

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND  
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS HELD AUGUST 04, 2021 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, August 04, 2021, at 5:30 p.m.** The following individuals were present and absent:

**PRESENT:** Sergio Tito Lopez, Chairman  
Ralph Cowen  
Esteban Guerra  
John Wood  
John Reed

**ABSENT:** None

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

**STAFF MEMBERS:** Ariel Chavez  
Jose Herrera  
Lorena Hernandez  
Jaime Martinez  
Tony Rodriguez  
Margie Recio  
Janie Velasquez  
Martha Gonzalez  
Sergeant Julio Romo

**OTHERS PRESENT:** Norma Torres  
Peter Touesnard  
Sergio Sabatini  
Dean Piacente  
Tony Chavez  
Kevin Garcia  
Cesar Higareda  
Hans Higareda  
Rosa Guerrero  
Jorge de la Colina

**1. Meeting Called To Order**

The Chairman called the meeting to order at 5:30 p.m. Mr. Chavez 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. Receive Director's Report**

The reports were presented to the Board. No discussion followed.

## **CONSENT AGENDA**

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

- a. Approval of the Minutes of the Regular Board Meeting of July 21, 2021.

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

The Chairman then asked that Item 14 be taken out of order.

### **14. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to discuss with attorneys pending or contemplated litigation and matters in which the duty of the attorneys under the Rules of Professional Conduct clearly conflict with Chapter 551; to conduct deliberations regarding real property (§551.072); to deliberate the deployment of security personnel or devices (§551.076); to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee (§551.074); and to conduct deliberations regarding economic development negotiations (§551.087).**

Commissioner Guerra then moved to adjourn into executive session, Commissioner Reed seconded, and the motion carried unanimously. The Chairman then announced that the time was 5:34, and that the Board would adjourn into executive session.

The Chairman then announced that the time was 6:45 p.m. and that the Board had reconvened in open session.

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

Mr. Campirano called on Ms. Gonzalez, who addressed the Board regarding the following items:

#### **1. Bluewing One, LLC Phase IV (Option to Lease)**

Bluewing One, LLC is a current lessee seeking approval of a 6-month option for a Phase IV project on 70 acres of land space with an option to extend for an additional 6 months, if needed. This 70-acre tract is adjacent to and north of the current site under BND #4502. The purpose clause for this site is railcar loading and storage of liquid fuels. Commissioner Reed moved to approve an Option to Lease for Bluewing One, LLC, Commissioner Wood seconded, and the motion passed unanimously.

#### **2. Bluewing One, LLC Phase V (Option to Lease)**

Bluewing One, LLC. is a current lessee seeking approval of a 6-month option for a Phase V project on 30 acres of land space with an option to extend for an additional 6 months, if needed. This 30-acre tract is north of Hwy 48, adjacent to the T.M. Cruillas Facility. The purpose clause for this site is Product Tank Storage, Truck Loading and Staging. Commissioner Guerra moved to approve an Option to Lease for Bluewing One, LLC, Commissioner Cowen seconded, and the motion

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passed unanimously.

3. **Francisco Abrego (New Lease)**

Francisco Abrego seeks a New Lease for a term of 5 years with one renewal option for 5 years. Francisco Abrego is located at 2500 Everglades at the Fishing Harbor. The purpose clause for this site is Boat Repairs and Seafood Unloading. Commissioner Reed moved to approve Authority to Negotiate a new lease for Francisco Abrego, Commissioner Wood seconded, and the motion passed unanimously.

4. **Maria Elena, Inc. (Authority to Negotiate)**

Maria Elena, Inc. seeks Authority to Negotiate a New Lease for a term of 5 years with one renewal option for 5 years. Maria Elena, Inc. is located at 2600 Cajun Ct. at the Fishing Harbor. The purpose clause for this site is Shrimping Operations. Commissioner Reed moved to approve Authority to Negotiate for Maria Elena, Inc., Commissioner Guerra seconded, and the motion passed unanimously.

5. **Guadalupe Ochoa (Authority to Negotiate)**

Guadalupe Ochoa seeks Authority to Negotiate on a New Lease for a term of 5 years with one renewal option of 5 years. There are three locations he wishes to lease at the Fishing Harbor. The purpose clause for this site is Shrimping Operations. Commissioner Guerra moved to approve Authority to Negotiate for Guadalupe Ochoa, Commissioner Cowen seconded, and the motion passed unanimously.

