

Minutes of a meeting of the Plaquemines Parish Council, as the Sole Governing Authority of the Plaquemines Port, Harbor & Terminal District, held in the Pointe-a-la-Hache Council Chambers, 18055 Highway 15, Pointe-a-la-Hache, Louisiana on Thursday, September 24, 2020, at 5:03 p.m., pursuant to notice to all members with a quorum present as follows:

PRESENT: Commissioner Richie Blink, Chairman
Commissioner John L. Barthelemy, Jr.
Commissioner W. Beau Black
Commissioner Corey Arbourgh
Commissioner Stuart J. Guey
Commissioner Benedict Rousselle
Commissioner Trudy Newberry
Commissioner Carlton M. LaFrance, Sr.
Commissioner Mark Cognevich

Kim M. Toups, Secretary

Sandy Sanders, Paul Matthews and Chambrel Riley were present representing the Port.

The Prayer said and the Pledge was recited.

The following items were withdrawn:

- 6c, "A Resolution authorizing the Executive Director, Maynard " Sandy" Sanders to engage with Woodland Burrow Pits LLC for the acquisition of a particular tract of land, as described below" and
- 7a(1), "A Resolution of the Plaquemines Parish Council, acting as the sole governing authority of the Plaquemines Port, Harbor and Terminal District, authorizing the execution of a Memorandum of Understanding in regard to State Project No. H.004791, also known as the Belle Chasse Bridge & Tunnel Replacement Public-Private Partnership Project, Plaquemines, Parish; and otherwise to provide with respect thereto".

Commissioner Blink moved to Agenda Item 6b at the request of Commissioner LaFrance who offered the resolution with changes and filled in the blank.

ORDINANCE NO. 20-90

The following Ordinance was offered by Commissioner LaFrance who moved its adoption:

An Ordinance to amend and as amended re-adopt Rule 1 in Chapter I of Section 2-18 of the Code of Ordinances for Plaquemines Parish relative to the Plaquemines Port, Harbor & Terminal District; to rescind, annul and set-aside Ordinance No. 19-150; and otherwise to provide with respect thereto.

WHEREAS, Ordinance No. 19-150 moved the time of the meetings of the Plaquemines, Port, Harbor & Terminal District to 5:00 p.m. or immediately before the Plaquemines Parish Council meetings; and

WHEREAS, it is the desire of this Council to schedule the meetings of the Plaquemines Port, Harbor & Terminal District at 3:00 p.m. or immediately before the Plaquemines Parish Council meetings;

NOW, THEREFORE:

BE IT ORDAINED BY THE PLAQUEMINES PARISH COUNCIL AS THE SOLE GOVERNING AUTHORITY OF THE PLAQUEMINES PORT, HARBOR & TERMINAL DISTRICT THAT:

SECTION 1

Rule 1 of Chapter I of Section 2-18 of the Code of Ordinances for Plaquemines Parish, LA shall be amended and, as amended, re-adopted to read as follows:

“Rule 1. The council, as the sole governing authority of the Plaquemines Port, Harbor and Terminal District, shall meet at 3:00 p.m., or immediately before the regularly scheduled council meeting, or whichever comes first, on the second and fourth Thursdays of each month. On the second Thursday of each month the meeting will be held in the Belle Chasse Council Chambers located at 333 F. Edward Hebert Blvd., Bldg. 203, Belle Chasse, LA 70037. On the fourth Thursday of each month the meeting will be held in the Pointe-a-la-Hache Courthouse located at 18055 Highway 15, Pointe-a-la-Hache, LA 70082. The Port Chairman, or the Port Vice-Chairman in his absence or incapacity, shall have the authority to call special meetings of the Council as the sole governing authority of the Plaquemines Port, Harbor and Terminal District. It is further provided that a two-thirds (2/3) majority of the members of the council as the sole governing authority of the Plaquemines Port, Harbor and Terminal District shall have the authority, by written message to the council secretary, to issue a call for a special meeting of the council as the sole governing authority of the Plaquemines Port, Harbor and Terminal District. The council as the sole governing authority of the Plaquemines Port, Harbor and Terminal District, may meet at such other sites, times and days within the boundaries of the parish as it may desire provided notice is given in accordance with all applicable portions of R.S. 42:7.”

SECTION 2

The 3:00 p.m. meeting time will be implemented beginning with the October 8, 2020 meeting.

SECTION 3

Ordinance No. 19-150 is hereby rescinded, annulled and set-aside.

