caused damage to the JetDock. A quote for repairs was obtained from Jet Dock Systems. The total estimated cost for the repairs is \$65,155.66. Discussion followed regarding the status of our claim for reimbursement for these damages. Commissioner Reed also asked that Items 15 and 16 be considered together.

16. Consideration and ACTION to authorize staff to purchase a new police patrol boat and trailer from SafeBoat in accordance with GSA contract – A7QSWA18D005J.

Mr. Romo addressed the Board that on January 8, 2024, the vessel M/V Chang Hai broke from its mooring on Dock 12. As a result, Signet Tug was dispatched to return the vessel back to its dock. During this operation, the propwash from the harbor tug caused damage to the JetDock, resulting in the capsizing of the police patrol boat. A quote for a boat replacement was obtained from SafeBoat. The total estimated cost for the replacement is \$314,085.74. In addition, a quote was obtained for a trailer for the new boat, in the amount of \$11,727.09.

Commissioner Wood then moved to authorize the purchase of a new police patrol boat and boat trailer from Safe Boat and to authorize BND staff to contract with Jet Dock Systems, Inc. for the repairs to the Jet Dock and to authorize payment once repairs are completed, Commissioner Gutierrez seconded, and the motion passed unanimously.

17. Consideration and ACTION on Change Order No. 3 to contract with RLB Contracting, Inc. on the 2022 Placement Areas 5B, 7 & 8 Improvements project, removing work related to Placement Area 8 and deleting pertinent bid items. 152

Mr. Chavez addressed the Board that on February 1, 2023, BND Commissioners awarded RLB Contracting, Inc. (RBL) contract 4635 for the 2022 Placement Areas 5B, 7 & 8 Improvements project in the amount of \$13,613,000.00, as needed for the BIH Channel Deepening project. On February 7, 2024, BND Commissioners approved Change Order No. 1 in the amount of

\$800,000.00 for truck transportation of dry levee raising material from DMPA 7 to DMPA 5B to accelerate the time of completion of said DMPA 5B, and on March 20, 2024, BND Commissioners approved Change Order No. 2 in the amount of \$360,000.00, resulting in a total increase of \$1,160,000.00. Due to the proposed levee relocations, and due to USACE not planning to use said DMPA 8 for the BIH Deepening project, the work under this contract for DMPA 8 needs to be deleted, resulting in a decrease of \$405,000.00, the amount of this proposed Change Order No. 3, which lowers the total contract amount to \$14,368,000.00. This is pending contract close-out, which may result in additional deductions. USACE will credit District these expenses as part of District's Work-In-Kind participation in the project. Commissioner Wood moved to approve Change Order No. 3, Commissioner Gutierrez seconded, and the motion passed unanimously.

18. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to discuss with attorneys pending or contemplated litigation, and matters in which the duty of the attorneys under the Rules of Professional Conduct clearly conflict with Chapter 551; to deliberate the purchase, exchange, lease, or value of real property; to deliberate the deployment of security personnel or devices (§551.076); to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee (§551.074); and to conduct deliberations regarding economic development negotiations (§551.087).

There was none.

19. Possible ACTION on matters or items discussed in Executive Session.

There was none.

20. Adjournment.

Commissioner Wood moved to adjourn the meeting, Commissioner Gutierrez seconded, and the meeting was adjourned by unanimous consent at 6:30 p.m.

ATTEST



John Reed, Secretary



Esteban Guerra
Chairman of the Board