

THE NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
MINUTES OF THE SPECIAL BOARD MEETING
THURSDAY MAY 19, 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, May 19, 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 5:30 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 Darrel Saizan
Commissioner Michael Bridges
Commissioner Wilma Heaton
Commissioner Stanley Brien
Commissioner William Hoffman
Commissioner Greg Ernst
Commissioner Patrick DeRouen
Commissioner Carlton Dufrechou
Commissioner Pearl Cantrelle

ABSENT:

Commissioner Joe Hassinger
Commissioner John B. Trask

STAFF:

Louis Capo, Executive Director
Sharon Martiny, Non-Flood
Vincent Caire, Non-Flood
Dawn Wagener, Non-Flood
Fred Pruitt, Airport Director
Major Donald Booth, Police
Nina Marchand, Non-Flood

ALSO PRESENT:

Al Pappalardo
Randy Maddox
J.R. Siegler
Sandy McKibben
Warren Bell, Jr.
Gerard Metzger
Steve Nelson
Constantinos Vennis

ADOPT AGENDA

Commissioner Ernst offered a motion to adopt the Agenda as printed, seconded by Commissioner Hoffman and unanimously adopted. Commissioner Cantrelle offered a motion to amend the Agenda, seconded by Commissioner Baudy and unanimously adopted.

APPROVAL OF PRIOR MINUTES

Commissioner Hoffman offered a motion to approve the minutes of the Board meeting held April 21, 2011, seconded by Commissioner Baudy and unanimously adopted.

Chairman Lupo addressed the e-mail regarding legislation that Rep. Nick LaRusso had put forth requesting 20% of the special levee improvement fund currently collected through taxes of Orleans Parish to be dedicated to the Non-Flood Authority to operate with unfunded mandates.

Chairman Lupo informed he was in Baton Rouge at a meeting attended by Senators Morrell and Murray, Rep. LaRusso, representatives of affected surrounding districts, Susan Guidry, the Mayor, Cedric Grant, Mr. Doody, Mr. Estopinal and Mr. John Barrett as well as Mr. Jay Lapair who is very involved in discussions regarding Flood and Non-Flood. At the meeting, the mayor gave an impassioned speech stating that assets of the Non-Flood Authority are important to New Orleans yet funding previously available for mandated but unfunded operations was taken away when the Orleans Levee District was split into Non-Flood and Flood divisions. Chairman Lupo advised the one-time cash infusion from the Bally's settlement will run out in approximately 18 months. Rep. LaRusso's legislation will be discussed within the next 2 weeks.

Chairman Lupo added that the Flood side agreed that the operation and maintenance of Lakeshore Drive is a Flood obligation integral to the protection of the levees to the seawall and a resolution was passed acknowledging the Flood side should be responsible. Ideally, the Flood side will fund this Authority for those obligations. The main concern is that the Flood Authority's main goal is flood protection and Lakeshore Dr. may be treated as a stepchild. Lakeshore Dr. is an obligation that should be funded by the Flood side but operated by the Non-Flood side.

If the Airport and Marinas are not financially sound when that money runs out there is going to be a gap which needs to be funded as well. This Authority has tremendous support from the elected representatives on the state level. Chairman Lupo stated that the resolution passed by SLFPA-E is their first step to say that they are interested in moving this forward.

Commissioner Heaton commented as a community we have come a long way. There was progress in the meeting as the Flood side was concerned prompting a unanimous vote on the resolution. There is a cost of approximately \$2 million between maintenance on Lakeshore and the Police salaries. There was zero for Lakeshore residents and that zero went to \$2 million for Lakeshore Dr. and the Police, which is a good first step. Legislative session is a hard time to work through this as there are over 800 bills; some specific bills will have a fiscal impact. The Burns Boehmia bill will strip \$3.7 million from the Flood Authority for the next 9 years. The cost share on the 100 year protection is \$300 million for OLD with the federal government. Prior federal administration gave us 30 years to pay that back which will be \$10 million for 30 years. There has been more progress in 2 weeks than in 2 years and this progress is a result of better educated dialogue in which people are starting to understand real numbers.

