

THE NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
MINUTES OF MONTHLY BOARD MEETING
THURSDAY, DECEMBER 16, 2010 – 5:30 P.M.

The regular monthly meeting of the Board of the Non-Flood Protection Asset Management Authority of the Orleans Levee District was held on Thursday, December 16, 2010 at 5:30 P.M., in the Lake Vista Community Center, 2nd Floor, 6500 Spanish Fort Blvd., New Orleans, Louisiana after due legal notice of the meeting was sent to each Board member, the news media, and a copy of the call was posted.

The meeting was called to order by Chairman Lupo at 5:34 P.M.

The roll was called and a quorum was present.

PRESENT:

Chairman Robert E. Smith Lupo
Commissioner Carlton Dufrechou
Commissioner Darrel Saizan (5:35)
Commissioner Michael Bridges
Commissioner Joe Hassinger
Commissioner Wilma Heaton
Commissioner Romona Theresa Baudy (5:56)
Commissioner Stanley Brien
Commissioner William Hoffman
Commissioner Pearl Cantrelle (5:47)

ABSENT:

Commissioner Greg Ernst
Commissioner John B. Trask

STAFF:

Louis Capo, Executive Director
Tony Pisciotta, Non-Flood
Dawn Wagener, Non-Flood
Sharon Martiny, Non-Flood
Vincent Caire, Non-Flood
Charles Dixon

ALSO PRESENT:

Gerard Metzger
Jim Noel
Frank Stuart
Al Pappalardo
Wayne Francingues
Alton O. Davis
Steve Nelson
Wesley Mills
Kevin Gray
John Davis
Susan Garcia
Ray Landeche

ADOPT AGENDA

Commissioner Brien offered a motion to adopt the Agenda, seconded by Commissioner Hassinger and unanimously adopted.

APPROVAL OF PRIOR MINUTES

Commissioner Hassinger offered a motion to approve the minutes of the Board meeting held November 18, 2010 with modifications requested by Chairman Lupo, seconded by Commissioner Brien and unanimously adopted.

REPORT BY EXECUTIVE DIRECTOR

Mr. Capo informed of two items from the Recreational Committee that are very important to the Lakefront. One item was the loss of trees along Lakeshore Drive. Mr. Capo has spoken with Al Pitre the former president of Lakeview Property Owners who put Mr. Capo in touch with Ms. Connie Uddo, Director of Hike for KaTREEEna. Mr. Capo is meeting with Ms. Uddo next Monday for information on programs to help get trees back on Lakeshore Drive. The second item is utility crossings on Lakeshore Drive which is moving forward with a kick off meeting with Mr. Capo, Stuart Consulting and DEI to implement a plan for the utility crossings. The meeting is to devise a structure to move the projects forward and have funding in place. The schedule is for bids to go out in early February, in mid April a notice to proceed with construction and completion sometime around October or November of 2011. Plans were delivered to the Corps and the Flood Authority and we are awaiting the Corps' comments on those plans. Once plans are finalized, we will proceed with the permitting process which will move the project forward. We requested the Corps modify the CRA to expedite reimbursements and remove the 10% holdback clause. The Corps did not accept this request. Capt. Schmidt of the Corps assured us he would move reimbursements timely so we will not have to wait 60 days for reimbursement.

Chairman Lupo added that there are tremendous shortfalls in each of the categories of all FEMA projects. At the next Airport Committee and Finance Committee meeting there will be concepts and ideas for members to consider.

PRESENTATIONS:

- 1. Open Meeting Law, Public Bid Law, Public Records Law
Jenifer Schaye - General Counsel, La. Legislative Auditors
Office**

Ms. Schaye stated it is the philosophy of her office to help people better understand public laws from the Auditor's view. Ms. Schaye explained that you hold public bid laws with open hands as you are a public officials and have a fiduciary responsibility. The public records law and the public bid law are based on fiduciary responsibility. We have changed a lot of things in Louisiana and come closer to the English Common Law in that the public is central to these laws. In public records law the public has a right to see whatever we do unless there is a specific exemption. They don't have to have it written, they just have to come in and make that request, they can send that request to me in an e-mail. Are there protections? Yes. They can't see what my medical benefits and they can't see my social security number. My whole point to you is that in regard to your records, your records are public. If you decide that you are not going to allow someone to see those records, that person can file a suit within five days after making a request. It is called a summary proceeding in court. They are going to move to the top of the list and unless you have a specific exemption or can show that it was overly broad and did not understand it, it was very burdensome then you are probably going to have to produce those records and pay the attorneys fees. E-mails on a public computer, unless specifically exempt, are public. E-mails on I-phones are probably public record. I would go through those e-mails to see if they could be classified as part of the work papers. If you talk on the telephone and it can't be printed in the Times Picayune, don't write or say it.

In public meetings, community is central and everything has to be done in the sunshine unless there is a specific exemption for executive session. That is detailed in the statute and the Attorney General has said you have to follow that strictly. If there is a detailed agenda and you wanted to change an item, unanimous approval of the entire board is required to change the item. You would also have to let the public comment on that change because you are a fiduciary of the public's trust.

In public bid law we are looking for arms length transactions. In the public sector you cannot give something to your brother-in-law or someone because you like the way they look or talk. The expansion of the Convention Center was to take place before the storm but did not because a provision about bonding was not followed in the public bid law.

In public works the limit is \$150,000, of which \$30,000 is for materials and supplies. A public work is renovation or construction of a building. The law gives no definition of materials and supplies so the English meaning is used: whatever you can pick and touch. Professional services are not subject to bid but when someone gives you software, that software is a material and supply. There are laws you can change and go to a request for proposals on. In public bid, like in public meetings and public records, we look for fiduciary and transparency. We keep on our website the public bid law, the public records law, the public meetings law and other things that might help you. They are hyperlinked and we update as things happen.

The most important thing is to ask questions before, not after you have done it. What happens to us is we start to think the public's money, buildings and things that I use are mine. They are not.

Commissioner Heaton referred to the threshold of \$30,000 on materials and supplies stating you could easily get to \$30,000 by revamping your computer system, even with software off the shelf. Commissioner Heaton questioned if software was obtained off of the state approved vendor, would you need to bid. Ms. Schaye informed the state procurement code is the list of products that the state office of state purchasing has gone out for bid and gotten the lowest prices on. If this Board adopts the state procurement code and you found the computer equipment on the list then you don't apply the \$30,000.

