

NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
MINUTES OF THE COMMERCIAL REAL ESTATE COMMITTEE MEETING
JANUARY 13, 2011 – 1:30 P.M.

The regular monthly meeting of the Commercial Real Estate Committee of the Non-Flood Asset Protection Management Authority was held on Thursday, January 13, 2011 at 1:30 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.

Commissioner Trask called the meeting to order at 1:34 p.m. and led in the Pledge of Allegiance.

The roll was called and a quorum was present.

PRESENT:

Chairman John Trask
Commissioner Joe Hassinger
Commissioner Stanley Brien

FURTHERMORE PRESENT:

Chairman Robert E. Smith Lupo

ABSENT:

Commissioner Wilma Heaton

STAFF:

Louis Capo, Executive Director
Sharon Martiny, Non-Flood

ALSO PRESENT:

Ron Carter
Dan Robinson
Matt Monson
Frank Royerre
Michele Brimer
Ray Landere
Mickey Weiser
Rene Chapman
Rolla Tichener
Amandee Herman
Kathleen Vogt
John Davis
Freida Harris
Betsy Boudreaux
Tom Fierre
Holly Callia
Charles Curtis
Albert Pappalardo
Steve Nelson
Bobby Dupuy

APPROVAL OF AGENDA

Commissioner Brien offered a motion to adopt the agenda, seconded by Commissioner Hassinger.

APPROVAL OF PRIOR MINUTES

Commissioner Brien offered a motion to approve the minutes of the Real Estate Committee for December 2, 2010, seconded by Commissioner Hassinger.

X. NEW BUSINESS

1. Schubert's proposal to convert a portion of its leasehold to operate a bar

Mr. Capo stated that in 2009 Mr. Weiser and Mr. Brimer owner's of Schubert's Marine inquired about modifying their lease and converting a portion of the leasehold to operate a 750 square foot bar. Mr. Capo and Mr. Pappalardo advised Mr. Weiser and Mr. Brimer to submit plans and specs and to meet with the condo associations that are adjacent to the proposed site. Mr. Weiser and Mr. Brimer met with the associations who at the time were opposed to the development or conversion into a bar. This issue was presented to Jerry Jones, Division of Administration, who sided with the residents and was in agreement that the bar should not go forward. Since then there has been no contact regarding moving forward with the bar. Mr. Capo stated that he did meet with one of the condo associations and at the time they strongly opposed the conversion to a bar.

Chairman Trask questioned if plans and specifications were ever turned in. Mr. Capo stated that Mr. Weiser and Mr. Brimer submitted a sketch. There were no detailed plans as such that would be used for building permits, but a conceptual type plan of where they wanted to place the bar on their leasehold. Mr. Capo stated that Mr. Weiser and Mr. Brimer came to one of the committee meetings in December and wanted to get on the agenda and we placed them on the agenda for today's meeting.

MR. MICKEY WEISER – Schubert's Marine

Mr. Mickey Weiser, principal owner of Schubert's Marine stated that he manages the premises leased from the Levee Board with his brother-in-law and managing partner, John Brimer and his son, Jordan Brimer. Mr. Weiser then gave a background stated that there was a meeting with Mr. Capo and Mr. Pappalardo about 1 ½ years ago. Mr. Weiser stated he bought the rights to the lease in 2003. Between 2003 and 2005, revenues at the boatyard almost tripled. Since 2005, Hurricane Katrina put a dent in the ability to generate enough revenue to make it a viable venture going forward. Mr. Weiser stated he invested quite a bit of money opening a full retail store and spent six months advertising to try and develop that aspect of it. There are 40% fewer boats in the marina and it has been a constant struggle. Mr. Weiser stated that they have explored leasing part of the space as office space or to other manufacturers but has not had any success. Ultimately, we talked about opening up a waterfront bar with a nautical theme because it was so customer driven. There is one place to go on the south shore, Landry's Seafood, everything else is gone. The boats go across the lake taking their sails and fuel needs to Mandeville or Slidell so we thought this might be a good fit. It fits in with the type of services we can provide to customers.

