

THE NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
MINUTES OF THE SPECIAL BOARD MEETING
THURSDAY APRIL 21, 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, April 21, 2011 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.

Chairman Lupo called the meeting to order at 5:40 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 Romona Theresa Baudy
Commissioner Joe Hassinger
Commissioner John B. Trask
Commissioner Darrel Saizan
Commissioner Michael Bridges
Commissioner Wilma Heaton
Commissioner Stanley Brien
Commissioner William Hoffman
Commissioner Greg Ernst
Commissioner Patrick DeRouen

ABSENT:

Commissioner Carlton Dufrechou
Commissioner Pearl Cantrelle

STAFF:

Louis Capo, Executive Director
Sharon Martiny, Non-Flood
Major Donald Booth, Police
Nina Marchand, Non-Flood

ALSO PRESENT:

Al Pappalardo
Gerard Metzger
E. Paine Grey, Jr.
Robert Drouant
Stanton Murray
Tony Collins
Steve Nelson
Constantinos Vennis
Ray Landeche
J. R. Seyler
Henry Poirier

ADOPT AGENDA

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

APPROVAL OF PRIOR MINUTES

Commissioner Hoffman offered a motion to approve the minutes of the Special Board meeting held March 28, 2011, seconded by Commissioner Hassinger and unanimously adopted.

Chairman Lupo informed that he represented the full Board at the meeting of the Flood Authority of the Orleans Levee District at which time he relayed to the Flood Authority

that the Board of the Non-Flood Protection Asset Management Authority is in no way objecting to the construction of the pump stations and the outfall canals and this project should be expedited. The Non-Flood Protection Asset Management Authority was asked to grant permission to the Corps of Engineers and their contractors for access to do this work. This Authority thought it was prudent to have a covenant with the surrounding property owners to protect their rights and in doing so requested the Corps of Engineers address some basic questions regarding this request. The Executive Director was presented this request for access on April 11, 2011 and the first meeting (Recreation/Subdivision Obligation) was held on April 15, 2011. Questions were submitted to Mr. Larry Marino who represented the State of Louisiana in the request for those rights to present to the Corps of Engineers for a response. The Corps attended the Recreation/Subdivision Obligation Committee meeting on April 15, 2011 and gave a presentation. The Corps could not answer those questions for another 30 days due to legal rights of the bidders at that point in time. A decision was made by committee members to pass the Corps' request to the full Board with no recommendation because it was not appropriate to grant a right without knowing what the consequences to the surrounding properties were. The Flood side decided today that this Authority has no rights as described in the Memorandum of Understanding or under the legislative act to grant or not grant these accesses, so the Flood side granted access to the Corps of Engineers. We are here to discuss the ramifications of that not only in this particular incident but how it goes forward in the future history and operation of this Authority. One important question is: What authority does the Non-Flood Protection Asset Management Authority have to what pieces of property. Authority attorneys advise there is a broad yet vague description of what properties come under the jurisdiction of this Authority. Some language says green spaces and parkways and there are the commercial properties. One great concern is the current and future Flood Authorities making their own descriptions to take properties that this Authority made great investments with taxpayer dollars such as marinas, parkways, etc. What will that mean to the taxpayers who have made those investments and will they be compensated and brought into the conversation to decide how those projects will be completed.

Motion No. 01-042111

This motion is to approve the request by the U.S. Army Corps of Engineers to grant right of ways for the pumping stations at Orleans and London Avenue outfall canals.

Commissioner Hassinger offered a motion to discuss, seconded by Commissioner Hoffman and unanimously adopted.

Commissioner Hassinger informed this issue came before the Recreation/Subdivision Obligation Committee with the Corps requesting right of entry on Non-Flood Asset property. This board has an obligation to know the impact of the work on Non-Flood Asset property that will be taking place for years. The Committee asked a series of questions detailing what impact that work would have on the residents of the Lakefront and people from throughout the metro area that enjoy the Lakefront and whose tax dollars have paid for these assets over the years. The Flood Authority tells the world in today's paper that the requests of the Non-Flood Protection Asset Management Authority were reasonable. Six years ago the City flooded because of defective walls and levees and the construction of MRGO by the Corps of Engineers so the obligation to ask questions is taken seriously. The issue has expanded with the Flood side deciding it has authority to declare what was a Non-Flood asset can now be a Flood asset. They don't have that authority. Since the Flood and Non-Flood separation, the Flood side has refused to give the Non-Flood side funds to meet the obligations of maintaining and improving the Non-Flood assets. There is no legislation defining what Non-Flood Assets and Flood Assets are. Prior to Katrina, the Franklin Avenue facility was a Levee District asset and the hub of Flood and Non-Flood activity. The Flood side insisted that facility was critical to meeting obligations of flood control for the City of New Orleans but there was no room in that facility for the Non-Flood side to operate so the Non-Flood side had to vacate that facility immediately. The Flood side then leased part of that building to a movie studio to film a movie. How that building can be used for making a movie when it is "critical and essential to flood control", I don't know. I don't

understand what the Flood side is doing or how they are using citizens or taxpayers' money while at the same time thinking that they can declare by fiat what is a Non-Flood asset and what is a Flood asset.

Commissioner Hassinger went on to explain that the Flood side cuts the grass from the top of the levee to the toe but they will not cut from the toe to the street because that is "Non-Flood". The Non-Flood side, which has no equipment or staff to perform this task, contracts this work to a third party. This Authority has tried to explain to the Flood side that there are efficiencies in the operation of the assets along the Lakefront; efficiencies that can be realized through cooperation. Those pleas have fallen on deaf ears.

The Authority received information from the Corps at approximately 3:00 p.m. which was placed in the Board member's packets. Chairman Lupu informed that the Corps wants this Authority to grant access beforehand without knowing how the contractor who won the bid is going to address issues that may arise. That is a problem most of the Board has. The Corps makes reference in the document that they do ask in their RFP that the contractor address these issues. This Authority would like to see how that is being addressed.

There is infrastructure throughout this part of the city that is 75 years old when it comes to water, sewer and electric lines. This Authority would like to see that the Corps has required that the contractors monitor the situation of this infrastructure before beginning the project and make sure there is funding in place to make any corrections. The Sewerage & Water Board will be the entity that makes all of these repairs. Commissioner Saizan questioned if the Corps coordinated with the Sewerage & Water Board, the Office of Public Works, Entergy, AT&T and Entergy Gas and Electricity before making their presentation to this Authority. Where is the Corps level of coordination because they are asking to excavate.

Commissioner Hassinger advised of an issue involving utilities on Lakeshore Drive after Katrina in which the Flood side authorized the Corps of Engineers to sever utility lines running to Lakeshore Drive in connection with work along the Lakefront. There has been no electricity or other utilities on Lakeshore Drive for several years. The citizens cannot use Lakeshore Dr. at night because there are no lights and people cannot use Lakeshore Dr. or the shelters because there are no utilities. The Authority reached an agreement with the Corps to solve this problem but that took years.