Two other things are emergency and extreme emergency. If you have an emergency such an electrical problem in the building that you use, Mr. Capo is authorized to do it. Provisions need to be followed showing what happened, notice and so forth. That concluded Ms. Schaye's presentation.

COMMITTEE REPORTS:

1. Airport Committee

Commissioner Saizan reported that he toured the Airport and to identify where we have shortfall on funding the terminal interior. We had an extensive meeting with Flightline and I toured their facility and Flightline is running a very good operation. Commissioner Saizan hopes in January to tour Aeropremier and Odyssey. We are moving along trying to get the Airport back up and running.

2. Marina Committee

Commissioner Brien stated the Marina Committee is on two tracks. One track is Orleans Marina with the ACOE work going on. Mr. Capo and his staff are to be commended for working with ACOE and the tenants to make a difficult situation more manageable. The second track is South Shore Harbor which is not near

capacity. Mr. Saizan initiated contact with Mr. Pappalardo regarding a real estate organization to help conceptualize how to bring South Shore back to its best and highest use. We look forward to hearing from Mr. Pappalardo about that and moving South Shore forward.

Chairman Lupo commended all of the chairmen on doing a great job and moving along quickly to address these situations and make something happen.

3. Police Committee

Commissioner Dufrechou apologized and stated he was traveling and unable to make that committee meeting and called on committee members who were in attendance.

Commissioner Baudy stated she chaired the meeting that addressed questions to the police chief which were answered. The biggest question was why they had so many cars and why the cars were going home with the officers. The questions were satisfied.

Chairman Lupo requested Mr. Capo's comment on take-home vehicles with the Authority.

Mr. Capo stated that prior to Hurricane Katrina there were many take-home vehicles in the District, including the police. In 2006 we implemented a policy that police with take-home vehicles pay \$125 per month for use of their vehicle. Those vehicles are allowed on details only; they are not to be used on personal business.

Commissioner Brien questioned if the Levee Board received any profit or money from the detail. Mr. Capo informed that details are administered by the police department and the detail funds do not show up on our books.

4. Real Estate Committee

Mr. Pappalardo stated that his recollection of the Real Estate Committee meeting was that there were no action items that took place. It was just a general update on the fountains.

Mr. Capo added the two current issues: the Pontchartrain Express and the vacant land between Mr. Benson's dock and Landry's. There are no new developments on the Pontchartrain Express. We did receive plans on the vacant land south of Landry's and we are responding to the developers and they seem to be moving forward. We hope to have something soon to bring to the Committee.

Chairman Lupo informed the Board that this is preliminary; basically just his ideas to the Executive Director about using these reclaimed lands. The Executive Director's staff will ask questions and when they have something substantive, it will be brought to the Committee and then to the full Board. Both projects look very interesting. It puts land that is not in commerce back in commerce and both of them are conceptually the kind of thing the community is looking to have developed in those particular areas.

5. Recreation Committee

Commissioner Hassinger stated that the areas of focus at this point are the restoration of the utilities and construction and relocation of Shelter #3.

Mr. Capo informed that Shelter #3 was in the footprint of the levee raising that is taking place on Lakeshore Drive. The Corps will pay to relocate and rebuild Shelter #3. The area that has been recommended to the Recreation Committee

is the area adjacent to Franklin Avenue between Franklin and Shelter #4 and that is the site that the Committee has settled upon. Plans need to be submitted to the Corps. At the Recreation and Finance Committee meetings in January we hope to have some finite numbers and a better timeline on how we can start these projects. We need to know if we have funding available to start that simultaneously with the other projects. Shelter #3 is one of the items we are looking to build, design and construct concurrently with other projects.

Commissioner Hassinger questioned if the Corps advised us of a timeline to begin the designing and construction of Shelter #3. Mr. Capo informed that the Corps wants to start as soon as possible. The problem we are facing is; do we have monies currently to start all of the projects at one time. There is a meeting scheduled with Stuart and DEI to formulate a plan for the hangar on the airport, the utilities on Lakeshore Drive and Shelter #3, which are the three main areas we are working with right now.

Commissioner Hassinger commented that the committee is focused on trying to identify projects that can be accomplished in the short term given the fact that we have no money; we are all volunteers. We need to identify projects we can do on the Lakefront to maximize use of the Lakefront and benefits that the Lakefront provides for people in the metro New Orleans area. We will be working with the Lake Pontchartrain Basin Foundation to identify and take action on things that we can do to make the most of the Lakefront as it is currently. Chairman Hassinger requested people in the neighborhoods along the Lakefront present their ideas and concerns that this Authority should focus on, things that people would like to see done on the Lakefront. Utilities are number one but please advise us of anything else that is problematic or potential.

Chairman Hassinger questioned the timeline when Lakeshore Drive east of Franklin Avenue would be open along the Lakefront. Mr. Capo advised that is ongoing work under the bridge with another wall being built.

Chairman Lupo stated that in the minutes Capt. Schmidt from the Corps did come up with a timeline. Chairman Lupo requested to go through the minutes and supply that information to Mr. Hassinger and the full Board. Chairman Lupo stated it was not as bad as some of the other projects that are taking so long. Capt. Schmidt advised a portion that related to the boat launch would take quite a while but the rest would be somewhere in March.

Mr. Capo stated the roadway leading back to Leon C. Simon by Camp Leroy Johnson should be open sooner but the area by the boat launch will take a lot longer.

Commissioner Hassinger questioned the stretch going over the overpass past the small beach on the right continuing to Franklin Avenue or Elysian Fields. Mr. Pappalardo stated that looking at the minutes of the Board meeting Thursday, November 18, Capt. Schmidt informed that Lakeshore Drive will be open to the Airport from West End in mid April. The problem we are having is Rail Street construction and London Avenue construction. Capt. Schmidt is unsure when street lighting will be available.

Mr. Capo advised that he would get an update from Capt. Schmidt.