SECTION 4

The Secretary of this Council is hereby authorized and directed to immediately certify and release this Ordinance and that Port employees and officials are authorized to carry out the purposes of this Ordinance, both without further reading and approval by the Plaquemines Parish Council.

WHEREUPON, in open session the above Ordinance was read and considered section by section and as a whole.

Commissioner Newberry seconded the motion to adopt the Ordinance.

The foregoing Ordinance having been submitted to a vote, the vote resulted as follows:

YEAS: Commissioners John L. Barthelemy, Jr., W. Beau Black, Corey Arbourgh, Stuart J. Guey, Benedict Rousselle, Trudy Newberry, Carlton M. LaFrance, Richie Blink and Mark Cognevich

NAYS: None

ABSENT: None

PRESENT BUT NOT VOTING: None

And the Ordinance was adopted on this the 24th day of September, 2020.

Commissioner Newberry offered 6d with changes.

RESOLUTION NO. 20-210

On motion of Commissioner Newberry, seconded by Commissioner Cognevich, and on roll call all members present and voting “YES”, the following Resolution was adopted:

A Resolution of the Plaquemines Parish Council, acting as the sole governing authority of the Plaquemines Port, Harbor and Terminal District, authorizing Port Executive Director Maynard Sanders to enter into a Cooperative Endeavor Agreement (CEA) by and between the Plaquemines Port, Harbor and Terminal District and Plaquemines Parish Government to accomplish the goals set forth in this Resolution; and otherwise to provide with respect thereto.

WHEREAS, pursuant to the provisions of Art. VII, Sec. 14, of the 1974 Louisiana Constitution, the Parish and the Port has the authority to enter in cooperative endeavor agreements to assist in the provision of necessary public services to the citizens of Plaquemines Parish; and

WHEREAS, the Port has access to proceeds from the Harbor Maintenance Trust Fund in its capacity as an Energy Transfer Port; and

WHEREAS, on October 19, 2019, the Port entered into a Memorandum of Agreement (MOA) with the U.S. Army Corps of Engineers (“USACE”) authorizing the Secretary of the Army to distribute funds from Federal Fiscal Years 2016 – 2019 from Harbor Maintenance Trust Fund Energy and Donor Port appropriations as authorized by the Water Resources and Development Act of 2014 (WRDA 2014), Section 2106; and

WHEREAS, the MOA provides the Port \$2,717,720 in such funds (the “Grant Funds”) to carry out “expanded uses”, as defined in Section 2109(f) of WRDA 2014, or environmental remediation, related to dredging berths and Federal navigation channels; and

WHEREAS, “expanded uses” includes (A) the maintenance dredging of a berth in a harbor that is accessible to a Federal navigation project and that benefits commercial navigation at the harbor; or (B) the maintenance dredging and disposal of legacy-contaminated sediment, and sediment unsuitable for open water disposal, if such dredging and disposal benefits commercial navigation at the harbor; and such sediment is located in and affects the maintenance of a Federal navigation project or is located in a berth that is accessible to a Federal navigation project; and

WHEREAS, the Parish has multiple harbors and access channels, including but not limited to the Buras Boat Harbor, Empire Waterway and Marina, Ostrica Canal, Port Eads Marina Access Channel, Ft. Jackson Harbor and Pointe-a-la-Hache Boat Harbor, and there exists a need for clearing and dredging of these harbors and access channels to promote commerce; and

WHEREAS, the Port and the Parish have agreed to work cooperatively together to accomplish the goals of the grant noted hereinabove, all for the benefit of the citizens of Plaquemines Parish and waterborne commerce; and

WHEREAS, the Port and the Parish desire to collaborate and cooperate together to accomplish the goals of beneficial dredging of the harbors and access channels, and to remain qualified for the grant proceeds, by adhering to its guidelines; and

WHEREAS, the Port has the authority pursuant to LSA-R.S. 34:1354 to inter alia enter into this Agreement as evidenced by its established governmental purposes of public works in the Port’s jurisdiction, which geographically coincides with the boundaries of Plaquemines Parish; and

WHEREAS, the public purpose of the Port and the Parish’s cooperative endeavor is the dredging of harbors and access channels in Plaquemines Parish in order to improve the commercial and public endeavors of the citizens of Plaquemines Parish; and

WHEREAS, the Port and the Parish each have a reasonable expectation of receiving benefits and/or value described herein that is at least equivalent to or greater than the consideration described in this Agreement; and

WHEREAS, the transfer or expenditure of these public funds to the Parish by the Port pursuant to this Agreement is not a gratuitous donation and the Port shall receive a reasonably equivalent value through the accomplishment of its statutory purpose of public works within its district; and