Mr. Weiser acknowledged the concern of homeowners about opening a bar in West End Park. I have invited people to come and look at the space; a 640 foot square area with a maximum capacity of about 35-40 people. Mr. Weiser stated it would not be a biker bar, which a lot of homeowners are concerned about. It is not so large as to be disruptive to the neighborhood and many people would welcome it because it is close and within walking distance to many of the boathouse owners. It is the farthest end of the property we leased; the farthest away from all of the townhouses. We don't see it making a huge difference in our revenue stream but every little bit will help. The BP oil spill shut us down over the summer because nobody used their boats; they could not go offshore. That is the biggest bulk of our customers, people that go offshore fishing. Nobody could go offshore for three months so we had no fuel sales, no work in the yard and people deferred doing work on their boats. This is a 650 square foot area so it may create a few jobs. It will create more sales taxes, taxes that are now going to the north shore because that is where the boaters are going.

We will work with the neighborhood to limit the hours and we are trying to cater to the boating community. We will not promote biker night or things like that. There is a lot more on the horizon for West End. West End Development Program is talking about hotels, possibly entertainment areas, retail, residential, shopping; it is a big project. A lot is coming to West End and we don't see how our little 650 square feet of space could not be a part of that.

Mr. Pappalardo stated that Mr. Capo and he had met with Mr. Weiser and Mr. Brimer in May of 2009. Mr. Weiser and Mr. Brimer presented the case that their revenues were falling and they followed it up with a letter recounting their revenues pre-Katrina and subsequent to Katrina. Mr. Pappalardo stated that at that meeting several items were discussed, the first item being any contemplation of this would require a major amendment to the lease. The lease is based upon an industrial boat repair facility along with a day store allowing for sales of incidental and sundry items, packaged beer and liquor. The price of the lease is based upon the fuel dock and boat repair facility, not a commercial facility. If this were approved there would have to be an amendment to the lease that would take into account the lease rate that is being charged. Secondly, the zoning in that area is B-2, neighborhood business. B-2 does not allow for bars or lounges, it allows for standard restaurants. If a restaurant meets the definition in the zoning code, you can appeal to the city counsel for an alcohol beverage permit. If granted by the city counsel, you can operate a restaurant that serves alcohol. Without the ABO permit, a standard restaurant could not serve alcohol. The area and building that Mr. Weiser is talking about falls in the B-2 zoning area from our interpretation of the zoning map. A bar alone would not be allowed under city zoning, there would have to be an amendment by the city counsel to allow that. If this was entertained we would have to look at the entire lease and amend permitted uses in the lease and change the price and structure of the lease.

Chairman Trask questioned if zoning would have to be appropriate before anything else would happen. Mr. Pappalardo stated he did not think changing or getting a waiver in B-2 zoning could be accomplished because zoning would be changed to allow for a non-permitted use. If it were a standard restaurant, that would be allowed in the zoning. In B-2 zoning to allow the sale of alcohol in a standard restaurant you would have to go to the city counsel for approval of a waiver allowing for an alcoholic beverage permit. The lease does not allow it and our interpretation of the current zoning is that it is not allowed.

Mr. Weiser stated Mr. Pappalardo suggested we could possibly amend the lease. It would cost more because we would have to pay commercial as opposed to industrial rates; we understand that. Mr. Weiser stated if this is approved, this does not end it for us. It is Mr. Weiser understands that the next step would be City Hall for approval of the zoning. Mr. Weiser and Mr. Brimer are asking the opportunity to be able to take it to that level. Mr. Weiser stated they have talked with city counsel but has gone nowhere because they need the Board's permission to pursue it with City Counsel.

MR. RON CARTER - Lighthouse Harbor Condo Association.