Chairman Lupo commented that the Flood side realizes that something has to be done which is a gigantic step. Ms. Heaton added that \$2 million only covers half of the police and \$700,000 for grass cutting. That does not include all preferred and other maintenance on the Lakefront. Those were the two items the Southeast Louisiana Flood Protection Authority East Board was comfortable taking over. In the capital budget just passed there is \$8 million for the next 3 years for erosion between the seawall and Lakeshore Dr. In their mind that would segway into maintenance of Lakeshore and if you are going to be maintaining Lakeshore Dr., police protection must be in place.

Commissioner Cantrelle questioned if the \$2 million would be permanent or just until this Authority is able to fund it. Commissioner Heaton stated this was not discussed but it sounded like any help would be given until Non-Flood could be self sufficient.

Mr. Capo advised that there was a conversation with the Civil Service regarding the process with the police regarding a lay off plan. A letter has been submitted to Civil Service. It is a plan to lay off the police June 30th. On July 1st if the Flood Authority has a structure in place they will advertise and fill those positions. It will not be a lateral transfer. The Flood side will advertise positions available through Civil Service or take from our existing police department as the police are considered state Civil Service. The Non-Flood officers would have to reapply to the Flood side, there is no way to short circuit that. Mr. Metzger advised of the argument that the employees are the employees of the Orleans Levee District. There is one corporation and two boards. This was not accepted because the management authority is an agency placed within the Louisiana Dept. of Transportation and Development. They are two separate employers: the Management Authority and the Southeast Flood Authority. Mr. Capo added that the police and office personnel are being eliminated and laid off. Although the police are employed by Non-Flood and Flood, the entire Police Dept. falls under the management of Gerry Gillen and high river flood fight but Civil Service did not see it that way.

Commissioner Dufrechou questioned if the Flood side intended to open this up to new hires. Mr. Capo informed that when Civil Service asked Mr. Gillen how many positions were needed, Mr. Gillen stated 23 positions were needed; there are 32 police. Commissioner Ernst questioned how many police the other flood districts had versus what Southeast Louisiana Flood Protection Authority East has. Mr. Capo advised that East Jefferson has 19 paid police and 20 reserve officers that cover 29 miles of levees; OLD Flood Division covers 105 miles of levee.

Commissioner Hoffman questioned if it was determined that the two entities are all part of the Orleans Levee District for state reporting purposes. Mr. Capo informed that is a financial decision and Civil Service is not concerned with the financial structure. Mr. Metzger added this went on for 3 days. On Monday a transfer was permissible and then they came back and told us no because they consider it to be two separate agencies and employers and you cannot transfer between two agencies.

Cmdr. Henry Dean suggested the Board ask for an Attorney General opinion as that is the final opinion and it should be challenged that way. They are discounting the practical side of this in that there are presently 30 experienced officers. If we deplete the Levee Police, I can hire those people and get the same budget but I can pay them less. Let's get the officers that are laid off under a different retirement system so we can bring back the experience. This group can hire them at a diminished rate and with the officers collecting pension, the pension will offset the lower salary.

Mr. Capo stated that the Flood Director mentioned he was going to model the new Flood Division Police Dept. after East Jefferson and create a reserve commission so some of the officers eligible for retirement would become a reserve officer and still maintain police credentials and work details.

Commissioner Dufrechou questioned if it would be beneficial for the officers with seniority to retire before July 1st. Mr. Capo advised that option could be explored. There are 8-10 officers eligible to retire. It is Mr. Capo's recommendation the Flood side take all police and work with Non-Flood on a lateral transfer and implement a lay-off avoidance measure and retirement incentive. That would take longer term higher rank and salaried police off the payroll leaving the younger lower salaried officers.

Commissioner Dufrechou questioned if there was a contingency to look at for the officers. Mr. Capo informed that the officers that are eligible to retire can retire at any time. Several things were mentioned to Civil Service during a conference call with the Flood Authority. How fast can they hire 23 police officers because in a little more than 30 days we will have no police. Hurricane season is approaching and there will be no police protection.