WHEREAS, the Parish through its Engineering and Coastal departments shall bid, provide expertise, and monitor the projects approved by the USACE and authorized by Section 2109(f) of WRDA 2014 and the Parish shall receive substantial value through the accomplishment of improvements to its canals and harbors; and

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL, AS THE SOLE GOVERNING AUTHORITY FOR THE PLAQUEMINES PORT, HARBOR AND TERMINAL DISTRICT THAT Port Executive Director Maynard Sanders is hereby authorized to enter into a Cooperative Endeavor Agreement by and between the Plaquemines Port, Harbor and Terminal District and Plaquemines Parish Government to accomplish the goals set forth in this Resolution.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL, AS THE SOLE GOVERNING AUTHORITY FOR THE PLAQUEMINES PORT, HARBOR AND TERMINAL DISTRICT THAT the Secretary of this Council is hereby authorized and directed to immediately certify and release this Resolution and that Parish employees and officials are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council.

Commissioner Blink reverted back to Agenda Item 2, "Executive Session". Without objection, so ordered.

RESOLUTION NO. 20-211

On motion of Commissioner Rousselle, seconded by Commissioner Blink, and on roll call all members present and voting "YES", the following Resolution was adopted:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL THAT AS THE SOLE GOVERNING AUTHORITY OF THE PLAQUEMINES PORT, HARBOR & TERMINAL DISTRICT THAT it hereby resolves itself into Executive Session at 5:53 p.m. for the purpose of hearing a report and recommendations and strategy advice for the management of litigation from its attorney concerning: Executive Session pursuant to LRS 42:17(A)(10) to receive attorney-client privileged information with regard to the legal standing of the Port in matters pertaining to the proposed Belle Chasse Bridge Project.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL AS THE SOLE GOVERNING AUTHORITY OF THE PLAQUEMINES PORT, HARBOR & TERMINAL DISTRICT THAT it hereby came out of Executive Session at 6:18 p.m. with no final or binding action taken.

Commissioner Blink moved to Agenda Item 3, "Status Report by the Executive Port Director". Without objection, so ordered. Sandy Sanders reported the following:

- The Port provided assistance to the Port of Lake Charles and sent two boat captains and one boat to help in the Hurricane Laura recovery; and
- Weeks ago the Gazette published an article concerning the grim financial outlook for the Parish. Sanders provided a brief report on the economic development of the Port stating that Venture Global will be making a \$8.5 investment in the Parish and the Container Port will be making a \$857 million investment in the Parish.

Commissioner Cognevich inquired into some equipment and pipes in the ground on the Tall Grass property. Mr. Sanders said he was unaware of the above activity but, he will check into this matter. Commissioner Cognevich then asked about the Payment in Lieu of Taxes and was told by Chambrel Riley that some of it has been paid and the last payment is due by December 31, 2020.

Commissioner Rousselle had an item under the Director's Update entitled, "Discussion and update on the Executive Calendar". There was a discussion regarding Commissioner Rousselle's

previous request to Sandy Sanders to have the calendar updated on a regular basis and to include all information on it. Sanders said he had an issue with putting some confidential information because since sending the calendar to the Commissioners information has been leaked. Commissioner Rousselle asked for him to point out what information had been leaked because he does not see any information that would be considered confidential. Mr. Sanders did not provide that information to Commissioner Rousselle

Commissioner Blink moved to Agenda Item 3a, "Financial Report/Budget to Actual". Without objection, so ordered. Chambrel Riley stated the 2020 Budget Report was given to the Commissioners. She said that 67% of the 2020 budget has been used. Also reported that any items with less than 25% of the budgeted amount remaining would yield an immediate response. The Port tariff is also being monitored to see if there are declines due to COVID.

There being no bids or advertisements, Commissioner Blink moved to Agenda Item 5, "Introduction of Ordinances and Resolutions". Without objection, so ordered.