Commissioner Hassinger commented that it would be nice to have access to the section from Seabrook to Franklin or Seabrook to Elysian Fields along with the section from West End to Rail Street. That will be one more section of the Lakefront between Franklin and Seabrook that people could access. It is Chairman Lupo's understanding that London Avenue to Seabrook will be open in mid April broken up. Mr. Capo stated it is his understanding that Franklin is open.

Chairman Lupo added that we have to look at prioritizing hangars on the Airport, the Mardi Gras Fountain and utilities across the levee sections. The way FEMA and the Corps works is the money has to be expended first by these agencies and then reimbursed. Some of these projects at this point in the life of this Authority may have to be held off. Chairman Lupo questioned the Corps' time limits if you don't start work, design and spending money, does the project go away. We have to find out the time limit. If we don't take some sort of action by a certain time, you lose the ability to be reimbursed for the project so let's find out if that is a potential reality.

Commissioner Heaton advised that Orleans Levee District and the Flood side secured the services of a grant consultant. Commissioner Heaton emphasized to her that as she is visiting with the state and federal officials if she comes across anything that would qualify as an improvement of the Non-Flood Assets to inform Louis because there might be a way to do a due to/due from for those services. If she visits with the Lake Pontchartrain Basin Foundation Commissioner Heaton suggested she see if there are synergies in making joint applications, I see the same thing with Non-Flood.

Chairman Lupo added along the lines of synergies that obviously still exist between the Flood and Non-Flood side of the Orleans Levee District, Louis and I met with the Executive Director of the Flood side and the Regional Director and we had this discussion. The fact is everything that has gone on in the Flood side potentially can affect the Non-Flood Assets as these things but up against each other. We are neighbors if nothing else. A communication needs to be created between the two agencies and a committee will be organized that meets at least once a month to discuss what the other is doing. Outside sources reported that the Flood side has an incredible amount of cash sitting at their disposal, maybe there is some way to do some sort of cooperative endeavor agreement whereas they help with funding on some of these projects and when we get reimbursement it will go to them. It is something we are going to approach because we have to think outside the box on everything that we do in this group.

Commissioner Hassinger added that our obligation is to turn over any revenue for the benefit of the Flood Authority. It is to their benefit to help us redevelop the lakefront. It is Commissioner Hassinger's opinion that a big chunk of that money should have been set aside for the benefit of the Non-Flood Assets because that is the reason they were able to collect money on taxes to begin with. I think it is consistent with their charge. I think it is consistent with our charge for them to help us get these assets redeveloped because it is going to end up throwing off revenue to them someday.

6. Legal Committee

Commissioner Hassinger reported that there are motions coming up on the Agenda that were brought up in the Legal Committed, other than those I don't think there is anything important in Legal.

7. Finance Committee

Commissioner Hoffman stated the Authority has a significant financial challenge facing it. The current year's budget ending June 30, 2011 has been balanced through the use of one-time funds from the Bally's settlement. Without the use of these funds the Authority's budget would show a deficit of approximately \$2.5 million. Based on budgeted numbers as of June 30, 2011, the Authority will have approximately \$1.5 million left from the Bally's settlement. Assuming a standstill budget for year ending June 30, 2012, the Authority will run out of cash about halfway through the fiscal year. This obviously is not acceptable. Over the next few months this Board along with each committee needs to work with management to prepare a budget for 2012 that will be balanced without the use of these one time funds. We will have to find ways to increase revenues and

reduce expenses in the range of approximately \$2.5 million which will mean very tough decisions over the next few months. To put this in perspective, budgeted revenues for fiscal year ending June 30, 2011 without the Bally's transfer is \$5,174,000; expenditures total \$7,719,000 for a gap of \$2,545,000. Expenditures including personnel and personnel related costs, grass cutting, insurance, utilities and trash collection account for \$6,414,000 or 83% of our budget expenditures. There will be no easy decision when balancing the 2012 budget. The Finance Committee requested management start looking at all aspects of the Authority's operations to determine what activities the Authority is legally obligated to perform, what activities generate revenue or will generate revenue and what activities control costs. Management needs to develop a list of recommendations that can be presented to the Board and the various committees in order to allow the Authority to adopt a balanced budget for its fiscal year ending June 30, 2012. Management has also been asked to develop recommendations for reducing expenses for the remainder of the current fiscal year and to develop a plan whereby we can educate the public about the Authority's fiscal challenge and seek their thoughts and ideas as to how we might address this challenge. As we deal with the agenda items over the next few months we need to keep in mind the fiscal challenge the Authority is facing and pray for guidance as we come to some solutions.

Chairman Lupo commented that was very in depth and we are fortunate to have Mr. Hoffman on this Board. The bottom line is, under the current situation of the possible revenues and the obligated expenses there is no way that this Authority can continue to operate past mid 2011. Several Board members have good relationships with legislators both on federal and state levels and we will be going to them to explain the situation. We have to find a way to fund the aspects of this Authority's responsibilities that do not generate revenues. All of these properties will fall to disrepair and have a negative impact on the community. There is no way in reality that the Executive Director and his staff can come up with cost savings and increased revenues to keep this Authority operating past the middle of 2011.

Commissioner Hoffman added that it is going to take cost cutting measures and additional lobbying and help from Baton Rouge to continue on in any type of realistic operating position as we move forward. While dealing with these operating budget issues, the Finance Committee is looking at ways to bring revenue producing assets in to the fold such the Airport and some of the hangars, increasing revenue in the Marina and any other leasable property that we have. The one reality we are facing is that we cannot continue in existence doing the same thing that we are doing right now. We will run out of cash come fiscal year ending 2012.

Chairman Lupo added that this is nothing new, everyone understood this and the legislators understood this. It is our job to show we have found ways to cut costs and discard things that are not our obligation as an Authority and then present to the legislators what we have done. This is what we have accomplished that is moving in the right direction but this is no longer a tenable situation to operate under. We cannot ask for a different setup without showing we have streamlined this Authority as much as possible.

Commissioner Heaton questioned the \$2.5 million current projected deficit and if there was a guesstimate on numbers for that because as improvements come back, that \$2.5 deficit will decrease so we have our arms around what we think that number is.