Commissioner DeRouen questioned if there been any dialogue from the Flood side, the Corps or the contractor regarding indemnifying this Board if this Board is sued in the event damage occurs on our property or adjacent property and this Board has to stand a Judgment. Mr. Metzger informed that there is not an indemnity agreement within the right of entry document submitted by the Corps. On ordinary Rights of Entry it has been the Board or Commissioners of the Orleans Levee District who actually hold harmless and indemnify the Corps from any liability claims. In this Right of Entry there is a provision stating that the Management Authority is not obligated to hold harmless, but there is not an expressed indemnity agreement in favor of the Management Authority so the residual law is going to apply. The liability can fall on the owner, this Board, the contractor and the Corps. Commissioner DeRouen commented that as the owner it is incumbent upon this Board to do whatever possible to obtain an indemnification agreement in the event this Board is ever sued. Mr. Metzger informed this is ordinarily done but this is the only situation where it is not done because it is the state of the law. The obligation to indemnify and hold harmless is included in the federal statute going back to the 1927 Flood Control Act but is not really part of this Right of Entry requested by the Corps. Commissioner DeRouen questioned if the Corps came on Non-Flood property and caused damage, was this Board responsible. Mr. Metzger stated this Board has potential liability as having guard over the property.

Commissioner Hoffman made a distinction between the current issue of granting access to the Flood side for the project and the longer term issue as to what the relationship and authority is between the Flood Authority and the Non-Flood Authority. Currently,

there are Master Plans on how to develop those marinas, the Airport and the Lakefront to generate revenues to support these assets. I want to make sure that we don't find out one day that the Flood side needs that piece of land and they come and take it after we made a commitment to a third party in leases or commercial operations without disclosing that as a potential risk. Chairman Lupo stated that this is a separate issue on the Agenda.

Col. Sinkler stated that it is the Corps' position that authorization for entry was received today from SELFPA-East and that is what the Corps is operating off of. There was a series of questions submitted to a state organization prior to the last meeting. The Corps received the questions from the state organization and answered those questions prior to this meeting. If the Authority has additional questions or requires follow-up meetings, the Corps would be happy to put together the appropriate representatives to answer those questions in more detail. Col. Sinkler referred to question #8; what mitigation is planned for the permanent degradation to the New Orleans Lakeshore Parkway ambiance created by these structures and the permanent changes to quality of life for the surrounding neighborhoods. There is some subjectivity in that question so the Corps needs better clarification of what the real underlying issues are. The IER and Request for Proposal are available on the Corps website.

Col. Sinkler advised there is more detail on the website regarding the Statement of Work and the Environmental Report #5. For each question submitted on the Corps website there is a formal public answer. The Corps had over 30 public meetings which were addressed as required by law. Col. Sinkler handed out a summary of the questions and slides from the last public meeting which tied the previous 29 meetings together and summarized issues and comments presented at the meeting.

Commissioner Saizan informed that the Southeast Flood Authority does not have one person on that Board who is a full time resident of any of these neighborhoods along the Lakefront where people are paying taxes or are sensitive to the issues that come up in the various Associations. The Associations are concerned about this because the long time tax payers are not represented by Southeast Louisiana Flood Protection Authority East.

Col. Sinkler informed that the Sewerage & Water Board has been involved at the public meetings. The Corps has repaired over 60 pump stations and are in the process of storm proofing 50 additional pump stations. The corps has built a very close relationship with the Sewerage & Water Board and will continue with that relationship in the construction of these permanent pump stations. Chairman Lupo stated that it is not about the work that the Corps has accomplished, it is about the project before this Authority on property we have stewardship of. The Authority is trying to get into the public record how we have gotten to where we are.

Chairman Lupo referred to the Sewerage & Water Board's infrastructure and potential damage and questioned if the Corps is requiring the contractor to do inspections before the project starts, after the project is complete and be responsible for whatever damages are found. Col. Sinkler stated it is common for the Corps to do job site inspections. The Corps is required by federal law to make whatever repairs are necessary. Who bears the cost depends on what caused the damage and how it was caused.

Commissioner Saizan stated that it is a whole different story underground in which water valves or lines have to be redirected and questioned if the Corps has meetings with the Water Board to come up with engineering solutions to the potential problems that will pop up whether they are on the surveys or not. Col. Sinkler stated many pump stations are several decades old and you may damage something because of the age. The Corps has relocated over 600 pipeline facilities or utilities to support this effort and many others we temporarily protected during the construction. We have done that for about 120 miles of the system and have a good track record.

Col. Sinkler stated that the Corps meetings are open to the public at a public location and more details will be available at a later date. There will be a partnering meeting to establish a partnership with the contractors. This has not been done yet because we have not issued the Notice to Proceed, there is no contractor scheduled and the design is not yet complete.

Chairman Lupo questioned if the last phase (where the Corps meets with the contractors who were awarded the bid and contractors that didn't get the bid) is a point where the Corps will flush out some of the questions that the Authority asked that the Corps was unable to answer. Col. Sinkler stated that the Corps may be able to identify a process for flushing out some of the issues. The Corps will have a certain level of detail after May 3, 2011. The Corps does not know the sequence of construction.

Chairman Lupo requested to the Corps that this Commission and the Recreation/Subdivision Committee become an integral partner to give input at such meetings. The Corps process does not work like the Authority's process as the Corps process works out current details but are not required to do that after the fact. If subcommittees could be involved, this Authority could feel more comfortable that concerns we have for local residents would be addressed in a way that the residents would also feel comfortable with the process. Col. Sinkler informed the Corps had a weekly hot topic meeting where agenda issues are discussed until resolved. There are monthly meetings with SELFPA-East and other state agencies such as the Sewerage & Water Board. The Corps has held meetings with various homeowners associations, representatives and council members; the meetings are tailored on what best fits the functions of each project.

Commissioner Ernst commented that there was some confusion regarding SELFPA-East granting the Corps of Engineers right of entry and authorization because last week the Corps requested this Authority's permission to give right of entry. Commissioner Ernst then questioned if it was Col. Sinkler's understanding, as a representative of the Corps, that the Corps was here to request this Authority's permission to give right of entry? Col. Sinkler stated he was here to find out information regarding what property was needed to support the construction of the pump stations. The Office of Coastal Protection and Restoration is the entity the Corps went through to get authorization for entry. There are a lot of stages and governmental organizations that are sometimes involved with that.

Commissioner Hoffman commented that the Corps is not expecting this Board to do anything. As far as the Corps is concerned, they have authorization to proceed with the project. The motion before this Board is essentially worthless because this Board is not being asked. Chairman Lupo stated that the Board still had a request from Louisiana Land Acquisition that has not been rescinded. This Board should handle this request with the understanding that the Authority owns this property based on the legislation. There are two amendments to this resolution granting permission that will make the Board feel a little bit safer about what the process is going to be for the construction of this project.

Commissioner Hoffman quoted the motion "WHEREAS, in order to obtain the necessary servitudes, deeds, and rights-of-entry and to provide the necessary AFREs to the Corps in a timely manner." Chairman Lupo stated that is how the request came. Louisiana Land Acquisition requested it for the Corps project. Mr. Metzger informed the resolution is practically verbatim to the resolution submitted by the Corps in its request. It has only been modified to add the committee action taken.

Todd Klock, Real Estate Specialist with the Corps, advised that the Corps is a non-federal sponsor to the Coastal Protection and Restoration Authority. The Corps' request goes to CPRA who is responsible for accumulating the real estate assets for the project. The Corps' request is to CPRA and Mr. Marino is the contractor for CPRA.

Commissioner Hassinger informed that the language in the resolution presented to the Non-Flood Authority tracks the language presented to the Flood side for access to their property. Commissioner Hassinger asked Col. Sinkler if he agreed that requests made last week by the Non-Flood Authority were reasonable requests. Col. Sinkler stated that any request to the Corps from the public, tax payer or government body is a reasonable request.

