

THE NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY  
MINUTES OF MONTHLY BOARD MEETING  
THURSDAY, JANUARY 20, 2011 – 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, January 20, 2011 at 5:30 P.M., in the Lake Vista Community Center, 2<sup>nd</sup> 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.

Chairman Lupo called the meeting to order at 5:34 P.M. and led in the Pledge of Allegiance.

The roll was called and a quorum was present.

**PRESENT:**

Chairman Robert E. Smith Lupo  
Commissioner Carlton Dufrechou  
Commissioner Darrel Saizan (5:37)  
Commissioner Michael Bridges  
Commissioner Wilma Heaton (5:34)  
Commissioner Romona Theresa Baudy  
Commissioner Stanley Brien  
Commissioner William Hoffman  
Commissioner Pearl Cantrelle  
Commissioner Greg Ernst (5:37)  
Commissioner John B. Trask

**ABSENT:**

Commissioner Joe Hassinger

**STAFF:**

Louis Capo, Executive Director  
Tony Pisciotta, Non-Flood  
Dawn Wagener, Non-Flood  
Sharon Martiny, Non-Flood  
Nina Marchand, Non-Flood  
Randy Taylor, Airport Director

**ALSO PRESENT:**

Gerard Metzger  
Wesley Mills  
Michael St. Martin  
Steve Nelson  
Al Pappalardo  
Kerry Steele  
Craig Boudreaux  
Ken Beler  
Tony Collins  
John Davis  
Joe Bartels  
Guy Williams  
Brewster Stalth  
Doug Thurston  
Tim Avegno  
Alton Davis  
Ken Allison  
Addie Fanguy

### **ADOPT AGENDA**

Commissioner Hoffman offered a motion to adopt the Agenda, seconded by Commissioner Trask and unanimously adopted.

### **APPROVAL OF PRIOR MINUTES**

Commissioner Hoffman offered a motion to approve the minutes of the special Board meeting held December 8, 2010 seconded by Commissioner Bridges and unanimously adopted. Commissioner Heaton offered a motion to approve the minutes of the Board meeting held December 16, 2010, seconded by Commissioner Bridges and unanimously adopted.

Chairman Lupo stated that there is a full agenda schedule with some very interesting items which will be very beneficial to our Airport Authority and our general operations. I am pleased to have all of the interested parties here today.

### **REPORT BY EXECUTIVE DIRECTOR**

Mr. Capo thanked Chairman Lupo on behalf of the staff of the Non-Flood Management Authority for his generosity in providing a gift card to Robert's for the staff Christmas party. The party was well attended by the staff and the food was good. Commissioners Heaton and Ernst attended the function. Chairman Lupo stated that the staff is great and has done so much with so little in the past five years and since the Authority was not in the position to spend the money I was glad to help.

### **COMMITTEE REPORTS**

#### **Airport Committee**

Commissioner Saizan stated he had no report other than from Mr. Taylor and Mr. Capo.

#### **Marina Committee**

Commissioner Brien stated that the Marina Committee is looking forward to hearing back from the Counselors of Real Estate with a proposal regarding ideas to bring South Shore Harbor to its best and highest use. That is very exciting and we look forward to that proposal.

#### **Police Committee**

Commissioner Dufrechou reported that the Police Committee had no agenda items for the January 11, 2011 meeting resulting in the cancellation of that meeting.

#### **Real Estate Committee**

Commissioner Trask advised that the only item of note was a presentation on a proposal for a lease change to allow a bar to be operated at Schubert's. There was commentary both for and against that. The committee did not reach a consensus and the item was tabled for 30 days for re-evaluation. Chairman Trask added this raises the concept that we would be better with long term plans. We need to take a look at how to best manage assets going forth.

#### **Recreational/Subdivision Obligations Committee**

Chairman Lupo noted that Commissioner Hassinger was not in attendance and updated the Commissioners and the audience on the meeting. Chairman Lupo advised of a project to bring multi-family and high density living quarters to the Lake Vista subdivision where currently there are apartment complexes. There has dialogue and questions over the past few years between the developer and the staff. We are getting to the point where the appropriate corrections are going to be submitted to the staff for clarification. At that point the staff will require the developer to submit plans and specs for review by the appropriate personnel.

**Legal Committee**

Commissioner Ernst reported that the Legal Committee went into executive session to discuss *Landry's v. Orleans Levee District* which is in litigation. Commissioner Ernst advised of a meeting with Senator Morrell regarding possible amendments to Act 1014 and to update Senator Morrell on the advertisement requirement that is in the Act for 2011 only.

**Finance Committee**

Commissioner Hoffman advised that several items are motions at tonight's meeting. There was also an update from staff on the 6 month actual financial statements in comparison to budget. There was discussion about whether the Authority needs a separate independent audit June 30, 2011. This question was to the legislative auditor at the state level. It is under review to determine exactly what type of entity we are and how we will end up reporting at the end of the year. Commissioner Hoffman advised that the budget hearing to discuss the 2011-2012 budget is scheduled for Monday, January 31, 2011 at noon and the public is invited.

**MOTIONS**

**Motion 01-012011**

To increase the value of the Airport Terminal Building by \$8.5 million for the final three months of the policy period at a cost of \$18,500 plus 5% tax (\$925) for a total cost of \$19,425.00. Eagan Insurance Agency is the incumbent agent for the Orleans Levee District. The Finance Committee of the Management Authority reviewed this matter and recommended to increase the Airport Terminal Building's value of \$8.5 million for the last three months of the policy at a cost of \$18,500.

Mr. Capo advised that as renovations were taking place on the exterior it was insured under Builder's Risk. The building was insured for \$4.5 million. The contractor has completed his work and the building now stands at an insured value of \$4.5 million. The \$8.5 million put into that building is not currently insured. We are asking to increase the value by \$8.5 million for a total cost of \$19,425 for the three months remaining. The insured value after the increase will be \$13 million.

Commissioner Heaton suggested checking on the tax to make sure there is no way we could be exempt because we are a public entity. Mr. Tim Avegno from Eagan Insurance advised that it is a state tax and he is not aware of any exemptions for state tax on insurance for Orleans Levee District. Mr. Avegno advised that he would check this again.

Motion 01-012011 offered by Commissioner Saizan, seconded by Commissioner Heaton, was unanimously adopted to wit:

**MOTION: 1-012011**  
**RESOLUTION: 1-012011**  
**BY: COMMISSIONER SAIZAN**  
**SECONDED BY: COMMISSIONER HEATON**

**January 20, 2011**

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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 cost to increase the value of the Airport terminal building by \$8,500,000 for the final three (3) months of the policy period is \$18,500, plus a 5% tax of \$925.00 for a total cost of \$19,425.00;

**WHEREAS**, Eagan Insurance Agency, Inc. is the incumbent Agent for the OLD;

**WHEREAS**, Eagan Insurance Agency, Inc. through its Vice-President, Timothy R. Avegno, has requested and the carrier has agreed to increase the airport terminal building value by \$8,500,000 for the last three months of the policy period at the cost of \$18,500.00, plus a 5% tax of \$925.00 for a total cost of \$19,425.00;

**WHEREAS**, the Finance Committee of the Management Authority has reviewed this matter and has recommended to increase the airport terminal building value by \$8,500,000 for the last three months of the policy at a cost of \$18,500.00, plus a 5% tax of \$925.00 for a total cost of \$19,425.00;

**BE IT RESOLVED**; that the Authority approves to increase the airport terminal building value by \$8,500,000 for the last three months of the policy at a cost of \$18,500.00, plus a 5% tax of \$925.00 for a total cost of \$19,425.00; and

**BE IT FURTHER RESOLVED**; that the Authority hereby authorizes the Chairman or Executive Director to sign any and all other documents to carry out the above.