Commissioner Cantrelle questioned if we could extend the time and provide somebody temporarily. Mr. Capo informed that it was mentioned to continue the present

arrangement for 90 days with the Flood side paying for police so something could be implemented to avoid a lay off and losing protection in the middle of hurricane season.

Commissioner Hoffman advised that this Authority consider going to the Attorney General. Mr. Metzger advised that the Board would need an authorized resolution to request an Attorney General's opinion. Chairman Lupo questioned if Civil Service is basing this on specific grounds or is it arbitrary in that they just encroached an opinion. Mr. Metzger stated it is based on Act 1014, which says that this Board is an agent, independent of the Flood side which is a political subdivision. I do not agree with the conclusion as the employees are employees of the Orleans Levee District consisting of two Boards. This is unique and there is no other example.

Commissioner Hoffman offered a motion to authorize the Executive Director, through counsel, to request an opinion from the Attorney General as to the legality of transferring the employees from the Non-Flood over to the Flood side.

Chairman Lupo noted that we are under Opening Comments and to proceed correctly a motion to adopt the agenda is needed along with a motion to revise the agenda. There was a unanimous vote to amend the agenda. Commissioner Hoffman added an item to the agenda regarding transfer of the police dept. to the Flood Division of the Orleans Levee District. No objections were heard and that item was added to the agenda. Commissioner Hoffman offered a motion to ask the Attorney General for an opinion regarding the legality of transferring our employees from the Non-Flood to the Flood side all within the Orleans Levee District, seconded by Commissioner Bridges and unanimously adopted to wit:

Motion No. 04-051911 (Added as new Resolution at meeting)

MOTION: 04-051911
RESOLUTION: 04-051911
BY: COMMISSIONER HOFFMAN
SECONDED BY: COMMISSIONER BRIDGES

May 19, 2011

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority (the "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);

WHEREAS, Section 326 of Title 38 expressly authorized the Orleans Levee District to "employ one or more persons as levee district or levee and drainage district police officers," (the "Orleans Levee District Police Department" or the "OLDPD"), and under this Section the OLDPD is responsible for maintaining order and exercising general police power on and around the levees within the area of the levee district and upon its surrounding waters;

WHEREAS, prior to August 15, 2010 the non-flood assets of the Orleans Levee District were managed by the Division of Administration of the State of Louisiana;

WHEREAS, on May 17, 2007 the SLFPA-East and West ("Flood Authority") and the DOA entered into a Memorandum of Understanding to implement the provisions of Act 1 of the First Extraordinary Session of 2006 (the "MOU"), and the purpose of the MOU was, in part, to delineate the assets of the OLD that comprise the non-flood assets of the OLD;

WHEREAS, the MOU also divided the responsibility for the employees of the OLD between the Flood & Non-Flood Divisions, including the officers in the OLDPD, and the DOA and Flood Authority agreed that the employees of the OLDPD would be assigned to the Non-Flood Division, now governed by the Management Authority, and agreed that 50% of the police work force hours were to be dedicated to the flood protection side and that the total cost of the OLDPD would be equally shared by the SLFPA-East and West and the DOA;

WHEREAS, because of fiscal constraints the Management Authority adopted an annual budget in March, 2011 for the fiscal year 2012 which does not include funding for its share of the costs for the OLDPD;

WHEREAS, the Management Authority has been in discussions with the SLFPA-East regarding the possible transfer of the officers in the OLDPD to the management and control of the SLFPA-East;

WHEREAS, the Civil Service Commission has advised the Management Authority that the officers cannot be transferred under Civil Service Rule by the OLDPD to the management and control of the SLFPA-East and that the Management Authority must request a layoff plan for the employees of the OLDPD and that the SLFPA-East would have to establish an organization and positions and then advertise for qualified applicants for these law enforcement positions;

WHEREAS, the alternative proposed by the Civil Service Commission will not necessarily insure that the current police officers of the OLDPD will obtain employment in any new organization established by the SLFPA-East, will be disruptive to the current organization of the OLDPD and could result in the loss of experienced officers of the OLDPD;

WHEREAS, after considering the alterative proposed by the State, the Management Authority believes it is in the best interest of the Orleans Levee District to request an opinion from the Attorney General of the State of Louisiana on the issue of whether the management and financial responsibility for the employees of the Orleans Levee District Police Department may be transferred by the Management Authority to the SLFPA-East; and,