Commissioner Hassinger then referred to the request for the right of entry (which the Flood Authority requested be on the Non-Flood Authority's Agenda) to grant the Corps access to Non-Flood property and questioned if Col. Sinkler remembered the discussion regarding this Authority granting a right of entry to Non-Flood properties. Commissioner Hassinger questioned if anyone on the Flood side gave Col. Sinkler an explanation as to why they have the authority to take Non-Flood property and declare that it is Flood property. Col. Sinkler replied that he had another meeting to go to today. SELFPA-East formally requested a diagram of the status of the system. Commissioner Heaton advised this was due to the amendment prior to the 24 hour legal window; they amended their agenda about the issue so the Corps normally comes and responds to them. So it was the normal course of business that (a) you would have been there and he was responding to that item.

Commissioner Hassinger stated that the right of entry granted to the Corps today by the Flood side was for access to properties previously identified at the Recreation-Subdivision Obligation Committee meeting as Non-Flood properties, however the maps did not delineate Non-Flood and Flood as they were at the committee meeting. What the Flood side did was grant the Corps right of entry and removed behind the curtain the distinction between the Flood and Non-Flood assets. Mr. Klock advised this granted right of entry to the area the Corps was asking for which would have been our maps highlighted in blue and yellow. The survey maps were done by the contractors to gain right of entry when they surveyed the properties privately owned by Orleans Levee District.

Commissioner Ernst commented that the Corps requested but did not get Non-Flood permission so the Corps then went to SELFPA-East. Commissioner Ernst asked if Col. Sinkler or any other member of the Corps had anything to do with that. Col. Sinkler stated that the Corps works with entities to resolve real estate issues. For the vast majority of the property, the Corps has gone through CPRA who has worked through many issues for the Corps. Col. Sinkler advised he had not been in contact with Garrett Graves, CPRA or Steven Batiste regarding this issue. There is a contractor working on legal issues and Col. Sinkler has been in contact with that representative.

Chairman Lupo stated that this Authority was trying to figure out how this happened and questioned if the Corps walked out the door stating that the Corps did not have access and that was it. Mr. Klock advised that the Corps expects their non-federal sponsors to act in the fashion that they need to give us the right of entry. I don't think we coerced them into doing anything. Col. Sinkler stated that Larry Marino went back to CPRA and took the issues back to the state.

Chairman Lupo asked Col. Sinkler if the Flood Authority asked questions such as, "How does the actual construction process affect the property and the property holders?" like this Authority did when the Corps requested access to the property. Col. Sinkler stated it is routine to ask those kinds questions for projects the Corps has done in the SELFPA-East area.

Chairman Lupo requested the minutes from those meetings to show this Authority the records in which Southeast Louisiana Flood Protection Authority-East asked those types of questions. Col. Sinkler stated that all of the minutes from the meetings are available for the public but was not sure if the hot topics meetings are available on line. Commissioner Heaton stated that hot topics meetings would not be on line, only Committee and Board meetings are available on line. The meetings with the Corps and different staff and members have no minutes available. Chairman Lupo again

requested minutes clarifying that questions were asked by Southeast Louisiana Flood Protection Authority –East in those meetings. Col. Sinkler advised that the Sewerage and Water Board and other government entities asked questions at those meetings. Chairman Lupo stated he was not interested in the Sewerage & Water Board, he was interested in what questions the Flood side asked because the Flood side was asked to give the Corps access to let contractors do work, the Sewerage & Water Board was not. Col. Sinkler informed that the answers to the questions for CPRA and SELFPA-East were identified and the Corps worked through those. Some of the questions may have been duplicated by another government entity and only registered once so it would be hard for the Corps to determine the question or issue because of the many entities involved. Col. Sinkler advised that there was representation from the Flood side at most of the meetings.

Commissioner DeRouen made a motion to include language stating that the US Army Corps of Engineers and its contractors indemnify, defend and hold harmless this management authority from any and all claims for damages resulting in the following and/or relating to the construction project known as the permanent canal closure pump project and that the authority's approval is conditioned upon a provision in the right of entry and a provision in the documents between the Corps and its contractors which states the Corps and contractors indemnify, defend and hold harmless this management authority for damage claims resulting from this project.

Commissioner Ernst stated that there is concern regarding the indemnification issue because this is essentially a time bomb since this Authority does not have the funding to begin with. The Authority should be seeking indemnification from the Southeast Louisiana Flood Protection Authority because the Corps does not give indemnification, they usually seek indemnification from us.

Commissioner DeRouen stated he was willing to accept an amendment to add SELFPA-East for indemnification as a condition for approval for right of entry. Commissioner Ernst stated SELFPA-East gave permission to the Corps for access so they are the ones to assume responsibility for the inevitable lawsuits and people should not be looking to this board if something goes wrong. SELFPA-East has the money and have given the permission so they should accept responsibility.

Commissioner Ernst clarified that typically the Corps of Engineers seeks indemnification from the sponsor (SELFPA since they gave permission). It is Commissioner Ernst's opinion that this Authority should not be asking for SELFPA indemnification because they are not going to give it. Mr. Metzger advised legally SELFPA may be prohibited by Statute from giving an indemnity agreement so why not go straight to the other local sponsor for the indemnity agreement which is CPRA. Chairman Lupo asked if Commissioners DeRouen and Ernst would withdraw their amendments and both agreed.

Chairman Lupo advised the amendment and the amendment to the amendment have been withdrawn and there is a new amendment from Commissioner DeRouen. Commissioner DeRouen offered an amendment to include a condition that SELFPA and CPRA and/or their contractor and except provided for by law, the Corps, indemnify, defend and hold harmless this Management Authority from any and all claims for damages resulting from and/or relating to the construction project known as the permanent canal closure and pump project. The condition further provides that this Management Authority's approval is conditioned upon obtaining that indemnification, hold harmless and defense agreement by those entities in favor of this Authority.

Commissioner Heaton stated CPRA and the Corps of Engineers signed the agreement not SELFPA-East. The Authority East is not a partner in the agreement. Commissioner Ernst stated if there was a lawsuit it would be against the Orleans Levee District Flood, Non Flood or both. If Non-Flood is sued, Commissioner Ernst requests indemnification from SELFPA-East and/or Coastal Flood Protection Authority. It should not be this Authority because we are not giving approval.

Commissioner Bridges informed the agreement that CPRA entered into with the Corps basically gives CPRA authority to act for several levee districts, naming the Orleans Levee District. The question is which entity speaks for Orleans Levee District property. That is the basis of the problem we have right now which needs to be straightened out.

Commissioner Bridges suggested an Attorney General's opinion before we go too far down the road. Commissioner Ernst disagreed because SELFPA has already given permission to continue and this Authority can't stop, yet we could be held responsible which would end OLD Non-Flood. This Authority needs to be protected from that possibility. Commissioner Bridges believes there is time to get an Attorney General's opinion. It is Commissioner Bridges' opinion that this Authority would not have proceeded much differently than the Flood side. It is a standard agreement they have been using for these property access issues for all projects in this area. Commissioner Bridges is comfortable that the Corps will provide the answers this Authority asked for, they just don't have them right now but there is time because it will be two months before equipment even starts showing up.