**AYES:** LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES,  
BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE

**NAYS:**

**ABSTAIN:**

**ABSENT:** COMMISSIONER HASSINGER

**RESOLUTION ADOPTED:** YES

**Motion 02-012011**

An agreement with the OLD Non-Flood Division and ECM Consultants which was entered into on the 14<sup>th</sup> day of March 2008 for Engineering Services for Hurricane Katrina damage repairs to Hangar Building 101. Article 9, Section 9.1, Period of Service and Supplemental Agreement Nos. 1 and 2 have expired under its terms’ on December 31, 2010. There are design, construction and inspection services which require completion, including Phase 2 renovation and Phase 3 tenant build-out. The Airport Committee of the Management Authority has reviewed this matter and recommended an extension of the Engineering Agreement for Engineering Services with ECM Consultants through December 31, 2012.

Mr. Capo advised that this was brought to our attention before the end of the year. Facility Planning wanted us to approve it but we had to bring it to the Airport Committee and to the Board. We enter into a contract with ECM; Facility Planning of the state pays ECM. An invoice is submitted to Facility Planning and they issue the check. For us to receive reimbursement, the state Facility of Planning needs a current contract. This resolution is asking to extend that

contract retroactive to January 1, 2011 forward. Hangar 101 is the building for AeroPremier Services and it is important we continue this process and get the building completed in a timely fashion.

Mr. Guy Williams from ECM Consultants advised construction is in the middle of Phase 2 and Phase 3 will follow right after. Phase 2 is scheduled to be finished in June of this year and if there are no delays, it will be finished by the end of this year.

Motion 02-012011 offered by Commissioner Saizan, seconded by Commissioner Ernst, was unanimously adopted to wit:

**MOTION:** 02-012011  
**RESOLUTION:** 02-012011  
**BY:** COMMISSIONER SAIZAN  
**SECONDED BY:** COMMISSIONER ERNST

January 20, 2011

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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 OLD Non-Flood Division and ECM Consultants, Inc. entered into an Agreement on the 14<sup>th</sup> day of March 2008 for Engineering Services for Hurricane Katrina damage repairs to Hangar Building 101.

**WHEREAS**, the Engineering Agreement for Engineering Services, Article 9, Section 9.1, Period of Service, and Supplemental Agreement Nos. 1 and 2, will expire under its terms’ on December 31, 2010; however there are design, construction and inspection services which require completion, including Phase 2 renovation and Phase 3 tenant build-out.

**WHEREAS**, the Airport Committee of the Management Authority has reviewed this matter and has recommended an extension of the Engineering Agreement for Engineering Services with ECM Consultants, Inc. through December 31, 2012;

**WHEREAS**, after consideration of the amendment of said ECM Consultants, Inc. Engineering Agreement for Professional Services, the Management Authority considers it to be in the best interest of the Authority to approve the amendment to said ECM Consultants, Inc. Agreement under the terms and conditioned specified hereinabove;

**BE IT RESOLVED;** that the Authority approve the extension of the Engineering Agreement for Professional Services with ECM Consultants, Inc.

through December 31, 2012 under the same terms and conditions of the contract dated March 14, 2008 with ECM Consultants, Inc.; and

**BE IT FURTHER RESOLVED;** that the Authority hereby authorizes the Authority Chairman or Executive Director to sign any and all other documents to carry out the above.

**AYES:** LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES,  
BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE

**NAYS:**

**ABSTAIN:**

**ABSENT:** HASSINGER

**RESOLUTION ADOPTED:** YES

**Motion 03-012011**

On July 18, 2001 the former Board of Commissioners of the Orleans Levee District entered into a Lease with Jason IV Aviation, Inc. d/b/a Million Air New Orleans (now Odyssey Aviation), effective July 1, 2001, for a term of 3 years 6 months, with three (3) five year options to renew for the purpose of the operation of a fixed base operation at the New Orleans Lakefront Airport. Jason IV Aviation has agreed to sell its assets, including the assignment of the Lease, to Landmark Aviation, and Landmark Aviation will continue to operate the fixed base operation at the Airport. Pursuant to Paragraph 14 of the Lease, the lessor's approval is required for the assignment of the Lease. This matter was presented to the Airport Committee at the meeting held on January 12, 2011 and in view of pending litigation filed by Regal Construction against Jason IV Aviation and the Authority, the Committee voted to send this matter to the Authority without a recommendation. The Executive Director and legal counsel have been advised that the litigation has been settled and will be dismissed. After considering the request of Jason IV Aviation and Landmark Aviation for the assignment of the Lease and recommendations of the Authority's staff, consultants and legal counsel, the Authority concluded that it is in the best interest of the Airport to approve the assignment of the Lease to Landmark Aviation, subject to the following conditions: dismissal with prejudice of the pending lawsuit filed by Regal Construction, L.L.C.; reimbursement of the attorney fees and expenses incurred by the Authority in the Regal litigation; reimbursement of the Authority's legal expenses incurred in connection with this matter; and execution of an Amendment of the Lease by Landmark assuming all of the lessee's obligations under the Lease.

Commissioner Saizan stated that he was impressed with the depth of Landmark Aviation's operations overall. Landmark is a big company operating in over 50 states. That is a good FBO to have at our Airport.

Mr. Michael St. Martin with Regal Construction advised that with the assistance of this Board and the Executive Director and his staff, we have come to an agreement with Jason IV / Odyssey Aviation. The agreement is pending the asset closing with Landmark. If that closing goes through then Regal Construction will be satisfied and our debt will be cleared. We recommend and ask that the Board approve that assignment of the Lease and let it go forward.

Mr. Metzger advised that there are conditions contained in the approval. If those conditions are not satisfied there is no approval. Mr. Metzger further advised that Regal has no objection to this resolution provided that the following conditions are met: A Motion to Dismiss with an Order dismissing the litigation with prejudice must be received; reimbursement of attorneys fees in the Regal litigation; reimbursement of attorneys fees incurred in connection with the approval and amendment of the lease; and execution of an amendment, which

will be the document evidencing approval of the Authority. Ken Allison and counsel for Million Air / Odyssey have provided Mr. Metzger with a copy of the settlement agreement. As long as there is a closing on the sale, this will go through.