1. A Resolution establishing the date, time and place of public hearings on the proposed 2021 Operating Budget and Capital Improvement Budget as submitted by the Executive Director of the Plaquemines Port, Harbor & Terminal District; to authorize the Council Secretary to place the necessary Public Notice in the Plaquemines Gazette; and otherwise to provide with respect thereto. COMMISSIONER BLINK
2. A Resolution authorizing Maynard J. "Sandy" Sanders, Executive Director of the Plaquemines Port, Harbor & Terminal District to lease a particular tract of land to Phylway Construction LLC; and otherwise to provide with respect thereto. COMMISSIONER BLINK
3. A Resolution electing the Plaquemines Port, Harbor & Terminal District Chairperson for 2021; and otherwise to provide with respect thereto. COMMISSIONER BLINK
4. A Resolution electing the Plaquemines Port, Harbor & Terminal District Vice-Chairperson for 2021; and otherwise to provide with respect thereto. COMMISSIONER BLINK
5. A Resolution to cancel the November 26, 2020, and December 24, 2020, regularly scheduled Port Meetings due to the Thanksgiving Holiday and Christmas Holiday; and otherwise to provide with respect thereto. COMMISSIONER BLINK

Commissioner Blink moved to 6e.

RESOLUTION NO. 20-212

On motion of Commissioner Rousselle, seconded by Commissioner LaFrance, and on roll call all members present and voting "YES", except Commissioners Barthelemy, Black, Arbourgh, Guey voting "NO" and Commissioner Newberry who "ABSTAINED", the following Resolution FAILED:

A Resolution of the Plaquemines Parish Council, acting as the sole governing authority of the Plaquemines Port, Harbor and Terminal District, authorizing and directing the initiation of litigation related to the proposed Belle Chasse Bridge Project; authorizing and directing the Port Chairman, Richie Blink, to engage special counsel for such litigation; and otherwise to provide with respect thereto.

WHEREAS, the State of Louisiana, through the Department of Transportation and Development, has entered into a contract with a private company, Plenary Infrastructure Belle Chasse, LLC, for the removal of the existing Belle Chasse Bridge and Tunnel, the construction of a new Belle Chasse Bridge, and the operation of the new Belle Chasse Bridge, also known as the State Project H.004791; and

WHEREAS, the contract appears to fall under the authority for public-private partnerships found in Chapter 30 of Title 48 of the Louisiana Revised Statutes, specifically LRS 48:2084.1 through 48:2084.15; and

WHEREAS, LRS 48:2084.15 specifically provides that when such a project is to be located within the jurisdiction of a port, harbor and terminal district the written agreement of the affected port, harbor and terminal district is required before the project is approved; and

WHEREAS, the proposed Belle Chasse Bridge project is located in Plaquemines Parish, which is within the jurisdiction of the Plaquemines Port, Harbor and Terminal District; and

WHEREAS, the DOTD has not obtained the written approval of the Plaquemines Port, Harbor and Terminal District as required under LRS 48:2084.15; and

WHEREAS, despite lacking the written approval of the Plaquemines Port, Harbor and Terminal District, the DOTD has moved forward with executing agreements toward completing the project; and

WHEREAS, the Plaquemines Port, Harbor and Terminal District will need to seek judicial intervention to assert its authority under LRS 48:2084.15 and other law;

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL, AS THE SOLE GOVERNING AUTHORITY FOR THE PLAQUEMINES PORT, HARBOR AND TERMINAL DISTRICT THAT, Richie Blink is authorized and directed to enter into a contract for legal services with Dannie P. Garrett, III, Attorney at Law, LLC, to represent the Plaquemines Port, Harbor and Terminal District in litigation related to the proposed Belle Chasse Bridge project;

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL, AS THE SOLE GOVERNING AUTHORITY FOR THE PLAQUEMINES PORT, HARBOR AND TERMINAL DISTRICT THAT, after execution of such contract for legal services, the offices of Dannie P. Garrett, III, Attorney at Law, LLC, is hereby authorized to initiate litigation on behalf of the Plaquemines Port, Harbor and Terminal District to assert its rights related to the proposed Belle Chasse Bridge project.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL AS THE SOLE GOVERNING OF THE PLAQUEMINES PORT, HARBOR AND TERMINAL DISTRICT THAT the Secretary of this Council is hereby authorized and directed to immediately certify and release this Resolution and that Port employees and officials are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council.

There being no matters under Agenda Item 7, "New Business", Commissioner Blink moved to Agenda Item 8, "Approval of Minutes". Without objection, so ordered.

RESOLUTION NO. 20-213

On motion of Commissioner Blink, seconded by Commissioner Rousselle, and on roll call all members present and voting "YES", the following Resolution was adopted:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL THAT it hereby approves the minutes of the September 10, 2020, Regular Port Meeting, as recorded by the Secretary of this Council.

There being no further business to come before this Council, on motion Commissioner Blink, seconded by Commissioner Cognevich and on roll call all members present and voting "Yes", the meeting adjourned at 7:09 p.m.

Chairman

Secretary