Chairman Lupo stated we could put together numbers reflecting when hangars get on line; when the city's population changes, there will be more airplanes coming in; there will be more fuel; and when the Marina at South Shore is finished with renovations it will become more attractive. That is something we need to project but at the same time, that situation is many years past what our

immediate problem is. In coming up with those numbers there would be a gap where we are not even close to being able to operate. We have to come up with a solution financially that is in effect way before those items come on line.

Commissioner Heaton added that we have to get smart in what we present. That question will be asked and I know it is not going to solve the immediate problem. It is Commissioner Heaton's understanding that an agreement was reached on the Department of Transportation taking over responsibilities of the bridge tenders and operations of the Senator Ted Hickey Bridge which is almost a quarter of a million dollars a year. Commissioner Heaton questioned the status on this.

Commissioner Bridges advised that an agreement has been reached and as soon as we are able to negotiate with the City on a swap of responsibility for some of the roads; meaning an equivalent amount would leave the state system to offset us taking the Ted Hickey Bridge into the system because we can't increase our millage. The City preliminary has agreed to that, it is just a matter of coming up with the roads to do that and do the swap. I anticipate that being in the very near future.

It is Commissioner Bridges understanding that the Corps will shut the bridge down for an extended period of time with construction for an extended period of time so costs are going to go to zero whether the state takes over the bridge or not.

Commissioner Heaton questioned options for the four bridge tenders. Chairman Lupo informed that we are in the process of finding that out from Civil Service. If something happens to that bridge tomorrow and it costs money to repair, that is our responsibility. It is not if the bridge will be crossable by automobile and truck traffic, it is underneath that will be closed off; there will be no water traffic.

Commissioner Hoffman commented that the revenue produced by the Airport will have to stay within Airport operations meaning the Airport won't have to be supplemented from the Authority which is currently going on. Hopefully the Authority will be able to collect monies it advanced the Airport while running on a deficit. Those are one time monies. Looking at operations of the Authority, South Shore Marina can increase revenue to some extent but not enough to cover the cost of maintaining 5 miles of Lakeshore Drive. We need to look at how we can scrub the budget so we can be in a position to go to Baton Rouge and say we have done everything we can; we need assistance in maintaining this property that you have been gracious enough to give us. Until we are in a position to fully explain what is going, they are just going to ask questions. We need to be able to answer those questions. I think they fully expect us to come back because obviously, this entity could not survive the way it was set up.

MOTIONS

Motion No. 1-121610

Motion No. 1-121610 by Commissioner Hoffman addresses health, dental and vision care plans for the Non-Flood Protection Asset Management Authority and Orleans Levee District Flood Division and expires December 31, 2010. Renewal quotes were submitted by United Health Care for health and vision and by Crescent Dental for dental for a one year term commencing on January 1, 2011 through the Besselman & Little Agency. United Health Care Plan MC0-P is offered at no increase in premium with an estimated annual cost of \$873,392.28 less an estimated \$143,985.12 to be paid by employees and retirees. United Health Care Vision Plan is an estimated annual cost of \$5,885.60 and Crescent Dental Care Plan is an estimated annual cost of \$25,875.00. The renewals were presented for review by the Finance Committee on December 7, 2010 by Mr. Wayne Francingues, Sr. of Francingues Financial Group. The Finance

Committee recommends approval of the health, vision and dental care plans with the condition that the Southeast Louisiana Flood Protection Authority East approves its portion of the renewal policy. The Southeast Flood Protection Authority East met on December 16 and approved its portion of the health, vision and dental care plans.

Commissioner Hoffman stated we get a benefit from having our employees in one pool. When this Authority was created we did not have the option of looking extensively at other options on our own. We are satisfied the Flood Authority did that and the program put forth is a cost effective program based on the benefits provided. Commissioner Hoffman stated the approval was recommended.

Chairman Lupo recommended going forward with this but in the future to see if there could be cost savings. Mr. Capo added that prior to 2006, the Levee Board picked up the entire portion for the employee. Starting in 2006, the employee paid a portion of their health care plan. Employees now contribute a portion to the health care plan.

Resolution 1-121610 offered by Commissioner Hoffman, seconded by Commissioner Hassinger, was unanimously adopted to wit:

MOTION: 1-121610
RESOLUTION: 1-121610
BY: COMMISSIONER HOFFMAN
SECONDED BY: COMMISSIONER HASSINGER

December 16, 2010

RESOLUTION

WHEREAS, the Health, Vision and Dental Care Plans for Non-Flood Protection Asset Management Authority (the Authority) and Orleans Levee District Flood Division (OLD-FD) will expire on December 31, 2010; and

WHEREAS, renewal quotes were submitted by United Healthcare for the Health Care Plan and the Vision Care Plan and by Crescent Dental for the Dental Care Plan for a one year term commencing on January 1, 2011, through the Besselman & Little Agency, as follows:

- United Healthcare Plan “M6O-P” is offered at no increase in premium by United Healthcare at an estimated annual cost of \$873,392.28 to the Authority less an estimated portion of \$143,985.12 of the aforesaid premium to be paid by employees/retirees.
- The United Health Care Vision Plan is offered at an estimated annual cost of \$5,885.60 to the Authority.
- The Crescent Dental Care Plan is offered at an estimated annual cost of \$25,875.00 to the Authority.

WHEREAS, the renewal of the Health, Vision and Dental Care Plans was presented for review to the Finance Committee at its meeting held on December 7, 2010 by Mr. Wayne Francingues, Sr. (Francingues Financial Group).

WHEREAS, there is one policy in force for the employees/retirees of the Authority and the OLD-FD, with the cost are separated and paid by each respective Division, and

WHEREAS, the Finance Committee of the Authority recommends approval of the Health, Vision, and Dental Care Plans with the condition that the Southeast Louisiana Flood Protection Authority-East (SELFPA-E) approves its portion of the renewal policy, and

WHEREAS, the Finance Committee of the SELFPA-E met on December 7, 2010 and recommended approval to its Board, and

WHEREAS, the SELFPA-E met on December 16, 2010 and approved its portion of the Health, Vision and Dental Care Plans, and

BE IT HEREBY RESOLVED, that the Non-Flood Protection Asset Management Authority authorizes the renewal of United Healthcare Plan “M6O-P”, the United Healthcare Vision Plan and the Crescent Dental Care Plan, as stated above, through the Besselman Little Agency, for a period of one year commencing on January 1, 2011 and ending on December 31, 2011.