Motion No. 03-012011 offered by Commissioner Saizan, seconded by Commissioner Heaton, was unanimously adopted to wit:

**MOTION: 03-012011**  
**RESOLUTION: 03-012011**  
**BY: COMMISSIONER SAIZAN**  
**SECONDED BY: COMMISSIONER HEATON**

January 20, 2011

**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 (“District”), 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**, on July 18, 2001 the former Board of Commissioners of the Orleans Levee District entered into a Lease with Jason IV Aviation, Inc. d/b/a Million Air New Orleans (now Odyssey Aviation), effective July 1, 2001, for a term of three (3) years six (6) months, with three (3) five year options to renew, for the purpose of the operation of a fixed base operation at the New Orleans Lakefront Airport (the “Lease”);

**WHEREAS**, Jason IV Aviation, Inc. has agreed to sell its assets, including the assignment of the Lease, to Landmark Aviation, and Landmark Aviation will continue to operate the fixed base operation at the Airport;

**WHEREAS**, pursuant to Paragraph XIV of the Lease, the lessor’s approval is required for the assignment of the Lease;

**WHEREAS**, this matter was presented to the Airport Committee at its meeting held on January 12, 2011; and, in view of pending litigation filed by Regal Construction against Jason IV Aviation, Inc. and the Authority, the Committee voted to send this matter to the Authority without a recommendation;

**WHEREAS**, the Executive Director and legal counsel have been advised that this litigation has been settled and will be dismissed;

**WHEREAS**, after considering the request of Jason IV Aviation, Inc. and Landmark Aviation for the assignment of the Lease and the recommendations of the Authority’s staff, consultants and legal counsel, the Authority concluded that it is in the best interest of the Airport to approve the assignment of the Lease to Landmark Aviation, subject to the following conditions:

1. Dismissal with prejudice of the pending lawsuit filed by Regal Construction, L.L.C.;
2. Reimbursement of the attorney fees and expenses incurred by the Authority in the Regal litigation;
3. Reimbursement of the Authority's legal expenses incurred in connection with this matter; and,
4. Execution of an Amendment of the Lease by Landmark assuming all of the lessee's obligations under the Lease.

**BE IT HEREBY RESOLVED**, that the Authority approves the assignment of the Lease with Jason IV Aviation, Inc. d/b/a Odyssey Aviation to Landmark Aviation, subject to the conditions set forth above; and,

**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, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES,  
BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE

**NAYS:**

**ABSTAIN:**

**ABSENT:** HASSINGER

**RESOLUTION ADOPTED:** YES

**Motion No. 04-012011**

An Agreement was entered into by The Orleans Levee District and Richard C. Lambert Consultants on the 26<sup>th</sup> day of May, 2006 to provide architectural services for Hurricane Katrina damage repairs to the Bastian Mitchell Hangars. Richard C. Lambert completed the construction / bid documents for the combined Bastian Mitchell Hangar on April 5, 2010. The Non-Flood Protection Asset Management Authority advertised the Bastian Mitchell Hangar for public bid on April 23, 2010 and received bids on June 24, 2010 at 2:00 p.m. The low bid was \$10,995,000 and the successful low bidder was Ellis Construction, LLC. Richard Lambert ascertained that the low bid was qualified and recommended to the Non-Flood Protection Asset Management Authority that the project be awarded to Ellis Construction and it is the recommendation of Richard C. Lambert, Stuart Consulting Group and the Director of Lakefront Airport to construct the new Bastian Mitchell Hangar. The Non-Flood Protection Authority has secured the necessary funding for this construction project through FEMA reimbursements and insurance proceeds. This matter was reviewed by the Airport Committee of the Management Authority and was recommended to the Authority Board for approval.

Mr. Capo advised FEMA has obligated \$10.9 million for construction. There is a shortfall for the reduction of insurance of about \$1.8. There is another \$60-\$70,000 and \$133,000 of work that FEMA will not fund for the porch and some of the glazing. There is a deficit of \$2 million. Currently, in our bank account we have \$2.6 million in insurance proceeds. We are planning on using \$2 million of the insurance proceeds to make up that shortfall to complete this hangar for a total cost of \$11 million.

Commissioner Hoffman advised of a meeting to review cash flow and funding for this project and is comfortable there are funds in place at this time to move forward.

Chairman Lupo commented that this is a tremendous addition to the Airport that will allow certain types of aircraft to be housed. The aircraft community will really benefit.

Motion No. 04-012011 offered by Commissioner Saizan, seconded by Commissioner Heaton, was unanimously adopted to wit:

**MOTION: 04-012011**  
**RESOLUTION: 04-012011**  
**BY: COMMISSIONER SAIZAN**  
**SECONDED BY: COMMISSIONER HEATON**

January 20, 2011

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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 Non-Flood Protection Asset Management Authority, 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 Orleans Levee District and Richard C. Lambert Consultants, LLC entered into an Agreement on the 26<sup>th</sup> day of May, 2006 to provide Architectural Services for Hurricane Katrina Damage Repairs for the New Orleans Lakefront Airport, Williams Hangar, McDermott Hangar, Firestation, North FAA Office Building, James Wedell Hangar, Walter Wedell Hangar, Bastian Hangar, Mitchell Hangar, and the Administration Building Exterior and Interior; and

**WHEREAS**, Richard C. Lambert Consultants, LLC completed the Construction / Bid Documents for the combined Bastian Mitchell Hangar on April 5, 2010, and

**WHEREAS**, the Non-Flood Protection Asset Management Authority advertised the Bastian Mitchell Hangar for public bid on April 23, 2010 and received bids on June 24, 2010 at 2:00 PM; and

**WHEREAS**, the low bid was Ten Million Nine Hundred and Ninety Five Thousand Dollars (\$10,995,000.00) and the successful low bidder was Ellis Construction, LLC; and

**WHEREAS**, Richard C. Lambert Consultants, LLC ascertained that the low bid was qualified and recommended to the Non-Flood Protection Asset Management Authority that the project be awarded to Ellis Construction, LLC; and

**WHEREAS**, it is the recommendation of Richard C. Lambert Consultants, LLC, Stuart Consulting Group, Inc, and the Director of Lakefront Airport to construct the new Bastian Mitchell Hangar; and

**WHEREAS**, the Non-Flood Protection Asset Management Authority has secured the necessary funding for this construction project through FEMA reimbursements and Insurance Proceeds;

**THEREFORE, BE IT RESOLVED**, that the Authority authorize the Authority Chairman or Executive Director to award the project to Ellis Construction, LLC and furthermore to execute the Contract and Bond between the Non-Flood Protection Asset Management Authority and Ellis Construction, LLC for the construction of the Bastian Mitchell Hangar for the price of Ten Million Nine Hundred and Ninety Five Thousand Dollars (\$10,995,000.00); the terms of said Contract shall follow the requirements of the bid documents dated April 5, 2010.

**AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**

**ABSENT: HASSINGER**

**RESOLUTION ADOPTED: YES**

**Motion No. 05-012011**

On December 1, 1976 the Board of Commissioners of the Orleans Levee District entered into a lease with New Orleans Lakefront Hangars, Inc., for a term of 20 years with one (1) five year option to renew. The Lease was amended to extend the term of the Lease until November 30, 2011. New Orleans Lakefront Hangars, Inc. has requested that the Lease be extended. After discussing the request of the New Orleans Lakefront Hangars for an extension of its Lease and the recommendations of the Authority's Real Estate Consultant and Airport Committee recommended that it was in the best interest of the Authority to extend said Lease for an additional 5 years commencing on November 30, 2011, with three (3) five year options to renew, for a total extension with options until November 30, 2031, at a total monthly rent of \$5,225, with CPI increases every 5 years and to include an 8% transfer fee payable to the Authority on the sale or transfer of individual T-Hangar units located in the hangars on the leased premises and with all other terms and conditions of the Lease to remain the same.