Chairman Lupo advised that this Authority take action and act as the Board we think we are. Then we ask for an AG opinion or an ad-hoc committee to go to legislature. Chairman Lupo is not comfortable with filing suit but would like to go forward as amended. Commissioner Heaton informed that we are a political subdivision of the state; we are not a state agency. Commissioner DeRouen advised when lawsuits arise people will look to state agencies for recovery. It is appropriate for this state agency to protect itself and seek indemnification wherever possible. It is one thing to get sued because you own the property; it is something else if, as owner of the property, we don't even ask for indemnification. At the end of the day this project needs to go forward on the schedule the Corps has proposed as it is critically important to the city. It is important this Authority do whatever it can so in 10 years our successors who are sitting here with lawsuits don't say that 10 years that Board should have done what it could to protect the future Board of having to pay all of these judgments or deductibles. Why continue to put the burden on a state agency; put the burden on the people driving the trucks and drilling the pilings.

Chairman Lupo added that we have an amendment and a second to that amendment. Mr. Metzger stated that we can name the indemnitors we want in this petition because those are all players. Mr. Metzger informed that the Corps waived its immunity from lawsuits in the right of entry. Chairman Lupo stated we have an amendment to the original resolution which grants authority for the right of entry to the Corps and its contractors. We are voting right now on the amendment that adds those indemnities. Do we have a roll call vote. A unanimous roll call vote was taken in which Commissioners Heaton and Bridges abstained. It was noted that Commissioner Heaton is representing the Southeast Louisiana Flood Protection Authority East on this Board and feels a conflict on this issue. The vote consisted of 9 yeas and 2 abstain and 2 absent; the motion passed.

Chairman Lupo then offered an amendment requiring a sub-committee of this Board be granted permission by the Corps of Engineers to be in discussions with the contractors to address the questions submitted to the land acquisition company on April 12, 2011, which would be a condition on the approval of the right of entry. This Authority is asking to be involved in those discussions.

Motion 01-042111 offered by Commissioner Hassinger, seconded by Commissioner Hoffman was unanimously adopted to wit:

MOTION: 01-042111
RESOLUTION: 01-042111
BY: COMMISSIONER HASSINGER
SECONDED BY: COMMISSIONER HOFFMAN

April 21, 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 U. S. Army Corps of Engineers (“Corps”) requires Authorization for and Right of Entry (“AFRE”) to certain properties on a timely basis for construction of the Lake Pontchartrain and Vicinity Hurricane Protection Project (the “LPV project”);

WHEREAS, servitudes, other deeds, rights-of-entry, AFREs, and related documents in relation to Orleans Levee District Property will be necessary to acquire the property rights required for construction of the LPV project and to provide them to the Corps;

WHEREAS, some of the Orleans Levee District property affected by such servitudes, other deeds, rights-of-entry, and related documents may be non-flood properties under the authority of the Non-Flood Protection Asset Management Authority (the “Non-Flood Authority”);

WHEREAS, in order to obtain the necessary servitudes, deeds, and rights-of-entry and to provide the necessary AFREs to the Corps in a timely manner, the Non-Flood Protection Asset Management Authority wishes to provide authority to its Chairman and Executive Director of the Non-Flood Protection Asset Management Authority with respect to properties within the jurisdictions of their respective Authority; to negotiate and execute the necessary servitudes, deeds, rights-of-entry, and AFREs for the LPV projects, and all other documents necessary and appropriate in connection with the foregoing, as required;

WHEREAS, Counsel to the Non-Flood Authority or the Office of the Attorney General will review the final form of the servitudes, deeds, rights-of-entry, AFREs, and other documents; and,

WHEREAS, this matter was considered by the Recreational/Subdivision Obligations Committee of the Management Authority at a special meeting held after proper notice on April 15, 2011, and the Committee voted to send this matter to the Management Authority without recommendation.

BE IT RESOLVED, that the Non-Flood Protection Asset Management Authority approves and authorizes its Chairman or Executive Director to negotiate and execute on behalf of the Non-Flood Authority all servitudes, deeds, rights-of-entry, and AFREs for the LPV project, and all other documents necessary and appropriate in connection with the foregoing, as required, upon approval by Counsel to the Non-Flood Authority or the Office of the Attorney General; and, such servitudes, deeds, rights-of-entry, AFREs, and other documents shall upon such execution be considered as acts of the Non-Flood Authority.

BE IT FURTHER RESOLVED, that the Non-Flood Authority approves and ratifies all servitudes, deeds, rights-of-entry, and AFREs for the LPV project, and all other documents necessary and appropriate in connection with the foregoing, heretofore executed by its Executive Director, and adopts such servitudes, deeds, rights-of-entry, AFREs, and other documents as acts of the Non-Flood Authority.

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, TRASK, SAIZAN, DEROUEN, BRIEN

NAYS:

ABSTAIN: HEATON, BRIDGES

ABSENT: DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion 02-042111

Motion to authorize institution of appropriate judicial proceedings by the Non-Flood Management Authority if necessary to establish the Authority and jurisdiction of the Non-Flood Protection Asset Management Authority and the Southeast Louisiana Flood Protection Authority East over the Non-Flood assets of the Orleans Levee District, including but not limited to Lakeshore Drive and adjacent parks and green spaces and

Commissioner Hassinger advised this issue was on the Agenda because the Corps and CPRA asked for right of entry to use certain Non-Flood assets for a long time, many of which fall on the front door step of people who live in these neighborhoods and part of those properties will be affected permanently. The impact will also affect people from throughout the metro area that use the lakefront. The Recreation/Subdivision Committee recommended this matter to the full Board without a recommendation. Immediately thereafter, the Flood Authority decided by fiat what was a Non-Flood Asset five minutes prior is now a Flood asset; conversion is the language they used. The resolution on SELFPA's amended agenda appears to have been changed. The Flood Authority declared that it would grant the Corps right of entry on the property that a week ago was described as Non-Flood property. It is obviously Non-Flood property otherwise the state and the Corps would not have asked this Authority permission for access. It is Non-Flood property because it is property this Authority takes care of every day of the week which the Flood Authority refuses to take care of. This Authority cannot allow another Board to take assets this Authority is responsible for. We need to address the issue that legislation is silent on: defining what is a Non-Flood asset and what is a Flood asset. This Authority has a serious obligation to the people of this community and to taxpayers who have invested in the lakefront. The Executive Director and the Chairman should be given authority to pursue litigation, an attorney general opinion and working with the legislature this session to address issues regarding what are Non-Flood and Flood assets.

Commissioner Heaton requested replacing in the last WHEREAS, the Management Authority considers it, with, considers it to be prudent to the Orleans Levee District regarding issues of public safety, sound financial practices and quality of life considerations and therefore authorizes the Chairman to form an Ad-Hoc committee that will work with the Coastal Protection and Restoration Authority, the Southeast Louisiana Flood Protection Authority, the Attorney General, legislatures and the City of New Orleans and other relative stakeholders to recommend a legislation that will clarify any ambiguity in current state law concerning jurisdiction and responsibility of the Non-Flood Protection Asset Management Authority. The amendment substitutes the words "judicial proceedings" but you still have that option in the future. There is a missing piece which is going to the legislators to show that this is a serious problem.

Commissioner Hassinger clarified that Commissioner Heaton's proposal deletes the option to file litigation if necessary. Chairman Lupo suggested to put in the substitute motion if it does not go through after this session, the option to petition for declaratory judgment is still available. Commissioner Ernst suggested adopting language along those lines so the Authority can come back to the Legal Committee and the Full Board to pursue litigation at that time.