WHEREAS, after considering the alterative proposed by the State, the Management Authority also believes it is in the best interest of the Orleans Levee District to pursue legislation to authorize the transfer of the management and financial responsibility for the employees of the Orleans Levee District Police Department to the SLFPA-East;

BE IT HEREBY RESOLVED, that the Management Authority hereby authorizes its legal counsel to request an expedited opinion from the Attorney General of the State of Louisiana on the issue of whether the management and financial responsibility for the employees of the Orleans Levee District Police Department may be transferred by the Management Authority to the SLFPA-East;

BE IT HEREBY FURTHER RESOLVED, that the Management Authority hereby authorizes its Executive Director, staff and counsel to pursue legislation to authorize the transfer of the management and financial responsibility for the employees of the Orleans Levee District Police Department to the SLFPA-East; and,

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

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

NAYS:

ABSENT: HASSINGER, TRASK

ABSTAIN:

RESOLUTION ADOPTED: YES

Motion 05-051911

Motion 05-051911 is a motion to Ratify the actions of the Executive Director regarding 21 Jump Street, a movie shoot company which shot at South Shore Harbor and under the Ted Hickey Bridge. Mr. Capo advised that the company filming 21 Jump Street requested permission for use of the east flyover next to South Shore Harbor, South Shore Harbor's parking lot and a spot under the Seabrook Bridge to film a scene for the movie at the rate of \$10,000 for a one day shoot. Commissioners Saizan, Brien and Vice Chairman Hassinger agreed it was worth pursuing. An agreement was signed to collect the \$10,000. Mr. Metzger advised that in the proposed by-laws there will be a provision granting the Executive Director authority for such contracts.

Commissioner Heaton requested a motion to ratify the actions of the Executive Director regarding the movie and Mr. Metzger agreed it would be helpful to have ratification of the action. Commissioner DeRouen offered a motion to add the matter to the agenda, seconded by Commissioner Hoffman and unanimously adopted.

Commissioner Heaton moved for a motion to ratify the actions of the Executive Director in 21 Jump Street, a movie shoot company which shot at South Shore Harbor and under the Ted Hickey Bridge, seconded by Commissioner Hoffman and unanimously adopted to wit:

Motion No. 05-051911 (Added as new Resolution at meeting)

MOTION: 05-051911
RESOLUTION: 05-051911
BY: COMMISSIONER HEATON
SECONDED BY: COMMISSIONER HOFFMAN

June 16, 2011

RESOLUTION

WHEREAS, the Non-Flood Protection Asset Management Authority (the “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”);

WHEREAS, South Shore Harbor Marina (“Marina”) in the City of New Orleans is one of the non-flood assets of the District under the management and control of the Management Authority;

WHEREAS, the Senator Ted Hickey Bridge (“Bridge”) in the City of New Orleans is one of the non-flood assets of the District under the management and control of the Management Authority;

WHEREAS, the Executive Director of the Management Authority received a request from Jump 21 Productions, L.L.C. to enter into certain location agreements for the purposes of recording certain scenes for the motion picture 21 Jumpstreet in and around South Shore Harbor Marina, the Senator Ted Hickey Bridge and also for location parking;

WHEREAS, Jump 21 Productions, L.L.C. agreed to pay the Management Authority \$10,000.00 for said location agreements and location parking agreement, and, in addition, provide appropriate indemnification and insurance;

WHEREAS, Jump 21 Productions, L.L.C. made the request to the Executive Director only several days before filming was to take place and therefore the Executive Director was not able to obtain prior Management Authority approval for entering into said agreements;

WHEREAS, the Executive Director after considering entering into the agreements to be in the best interest of the Management Authority, entered into the agreements and now requests that the Management Authority ratify his actions.

BE IT HEREBY RESOLVED, that the Management Authority approves and ratifies the agreements with Jump 21 Productions, L.L.C. entered into by the Executive Director.