Mr. Pappalardo provided a copy of a letter issued in September of 2009 showing the calculation and methodology of how the extension of rent should be calculated and the increases. The methodology used in other leases for the Levee District is explained as a component of the reversion. If and when individual units are sold an 8% transfer fee is paid to the Levee District. Mr. Pappalardo explained in that letter that CPI increases to the base rent do not keep pace with the natural rent being charged at the Lakefront Airport. It is Mr. Pappalardo's understanding that Mr. Rydberg approved the concept and it has moved forward to the Board for adoption.

**JOE BARTELS – T-Hangar Owner**

Mr. Bartels stated that the organization is a corporation and the individual T-hangar members are shareholders in the corporation with the right to sub-lease a piece of the property. Mr. Bartels referred to the 8% transfer fee and whether or not it is applicable to any of the shareholders. Mr. Bartels then questioned if the property reverted back to the Levee Board or the current Board.

Mr. Metzger advised that the property would revert back to the Levee Board upon expiration of the lease. The reversion rights of the District are being extended as a result of that. As a result of an Attorney General's opinion, the District was advised that we should receive fair consideration for the extension of its reversion rights. Mr. Pappalardo and Mr. Metzger concluded that the District could recover the fair value of the extension or reversion rights by transfer. The concept of transfer is going to include subleasing as opposed to the assignment. That is the way this lease amendment will be structured.

Mr. Bartels added that he is happy to have a T-hangar and individuals have spent \$5,000 each after the storm to bring them back. There was no insurance because it is outside of the levee itself. Mr. Bartels then inquired as to who pays for insurance and upkeep since the re-version is now put off until 2031.

Mr. Metzger stated that under the lease the individuals are responsible. Mr. Bartels raised an interesting issue concerning the fact that there are shareholders. There is one corporate entity and there are individual units. How the transfer fee will be assessed in that context creates a problem. It will be the corporation that will owe the transfer fee. Mr. Metzger further stated that the concept in the resolution is clear enough to draft a lease amendment for Louis' signature that will protect the District and insure that the transfer fee will be paid. Mr. Metzger advised he would put together a lease agreement which includes language consistent with this resolution.

Commissioner Hoffman raised a concern regarding leasing to a corporation and questioned if it would be easier with an adjusted CPI and get rid of the 8%.

Mr. Pappalardo advised that the Authority was the recipient of an Attorney General's opinion that was fairly comprehensive which stated when there are land leases that expire, we own the improvements. The Levee District is not in the business of owning improvements and sending plumbers and electricians out to fix those improvements. The business model of the Levee District is real estate where we lease on a net basis. All expenses incumbent in operating the property are paid by the lessee. If the improvements at the end of the lease are worthwhile and the tenant would like to continue with those improvements, the methodology is extension of the land lease. The ownership of the improvements continues to be invested in the lessee's ownership which provides an advantage for the lessee because the lessee can petition the Board for an assignment of that lease and sell their improvements to the assignee. The Authority will still have the basic land lease. For many years the Levee Board was operating under the concept that the T-Hangar Association was a condominium association owned by individual owners. We produced this methodology for the lease extension at the request of the T-Hangar Association in September of 2009 which is coming before you today. If no hangar transfers over the next 15 years, there is nothing to be concerned about because there is no transfer fee. We tracked sales of T-Hangars over the years. One or two T-hangars would sell every 1-2 years and prices range anywhere from \$15,000-\$30,000; so an 8% transfer fee is not a huge sum of money. There is a provision in the lease that when a T-hangar is sold the Aviation Director is notified and the Levee District has an option to purchase it. The Authority has a right of first refusal to purchase so there is an affirmative obligation in the lease.

Commissioner Hoffman stated this entity is not selling hangars; they are selling shares of stock. Commissioner Hoffman stated that he does not want to create a lease in which a stockholder would look at the letter of the lease and argue about whether the 8% transfer fee applies; I would rather figure out a way to make the 8% apply in a corporation.

Mr. Pappalardo added that perhaps Mr. Metzger will codify language in the lease amendment recognizing shares of stock sold and a correlation between the value

of the shares of stock and the value of the hangar being sold. The 8% would be charged on the transfer of the stock.

Mr. Metzger stated that we have to define a transfer or an assignment to include a sale of stock equivalent to the ownership interest in a particular unit. A default provision in the lease would be included. The corporation is going to have to make sure its shareholders are provided this provision. Mr. Metzger stated he would include in the amendment that the authority be provided with a current list of unit owners on an annual basis for verification if a transfer has occurred.

Mr. Metzger stated that they asked for an extension and we put it together in the best interest of the District and in compliance with the Attorney General's opinion on reversion rights and consistent with the leases the District has in the marinas. Mr. Metzger stated that the Authority would be authorizing the lease amendment consistent of the intent of the resolution.

Motion No. 05-012011 offered by Commissioner Saizan, seconded by Commissioner Heaton, was unanimously adopted to wit:

**MOTION:** 05-012011  
**RESOLUTION:** 05-012011  
**BY:** COMMISSIONER SAIZAN  
**SECONDED BY:** COMMISSIONER HEATON

January 20, 2011

**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 ("District"), 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**, on December 1, 1976 the Board of Commissioners of the Orleans Levee District entered into a lease with New Orleans Lakefront Hangars, Inc., for a term of twenty (20) years, with one (1) five year option to renew (the "Lease");

**WHEREAS**, the Lease was amended to extend the term of the Lease until November 30, 2011;

**WHEREAS**, in accordance with Board Resolution N. 5-052098, Mr. David Oreck, the owner/lessee of Units A-3 and A-5, has by virtue of a cash payment, extended his lease on those two units until December 1, 2021;

**WHEREAS**, New Orleans Lakefront Hangars, Inc. has requested that the Lease be extended; and,

**WHEREAS**, after considering the request of the New Orleans Lakefront Hangars, Inc. for an extension of its Lease and the recommendations of the Authority's Real Estate Consultant, the Airport Committee recommended that it was in the best interest of the District to extend said Lease for an additional five

(5) years, commencing on November 30, 2011, with three (3) five year options to renew, for a total extension with options until November 30, 2031, at a total monthly rent of Five Thousand Two Hundred Twenty-Five and no/100 (\$5,225.00) Dollars ,with CPI increases every five (5) years, an 8% transfer fee payable to the District on the sale or transfer of individual T-Hangar units located in the hangars on the leased premises, and with all other terms and conditions of the Lease to remain the same;

**BE IT HEREBY RESOLVED**, that the Authority approves the extension of the Lease with the New Orleans Lakefront Hangars, Inc. for an additional five (5) years commencing on November 30, 2011, with three (3) five year options to renew, for a total extension with options until November 30, 2031, at a total monthly rent of Five Thousand Two Hundred Twenty-Five and no/100 (\$5,225.00) Dollars, with CPI increases every five (5) years, an 8% transfer fee payable to the District on the sale or transfer of individual T-Hangar units located in the hangars on the leased premises and with all other terms and conditions of the Lease to remain the same;

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

**AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**

**ABSENT: HASSINGER**

**RESOLUTION ADOPTED: YES**

**Motion No. 06-012011**

The OLD owns and once operated the North Office Building that was previously leased to the Federal Aviation Administration (FAA) and commonly referred to as the "FAA Building" located on the New Orleans Lakefront Airport. This building was damaged beyond use by Hurricane Katrina, removed by demolition in 2010, and there are no plans to rebuild this structure. Further investigation of the storm's related damages resulted in a FEMA Project Worksheet being written in the amount \$1,220,771.00. The Authority approves the application to FEMA for an improved project hereby directing all eligible and reimbursable funds from this property loss to be used in the rebuilding of the Interior of the New Orleans Lakefront Airport Administration Building.