Commissioner Heaton suggested to add to the amendment that the Authority seek an Attorney General opinion so the Attorney General already has the authority from the Board. Commissioner Heaton informed she had the Attorney General at the table for discussion because whenever a law is passed in legislature it is the responsibility of the Attorney General to uphold that law. The Attorney General will not give a Board an opinion unless the Board files a motion. Commissioner Bridges advised an Attorney General will not give an opinion unless a formal request is made. The Attorney General will interpret the law and if there is a problem the Attorney General would know what needs to be done to clarify, which could be done in session. Chairman Lupo stated that the first step is for local elected legislators handling this and having the option for an Attorney General opinion after our legislators have been able to work this out.

Commissioner Heaton suggested to delete the words “in the best interest of the Orleans Levee District to authorize the institution of appropriate judicial proceedings” and substituting those words with “considers it to be critical to Orleans Levee District regarding issues of public safety, sound financial practices and quality of life considerations to authorize the formation of an ad-hoc committee to work with the Coastal Protection and Restoration Authority, Southeast Louisiana Flood Protection Authority East, the Attorney General for the State of Louisiana, the legislators, the City of New Orleans and relevant stakeholders to recommend legislation that will clarify ambiguity in current state law concerning jurisdiction and responsibilities of the Non-Flood Protection Asset Management Authority”. There have been legislative bills filed that are subject to amendment. If the ad-hoc committee offers recommendations that the Board does not approve, the Board can take a position against that. There is room to get what you are concerned about on the table because legislators know there is a struggle but no one has sat down at the table and tried to fix it and that is what I am trying to accomplish. So wherever it says judicial proceeding I want to insert formation of ad-hoc. A unanimous roll call vote was taken and the amendment to the resolution and motion passed.

Motion 02-042111 offered by Commissioner Hassinger, seconded by Commissioner Saizan was unanimously adopted to wit:

MOTION: 02-042111
RESOLUTION: 02-042111
BY: COMMISSIONER HASSINGER
SECONDED BY: COMMISSIONER SAIZAN

April 21, 2011

RESOLUTION

WHEREAS, Act 1 of the 2006 First Extraordinary Session of the Louisiana Legislature created the Board of Commissioners of the Southeast Louisiana Flood Protection Authority-East (the “Southeast Flood Protection Authority”);

WHEREAS, the Southeast Flood Protection Authority was established as a successor of the former Board of Commissioners of the Orleans Levee District (“District”) and was granted the authority to manage and control the flood protection assets of the Orleans Levee District;

WHEREAS, Act 1 of 2006 also provided that the Southeast Flood Protection Authority and any levee district within its jurisdiction, including the Orleans Levee District, could not own, operate or control any facilities or improvements of a levee district that are not directly related to flood protection;

WHEREAS, Act 1 of the 2006 First Extraordinary Session of the Louisiana Legislature further provided that any Orleans Levee District facility or improvements that were not directly related to flood protection would be managed and controlled by the Division of Administration of

the State of Louisiana, as a successor of the former Board of Commissioners of the Orleans Levee District regarding such non-flood protection assets;

WHEREAS, the Board of Commissioners of the Southeast Flood Protection Authority and the Division of Administration of the State of Louisiana entered into a Memorandum of Understanding regarding the non-flood assets of the Orleans Levee District, effective May 17, 2009, which among other things, created the “Non-Flood Asset Division” of the Orleans Levee District and identified facilities and improvements not directly related to flood protection, including but not limited to Lakeshore Drive and adjacent parks and green spaces, that were subject to the management and control of the Division of Administration of the State of Louisiana;

WHEREAS, the Non-Flood Protection Asset Management Authority was established by Act 1014 of 2010 by the Louisiana Legislature, effective August 15, 2010, as the successor of the State of Louisiana and Division of Administration, and is the governing authority of the non-flood assets of the Orleans Levee District (“Management Authority”);

WHEREAS, the U.S. Army Corp of Engineers (“Corps”) requested, through the Coastal Protection and Restoration Authority of Louisiana, approval of a Right of Entry and related servitudes and deeds from the Management Authority to certain properties on the Orleans Avenue and London Avenue Outfall Canals, subject to the management and control of the Management Authority, for the construction and operation of permanent canal closures and pumps which is part of the Lake Pontchartrain and Vicinity Hurricane Protection Project;

WHEREAS, representative of the Corps presented this request to the Recreational/Subdivision Obligation Committee of the Management Authority at a special meeting held after proper notice on April 15, 2011;

WHEREAS, after considering this request, the Committee voted not to recommend approval of this request to the Management Authority because of concerns with the responses of the Corps’ representatives to questions regarding the proposed project, including issues on the impact on the local community and infrastructure, mitigation of the permanent degradation of Lakeshore Drive and adjacent parks and green spaces, and responsibility for damages to roadways, landscaping and residences caused by the Project;

WHEREAS, in response to this Committee action, the Board of Commissioners of the Southeast Flood Protection Authority-East adopted a resolution on April 21, 2011 proclaiming that it has the legal authority to grant rights over the non-flood assets of the Orleans Levee District, subject to the authority of the Management Authority, including but not limited to Lakeshore Drive and adjacent parks and green spaces, and may convert these non-flood assets to flood assets subject to the authority of the Board of Commissioners of the Southeast Louisiana Flood Protection Authority-East;

WHEREAS, the legal authority and jurisdiction of the Management Authority over the non-flood assets of the Orleans Levee District could be affected and compromised as a result of the resolution adopted by the Board of Commissioners of the Southeast Flood Protection Authority-East to assert authority over the non-flood assets of the Orleans Levee District, including but not limited to Lakeshore Drive and adjacent parks and green spaces; and,

WHEREAS, since the Board of Commissioners of the Southeast Flood Protection Authority-East has taken action to assert authority over the non-flood assets of the Orleans Levee District, including but not limited to Lakeshore Drive and adjacent parks and green

spaces, the Management Authority considers that it is in the best interest of the District and Management Authority, and critical for public safety, quality of life considerations and sound financial practices by the Management Authority to authorize the Chairman of the Management Authority to establish an ad hoc or special committee of the Management Authority to work with the Coastal Protection and Restoration Authority of Louisiana, Southeast Louisiana Flood Protection Authority-East, Office of the Attorney General of the State of Louisiana, Legislators, the City of New Orleans and other invested stakeholders to recommend legislation that will clarify any ambiguity in current state law concerning jurisdiction and the responsibilities of the Non-Flood Protection Asset Management Authority.

BE IT HEREBY RESOLVED, the Management Authority authorizes the Chairman of the Management Authority to establish an ad hoc or special committee of the Management Authority to work with the Coastal Protection and Restoration Authority of Louisiana, Southeast Louisiana Flood Protection Authority-East, Office of the Attorney General of the State of Louisiana, Legislators, the City of New Orleans and other invested stakeholders to recommend legislation that will clarify any ambiguity in current state law concerning jurisdiction and the responsibilities of the Non-Flood Protection Asset Management Authority.

BE IT HEREBY FURTHER RESOLVED, that the Management Authority Chairman or Executive Director be and are hereby authorized to take any and all necessary action to carry out the above.

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES,
TRASK, SAIZAN, DEROUEN, BRIEN

NAYS:

ABSTAIN:

ABSENT: DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 03-042111

This is a motion to amend Richard Lambert Consultant's contract to extend the Walter Wedell Hangar as two separate bid packages and to execute a supplemental agreement separating the James and Walter Wedell Hangars into two separate projects applying the FEMA Design Curve B to the construction costs of each project as compensation for the aforementioned services.