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

NAYS:

ABSENT: HASSINGER, TRASK

ABSTAIN:

RESOLUTION ADOPTED: YES

Mr. Capo advised that the Legislators’ Auditor’s Office was contacted and four firms responded to the bid: Aaron Cooper, LaPorte, Rebowe & Co. and Silbert, Gertner & Abney. The legislative auditor will now review and rank the qualifications. When they submit qualifications they submit a package price. The lowest bidder does not have to be selected. A meeting will be scheduled to keep this process moving forward to get an auditor engaged. Rebowe & Co. and Silver & Gertner both have experience with the

District since the storm. Rebowe & Co. did the audit for the last three years. This is a 3 year contract with a 1 year extension.

Mr. Capo advised of a kick-off meeting with the Counselors of Real Estate in which time a tour from Orleans Marina to South Shore Harbor will be given to view the properties. Mr. Pappalardo will then meet with the counselors and there will be a presentation by Mr. Baudier, who is familiar with the development of South Shore Harbor from the inception to where we are today.

COMMITTEE REPORTS

1) Airport Committee

Mr. Capo informed that we have moved forward with the bid for the airport interior. The first advertisement was advertised in the paper and there is a pre-bid conference on June 2nd or 3rd. The airport interior is expected to be complete this time next year. There will be monthly updates at the Airport Committee meetings throughout this project to keep the committee and board members informed of where we stand on the project.

2. Marina Committee

Commissioner Brien informed that the Marina Committee met in advance of the Counselors of Real Estate arriving and spoke more as a point of information as to the needs of the Orleans Marina. Mr. Dixon and Mr. Capo gave information as to the needs there. Information was provided to try to put our hands around in anticipation of the Counselors of Real Estate coming to help prioritize the needs at Orleans Marina. We are at an informational phase right now.

3. Police Committee

Commissioner Dufrechou requested that Maj. Booth give an update on work the Levee Police are presently involved in. Maj. Booth informed the police are doing levee checks on the river which started when the river became 13 feet. Currently, there are 3 police assigned to check the river levee. It is a continuous task and not too many problems have been discovered. The biggest problem was the barges being close to the levee. They are required to be within 180 feet of the center line of the levee. The levee is in pretty good shape but there was patch work done on some spots.

4. Legal Committee

Commissioner Ernst informed that the meeting was cancelled because there were not enough members present to discuss the by-laws. This will be continued at the meeting during the 2nd week of June.

5. Finance Committee

Chairman Lupo informed that the Executive Director and Chairman Hoffman are trying to come up with numbers to present to this legislative group in Baton Rouge to forecast what this Authority needs to proceed short term until the assets are up and running. Commissioner Heaton requested a projection on the capital side. There are insurance and FEMA dollars kicking in and Baton Rouge wants to know where we stand. Is the Authority confident the cash flow is going to be there for the \$60 million worth of capital projects? Chairman Lupo informed that money has to be put out and then reimbursed; it is going to be a shell game. If the economic development can see that way to make an advance to the authority it would help things out. Mr. Capo does not see any difference now from the remaining 3-4 projects we have at the airport than we did when we started the Katrina projects; the Authority will still be behind the curve as the contractor will be paid and then the Authority will be reimbursed. Commissioner Heaton stated if you are going to have to outlay \$5 million to get this jump started that would bring in revenue sooner and it would make the case to be able to get that help.

OLD BUSINESS

Motion No. 01-051911

Motion No. 01-051911 authorizes approval of a mutual release between Ellis Construction and the Authority regarding the Bastian-Mitchell Hangar. In response to an RFP, Ellis was the lowest responsive bidder. There was an issue with the Bastian-Mitchell project being several million dollars above the estimated PW so this had to go through the cue with FEMA to get funding obligated which took several months. Ellis stated they were going to hold the price. When FEMA approved the monies and obligated the funding, Ellis again stated they were interested in the contract and wanted to move forward. Ellis forwarded the contract but the sub-contractor could no longer hold the steel price which had escalated somewhere in the neighborhood of \$1.2 million. Ellis nor the sub could eat that cost. There was concern if we went to bid and let Ellis out of the contract, FEMA would not fund the additional monies. FEMA stated we could release Ellis from the contract and FEMA would fund the escalated steel costs. There were several times with Mr. Stuart and others with Ellis Construction who claimed they or their sub would be put out of business if we held them to the contract. The cost now is going to be fully reimbursed by FEMA. It is recommended to release Ellis. Mr. Metzger has worked with Ellis' attorney and prepared a mutual release between Ellis and the Authority to not move forward with the contract. It was going to be a very contentious argument between the Authority and Ellis. Ellis felt they did not have a contract with the Authority because they called within several hours of handing us the signed contract and requested we not sign the contract as they wanted to withdraw. This legal matter would have been costly on both sides and there was nothing to gain from either side going forward. It was in the best interest of the Authority to release Ellis and the Authority and go out for bid to move forward with the Bastian-Mitchell Hangar.