Mr. Capo advised that FEMA has approved this as an improved project. There are two ways of moving money around with FEMA. One is an improved project and the other is an alternate project. An improved project you do not lose any of the funding; we get dollar for dollar. What we are proposing here with this amendment to take \$1.2 million from this building and apply that to the interior of the terminal building. Currently, the terminal building had a PW that is estimated at \$3 million. This now would give us \$4.2 million towards the renovation and rebuilding of the interior of the Terminal Building.

Mr. Alton Davis of RCL Consultants stated that it is a \$6-\$7 million project to restore the interior. We can't repair the building the way it was pre-Katrina and we wouldn't want to; we want to restore it. They are going to cap it as an

improved project on the interior. This is additional monies. FEMA is willing to give us 100% as improved because it is an office building.

Commissioner Saizan added that the renovation of the terminal building interior is to bring it back to where it was in the 1930's when it was dedicated which will give us a great landmark in this area.

Motion No. 06-012011 offered by Commissioner Saizan, seconded by Commissioner Heaton, was unanimously adopted to wit:

**MOTION: 06-012011**  
**RESOLUTION: 06-012011**  
**BY: COMMISSIONER SAIZAN**  
**SECONDED BY: COMMISSIONER HEATON**

**January 20, 2011**

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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 OLD owns and once operated the North Office Building that was previously leased to the Federal Aviation Administration (FAA) and commonly referred to as the "FAA Building" located on the New Orleans Lakefront Airport;

**WHEREAS**, this building was damaged beyond use by Hurricane Katrina, removed by demolition in 2010, and there are no plans to rebuild this structure;

**WHEREAS**, further investigation of the storm's related damages resulted in a FEMA PW (Project Worksheet) being written by that agency for eligible and reimbursable losses totaling \$1,220,771.00;

**BE IT RESOLVED**; that the Authority approves application to FEMA for an Improved Project (PW 8267) hereby directing all eligible and reimbursable funds from this property loss to be used in the rebuilding of the Interior of the New Orleans Lakefront Airport Administration Building.

**BE IT FURTHER RESOLVED**; that the Authority hereby authorizes the Authority Chairman or Executive Director to sign any and all other documents to carry out the above.

**AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**

**ABSENT: HASSINGER**

**RESOLUTION ADOPTED: YES**

**Motion No. 07-012011**

The Police Professional Liability insurance is due for renewal on February 10, 2011. Morrison Insurance Agency is the incumbent Agent for the Orleans Levee District. Indian Harbor Insurance Company is the incumbent insurance company and admitted carrier in the State of Louisiana. Morrison Insurance Agency has submitted a proposal for the renewal premium in the amount of \$36,033.45. The premium will cover the period from February 10, 2011 through February 10<sup>th</sup>, 2012. The Finance Committee of the Management Authority has reviewed this matter and has recommended approval of this resolution to the Management Authority.

Mr. Capo informed that there are two parts to this. The renewal premium was approximately \$5,000 less than last year and the \$36,000 is woven into the overall police costs for both the combined Flood and Non-Flood. The Flood division picks up ½ of the costs of all police associated expenses so our payment will be limited to \$18,000.

Commissioner Hoffman stated that because this policy runs into the next budget year that if we need to cancel it for any reason it is a pro rata policy so we won't lose the whole premium should we have to cancel. We will be working with all insurance coverages to get them lined up to where we are going from July 1<sup>st</sup> to June 30<sup>th</sup> to more efficiently and accurately budget our insurance costs moving forward.

Motion No. 07-012011 offered by Commissioner Hoffman, seconded by Commissioner Bridges, was unanimously adopted to wit:

**MOTION:                               07-012011**  
**RESOLUTION:                       07-012011**  
**BY:                                       COMMISSIONER HOFFMAN**  
**SECONDED BY:                       COMMISSIONER BRIDGES**

**January 20, 2011**

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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 Police Professional Liability insurance is due for renewal on February 10, 2011;

**WHEREAS**, Morrison Insurance Agency, Inc. is the incumbent Agent for the OLD;

**WHEREAS**, Indian Harbor Insurance Company is the incumbent insurance company and is an admitted carrier in the State of Louisiana with an AM Best Rate of A XV;

**WHEREAS**, Morrison Insurance Agency, Inc. through its President, Randy Maddox, has submitted a proposal for the renewal premium in the amount of \$36,033.45;

**WHEREAS**, the premium will cover the period from February 10, 2011 through February 10<sup>th</sup>, 2012;

**WHEREAS**, the Finance Committee of the Management Authority has reviewed this matter and has recommended approval of this resolution to the Management Authority;

**WHEREAS**, it is in the best interest of the Authority to authorize Morrison Insurance Agency to procure the above mentioned insurance coverage in the amount of \$36,033.45 with funds contained in the FY 2011 budget, and in accordance with the provisions set forth in this resolution.

**BE IT HEREBY RESOLVED**; that the Authority authorizes Morrison Insurance Agency to procure the above mentioned insurance coverage in the amount of \$36,033.45 with funds contained in the FY 2011 budget, in accordance with the provisions set forth in this resolution; and

**BE IT FURTHER RESOLVED**; that the Authority hereby authorizes the Chairman or Executive Director to sign any and all other documents to carry out the above.

**AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**

**ABSENT: HASSINGER**

**RESOLUTION ADOPTED: YES**

**Motion No. 08-012011**

The Orleans Levee District, Non-Flood Division and Stuart Consulting Group entered into an Agreement on the 15<sup>th</sup> day of June, 2010 to provide Project and Direct Administration services for Hurricane Katrina Damage Repairs for Non-Flood Protection Asset Management Authority owned managed properties. The aforementioned contract includes provisions for expansion as authorized in writing by the Non-Flood Protection Asset Management Authority and the proposed supplemental agreement shall serve as written authorization releasing Stuart Consulting to perform Direct Administration services on all Non-Flood Protection Asset Management Authority managed properties and the services in question have been presented to the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) and the Federal Emergency Management Agency (FEMA) and are reimbursable under FEMA's guidelines.

Mr. Capo advised of two meetings with GOHSEP. There was a meeting Stuart Consulting and GOHSEP and they are on board with this as they feel it is a necessary expense. There was a meeting with FEMA and GOHSEP staff and they are on board and looking at this. Stuart Consulting feels these costs are going to be reimbursable. This will allow Stuart to go back and look at all of our PWs and verify that we have received the proper funding for all of these projects.

Mr. Tommy Martin with Stuart Consulting sated that both FEMA and GOHSEP were very supportive. FEMA did an initial review and they were very positive. They want to move forward on the small projects quickly and we expect to begin those as soon as we get authorization.

Commissioner Heaton questioned how long this is for because there was no date and under the AGs requirements everything has to have the terms listed.

Mr. Metzger informed that it is not a contract. We could include a termination clause and make the contract for a period of one year with a 30 day termination clause.