6. **Shallow Stalker Boats, LLC (Amendment)**

Shallow Stalker Boats, LLC is a current lessee under BND #4107, seeking approval of an Amendment to add 0.735 acres of land space located at 2775 Angler's Place Rd. (Former National Seafoods, Inc.) The purpose clause for this site is Boat Manufacturing. Shallow Stalker Boats, LLC has purchased two buildings from National Seafoods which will serve as additional workspace for their operations and allow them to grow as a company thus creating more jobs. Commissioner Reed moved to approve an Amendment to the Lease for Shallow Stalker Boats, LLC, Commissioner Wood seconded, and the motion passed unanimously.

7. **National Seafoods Inc. (Release of Lease)**

National Seafoods, Inc. is a current lessee under BND #4108 seeks to be release of their lease expiring 8/24/2021. National Seafoods sold two warehouses to Shallow Stalker Boats, LLC. and lessee informed that the remainder of the buildings will be relinquished to the Port of Brownsville as of the expiration date. Commissioner Wood moved to approve the release of lease on National Seafoods, Inc., Commissioner Cowen seconded, and the motion passed unanimously.

8. **Francisco Peña dba Port Machine Shop (Authority to Negotiate)**

Francisco Peña dba Port Machine Shop seeks Authority to Negotiate a New Lease for a term of 5 years with one renewal option for 5 years. Mr. Peña is a current lessee under BND #4019. The lease is expiring: 10-31-2021. Business is located at 1720 Everglades at the Fishing Harbor. The purpose clause for this site is a Machine Shop. Commissioner Reed moved to approve Authority to Negotiate for Francisco Peña dba Port Machine Shop, Commissioner Wood seconded, and the motion passed unanimously.

9. **1419 Ranch, LLC (New Lease)**

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1419 Ranch, LLC. is a current lessee formerly known as Mesquite Farm, LLC under BND #4103. Lessee seeks a New Lease for one-year with 9 additional terms of 1 year each. This lease consists of 639 acres. The purpose of this lease is for Grazing. Commissioner Guerra moved to approve a New Grazing Lease for 1419 Ranch, LLC., Commissioner Wood seconded, and the motion passed unanimously.

**6. Consideration and Action to acknowledge receipt of Certified Appraisal Roll and Property Tax calculations for the District's 2021 levy.**

Ms. Hernandez addressed the Board requesting the acknowledgment of receipt of Certified Appraisal Roll and Property Tax calculations for the District's 2021 levy. The Cameron Appraisal District on July 21, 2021, certified the appraisal roll for properties in the District's jurisdiction. Submittal to the BND Commissioners of the certified appraisal roll and the property tax rate calculations are required steps in the tax assessment process of the Texas Tax Code Chapter 26. The 86th Legislature passed Senate Bill 2 with most amendments effective 1/1/2020, including adopting new terminology and calculations for the no-new-revenue (formerly "effective") and voter-approval (formerly "rollback") tax rates. SB 2 amendments also limits the allowed increases in the no-new-revenue M.O. rate to 3.5%, (formerly 8%), and now requires taxing units to hold an automatic election for voters to accept or reject an adopted tax rate that exceeds the voter-approval tax rate. The District's \$.030285 no-new-revenue and \$.029955 voter-approval tax rates will be published and posted on the District's website along with other required information and notices. Commissioner Guerra moved to acknowledge receipt of the Certified Appraisal Roll and Property Tax calculations for the District's 2021 Property Tax Levy, Commissioner Cowen seconded, and the motion passed unanimously.