Motion No. 01-051911 offered by Commissioner Saizan, seconded by Commissioner Ernst was unanimously adopted to wit:

MOTION: 01-051911
RESOLUTION: 01-051911
BY: COMMISSIONER SAIZAN
SECONDED BY: COMMISSIONER ERNST

May 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 ("District), and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development (the "Management Authority");

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

WHEREAS, the District issued a request for proposals for the reconstruction of the Mitchell-Bastian Hangar at the Airport (the "project");

WHEREAS, Ellis Construction, Inc. ("Ellis") submitted a bid and when the bids were opened Ellis was identified as the low bidder ("Ellis' bid");

WHEREAS, certain disputes arose between the Management Authority and Ellis concerning Ellis' bid;

WHEREAS, the Management Authority and Ellis have resolved all disputes between them and have agreed to release all claims that they might have against one another involving the Ellis bid and this project;

WHEREAS, the parties have also agreed to execute a written agreement to set forth the terms of the settlement of this matter, a copy of which is attached hereto;

WHEREAS, the proposed settlement agreement with Ellis was brought before the Airport Committee of the Management Authority at its meeting held on May 3, 2011 and the Committee voted to recommend approval of the settlement agreement to the Management Authority; and,

WHEREAS, the Management Authority after considering this matter and the recommendation of the Airport Committee resolved that it would be in the District and Airport's best interest to enter into the attached Settlement and Mutual Release Agreement with Ellis.

BE IT HEREBY RESOLVED that the Management Authority approves of the settlement with Ellis Construction, Inc. under the terms and conditions set forth in the attached Settlement and Mutual Release Agreement.

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

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

NAYS:

ABSENT: HASSINGER, TRASK

ABSTAIN:

RESOLUTION ADOPTED: YES

Motion 02-051911

Motion 02-051911 is a motion to authorize renewal of property insurance coverage for the Fuel Farm with Morrison Insurance Agency. The insurance expires May 30, 2011 and the quote for one year is \$59,195.85 including terrorism coverage. We are trying to get the insurance in sync with the fiscal year. Mr. Randy Maddox, President of Morrison Insurance, assembled a quote for 13 months of coverage. The premium is a pro rata share. The cost for a 13 month policy is \$63,552.44, including terrorism. The coverage for tanks and the building at the Fuel Farm is \$2,445,000 along with business interruption coverage for \$385,000 for loss of Fuel Farm sales. We had that coverage during Katrina and received business interruption coverage on the loss of Fuel Farm sales.

Mr. Maddox added the policy provides flood insurance in excess of coverage under the national flood insurance program which is good coverage to have. This is a percentage deductible under the flood. From the flood standpoint, there is a deductible for flood in the event of a named storm which policy would provide coverage once the following items are met: coverage with NFIP (max limits are \$500,000 on building and \$500,000 on content). Whether you have that purchased or not, that deductible would apply. Once the deductible is met, there would be an additional 5% of the total insured value which is computed at \$141,000. You would collect for flood the policy limits under a named storm once those levels are met. If there was an event as in the flood taking place now where water is rising or there was storm which sat over us for 3 days, the deductible is \$25,000 once the NFIP damage would be met of \$500,000. In the event of anything but a named storm or a wind event, the deductible is \$10,000. If there was a named storm, the deductible is 5% of the total values subject to \$100,000 minimum per occurrence. For any other type of wind such as a tornado the deductible would be \$25,000. The actual fuel itself is not covered; it is just buildings and personal property.