Mr. Alton Davis with Richard C. Lambert Consultants stated this was originally put out as a combined package but with the funding issues it was separated it into two separate bid packages. RCL is asking the contract be amended for compensation based on the two separate packages which are paid based on the construction cost of the combined packages. The hangars were re-bid separately and we request to adjust on the individual construction costs. Commissioner Hoffman advised separating the two contracts allows the Authority more flexibility to prioritize the repair issues including the terminal.

Motion 03-042111 offered by Commissioner Saizan, seconded by Commissioner Hoffman was unanimously adopted to wit:

MOTION: 03-042111
RESOLUTION: 03-042111
BY: COMMISSIONER SAIZAN
SECONDED BY: COMMISSIONER HOFFMAN

April 21, 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 Non-Flood Protection Asset Management Authority and Richard C. Lambert Consultants, LLC entered into an Agreement on the 26th day of May, 2006 to provide professional services in connection with the “James Wedell and Walter Wedell Hangars”, and

WHEREAS, the Agreement between the Non-Flood Protection Asset Management Authority and Richard C. Lambert Consultants, LLC was extended on the 12th day of December, 2010 by resolution 1-111810 until the December 31, 2011.

WHEREAS, the James Wedell and Walter Wedell Hangars were designed and bid as a combined package, and

WHEREAS, Richard C. Lambert Consultants, LLC’s was contracted to receive compensation for their services by applying FEMA Design Curve B to the combined construction costs of the two hangars, and

WHEREAS, based on comments from FEMA following the previous bid of the projects, Richard C. Lambert Consultants, LLC has been directed to separate the bid documents into two separate bid packages for re-bid.

THEREFORE, BE IT RESOLVED, that the Authority authorize the Chairman or Executive Director to execute a supplemental agreement separating the “James and Walter Wedell Hangars” into two projects to be titled “James Wedell Hangar” and “Walter Wedell Hangar” and separately applying the FEMA Design Curve B to the construction costs of each project as compensation for the aforementioned services as presented in Attachment A; the terms of said Supplemental Agreement shall follow the terms of the original contract.

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 04-042111

This motion is to approve a lease with Marine Developments, LLC for office space located at 6510 Spanish Fort Blvd. The Management Authority approves the lease at 6510 Spanish Fort Blvd. in the Lake Vista Community Center with Marine Developments, LLC on the standard terms and conditions of the lease agreement of the Lake Vista Community Center. Mr. Pappalardo stated that this is the area that was vacated by the pharmacy.

Motion 04-042111 offered by Commissioner Trask, seconded by Commissioner DeRouen was unanimously adopted to wit:

MOTION: 04-042111
RESOLUTION: 04-042111
BY: COMMISSIONER TRASK
SECONDED BY: COMMISSIONER DEROUEN

April 21, 2011

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 Non-Flood Assets of the Orleans Levee District (“District”) and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development;

WHEREAS, the Lake Vista Community Center is one of the non-flood assets of the Orleans Levee District under the management and control of the Management Authority;

WHEREAS, Marine Developments, L.L.C. has proposed leasing Store No. C bearing Municipal Address No. 6510 Spanish Fort Boulevard in the Lake Vista Community Center (the “leased premises”);

WHEREAS, the proposal by Marine Development, L.L.C. is to lease Store No. C for a term of one year, commencing on June 1, 2011 and ending on May 31, 2012, with Lessee having immediate occupancy in consideration of Lessee performing repairs and improvements at its expense with two (2) one year options to renew, commencing on June 1, 2012 and ending on May 31, 2013, and the second one year option to commence on June 1, 2013 and ending on May 31, 2014;

WHEREAS, the rent for the lease of the leased premises, during the primary term shall be \$14.00 per square foot, for an annual rental of \$15,680.00, payable in twelve (12) monthly installments of \$1,306.67 per month, in advance of the beginning of each month;

WHEREAS, the rental for the initial and second option term shall be the fair market rental value for locations in the Lake Vista Community Center at the time that these options are exercised;

WHEREAS, the proposal by Marine Development, L.L.C. for the lease of Store No. C in the Lake Vista Community Center was reviewed by the real estate consultant for the Management Authority who recommended approval of said lease; and,

WHEREAS, the proposal by Marine Development, L.L.C. for the lease of Store No. C in the Lake Vista Community Center was considered at the monthly meeting of the Real Estate Committee of the Management Authority which recommended approval of said lease;

BE IT HEREBY RESOLVED, that the Management Authority approves a lease of Store No. C in the Lake Vista Community Center with Marine Development, L.L.C. under the terms and conditions specified above and under the standard terms and conditions of leases in the Lake Vista Community Center with the Management Authority.

BE IT FURTHER RESOLVED, that the Management Authority Chairman or Executive Director be and is hereby authorized to sign the lease with Marina Development, L.L.C. for Store No. C in the Lake Vista Community Center and sign any and all other documents to carry out the above.

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 05-042111

This motion is to approve the request of the Lakeshore Property Owners Association to paint the bus stops at Canal Blvd. and Robert E. Lee Blvd. and to provide the required insurance. Stanley Cohn, President of Lakeshore Property Owners Association, requested to paint the bus stops. Mr. Capo is waiting to see the colors and the insurance permits. Commissioner Hassinger advised this came before the Recreation/Subdivision Committee and recommended to the full Board that the motion be approved. Mr. Capo will continue to supervise the work there. Commissioner Trask added that he is also on the Board of the Lakeshore Property Owners Association and requested an amendment for permission to do modest tree trimming down General Haig.

Motion No. 05-042111 offered by Commissioner Hassinger, seconded by Commissioner Trask was unanimously adopted to wit:

MOTION: 05-042111
RESOLUTION: 05-042111
BY: COMMISSIONER TRASK
SECONDED BY: COMMISSIONER DEROUEN

April 21, 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 Lakeshore Property Owners Association has requested permission to paint the bus stops and trim the trees in Tiara Park and Peridot Park as deemed necessary located at Canal Blvd. and Robert E. Lee Blvd.; and

WHEREAS, at the Recreation/Subdivision Obligation meeting held on April 15, 2011, the committee reviewed the requests and recommends approval to the Board; and

WHEREAS, the Lakeshore Property Owners Association has agreed to provide the required insurance to paint the bus stops and trim the trees in Tiara Park and Peridot Park as deemed necessary located at Canal Blvd. and Robert E. Lee Blvd; and

BE IT RESOLVED; that the Non-Flood Protection Asset Management Authority authorizes the Lakeshore Property Owners Association to paint the bus stops and trim the trees in Tiara Park and Peridot Park as deemed necessary located at Canal Blvd. and Robert E. Lee Blvd and to provide the required insurance; and

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

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 06-042111

Motion to approve payment to Fisher & Phillips for legal services rendered pertaining to Civil Service matters in the amount of \$3,812.50 for subject to approval by the Office of the Attorney General of the State of Louisiana. Mr. Capo informed this was brought before the Legal Committee and we have received the last bill from Fisher & Phillips in the amount of \$3,812.59 for services pertaining to a civil service matter in January and February.