**7. Consideration and Action to vote to publish a 2021 Proposed Tax Rate for the Brownsville Navigation District.**

Ms. Hernandez addressed the Board requesting formal approval to publish a 2021 Proposed Tax Rate for the Brownsville Navigation District. Under this item, the BND Commissioners will vote to publish a 2021 Proposed Tax Rate at \$.029955 per \$100 valuation. This rate is equal to the lower of the \$.030285 no-new-revenue tax rate and \$.029955 voter-approval tax rate, and therefore no public hearing is required since the District is not proposing to increase property taxes in the 2021 year. Also, the \$.029955 Proposed Tax Rate is not greater than the \$.029955 voter-approval tax rate as a result the District is not required to hold an election to seek voter approval of the rate. In this agenda item, the Board has the option of accepting and voting to set the \$.029778 proposed tax rate or proposing an alternative rate. Once the motion has been made to accept the 2021 Proposed Property Tax Rate of \$.029955 per \$100 of valuation, the Board will need to take a roll call vote. The vote will be recorded in the "Notice of Meeting to Vote on Tax Rate" which will be published in the Brownsville Herald & District's website. After publishing this required notice the BND Commissioners may vote at a subsequent Board meeting to adopt the \$.029955 tax rate. The District will need to submit its 2021 adopted rate by September 17<sup>th</sup> to the County Assessor & Collector for the District's 2021 tax rate to be included in the combined October tax statements. Commissioner Wood moved to accept and take a roll call vote to publish the 2021 Proposed Property Tax Rate of \$.029955 per \$100 of valuation, which is a Debt Rate of \$.003645 per \$100 of valuation and a Maintenance and Operations rate of \$0.026310 per \$100 of valuation,

Commissioner Cowen seconded. The Chair called for a roll call vote, and each commissioner in turn voted in favor of the motion, so that the motion passed unanimously.

**8. Consideration and Action on request by OmniTRAX, Inc. to approve construction of additional support tract at the Palo Alto Railyard as stipulated in the 1<sup>st</sup> Amendment of the Master Franchise Agreement between BND and BRG.**

Mr. Campirano introduced Peter Touesnard, who addressed the Board requesting approval on a request by OmniTRAX, Inc. to construct additional support tract at the Palo Alto Railyard as stipulated in the 1<sup>st</sup> Amendment of the Master Franchise Agreement between BND and BRG. The Master Franchise Agreement between the Brownsville Navigation District (BND) and the Brownsville & Rio Grande International Railway (BRG) was amended on May 20, 2020. Section 2 of the Amendment contains provisions for the investment by BRG in capital projects. A total of \$8,000,000 is committed towards mutually agreed upon projects. To date, both parties have agreed to invest part of the \$8,000,000 in the Pesqueria project. OmniTRAX is seeking concurrence from the Port to expand rail at the Palo Alto Railyard. OmniTRAX is proposing to build three (3) additional tracks providing an additional 75 railcar lengths of support track. Discussion followed, including questions from the Board regarding future capital plans. Commissioner Reed moved to table the item, Commissioner Guerra seconded, and the motion passed unanimously.

**9. Consideration and Action on request to authorize staff to advertise for bids for the purchase of a Water Truck and to open bids thereof.**

Mr. Campirano introduced Mr. Herrera, who addressed the Board requesting the authorization for staff to advertise for bids for the purchase of a Water Truck and to open bids thereof. This equipment will be utilized for projects on patios, docks, and road work. The BND currently has one water truck that is old and unreliable. Staff does not plan to trade in existing equipment. Commissioner Guerra moved to authorize BND Staff to advertise, and open bids for the purchase of a water truck, Commissioner Cowen seconded, and the motion passed unanimously.

**10. Consideration and Action on the results of the Auction Sale to include consideration to award and/or reject bids.**

Mr. Campirano introduced Mrs. Recio, who addressed the Board on the results of the Auction Sale. The Salvage Auction Team held an Auction by sealed bid. Seven bids were received, and a bid tally was included in the agenda packet. During the initial meeting with the Salvage Team, they recommended to scrap any items unsold that could be sold as scrap and to properly dispose of those that cannot be scrapped. The staff's recommendation was as follows: Award to Santos Rodriguez items 2021-36, 2021-167, 2021-249, 2021-254; Francisco Gonzalez items 2021-70, 2021-195, 2021-196, 2021-202, 2021-248, 2021-256; Felipe Cantu items 2021-81, 2021-92, 2021-168, 2021-172, 2021-194, 2021-246, 2021-257; George Solis items 2021-20, 2021-105, 2021-118, 2021-129; Eduardo Campirano items 2021-235, 2021-236, 2021-237; Christopher Perez item 2021-41 and Santos Barbosa items 2021-42, 2021-77, 2021-78, 2021-79, 2021-84, 2021-182, 2021-183, 2021-259, 2021-260, 2021-262, 2021-263, and reject the bid received for item 2019-0002 the Crawler Crane. Discussion followed. Commissioner Cowen moved to accept staff's recommendation and to award or reject the bid for each item as noted, Commissioner Guerra seconded, and the motion passed unanimously.