Mr. Carter stated that the Lighthouse Harbor Condominium Association building is the closest residential group to the proposed location of the bar. Mr. Carter stated that the Lighthouse Harbor Board of Directors met Mr. Weiser and Mr. Capo and expressed concern about opening a bar in this area. There is concern not only about what may happen if the bar opens, but what has happened in the past with bars in the area with late night rowdiness, motorcycles, speeding. There is concern about what the canal traffic might look like and how that will affect the area. There is also concern about future expansion and what might happen if you open up the door and allow one person to do it in the area; there might be somebody else that would also want to open a bar. It is also hard to control patrons and their actions. A letter was written to Mr. Capo in November of '09 expressing strong objection to opening up the bar for those

reasons. There were discussions with other condominium associations regarding what past experience has been and concerns about opening a bar so close to families with young kids. It is not the right environment nor is it the right environment for the park area. We are strongly against it. We can write an updated later if needed, let know what we need to do and we will be glad to do it.

BOBBY DUPUY – Boat Captain, West End

Mr. Dupuy stated that he has been a licensed captain for 25 years and is the owner of boathouse number 9 which is on the West End Park side of the canal. West End has always been an entertainment area with restaurants and bars. That is what it has been in the past. Mr. Dupuy has interest in boathouses on Breakwater Drive and has been to meetings for the other Harbor Association. The master plan for West End includes 4 or 5 restaurants towards the Jefferson Parish. There are restaurants out there, but the bars are coming back out there. There is a chance to jump the gun and have the first bar out there. Mr. Dupuy added that the zoning changed because of West Lakeshore, which isn't even in the picture. You are going to see that zoning change when this new development comes in the future of West End. That is what the plans are, to have a lot of development out at West End. The condos are choking off the marina and soon there will be no marina there. Everybody is leaving the marina because there is nothing to do out there. The whole idea behind the marina is boat traffic; it is not supposed to be a serene place where you look at the sunset with no boats going by. A marina is supposed to have hundreds of boats going to and from things to do at the marina. Anyone who knows the history of West End Park knows that is what it was, a place for kids to play. That is what boating is about, having kids on your boat. The condo where the gentleman is from used to be a chicken place I used to get drive through chicken on my boat when I was a kid. Slowly but surely West End is getting choked off by concerned neighborhood associations who are very, very anti-business. Neighborhood associations do not like business; if you are a business person, they are your worst enemy. Mr. Dupuy stated that you can go to West End on a cold day like today and sit on the dock and drink, but it sure would be nice to sit somewhere inside nice and warm and have a cocktail.

AMANDA HERMAN - Marseilles Condominiums

Ms. Herman stated she lived in Lakeview and things have certainly changed. One good thing that has changed is that this area does not have 30 and 40 motorcycles riding through. I would not buy there before the storm because of the noise. Mr. Weiser said he can't guarantee that there won't be motorcycles and that it won't be open late but if it is to service boats, why would it be open late to begin with? He says that it does not stop with you but our lifestyle does stop with you. If you grant this, there will be problems out there because we are not going to be able to sleep at night. People can't even sit out on their terraces and have a conversation because they can't be heard. People go by at night and throw beer bottles and I have to pick up the glass and put it into the empty lot so my dog does not cut his foot wide open. It is a way of life that is supposed to be serene. You are supposed to be able to look at the sailboats and hear yourself think and sleep at 10:30 at night; you are not supposed to be awakened at 4:30 in the morning. Our manager, Rene Chapman, has not been approached by anybody and the condominium association totally opposes this. It may not stop with you, but you will end our serene way of life. We are on the 11th floor and you see the most beautiful sailboats. If people need liquor let them buy it at Martin's Wine Cellar. Once you let one in it is going snowball. You have a beautiful, fabulous, serene neighborhood right now. It is not going to be a nice place to live. How would you like a bar next to your home; homeowner's do fight commercialism. Mr. Weiser says it is coming; it is not coming unless you grant it.