Motion No. 06-042111 offered by Commissioner Ernst, seconded by Commissioner Heaton was unanimously adopted to wit:

MOTION: 06-042111
RESOLUTION: 06-042111
BY: COMMISSIONER ERNST
SECONDED BY: COMMISSIONER HEATON

April 19, 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 assets of the Orleans Levee District (“OLD”), and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development (Management Authority);

WHEREAS, the Management Authority recently required the immediate professional services of legal counsel on a matter involving employment and the Louisiana State Department of Civil Service;

WHEREAS, Keith M. Pyburn, Jr. of the law firm of Fisher & Phillips, L.L.P., 201 St. Charles Avenue, Suite 3710, New Orleans, LA 70170, an attorney who has specialized in employment law for over 35 years was retained for that purpose;

WHEREAS, Fisher & Phillips, L.L.P. has presented its statement for services rendered and costs incurred to the Management Authority in the amount of \$3,812.50;

WHEREAS, the Legal Committee at its special meeting held on March 21, 2011 approved recommending payment of the statement submitted by Fisher & Phillips, L.L.P. to the Management Authority, subject to review and approval of the firm’s statement by General Counsel of the Management Authority;

WHEREAS, General Counsel for the Management Authority has reviewed the statement submitted by Fisher & Phillips, L.L.P. and has approved the charges as reasonable for the legal services rendered by Fisher & Phillips, L.L.P; and,

WHEREAS, payment of these legal services is subject to approval by the Office of the Attorney General of the State of Louisiana.

BE IT HEREBY RESOLVED, that the Management Authority approves payment of the statement of Fisher & Phillips, L.L.P., in the amount of \$3,812.50, for legal services provided to the Management Authority, subject to approval by the Office of the Attorney General of the State of Louisiana.

BE IT FURTHER RESOLVED, that the Management Authority Chairman or Executive Director be and is hereby authorized to pay the statement of Fisher & Phillips, L.L.P. and sign any and all other documents to carry out the above after approval of same by the Office of the Attorney General of the State of Louisiana.

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES,
TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 07-042111

This motion is to approve insurance for the National Guard Hangar from American Bankers Insurance Company of Florida from Eagan Insurance for renewal of the flood insurance at a cost of \$9,545.00 with a \$5,000.00 deductible for \$500,000 in coverage. We have talked with the Finance Committee about trying to get all of our insurances in line but Mr. Tim Avegno with Eagan indicated this would be difficult to do with the flood policy because it would have to be cancelled and we would be without insurance for 30 days. The flood insurance will remain effective from May 1 through April 30. Commissioner DeRouen questioned if there was an insurance review performed to ensure we have the coverage we need and are paying what we should. Commissioner Hoffman informed that we have not had a formal study done, this has been done internally with the Finance Committee. For each project that comes on board we look and see what types of coverage is needed. We are also looking to get our total insurance program in sync with the fiscal year end and to see if we have enough coverage all the way around.

Motion 07-042111 offered by Commissioner Hoffman, seconded by Commissioner Saizan, was unanimously adopted to wit:

MOTION: 07-042111

RESOLUTION: 07-042111

BY: COMMISSIONER HOFFMAN

SECONDED BY: COMMISSIONER SAIZAN

April 21, 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 flood insurance for the National Guard Hangar at Lakefront Airport expires on April 24, 2011;

WHEREAS, the cost to renew flood insurance for the National Guard Hangar at Lakefront Airport is \$9,545.00 for coverage in the amount of \$500,000.00 with a \$5,000.00 deductible;

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 provide flood insurance for the National Guard Hangar at Lakefront Airport at a cost of \$9,545.00 for coverage in the amount of \$500,000.00 with a \$5,000.00 deductible;

WHEREAS, the Airport Committee of the Management Authority has reviewed this matter and has recommended renewal of the flood insurance for the National Guard Hangar at

Lakefront Airport at a cost of \$9,545.00 with a \$5,000.00 deductible for \$500,000.00 worth of coverage;

BE IT RESOLVED; that the Authority authorizes the renewal of the flood insurance for the National Guard Hangar at Lakefront Airport at a cost of \$9,545.00 with a \$5,000.00 deductible for \$500,000.00 worth of insurance; and

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

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 08-042111

Motion 08-042111 is a motion to select Environmental Management Services, Inc. to prepare the LPDES general Permit for Discharges from Light Commercial Facilities at Lakefront Airport for \$5,000 and submit the General Permit Discharge Elimination System to the State of Louisiana, Department of Environmental Services. This was brought to the Airport Committee and is the lower of the two quotes received for the contractual services. The initial due date was April 1 but requested and received a 30 day extension until May 1. Mr. Capo spoke with the principals of EMS and was assured they could get the work done pending the May 1st deadline.

Motion No. 08-042111 offered by Commissioner Saizan, seconded by Commissioner Hassinger was unanimously adopted to wit:

MOTION: 08-042111

RESOLUTION: 08-042111

BY: COMMISSIONER SAIZAN

SECONDED BY: COMMISSIONER HASSINGER

April 21, 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 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 State of Louisiana, Department of Environmental Services, requires under the General Permit Discharge Elimination System (LPDES) for Discharges from Light Commercial Facilities to submit a permit renewal application, and

WHEREAS, New Orleans Lakefront Airport is required to file under the General Permit Discharge Elimination System (LPDES)

WHEREAS, the renewal application was due on March 31, 2011 and the Management Authority has requested a thirty (30) day extension and the LDEQ approved the extension, and

WHEREAS, Environmental Management Services, Inc., (EMS) has submitted a quote; not to exceed \$5,000., and

BE IT RESOLVED, that the Authority Chairman or Executive Director be and is hereby authorized to enter into an agreement with Environmental Management Services, Inc., (EMS) for \$5,000 to prepare and submit the General Permit Discharge Elimination System (LPDES) to the State of Louisiana, Department of Environmental Services, and to sign any and all documents necessary to carry out the above

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Resolution No. 09-042111

This motion is to approve marina liability insurance with Scottsdale Insurance Company through Eagan Insurance as follows: May 1, 2011 through June 1, 2011 \$5,512.50; July 1, 2011 through June 30, 2012 \$31,053.75. Mr. Capo advised that this is property insurance that will be in line with the fiscal year. Quotes between May 1 and June 30 were \$5,512.50 for the pro rata share and the new policy would be issued from July 1, 2011 through June 30, 2012.

Motion No. 09-042111 offered by Commissioner Hoffman, seconded by Commissioner DeRouen was unanimously adopted to wit:

MOTION: 09-042111
RESOLUTION: 09-042111
BY: COMMISSIONER HOFFMAN
SECONDED BY: COMMISSIONER DEROUEN

April 21, 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 Marine Operators Legal Liability Insurance Coverage for the Non-Flood Protection Asset Management Authority is effective on May1, 2011; and

WHEREAS, a quotation was received to acquire said coverage from Scottsdale Insurance Company through Eagan Insurance to align the insurance to coincide with the fiscal year as follows:

\$5,512.50 - from May 1, 2011 - June 30, 2011

The annual estimated premium from July 1, 2011 – June 30, 2012 is as follows:

\$28,800.00 - Premium

\$ 275.00 - Inspection fee

\$ 500.00 - Broker’s fee

\$ 1,478.75 - Tax

\$31,053.75 - Total

for \$1/\$2 million in coverage and a deductible of \$2,500 per occurrence on property damage & or bodily injury liability combined.

BE IT RESOLVED; that the Non-Flood Protection Asset Management Authority authorizes the acquisition of Marine Operators Legal Liability Insurance Coverage from Scottsdale Insurance Company through Eagan Insurance to align the insurance to coincide with the fiscal year as follows:

\$5,512.50 - from May 1, 2011 - June 30, 2011.