BE IT FURTHER RESOLVED, that the Authority Chairman or the Executive Director is authorized to execute any and all documents necessary to carry out the above.

AYES: LUPO, HASSINGER, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, SAIZAN, CANTRELLE

NAYS:

ABSTAIN:

ABSENT: ERNST, TRASK

RESOLUTION ADOPTED: YES

Motion No. 2-121610

Motion No. 2-121610 by Commissioner Ernst is for a written Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation. The contact was for a term of one year commencing on January 1, 2010 and ending on December 31, 2010 with a budget for attorney’s fees and expenses in the amount of \$150,000.00. The contract was amended to increase the annual budget to \$220,000.00 pursuant to resolution 2-111810 adopted by the Management Authority on November 18, 2010. A First Amendment of the Contract was executed to reflect the increase in the annual budget. The budgetary amount set forth was expended on legal services and reimbursements of expenses as of December 1, 2010. The Legal Committee has reviewed and recommended approval of this resolution to amend Professional Legal Services Contract to increase the annual budget by \$10,000.00 effective December 1, 2010.

Chairman Lupo stated we approved an addition to this contract as a result of the expenditures related to a lawsuit from one of the fixed base operators at the Lakefront Airport. The amount expended on that one item was over \$100,000 with reduced rates conveyed by Mr. Metzger’s firm. We have to defend this Authority from lawsuits whether they are frivolous or not. *AeroPremier* was not a frivolous lawsuit but cost a lot of money to defend and negotiate to the position that it is right now.

Commissioner Hassinger commented this is an example of an expense this Authority has an obligation to bear. It reflects real work that needs to be done. Legislature did not have a mechanism in place to ensure proper financing of this new entity. We pleaded with them to put that mechanism in place when they decided to split the two; they did not. We have an obligation to the people that work for this District such as professional police officers, people that work for the Authority, neighborhoods on the Lakefront and to the City of New Orleans in general. In 2011 they are going to have to step up and put a mechanism in place to make sure we have the funding to deal with these expenses.

Resolution 2-121610, offered by Commissioner Saizan, seconded by Commissioner Hassinger, was unanimously adopted to wit:

MOTION: 2-121610
RESOLUTION: 2-121610
BY: COMMISSIONER SAIZAN
SECONDED BY: COMMISSIONER HASSINGER

December 16, 2010

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority (“Management Authority”) was established by Act 1014 of 2010 by the Louisiana Legislature, effective August 15, 2010, and is the governing authority of the OLD, and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development as provided under Title 36, Section 801.1 (A) of the Louisiana Revised Statutes;

WHEREAS, effective the 1st day of January, 2010, the **Orleans Levee District, Division of Non-Flood Assets (“OLD”)** entered into a written Professional Legal Services Contract with **Gerard G. Metzger, A Professional Law Corporation** dated on or about December 29, 2009, and approved by the Office of the Attorney General of the State of Louisiana on July 30, 2010 (the “Contract”);

WHEREAS, said Contract was for a term of one (1) year commencing on January 1, 2010 and ending on December 31, 2010, and established a budget for attorney’s fees and expenses in the amount of \$150,000.00, and set forth other terms and conditions for said professional legal services;

WHEREAS, the Contract was amended to increase the annual budget to \$220,000.00 pursuant to a resolution adopted by the Management Authority on November 18, 2010, and thereafter a First Amendment of the Contract was executed by the parties to reflect the increase in the annual budget;

WHEREAS, the budgetary amount set forth in the Professional Legal Services Contract, as amended, was expended on legal services and reimbursement of expenses as of December 1, 2010;

WHEREAS, the Legal Committee of the Management Authority has reviewed this matter and has recommended approval of this resolution to the Management Authority to amend said Professional Legal Services Contract to

increase the annual budget by the sum of \$10,000.00 effective December 1, 2010; and,

WHEREAS, after consideration of the amendment of said Professional Legal Services Contract, the Management Authority considers it to be in the best interest of the OLD to approve the amendment to said Professional Legal Services Contract under the terms and conditions specified hereinabove;

BE IT HEREBY RESOLVED, that the Management Authority approves an amendment of the Professional Legal Services Contract with Gerard G. Metzger (APLC) to increase the annual budget for legal services and costs of said contract by the sum of \$10,000.00 effective December 1, 2010.

BE IT FURTHER RESOLVED, that the Management Authority Chairman or Executive Director be and is hereby authorized to sign the amendment of said Professional Legal Services Contract and sign any and all other documents to carry out the above.

AYES: LUPO, HASSINGER, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, SAIZAN, CANTRELLE

NAYS:

ABSTAIN:

ABSENT: ERNST, TRASK

RESOLUTION ADOPTED: YES

Commissioner Saizan exited at 6:49.

Motion No. 3-121610

Motion No. 3-121610 by Commissioner Ernst is a motion to authorize a new six month contract with Gerard G. Metzger, APLC, starting January 1, 2011, ending June 30, 2011 and not exceeding \$100,000.

Commissioner Hassinger stated that the Legal Committee recommended approval of the motion and he recommends approval tonight.

Resolution 3-121610, offered by Commissioner Hoffman, seconded by Commissioner Brien, was unanimously adopted to wit:

MOTION: 3-121610
RESOLUTION: 3-121610
BY: COMMISSIONER HOFFMAN
SECONDED BY: COMMISSIONER BRIEN

December 16, 2010

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority (Management Authority) was established by Act 1014 of 2010 by the Louisiana Legislature, effective August 15, 2010, and is the governing authority of the OLD, and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development as provided under Title 36, Section 801.1 (A) of the Louisiana Revised Statutes;

WHEREAS, effective the 1st day of January, 2010, the **Orleans Levee District, Division of Non-Flood Assets (“OLD”)** entered into a written Professional Legal Services Contract with **Gerard G. Metzger, A Professional Law Corporation (“Counsel”)** dated on or about December 29, 2009, and approved by the Office of the Attorney General of the State of Louisiana on July 30, 2010;

WHEREAS, said Contract was for a term of one (1) year commencing on January 1, 2010 and ending on December 31, 2010;

WHEREAS, the Legal Committee of the Management Authority at its meeting held on December 2, 2010 considered a new contract with counsel and unanimously agreed to recommend to the Management Authority a new contract with counsel for a term of six months (6) commencing on January 1, 2011 and expiring on June 30, 2011, with a budget of \$100,000.00 for legal expenses and costs; and,

WHEREAS, after consideration of the Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation, the Management Authority considers it to be in the best interest of the OLD to approve the Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation under the terms and conditions specified hereinabove.