Motion No. 02-051911 offered by Commissioner Hoffman, seconded by Commissioner Brien was unanimously adopted to wit:

MOTION: 02-051911
RESOLUTION: 02-051911
BY: COMMISSIONER SAIAN
SECONDED BY: COMMISSIONER HOFFMAN

May 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 (“District), and an agency of the State of Louisiana placed within the Louisiana Department of Transportation and Development (the “Management Authority”);

WHEREAS, the Property Insurance coverage for the New Orleans Lakefront Airport’s Fuel Farm will expire on May 30, 2011; and

WHEREAS, Morrison Insurance Agency, through its President, Randy Maddox, shopped the market for said coverage, and obtained a quote for \$2,445,000 of Real Property/Fuel Tanks and \$385,000 in Business Interruption on the loss of fuel sales, from Lloyds/Lantana, Inc., LDT/QBE Specialty Ins. Co. at an annual premium of \$59,195.85 including Terrorism coverage; and

WHEREAS, the Authority desires to have the insurance coverage and premiums coincide with the Authority’s fiscal year, the coverage and premium will be thirteen months, for a total estimated annual premium of 463,552.44 including Terrorism; and

BE IT RESOLVED, that the Non-Flood Protection Asset Management Authority authorizes the procurement of the property insurance for the New Orleans Lakefront Airport Fuel Farm, through Morrison Insurance Agency, Inc. with Lloyds/Lantana, Inc., LDT/QBE Specialty Ins. Co. at an estimated annual premium of 463,552.44 including Terrorism coverage, for a period of thirteen months beginning May 20, 2011 and expiring June 30, 2012; 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, SAIZAN, CANTRELLE, DEROUEN

NAYS:

ABSENT: HASSINGER, TRASK

ABSTAIN:

RESOLUTION ADOPTED: YES

Motion 03-051911

Motion 03-051911 is to amend the professional legal services contract with Gerard G. Metzger and increase the budget through the end of the fiscal year. At the April 21, 2011 Finance Committee meeting, it was recommended that we increase the budget by \$20,000 to cover the experts’ (Aviation Group) maximum expense while working on the Part 16 Complaint. At that time, the committee questioned what additional legal costs would be needed for the remainder of the fiscal year. Mr. Metzger’s contract runs from January 1 – June 30, a 6 month contract to coincide with the fiscal year. Mr. Metzger informed his contract will need an additional \$30,000 for May and June. This motion is a one-time amendment to the contract. There are two resolutions: one for \$20,000 and another for \$30,000. The amendment will be submitted to the Attorney General’s office for \$50,000.00 which covers the two resolutions. Chairman Lupo commented that no one likes to see costs rise but we have no control over these things. The Authority gets sued and has to look at legislation request staff counsel to ask the Attorney General for an opinion. Mr. Metzger has a fine group handling that for us whose institutional memory is terrific and whom are always at our disposal. It is Chairman Lupo’s recommendation to approve the motion from the Legal Committee. Commissioner Ernst added that Mr. Metzger works extra hard with issues that have arisen regarding the Police force and the difference of opinion regarding the Act 1014. There are issues that arise that are not anticipated therefore it is justified that we amend Mr. Metzger’s contract.

Motion No. 03-051911 offered by Chairman Ernst, seconded by Chairman Lupo was unanimously adopted to wit:

MOTION: 03-051911
RESOLUTION: 03-051911
BY: COMMISSIONER ERNST
SECONDED BY: CHAIRMAN LUPO

May 19, 2011

RESOLUTION

WHEREAS, effective the 1st day of January, 2011, the **Non-Flood Protection Asset Management Authority (“Management Authority”)** entered into a written Professional Legal Services Contract with **Gerard G. Metzger, A Professional Law Corporation** dated on or about January 6, 2011 (the “Contract”);

WHEREAS, said Contract was for a term of six (6) months commencing on January 1, 2011 and ending on June 30, 2011, and established a budget for attorney’s fees and expenses in the amount of \$100,000.00, and set forth other terms and conditions for said professional legal services;