Mr. Martin stated that this is not a separate contract; it is authorization under the existing contract to proceed. The existing contract does have terms in it. Steve Nelson with Stuart Consulting Group referred to the initial contract Article 4, Section 1, Initial Term; this agreement shall commence on the effective date and continue for a period of one year. Section 2, Renewal; at the option of OLD-NF this agreement may be renewed on an annual basis or for no longer than 90 days after final acceptance of each construction project. We have on the front an effective date of June 15, 2010.

Commissioner Saizan stated that he talked with Frank Stuart and they are going to be as aggressive as they can be and try to get as much money as they can for the improvements that we need for the facilities.

Motion No. 08-012011 offered by Commissioner Hoffman, seconded by Commissioner Saizan, was unanimously adopted to wit:

**MOTION: 08-012011**  
**RESOLUTION: 08-012011**  
**BY: COMMISSIONER HOFFMAN**  
**SECONDED BY: COMMISSIONER SAIZAN**

January 20, 2011

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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, 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 Orleans Levee District, Non-Flood Division and Stuart Consulting Group, Inc. entered into an Agreement on the 15<sup>th</sup> day of June, 2010 to provide Project and Direct Administration services for Hurricane Katrina Damage Repairs for Non-Flood Protection Asset Management Authority owned projects; and

**WHEREAS**, Initial authorization included project management services on six specific Non-Flood Protection Asset Management Authority owned, projects; and

**WHEREAS**, the aforementioned contract includes provision for expansion as authorized in writing by the Non-Flood Protection Asset Management Authority; and

**WHEREAS**, the proposed supplemental agreement shall serve as written authorization releasing Stuart Consulting Group, Inc. to perform Direct

Administration services on all Non-Flood Protection Asset Management Authority managed properties; and

**WHEREAS**, the services in question have been presented to the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) and the Federal Emergency Management Agency (FEMA) and are reimbursable under FEMA's guidelines.

**THEREFORE, BE IT RESOLVED**, that the Authority authorize the Authority Chairman or Executive Director to execute the proposed supplemental agreement as presented, to include the aforementioned services which shall be presented to FEMA and GOHSEP for inclusion into current Project Worksheets and subsequent reimbursement as effort is expended; the terms of said Supplemental Agreement shall follow the terms of the original contract.

**AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**

**ABSENT: HASSINGER**

**RESOLUTION ADOPTED: YES**

**Motion No. 09-012011**

At the December 16<sup>th</sup> 2010 Authority Board meeting, a hiring freeze was instituted to be waived only through demonstration of critical position needs presented to the Finance Committee for review and recommendation. Currently the sole Administrative Assistant to the Authority and to the Executive Director is retained through an approved state contract with the Westaff Employment Agency with services not to exceed a total of 680 working hours. On January 13, 2011, the need for this permanent position was presented to, and recommended for approval by the Finance Committee of the Authority.

Commissioner Hoffman informed that this position is not in our organizational chart. We need to get the position authorized by the state. We following procedure set out last which stated if there is an anticipated hiring it needs to come back before this Board. Before we can hire personnel for this position, the position needs to be created. We are going through State regulations to get the position authorized so we can move to the next step.

Chairman Lupo added that this position was a shared position between the Flood side and the Non-Flood side. Once this Authority was created, the Non-Flood side and our Executive Director lost that position. It is a very important position.

Motion No. 09-012011 offered by Commissioner Hoffman, seconded by Commissioner Saizan, was unanimously adopted to wit:

**MOTION: 09-012011**

**RESOLUTION: 09-012011**

**BY: COMMISSIONER HOFFMAN**

**SECONDED BY:** **COMMISSIONER SAIZAN**

January 20, 1011

**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**, at the December 16<sup>th</sup> 2010 Authority Board meeting, a hiring freeze was instituted to be waived only through demonstration of critical position needs presented to the Finance Committee for review and recommendation, and

**WHEREAS**, currently the sole Administrative Assistant to the Authority and to the Executive Director is retained through an approved state contract with the Weststaff Employment Agency with services not to exceed a total of 680 working hours,

**WHEREAS**, on January 13, 2011, the need for this permanent position was presented to, and recommended for approval by the Finance Committee of the Authority,

**BE IT HEREBY RESOLVED**, that the Non-Flood Protection Asset Management Authority Executive Director requests establishment of a permanent Louisiana Department of State Civil Service approved Administrative Assistant 4 position to execute the duties required for support of the Authority Board and Executive Director.

**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, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**  
**ABSENT: HASSINGER**  
**RESOLUTION ADOPTED: YES**

**Motion No. 10-012011**

Prior to Hurricane Katrina, the utilities (water, sewerage and electrical) ran through the levees for the entire length of Lakeshore Drive. Post Katrina, the USACE did not permit utilities to penetrate the center of the hurricane protection levees, and subsequently all utility crossings have been removed. The Non-Flood Protection Asset Management Authority does not have the funding to reestablish the utility crossing. The USACE has determined that all of the utility crossings are compensable by the USACE, with the exception of the electrical crossings to the Mardi Gras Fountain and Shelter. The current estimated cost for the utility crossings is \$1,806,542.00. The actual reimbursable cost will be known once the utility crossings are advertised for bid and the bid documents reflect the actual construction cost. This matter was presented to the Recreation and Subdivision Committee at its meeting held on January 13, 2011 and the Committee voted to send this matter to the Authority with a recommendation for approval.

Mr. Capo noted this is the cost reimbursement agreement presented by the Corps. We asked Capt. Schmidt to see if we can get some conditions modified which would reduce the time from 60 days to 30 days on the reimbursable costs and also on the 10% holdback. The Corps would not modify the agreement. The documents are in review with the Corps and with the Flood Authority and we are waiting on the Corps comments to incorporate into documents and go out for bid. We have \$2.6 million in the insurance fund of which \$2 million was to be used on the Bastian Mitchell Hangar leaving a few hundred thousand in that account. We proposed to use the remaining \$500,000 to fund this project, get the money in the queue and keep this project moving forward. That is how the monies are going to be funded for this project.

Commissioner Saizan stated that this is part of the pathway for us to get Lakeshore Drive opened and questioned when Lakeshore Drive between Elysian Fields and West End would be open. Mr. Capo informed that the best estimate is in the later part of this year to early next year.

Commissioner Saizan stated that when we are able to get that open it will be a great day for the Levee District, the Non-Flood Asset Authority and for New Orleans. This is something people really want to have happen; they want their Lakefront open.