**11. Consideration and Action on extension of delivery date and year models for seven pickups.**

Mrs. Recio addressed the Board requesting authorization to extend the delivery date and year models for seven pickups. The District advertised for seven pickups with three different vehicle configurations over the model years 2021 and 2022. Bids were received and on April 21, 2021, the District awarded the purchase of seven 2021 pickups to Boggus Tipton with a delivery option of 60 business days. On July 20, 2021, Boggus Tipton informed the District that due to the nationwide chip shortage the seven pickups have been put on hold from the manufacturer and the pickups will be built as 2022 models. The new delivery date for the 2022 pickups is 60 business days as of when they receive notification from the District that we have accepted the new models. Boggus Tipton has agreed to honor the prices of the 2021's for the new seven 2022 pickups. Commissioner Wood moved to authorize the modification in the year of pickups and to accept the extension of the delivery date to an additional 60 business days, Commissioner Guerra seconded, and the motion passed unanimously.

**12. Consideration and Action on bids received for the Oil Dock #6 Bulkhead Repairs project, and to authorize BND Staff to issue the Notice of Award to the successful bidder.**

Mr. Campirano addressed the Board requesting the acceptance or rejection of bids received for the Oil Dock #6 Bulkhead Repairs project, and to authorize BND Staff to issue the Notice of Award to the successful bidder. On June 2, 2021, BND Commissioners authorized BND Staff to publish an Invitation to Bid on the Oil Dock #6 Bulkhead Repairs, and to open bids once received. Consultant HDR Engineering, Inc. (HDR) submitted drawings and specifications and BND Staff finalized the Bid Documents package and published the Invitation to Bid on June 7 and 14, 2021, posted the project's Bid Document and Drawings on the Port website, and invited known structural contractors by email. HDR and BND Staff hosted the Virtual Pre-Bid Meeting by WebEx on June 15, 2021 with good attendance from potential bidders. On July 1st, 2021, bids were received and opened from four contractors, with R.M. Walsdorf, Inc. submitting the lowest bid at \$1,898,898.00, which, after an adjustment of the quantities to two bid items, was revised to \$1,490,228.00. After review, all bids were deemed to be responsive. Commissioner Guerra moved to award the contract for the Oil Dock #6 Bulkhead Repairs project to lowest responsive bidder R.M. Walsdorf, Inc. in the amount of \$1,490,228.00, Commissioner Wood seconded, and the motion passed unanimously.

**13. Consideration and Action on Forbearance and Conditional Release Agreement with HDR Engineering, Inc. in relation to reimbursement of costs for the Oil Dock #6 Bulkhead Repairs project.**

Mr. Campirano addressed the Board requesting approval of Forbearance and Conditional Release Agreement with HDR Engineering, Inc. in relation to reimbursement of costs for the Oil Dock #6 Bulkhead Repairs project. On June 2, 2021, BND Commissioners were given a presentation by consultant HDR Engineering, Inc. (HDR) on the issues arising out of the settlement of the bulkhead at Oil Dock #6 and the Oil Dock #6 Bulkhead Repairs proposed method of repair. BND Staff and BND Legal Counsel have been working with HDR on documents related to the reimbursement to BND by HDR of the cost of the repairs. The Forbearance and Conditional Release Agreement confirms HDR's intent and commitment to reimburse the BND for these costs. Commissioner Reed moved to approve the Forbearance and Conditional Release Agreement subject to BND Legal

Counsel final review and approval, and authorize signatures by BND Commissioners as appropriate and required, Commissioner Wood seconded, and the motion passed by a vote of 3-2, Commissioner Guerra and the Chairman voting “nay.”

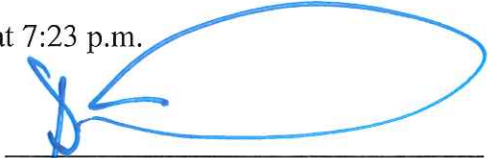
**14. Adjournment.**

The meeting was adjourned by unanimous consent at 7:23 p.m.

ATTEST



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Secretary

  
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Sergio Tito Lopez  
Chairman of the Board