WHEREAS, the budgeted amount of said Contract for Professional Services Contract with Gerard G. Metzger (APLC) by resolution adopted by the Management Authority on April 21, 2011 was increased by the sum of \$20,000.00, to cover out-of-pocket litigation cost, including expert witness fees, as set forth in said resolution, which increased the total budgeted amount of the contract to \$120,000.00; and,

WHEREAS, the budgetary amount of \$100,000.00 for the firm’s legal fees and expenses established under the Professional Legal Services Contract dated on or about January 6, 2011 will be exhausted as of June 1, 2011;

WHEREAS, the Management Authority desires to amend the Contract for the purpose of increasing the budget established for legal fees and reimbursement of expenses for Counsel by \$30,000.00 thereby increasing the budget under the Contract to the sum of \$150,000.00 effective upon adoption of this resolution; and,

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

BE IT HEREBY RESOLVED, that the Management Authority approves an amendment of the Professional Legal Services Contract with Gerard G. Metzger (APLC) to increase the budget of said contract to the sum of \$150,000.00 effective upon the adoption of this resolution.

BE IT FURTHER RESOLVED, that the Executive Director of the Orleans Levee District is hereby authorized to sign an amendment to the Professional Legal Services Contract with Gerard G. Metzger (APLC) to increase the budget of said contract to the sum of \$150,000.00 effective upon adoption of this resolution.

AYES: LUPO, ERNST, BAUDY, HOFFMAN, HEATON, BRIDGES, BRIEN, DUFRECHOU,
SAIZAN, CANTRELLE, DEROUEN
NAYS:
ABSENT: HASSINGER, TRASK
ABSTAIN:
RESOLUTION ADOPTED: YES

Mr. Capo informed that subpoenas were received for court appearance on June 13, 2011 in the AT&T lawsuit in which Jay Napolitano sued the District back in 2006. The previous Board in 2006 allowed AT&T (BellSouth) to put platforms with communications equipment in several subdivisions. There was a platform erected in Lake Terrace and a subsequent settlement but the platform was never removed. Mr. Napolitano sued the Levee Board, an offer was and Mr. Napolitano refused to accept the offer. On June 13th, Mr. Pappalardo, Mr. Curtis and Mr. Capo will appear in court to answer questions and move forward with that lawsuit. Commissioner Saizan added that in the years following the hurricane there was no land line phone service in the subdivisions. The residents came before the Board and represented this was the quickest to bring back land line phone service to the subdivisions because the sub surface damage had been too great. These platforms were erected because cellular service was not dependable. Mr. Capo added that the citizens were in favor of this in the area because they needed phone lines. The residents came to the previous Board and the Board accommodated them. AT&T did not pay for the servitude. The citizens at that time wanted and needed phone service.

PUBLIC COMMENTS

J.R. Seiler – Lake Terrace

Mr. James Seiler expressed concern regarding safety because we are in the middle of a flood fight in the river, which will end in the middle of June, and hurricane season is fast approaching. Here we sit in 8 square miles of the largest park in the city and they don't seem to notice that. The resolution passed this morning by SELFOA may be the beginning of a way that both sides can work out some of these issues. Mr. Seiler informed that basically, Southeast Louisiana Flood Protection Authority East was going to take over paying for some grounds maintenance and the police department; whether they were going to own the police department or not is not clear.

Commissioner Heaton informed that she did not represent that they were going to police the neighborhoods. They were clear about that today. Mr. Seiler added that they were not dealing with the neighborhoods they are just interested in Lakeshore Drive and the approaches to the parks, not the parks in the middle. At least it is something and we are moving forward.

Chairman Lupo advised the Board members that the financial disclosure statements are due May 16, 2011. Commissioner Heaton added that a \$500 fine per day is imposed until the statements are received.

NEXT BOARD MEETING

Mr. Capo announced the next full Board meeting was scheduled for Thursday, June 16, 2011 at 5:30 p.m.

ADJOURNMENT

Commissioner Ernst offered a motion to adjourn, seconded by Commissioner Cantrelle and unanimously adopted.

The meeting adjourned at 7:15 p.m.