BE IT HEREBY RESOLVED, that the Management Authority approves a Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation under the terms and conditions specified hereinabove.

BE IT FURTHER RESOLVED, that the Management Authority Chairman or Executive Director be and is hereby authorized to sign the Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation and sign any and all other documents to carry out the above.

AYES: LUPO, HASSINGER, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, CANTRELLE

NAYS:

ABSTAIN:

ABSENT: ERNST, TRASK, SAIZAN

RESOLUTION ADOPTED: YES

Motion No. 4-121610

Motion No. 4-121610 is to publically advertise in the newspaper of general circulation in the Parish of Orleans, a notice of the Authority’s intention to lease available property owned by Orleans Levee District during 2011 in order to comply with Sub-Section B(2) of the Louisiana Revised Statutes, Title 38, Section 330.12.

Mr. Metzger stated we are complying with the new legislation that has set up the Management Authority as an agency for the first year during 2011. The Statute requires if the Authority leases or sells property it has to give notice to political subdivisions and state agencies in the parish where the property is located.

There were no specifics in the Statute dealing with how to give notice so we resorted to public notice which is enough in a tax sale to notify a mortgage holder. We have a way to efficiently and economically deal with this by putting one advertisement in the Times Picayune in January notifying the political subdivisions and agencies the Board intends to lease all available property. A list will be developed of that property and people will have 30 days to contact the District through the Executive Director. If they do, the list will be made available and they will have another 30 days to submit a proposal. It is really a watered down right of first refusal because the Authority can reject it for almost any reason. It will be in compliance with the Statute; this is what we fashioned as the solution, not only in Orleans Parish but Plaquemines and Bohemia because there is property there as well. There will be an advertisement that will encompass notice for them.

Commissioner Cantrelle questioned the property in Plaquemine Parish. Mr. Metzger informed it was because of the Bohemia Spillway that was acquired some 70 years ago in which the property was considered worthless, it was picked up and expropriated. Ten years later oil was found which led to major litigation that interfered with operations of the old Levee Board and has an impact on this entity now operating and managing the assets.

Commissioner Heaton advised there was a video produced that explained it in just a few minutes that is available for anyone who wants it. It gives a good background in only a few minutes.

Mr. Metzger further explained that another part of this bill states that if a decision is made and a Resolution is adopted to sell real estate owned by the District in 2011, that money will pay outstanding debts. The major outstanding debt is the Judgment held by Bohemia Spillway claimants of approximately \$20 million, growing with interest, which needs to be weighed in any decision the Management Authority makes concerning sale of property.

Resolution 4-121610, offered by Commissioner Hassinger, seconded by Commissioner Hoffman, was unanimously adopted to wit:

MOTION: 4-121610
RESOLUTION: 4-121610
BY: COMMISSIONER HASSINGER
SECONDED BY: COMMISSIONER HOFFMAN

December 16, 2010

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority (“Authority”) was established by Act 1014 of 2010 by the Louisiana Legislature effective August 15, 2010, and is the governing authority of the Non-Flood Division of Orleans Levee District (“OLD”), and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development, as provided under Title 36, Section 801.1 (A) of the Louisiana Revised Statutes;

WHEREAS, Section 2 of Act 1014 amends and reenacts Louisiana Revised Statutes Title 38, Section 330.12, and Sub-Section B(2) of said Section provides, in part, that the Authority may sell, lease or otherwise transfer any of

the property of the Orleans Levee District and perform any and all things necessary to carry out the objects of this Section;

WHEREAS, Sub-Section B(2) of Section 330.12 further provides that if the Authority determines that the sale, lease or transfer of such property is appropriate, it shall first offer the property to political subdivisions in the parish in which the property is located and state agencies conducting operations in that parish, other than levee districts, political subdivisions, or agencies responsible for flood control;

WHEREAS, Sub-Section B(2) of Section 330.12 also provides that if any such public entity is interested in acquiring any of the property of the Orleans Levee District offered for sale or lease, that the Authority shall evaluate proposals submitted by those public entities; and, if no such proposal is received, or if such proposals are not determined to be in the best interest of the Authority, the property may be offered for sale or lease as otherwise provided by law;

WHEREAS, Section 2 of Act 1014, including the amendments of Sub-Section B(2) of Title 38:§330.12, became effective on August 15, 2010 and shall cease to be effective on January 1, 2012, as provided under Section 6(A) of Act 1014;

WHEREAS, the Legal Committee of the Authority at its monthly meeting in December, 2010 considered recommendations on how the Authority could comply with the requirements of Sub-Section B(2) in connection with property available for lease owned by the Orleans Levee District;

WHEREAS, in order to comply with the obligation to first offer the property of the Orleans Levee District to political subdivisions in the parish in which the property is located and state agencies conducting operations in the parish in which the property is located, other than flood protection authorities, the Legal Committee has recommended that the Authority publicly advertise in a newspaper of general circulation in the Parish of Orleans notice to political subdivisions in the parish in which any said property is located and state agencies conducting operations in which any said property is located the intention of the Authority to lease property owned by the Orleans Levee District that the Authority has determined to be available for lease during 2011;

WHEREAS, after consideration of the recommendation of the Legal Committee, the Authority considers it to be in the best interest of the OLD to approve this recommendation of the Legal Committee to comply with the legal requirements of Sub-Section B(2) of Section 330.12 of Title 38;

WHEREAS, after discussion the Authority resolved that the public advertisement should be made once in January, 2011 in a paper of general circulation in the Parish of Orleans and allow said political subdivisions and state agencies a period of thirty (30) days from the date of said advertisement to

contact the Orleans Levee District regarding the lease of any property owned by the Orleans Levee District that the Authority intends to lease during 2011; and,

WHEREAS, the Authority shall maintain a list of the property owned by the Orleans Levee District that the Authority has determined will be available for lease during 2011, which will be made available to political subdivisions in the parish in which any said property is located and state agencies conducting operations in which any said property is located that respond to the advertisement and are interested in submitting proposals to the Authority for the lease of any said property; and, said political subdivisions and state agencies who respond shall have an additional thirty (30) days after being provided with said list of the property available for lease to submit proposals to the Authority for the lease of any said property.