Motion No. 10-012011 offered by Commissioner Hoffman, seconded by Commissioner Saizan, was unanimously adopted to wit:

**MOTION: 10-012011**  
**RESOLUTION: 10-012011**  
**BY: COMMISSIONER HOFFMAN**  
**SECONDED BY: COMMISSIONER SAIZAN**

January 20, 2011

**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 (“District”), 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**, prior to Hurricane Katrina, the utilities (water, sewerage and electrical) and along the entire length of Lakeshore Drive were positioned through the center of the hurricane protection levees,

**WHEREAS**, post Hurricane Katrina, the USACE does not permit utilities to penetrate the center of the hurricane protection levees, and subsequently all utility crossings have been removed, and

**WHEREAS**, the Non-Flood Protection Asset Management Authority does not have the funding to reestablish the utility crossing, and

**WHEREAS**, the USACE has determined that all of the utility crossing are compensable by the USACE, with the exception of the electrical crossing to the Mardi Gras Fountain and Shelter #2, and

**WHEREAS**, the current estimated cost for the utility crossings is \$1, 806,542.00, and

**WHEREAS**, the actual reimbursable cost will be known once the utility crossing are advertised for bid and the bid documents reflect the actual construction cost, and

**WHEREAS**, the USACE has requested that the Non-Flood Protection Asset Management Authority enter into a Cost Reimbursable Agreement (CRA) with the USACE, and

**WHEREAS**, this matter was presented to the Recreation and Subdivision Committee at its meeting held on January 13, 2011; and Committee voted to send this matter to the Authority with a recommendation for approval, and

**BE IT RESOLVED**, that the Authority approves the Cost Reimbursable Agreement (CRA) with the USACE, and

**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, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES,  
BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE

**NAYS:**

**ABSTAIN:**

**ABSENT:** HASSINGER

**RESOLUTION ADOPTED:** YES

**Motion No. 11-012011**

The Competitor Group, Organizers of the Rock “N” Roll Marathon Series, and through its Operations Director, Doug Thurston has requested to use a section of Lakeshore Drive and Shelter #2 for the 2011 Mardi Gras Marathon. The section to be used for the event is between Canal Blvd and Rail Street. The event will be

held on February 13<sup>th</sup>, 2011 from 6:00 AM to 3:00 PM. The Competitor Group has agreed to provide the necessary insurance coverage and to pay a fee of \$500.00. The Recreation and Subdivision Committee of the Management Authority has reviewed this matter and has recommended approval of the request by The Competitor Group to use a section of Lakeshore Dr. and Shelter #2.

The Mardi Gras Marathon has contacted us regarding use of a section of Lakeshore Drive for their event. We are able to provide them with a small section of Lakeshore Drive in which they will enter through Marconi and use the two areas between Canal Boulevard and Rail Street.

Mr. Doug Thurston with the Competitor Group stated that this is a jewel in your city and we had runners from all 50 states here last year. The race is three times larger than it was before we took over the event. We are expecting between 15,000-16,000 participants and we welcome the opportunity to use the facility.

Chairman Lupo informed that Lake Vista is the only subdivision affected and it is only along Marconi. Commissioner Hoffman asked if they would provide clean-up for the roadway after the race. Mr. Thurston stated that there will be complete trash pick up including street sweepers that will clean the entire route. We reimburse all expenses for police as needed for traffic control. Last year at the 26 mile event there were 550 police officers.

Commissioner Heaton questioned how the fees were assessed for these events. Mr. Capo informed that this has been the routine fee that we have charged since the storm which fee was provided by the Risk Manager. Chairman Hoffman suggested that we come up with a policy for how we develop the fee going forward so the public will know how we charge.

Motion No. 11-012011 offered by Commissioner Saizan, seconded by Commissioner Baudy, was unanimously adopted to wit:

**MOTION:** 11-012011  
**RESOLUTION:** 11-012011  
**BY:** COMMISSIONER SAIZAN  
**SECONDED BY:** COMMISSIONER BAUDY

January 20, 2011

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management 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 Competitor Group, Organizers of the Rock “N” Roll Marathon Series, and through its Operations Director, Doug Thurston has requested to use a section of Lakeshore Drive and Shelter #2 for the 2011 Mardi Gras Marathon; and

**WHEREAS**, the section to be used for the event is between Canal Blvd and Rail Street; and

**WHEREAS**, the event will be held on February 13<sup>th</sup>, 2011 from 6:00 AM to 3:00 PM;

**WHEREAS**, The Competitor Group has agreed to provide the necessary insurance and to pay a fee of \$500.00; and

**WHEREAS**, the Recreation and Subdivision Committee of the Management Authority has reviewed this matter and has recommended approval of the request by The Competitor Group, Organizers of the Rock “N” Roll Marathon Series to use a section of Lakeshore Dr. and Shelter #2; and

**BE IT RESOLVED**, that the Authority approve the request by The Competitor Group, Organizers of the Rock “N” Roll Marathon Series to use a section of Lakeshore Dr. and Shelter #2; and

**BE IT FURTHER RESOLVED**, that the Authority hereby authorizes the Authority Chairman or Executive Director to sign any and all other documents to carry out the above.

**AYES:** LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE

**NAYS:**

**ABSTAIN:**

**ABSENT:** HASSINGER

**RESOLUTION ADOPTED:** YES

**Motion No. 12-012011**

The Non-Flood Protection Asset Management Authority adopted Resolution No. 3-121610 at its regular monthly meeting held on December 16, 2010 approving a Professional Legal Services Contract with Gerard G. Metzger under the terms and conditions set forth in the Resolution. As required under Louisiana law, the Professional Legal Services Contract is subject to approval by the Attorney Generals Office of the State of Louisiana. The Attorney General’s Office has advised the Executive Director of the Management Authority that to approve the Contract a resolution must either include the hourly rate payable for legal services or a copy of the approved contract must be attached to a resolution.

Mr. Capo informed that when he forwarded the contract with the resolution for approval to the Attorney General’s office, the AG’s office contacted me and said we needed one of two things: either include in the resolution the hourly rate or attach the contract. Once the resolution was completed this week I sent that up to AG for comment and he responded back that the resolution is fine. We need to now get the past attached contract and send it up for AG approval.

Motion No. 12-012011 offered by Commissioner Ernst, seconded by Commissioner Heaton, was unanimously adopted to wit:

**MOTION:** 12-012011

**RESOLUTION:** 12-012011

**BY:** COMMISSIONER ERNST

**SECONDED BY: COMMISSIONER HEATON**

January 20, 2011

**RESOLUTION**

**WHEREAS**, the Non-Flood Protection Asset Management Authority (“Management Authority”) adopted Resolution No. 3-121610 at its regular monthly meeting held on December 16, 2010 approving a Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation (the “Contract”), under terms and conditions set forth in the Resolution;

**WHEREAS**, as required under Louisiana law, the Professional Legal Services Contract is subject to approval by the Attorney General of the State of Louisiana;

**WHEREAS**, the Attorney General’s Office has advised the Executive Director of the Management Authority that to approve the Contract a resolution must either include the hourly rate payable for legal services or a copy of the approved contract must be attached to a resolution; and,

**WHEREAS**, in order to comply with the requirements of the Attorney General’s Office for approval of the Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation, the Management Authority hereby adopts the following resolutions.

**BE IT RESOLVED**, that a copy of the Professional Legal Services Contract with Gerard G. Metzger, A Professional Law Corporation approved by the Management Authority at the meeting held on December 16, 2010 be and is hereby attached to this Resolution.

**BE IT FURTHER RESOLVED**, that the Management Authority Chairman or Executive Director be and is hereby authorized to present this Resolution with the attached Contract to the Attorney General’s Office for approval of the Contract as required by law.

**AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE**

**NAYS:**

**ABSTAIN:**

**ABSENT: HASSINGER**

**RESOLUTION ADOPTED: YES**

**Motion No. 13-012011**

On November 4, 1995 the Board of Commissioners of the Orleans Levee District entered into a Land Lease Agreement with J & J Partners, L.L.C. for a certain piece of ground located on the New Basin Canal and improvements thereon bearing Municipal No. 7412 Lakeshore Drive. To secure the payment of obligations and liabilities to First Bank and Trust Company, J & J Partners will grant a mortgage and assignment of leases and rents on the improvements and its leasehold interest to First Bank and Trust Company. First Bank and Trust Company has requested that the Management Authority acknowledge and agree to the following:

- 1) Allow the Bank an additional 30 day period beyond the time allowed in the Lease, to cure such default. The Bank, at its option, shall cure each default, and/or prevent additional defaults from occurring in the future.
- 2) Immediately notify the Bank with written notice of said default, advising of such default under the Lease.

The Commercial Real Estate Committee has no recommendation on the request of First Bank and Trust Company. At the Board meeting held on December 16, 2010 the Authority resolved to defer the request of First Bank and Trust to January 20, 2011. There has been no further communication with First Bank and Trust Co. or J & J Partners.

Chairman Lupo informed the full Board and the audience that the Authority had Six by the Sea whose principals are the same as J&J Partners. The bank has requested to be put in the position to be notified and have the option to cure a default by J&J Partners. The Committee thought there would be a possibility to put pressure on the principal and Six by the Sea to pay the judgment but this bared no fruit. It does not make any difference to the principal of these entities whether we go forward or not. It is to the advantage of the Authority we go forward with this because if J&J defaults the bank will step up into their shoes and cure the default. Chairman Lupo recommended a substitute resolution that moves us forward and allows the bank to step into the shoes of J&J if they have a default.

Commissioner Heaton referred to the first page, item number one of the resolution which says: *the bank at its option shall cure each default.* Commissioner Heaton would be more comfortable if we could just say: *the bank shall cure each default.* Chairman Lupo advised that the bank is not willing to take that. We are getting a little bit more security on this lease. If we don't do this we have not given the bank the option to step into the tenant's shoes if they default.

Mr. Metzger stated that the bank did not hold the leasehold mortgage; the bank wanted to take additional collateral from the borrower and add this lease to its collateral package without any new money going there.

Mr. Pappalardo stated if a resolution is passed allowing the bank to take the property as collateral the bank may step into the shoes and pay the ground rent; if you don't and the tenant defaults, you get a building back and ground. The building currently being operated as a reception hall may have a rather elaborate apartment attached. The bank had the building appraised last year but Mr. Pappalardo does not know what it was appraised for. If you don't pave the way for a mortgage, if the tenant has problems later you may end up with an earlier reversion of land and building than you have now. Mr. Pappalardo suggests that a decision be made because if the bank takes the building back and rents it out to XYZ reception hall, we get land rent for the balance of the lease which has another 9 years.

Mr. Pappalardo further advised of a lease provision that would extend the lease 25 years if there was an expenditure of \$500,000. Our position is there has been no expenditure or improvements on the property to trigger that extension. Mr. Pappalardo is concerned if the bank believes someone built an apartment within the confines of the property costing \$625,000, that would trigger an extension and it could be a litigation concern down the road. Mr. Pappalardo suggests paving the way for the bank to take the property as collateral and provide a situation where they get the necessary notice. He suggested that we put in the resolution an amendment of the lease or estoppel notice that the expiration date of the lease is 9 years and there has been no action as of the date of this transfer that would trigger the 25 year extension of the ground lease. If you make that

part of the resolution and the lease amendment, the tenant has to come to the table because it is his lease; not the bank's. If nothing else, we get a satisfaction from the tenant that he did not do permanent improvements. What was contemplated was that improvement was going to be torn down and condominiums would be placed there but that didn't happen. There was an expenditure of approximately \$500,000-\$600,000 for elaborate living quarters in addition to the reception hall. I am more concerned to protect this Board that we don't have a misapplication of funds that would be arguable at a later date that that extended a land lease by 25 years.

Chairman Lupo stated that with this information, there are questions for the bank and the tenant to talk about. Chairman Lupo suggests going ahead with this resolution that basically takes no action and have discussions.

Commissioner Hoffman questioned from a leasing standpoint, if the building and the land are leased in this case. Mr. Pappalardo advised that we lease the land. This building has been through several iterations. It has always been a land lease which has been transferred. J&J Partners was originally the Dane boys that had Trinity Yachts but D'Amico bought the corporation to get this lease.

Commissioner Hoffman inquired as to the ability to inspect the property as if you are renting the building. Mr. Pappalardo advised that for safety purposes since it is on New Basin Canal, we could probably inspect it.

Motion No. 13-012011 offered by Commissioner Heaton, seconded by Commissioner Saizan, was unanimously adopted to wit:

**MOTION: 13-012011**  
**RESOLUTION: 13-012011**  
**BY: COMMISSIONER HEATON**  
**SECONDED BY: COMMISSIONER SAIZAN**

January 20, 2011

### **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**, on November 4, 1995 the Board of Commissioners of the Orleans Levee District entered into a Land Lease Agreement with J & J Partners, L.L.C. for a certain piece of ground located on the New Basin Canal and improvements thereon bearing Municipal No. 7412 Lakeshore Drive, New Orleans, Louisiana;

**WHEREAS**, to secure the payment of obligations and liabilities to First Bank and Trust Company, J & J Partners, L.L.C. will grant a mortgage and

assignment of leases and rents on the improvements and its leasehold interest to First Bank and Trust Company;

**WHEREAS**, First Bank and Trust Company has requested that the Management Authority acknowledge and agree to the following:

1. Allow the Bank an additional 30 day period beyond the time allowed in said Lease, to cure such default. The Bank, at its option, shall cure each default, and/or prevent additional defaults from occurring in the future, even though Lessee, or any part on behalf of Lessee, questions or denies the existence of such default or the nature of the default.
2. Immediately notify the Bank with written notice of said default, advising of such default under the Lease. Appearer agrees to send all correspondence and written notifications of said default to the First Bank and Trust, 118 Lake Drive, Covington, LA 70433, Attention: Special Assets Dept.

**WHEREAS**, the Commercial Real Estate Committee has no recommendation on the request of First Bank and Trust Company;

**WHEREAS**, at its meeting held on December 16, 2010 the Authority resolved to defer the request of First Bank and Trust Co. to January 20, 2011; and,

**WHEREAS**, there has been no further communication with First Bank and Trust Co. or J & J Partners, L.L.C.

**BE IT HEREBY RESOLVED**, that a vote on the request of First Bank and Trust Co. be postponed indefinitely;

**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, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU, TRASK, SAIZAN, CANTRELLE

**NAYS:**

**ABSTAIN:**

**ABSENT:** HASSINGER

**RESOLUTION ADOPTED:** YES

Mr. Capo announced the budget hearing scheduled for January 31, 2011 at 12:00 noon. Commissioner Hoffman suggested developing another method to handle items on the Agenda other than doing a formal motion because of concern regarding the amount of time expended by the Executive Director and his staff. Commissioner Hoffman suggested reports from the Executive Director containing the necessary information and then discussion omitting the need for a formal motion and requested this be put on the next Board Agenda.

#### **ANNOUNCEMENT OF NEXT BOARD MEETING**

Mr. Capo announced the next Board meeting is scheduled for February 17, 2011 at 5:30 p.m.

#### **ADJOURNMENT**

Commissioner Saizan offered a motion to adjourn, seconded by Commissioner Heaton and unanimously adopted. The meeting adjourned at 7:19 p.m.