ROLLA TICHENOR - Resident

Mr. Tichenor stated he has been at West End Park his whole life and has watched it change and evolve into what it is today. Without any investment in the

area, it has died. On the Tchefuncte River there is a new marina. Two of the oldest marinas have been completely redone and there are new lounges, bars and the restaurants are booming. People have a reason to use their boats. They go to the restaurant or a bar and enjoy the water. The Orleans Marina, Municipal Yacht Harbor and West End Park were here long before these condos were ever built. The condos were built at the height of West End Park, Augie's DeLago, Jaeger's, The Wharf and the condos were successful. They were all full and they are still full. There was an opportunity pre-Katrina and somebody wanted to build another condo next to the Marseilles. Obviously, the restaurants and lounges that have been out there have not been a detriment to that type of development. It is a public street and I don't know how you can restrict traffic on a public street. Historically, marinas have not generated a lot of traffic. The small bar proposed at Schubert's can't generate a lot of traffic because the footprint does not allow for hundreds of people. As Ms. Herman stated earlier, even without the bars and restaurants, apparently there is a problem with beer bottles and motorcycles and everything that she is afraid of happening because of this little bar. Mr. Tichenor stated that he is in the boat business and his livelihood depends on people buying boats and enjoying them on the water. If all you do is provide a place for people to tie their boats and not use them, you might as well close down all of the businesses, tie all of the boats to the dock and concrete the marina. My business is dying because people just aren't using their boats. I have an office in Mobile, Destin, Orange Beach; they are doing better than I am because there is an incentive. There is a reason to play with the water. I would like for you all to consider what Mr. Weiser and Mr. Brimer are asking for because I have been at Schubert's longer than any of them. I grew up out there. My dad had a boat in the Orleans Marina in the early 70's and I have watched it change for the worse. I would like to hope that you all would improve it.

KATHLEEN VOGT – Homeowner, Marseilles

Ms. Vogt questioned the site of Schubert's proposed bar. Mr. Capo stated that it is in the opposite direction on the New Basin Canal from the Southern Yacht Club. Ms. Vogt stated that the Friends of West End would probably not be in favor of this because they are trying to make West End park, a park for people to go and walk dogs or stroll a baby. Ms. Vogt stated that between a bar room, a bar and a cocktail lounge, a bar is at the bottom of those three and she is definitely against it. Ms. Vogt stated on Sunday evening at her home the bikers must know that they can aggravate people because they rev their motors up and that sounds bounces off of the wall. Now we have a bigger wall for it to bounce off of. There are places that serve liquor such as Southern Yacht Club and Municipal Yacht Club. If there is going to be a hotel, they will certainly have a bar, a bar room and a cocktail lounge. As far as the boats there, we see little coming. We just went through a horrible storm and a lot of businesses were hurt and it will take a while to revive. Ms. Vogt stated there are blue lights often in the direction of the point which is trouble. There is already gang graffiti on the wooden fence. That area is a jewel. We don't want it because I consider it a bar room. This gentleman has no control over his customers when they leave and that is a concern. The condominiums out there have not stopped the boat industry. In fact, many people in the building have sailboats and yachts. As for restaurants, there is Zachary's and they start their bar at 4:00; Il Toney's has taken over Pelican Point" there is a Japanese restaurant and Russell's Marina. Things are taking place but it is going to take time. You have the best piece of property in the city and I hope you appreciate it and do the right thing.

Commissioner Hassinger stated that he is sensitive to neighborhood associations because he is active in his but also understands what West End is all about. If there is proposed redevelopment and this 650 square feet on the water is a bar; I am trying to understand what the impact is going to be. If the clientele are boaters and it adds an activity for the people who go out to the marina; do you really think it is going to be a big impact on the residential property out there? Ms. Vogt stated that it could be but there is also a fear that once this starts it is

going to start to be a pearl of things taking place. Ms. Vogt also stated another concern is there is no food being served. You have people drinking and they get on their boat and that can be bad. There is a lot of activity. Everybody parks any way they want. There is no order as far as their parking. It has problems and I think some of these things should be solved first because it can be lovely. Please believe all these condominium people pay a lot of taxes to the City of New Orleans.