BE IT HEREBY RESOLVED, that the Authority shall publicly advertise in a newspaper of general circulation in the Parish of Orleans notice of the intention of the Authority to lease property available for lease owned by the Orleans Levee District during 2011 in order to comply with the obligation to first offer the property of the Orleans Levee District to political subdivisions in the parish in which the property is located and state agencies conducting operations in the parish in which the property is located, other than flood protection authorities, as provided under Sub-Section B(2) of Louisiana Revised Statutes, Title 38, Section 330.12.

BE IT FURTHER RESOLVED, that said public advertisement shall be made once in January, 2011 in a paper of general circulation in the Parish of Orleans and shall allow said political subdivisions and state agencies a period of thirty (30) days from the date of said advertisements to contact the Orleans Levee District regarding the lease of any property owned by the Orleans Levee District that the Authority intends to lease during 2011.

BE IT FURTHER RESOLVED, that the Authority shall maintain a list of the property owned by the Orleans Levee District that the Authority has determined will be available for lease during 2011, which will be made available to political subdivisions in the parish in which any said property is located and state agencies conducting operations in which any said property is located that respond to the public advertisement and are interested in submitting proposals to the Authority for the lease of any said property; and, said political subdivisions and state agencies who respond shall have an additional thirty (30) days after being provided with said list of the property available for lease to submit proposals to the Authority for the lease of any said property.

BE IT FURTHER RESOLVED, that the Authority Chairman or Executive Director be and he is authorized to sign any and all documents necessary to carry out the above.

**AYES: LUPO, HASSINGER, BAUDY, HOFFMAN, HEATON, BRIDGES,
BRIEN, DUFRECHOU, CANTRELLE**

NAYS:

ABSTAIN:

ABSENT: ERNST, TRASK, SAIZAN

RESOLUTION ADOPTED: YES

Motion No. 5-121610

Motion No. 5-121610 by Chairman Lupo is a motion to adopt a Resolution to recommend the US Army Corps of Engineers install and reroute two 60 inch drain lines currently in the Orleans Marina in order to maintain water circulation and to prevent stagnation in and around the Orleans Marina.

Chairman Lupo advised in the Orleans Marina there are two 60-inch pipes leading from the 17th Street Canal to a remote dead-end section of the Orleans Marina. There has been no stagnation in that Marina even though it is a large body of water very removed from Lake Pontchartrain. The conclusion by Marina tenants and engineers is these two 60 inch pipes have been doing some work or there would be a stagnation problem. The Corps of Engineers made a presentation. These pipes now empty inside flood protection, which is unacceptable by the Corps; it has to be outside flood protection. The Corps' testing showed these pipes were not doing any work. This Board should take the position that this is something that has worked in the past and we don't want to give up something that has worked in the past. There is information from divers that did this work that they felt the flow of water. Since it is not going to cost the Authority, we need to demand the Corps replace these pipes so that the stagnation problem does not become a problem after they do their work.

Commissioner Dufrechou stated it is critical to maintain the water quality of the southwest quadrant of the Orleans Marina as it is a dead end with a very strong potential of a dead zone and fish kills. Commissioner Dufrechou commented that there are check valves in the existing lines that prevent the backflow and suggested an amendment to this Resolution. In the BE RESOLVED section of the Resolution, on the third line, Commissioner Dufrechou suggested the Resolution read as follows: and recommend to the USACE to install and reroute the lines *including features to prevent backflow from the 17th Street Canal* to prevent stagnation.

Chairman Lupo accepted the amendment. There were no oppositions to the Amended Resolution.

Resolution No. 5-121610, offered by Chairman Lupo, seconded by Commissioner Dufrechou, was unanimously adopted as amended to wit:

MOTION: 5-121610

RESOLUTION: 5-121610

BY: CHAIRMAN LUPO

SECONDED BY: COMMISSIONER DUFRECHOU

December 16, 2010

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority ("Authority") was established by Act 1014 of 2010 by the Louisiana Legislature effective August 15, 2010, and is the governing authority of the Non-Flood Division of Orleans Levee District ("OLD"), and an agency of the State of

Louisiana placed within the Louisiana Department of Transportation and Development, as provided under Title 36, Section 801.1 (A) of the Louisiana Revised Statutes;

WHEREAS, the Authority has management and control over the Orleans Marina, and

WHEREAS, in the development of the Orleans Marina, two (2), sixty (60) inch drain lines were installed and extend from the 17th Street Canal to the Orleans Marina, to provide water circulation and prevent water stagnation in and around the western section of the Orleans Marina.

WHEREAS, the USACE on or about October 13, 2010 had the lines inspected and recommend that the Authority declare the lines abandoned, and

WHEREAS, after consulting with the Executive Director for the Flood Division of Orleans Levee District, it is his recommendation to keep those lines and reroute as necessary to complete the pump station project.

BE IT HEREBY RESOLVED, that it is the Authority's recommendation to maintain the water circulation in the Orleans Marina, and recommends to the USACE to install and reroute the lines with features to prevent backflow from the 17th Street Canal to prevent stagnation in and around the Orleans Marina, and

BE IT FURTHER RESOLVED, that Authority Chairman or Executive Director is authorized to take any and all steps necessary to accomplish the above.

AYES: LUPO, HASSINGER, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, CANTRELLE

NAYS:

ABSTAIN:

ABSENT: ERNST, TRASK, SAIZAN

RESOLUTION ADOPTED: YES

Motion No. 6-121610

Motion No. 6-121610 by Commissioner Trask is a Motion to authorize the execution of an Agreement and Acknowledgement to First Bank & Trust which provides for notice to First Bank in case of default on the lease to J&J Partners, and an additional 30 day period beyond the time allowed in the lease to cure the default.