The annual estimated premium from July 1, 2011 – June 30, 2012 is as follows:

\$28,800.00 - Premium

\$ 275.00 - Inspection fee

\$ 500.00 - Broker's fee

\$ 1,478.75 - Tax

\$31,053.75 - Total

for \$1/\$2 million in coverage and a deductible of \$2,500 per occurrence on property damage & or bodily injury liability combined.

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

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

Motion No. 10-042111

This motion is to approve a professional services contract for the Aviation Group for professional services pertaining to the complaint filed by Flightline First for a term of one (1) year effective April 1, 2011 and expiring on March 31, 2012 at a rate of \$450.00 per hour for professional services, plus expenses with a contract limit of \$20,000. Mr. Metzger advised that Flightline has engaged an expert to render opinions on the alleged violations of the insurance premiums. According to Mr. Murdock, we are going to need this expert to render an opinion to submit our responsive filings to the FAA and help determine if there is going to be a full blown hearing in Washington, DC. Mr. Metzger advised that it is a professional service not a legal contract, an expert contract.

Commissioner DeRouen commented that an idea would be to look to authorize our retained lawyer to hire the expert to have an extra layer of privilege protection with the communication with the experts. Mr. Metzger advised that this will authorize his law firm to engage this company to render expert professional services which will affect the contract limit. Under the contract, Mr. Metzger will pay the expert and then seek reimbursement. Commissioner Heaton advised that this was a litigation expense and did not have to be approved by the Attorney General. Commissioner Hoffman stated that his amendment is to have the expert hired by our legal counsel and that our legal counsel's contract be increased by an amount not to exceed \$20,000 for reimbursement of this expense.

Motion No. 10-042111 offered by Commissioner Ernst, seconded by Commissioner Hoffman was unanimously adopted to wit:

MOTION: 10-042111
RESOLUTION: 10-042111
BY: COMMISSIONER HOFFMAN
SECONDED BY: COMMISSIONER SAIZAN

April 21, 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 assets of the Orleans Levee District (“District), and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development (Management Authority@);

WHEREAS, the New Orleans Lakefront Airport (“Airport”) is one of the non-flood assets of the Orleans Levee District under the management and control of the Management Authority;

WHEREAS, the Airport is subject to regulations of the Federal Aviation Administration (“FAA”);

WHEREAS, Flightline Ground, Inc. d/b/a Flightline First, an FBO that leases hangars and related property from the District at the Airport, has filed an FAA Part 16 Complaint against the Management Authority and other named parties, in those proceedings captioned and entitled, “*Flightline Ground, Inc. v. Louisiana Dept. of Transportation and Development, as Successor to the Louisiana Division of Administration and the Board of Commissioners for the Management of the Lakefront Airport, Non-Flood Protection Asset Management Authority, as Successor to the Board of Commissioners of the Orleans Parish Levee District and Orleans Parish Levee District, Division of Non-Flood Asset*, Docket No. 16-11-01”;

WHEREAS, the Complaint filed by Flightline includes allegations of violations of FAA regulations and Assurance Grants between the District and the FAA, and Flightline has engaged the services of an expert to establish these violations;

WHEREAS, The Aviation Group of Leesburg, Virginia has advised and consulted on issues involving the aviation industry and FAA, and has provided litigation services for airports and companies in proceedings before the FAA since the company was founded in 1995;

WHEREAS, the Management Authority’s general counsel, Gerard G. Metzger, and special counsel for FAA matters, J. E. “Sandy” Murdock, III, have recommended that the Management Authority engage The Aviation Group to assist with the defense of the Part 16 Complaint filed by Flightline Ground, Inc. d/b/a Flightline First;

WHEREAS, after consideration of the proposal submitted by The Aviation Group to provide said professional services, and the recommendation of general counsel and special legal counsel for FAA matters, the Management Authority considers it to be in the best interest of the District and Airport to authorize its general counsel, Gerard G. Metzger, to enter into a professional services contract with The Aviation Group under the following terms and conditions;

WHEREAS, the Authority desires that its general counsel enter into a professional service contract with The Aviation Group, for a term of one year, effective on April 1, 2011 and

expiring on March 31, 2012, at a rate of \$450.00 per hour for professional services, plus expenses, with a contract limit of \$20,000.00; and,

WHEREAS, the Management Authority shall be responsible to reimburse its general counsel for the professional charges billed by The Aviation Group and desires to increase the contract limit of the written contract with its general counsel by the sum of \$20,000.00 to cover the reimbursement of these charges by the Management Authority to its general counsel.

BE IT HEREBY RESOLVED, that the Management Authority authorizes its general counsel, Gerard G. Metzger, to enter into a professional services contract with The Aviation Group, for a term of one year, effective on April 1, 2011 and expiring on March 31, 2012, at a rate of \$450.00 per hour for professional services, plus expenses, with a contract limit of \$20,000.00.

BE IT HEREBY FURTHER RESOLVED, that the Management Authority shall reimburse its general for the sums billed by The Aviation Group and hereby increases the contract amount of the written professional legal services contract with Gerard G. Metzger (APLC) by the sum of \$20,000.00.

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

AYES: LUPO, HASSINGER, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, TRASK, SAIZAN, DEROUEN

NAYS:

ABSTAIN:

ABSENT: BRIEN, DUFRECHOU, CANTRELLE

RESOLUTION ADOPTED: YES

PUBLIC COMMENTS

Mr. Robert Draunt stated that Chairman Lupo's comment regarding a joint committee is critical and vital to what the citizens of New Orleans wish to accomplish. When London Avenue and Pontchartrain Beach levee construction was going on, the City of New Orleans had Robert E. Lee under construction as well as Filmore so thousands of cars drove through Lake Terrace on Pratt, Frankfort and Kildeer posing danger to the children and adults in the area. That was an argument that was made this morning regarding why a police force of 30 is not adequate let alone 15. We need not only Southeast Flood Authority's participation, we need the Corps. I contacted Col. Sinkler who directed me to his personal representative who assured me that Orleans Levee Board Police Dept. were retained to take care of the issue. Levee Board Police informed me that they had not been retained. Lake Terrace Crime Prevention District paid out of pocket because we were concerned about the safety issue with all of these cars. Even getting the Corps to put signs or barricades up was fruitless. Lake Terrace Crime Prevention, cooperation of the Levee Board Police and 3rd District Police Dept. got things accounted for. It is important that we proceed with the Corps of Engineers as it relates to what is Non-Flood and Flood. Let's talk about the broader question of what is OLD property. There were presentations this morning regarding statutory, constitutional and bond issues that state responsibilities of the OLD include the Police Department. We think the Police Department, the maintenance of Lakeshore Dr. and bond issues are all in legislation. Crime Prevention District and a number of organizations would like to go forward and have those addressed and participate with this Authority to coordinate with the legislatures and senators regarding this issue. We are interested in things you all have talked, specifically the ownership of the millages because this is one of the critical issues for your Board and we want to address that. We intend to follow those up because they are coming here in May. We are going to have people here to talk to them about what we think those answers are and we are

going to follow up at any number of meetings. Mr. Drount requested to be allowed to comment. The Board has always been receptive and we greatly appreciate it. When we come here and talk to you we feel like we get a lot better feedback and that is all we want. We want you to know that we appreciate all of your efforts.

NEXT BOARD MEETING

Mr. Capo announced the next full Board meeting was scheduled for Thursday, May 19, 2011 at 5:30 p.m.

ADJOURNMENT

Commissioner DeRouen offered a motion to adjourn, seconded by Commissioner Hassinger and unanimously adopted.

The meeting adjourned at 8:30 p.m.