Commissioner Hassinger stated this came before the Legal Committee and was relayed to the full Board without a recommendation for approval.

Mr. Metzger stated that this is standard operating procedure when a leasehold mortgage is taken. The bank wants to receive notice from the lessor that there is a default. J&J Partners' principal is Frank D'Amico who picked up that lease on Lakeshore Drive after entering into a long term lease with the former Levee Board for a ground lease to build condominiums which never panned out. Earlier in 2010 he went into default on the lease for the condominiums which lease was an entity he owned by the name of Six by the Sea. Mr. D'Amico was not personally liable on this lease, it was with the L.L.C. Litigation ensued and he entered into a Consent Judgment for approximately \$16,000 in back rent. The lease was cancelled, the property was returned to the District. My office was

asked to contact Mr. D'Amico concerning payment of the Judgment in which we received no response. This was reported to the Legal Committee when the issue came up which is why it came out of the committee with no recommendation.

Mr. Jim Noel with First Bank & Trust stated the request the bank is making is related to J&J Partners and has nothing to do with the matter concerning Six by the Sea. The bank is requesting to be notified if there is a default and given the opportunity to cure the default on behalf of your tenant.

Chairman Lupo expressed great respect for First Bank & Trust as they are a great asset to our community. What they are asking for is nothing unusual. It betters the situation for us as landlords for them to step in if they could cure our current tenant defaulting. The situation is not as divorced from Six by the Sea because the principal defaulted and we have a Judgment against the principal who is also a principal in J&J Partners. By holding off on giving this authorization we hoped the bank would apply pressure upon Mr. D'Amico to pay his Judgment. The committee passed without recommendation to attempt to apply pressure on Mr. D'Amico to come forward and pay this Judgment in good faith. Chairman Lupo's recommendation is not to move forward and requested no action on this Resolution. Commissioner Hassinger stated this would be consistent with the committee's discussion.

Commissioner Hoffman questioned if that would help the bank. Chairman Lupo informed we are not helping the bank or our own situation but we may be giving the bank leverage to go back to Mr. D'Amico and state what they want from the Authority; would Mr. D'Amico resolve the judgment with the Authority.

Mr. Noel added that he had two conversations and four e-mails with the principal and he needs to pay his obligations. There is no new money from bank to borrower in this transaction to direct Mr. D'Amico to pay the Judgment, if there were, I would be in favor of getting the Judgment paid with those new funds. The bank is taking additional collateral to sure up an existing loan that I am trying to better by taking this leasehold mortgage.

Commissioner Hoffman offered a point of clarification that if he defaults the bank will step up and pay the default. What I am reading from the motion is you want 30 days to decide what the bank's action is going to be.

Mr. Noel explained that the bank would be taking a leasehold mortgage in the improvements to that property. If there is a default, the Levee District has the right to seize those improvements that primes my lien. To protect my interest we would seriously consider making payment to cure the default in order to protect our leasehold interest which would be additional collateral to shore up our loan.

Mr. Metzger advised there is no obligation on the bank to pay the lease. This is an estoppels certificate wherein if the tenant defaults they want to be notified so they can preserve their collateral. There is no obligation that the bank will do that.

Commissioner Hassinger clarified the principal is Frank D'Amico, Jr. not Frank D'Amico, Sr. Commissioner Hassinger then moved to defer until next month's meeting at which time it will be put back on the Agenda, seconded by Commissioner Heaton. Hearing no objection, the Authority's preference is to put this item on the Agenda for the January 20, 2011 Board meeting.

Motion 6-121610 was deferred, to be placed on the Agenda for the January 20, 2011 Board meeting.

Motion No. 7-121610

Motion No. 7-121610 by Commissioner Hoffman is a motion to authorize a hiring freeze effective immediately.

Commissioner Hoffman stated until we have a chance to look at the budget and come up with ideas, we don't do any hiring without an extra step. If there is a critical position, the motion has the authority to go back to the executive committee and then back to the Finance Committee to get approval. It is not shutting down everything but will put an extra layer of control to make sure we don't create a problem unintentionally.

Resolution 6-121610, offered by Commissioner Hoffman, seconded by Commissioner Hassinger, was unanimously adopted to wit:

MOTION: 7-121610
RESOLUTION: 6-121610
BY: COMMISSIONER HOFFMAN
SECONDED BY: COMMISSIONER HASSINGER

December 16, 2010

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority (“Authority”) was established by Act 1014 of 2010 by the Louisiana Legislature effective August 15, 2010, and is the governing authority of the Non-Flood Division of Orleans Levee District (“OLD”), and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development, as provided under Title 36, Section 801.1 (A) of the Louisiana Revised Statutes;

WHEREAS, the Finance Committee of Authority has reviewed the budget for fiscal year 2011 and cash flow projections to January 2012 and beyond, and

WHEREAS, the Finance Committee recommends that the Authority institute a hiring freeze and if there are any critical position needs, then that would come back to the Finance Committee for review and recommendation, and

BE IT HEREBY RESOLVED, that the Non-Flood Protection Asset Management Authority institute a hiring freeze and if there are any critical position needs, then that would come back to the Finance Committee for review and recommendation, and

BE IT FURTHER RESOLVED, that the Authority Chairman or the Executive Director be authorized to implement any and all procedures and execute any and all documents necessary to carry out the above.

AYES: LUPO, HASSINGER, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, CANTRELLE

NAYS:

ABSTAIN:

ABSENT: ERNST, TRASK, SAIZAN

RESOLUTION ADOPTED: YES

ANNOUNCEMENT OF NEXT MEETING

Chairman Lupo announced the next Board meeting will be on January 20, 2011 at 5:30 p.m. Chairman Lupo extended a Merry Christmas, Happy Holiday Season and a wonderful healthy, prosperous New Year.

Mr. Capo announced the office Christmas party at 12:00 on Wednesday, December 22, 2010 and invited all commissioners and staff.

ADJOURNMENT

Commissioner Bridges offered a motion to adjourn, seconded by Commissioner Brien and unanimously adopted.

The meeting adjourned at 7:19 p.m.