Commissioner Hassinger questioned if there is a proposed redevelopment to put restaurants and bars back at West End like there was before the storm; do you oppose it. Ms. Vogt does not oppose this because there is food being served in those establishments and that makes a difference when you start drinking.

Ms. Herman added that she is opposed to any of them coming back. There are three or four restaurants within a block of our condominium that serve liquor already and they are in walking distance of this gentleman's spot.

Ms. Vogt stated that the bottom line is to decide how that area is to be developed and have an overall picture of what you want to do.

Commissioner Hassinger questioned the issue being addressed specifically today on this topic. Mr. Capo advised that what is before the committee today is an amendment to the lease to convert a portion of Shubert's leasehold to operate a bar.

Commissioner Brien questioned, what is addressed first: the zoning or the leasehold. Mr. Pappalardo advised that the leasehold is addressed first. If the lease does not allow it, it can't be done. Three tenants are in the boat repair business; Mayer, Schubert's and Sintes and those uses are integral to operations in the marina. West End rolled when there was a lot of entertainment, bars and restaurants. Imagine if you had a marina where you could not get your boat fixed or get fuel for your boat. We have one of those, South Shore Harbor, and it is not doing so well. It is crucial to have industrial type related facilities in the marina that provide marine related services to the boat owners. Mr. Pappalardo stated that this started because the leasees' business venue had reportedly fallen off significantly since the hurricane, probably due to fewer boats in the community as some boats were not replaced. There are fewer birthings in the Municipal Yacht Harbor and there are rows of unoccupied slips. Without a forensic audit, Mr. Pappalardo believes that the boat business would fall off. The four corners of the lease only allow the repair of boats, the operation of the fuel dock and the day store which sells beer and packaged liquor but does not allow consumption on the premises.

DENNIS CRAWFORD – Resident, Marseilles Condominiums

Mr. Crawford stated that he was the only one that showed up at the proposed site out of curiosity regarding development of the area there; not just the restaurants around the condominium but the whole thing. There is an enormous amount of money pent up in the development of the new area. Mr. Crawford stated he has lived in Marseilles Condominiums for the last 8 years and there is virtually nothing going on out there. This one little bar could work very well. It would be a very convivial thing to be able to sit out on the dock and have a cocktail. It is not going to be a condemning thing for the whole neighborhood as it is a beautiful building. I understand the concern they have and I have the same concern. I have met with the four people and they are good people. There will probably be somebody throwing a bottle out on the way out; I know they are conscientious about that. They would probably put containers out in the front. If you go there today you are right behind this tavern and there are \$500,000 boats that people care about and take good care of. They are the kind of people that they are looking for; people like myself from the condominium who want to get out and want grass to walk on and stop by and have a beer. I think it would be a

good start in the right direction. It has to be run by conscientious people and they are very conscientious people.

Commissioner Hassinger requested a motion to defer the issue until the next meeting for the opportunity to see the space as this was the first time hearing about this issue.

Ms. Herman added that the 75%-85% of the Municipal Yacht Harbor is empty and that explains why the boating activity has declined, not because there is no bar there. There are three bars around the corner from our building.

Ms. Vogt stated it would be conscientious if you thought about what you want there and how you wanted it developed. Have a plan ready of what you want there because it is one of the last pieces of property in the New Orleans area that size and with that potential. There should be something proposed for the whole thing of what you all would allow and what you won't allow.

Mr. Weiser informed that he would meet with the people and work with them on issues including setting the hours of operation. I do respect the fact that these people live in a very tranquil environment right now. I know this was not always the case with them. We are going from one extreme to another. There was a lot of activity out there. Some of the condos were bars operating until 5:00 a.m., literally right next door to them. We are going to the other extreme; a tiny little hole in the wall - a neighborhood thing. That is the goal. We will work on limiting hours because it is a tranquil place but so is a cemetery. West End is as dead as a cemetery and I am hoping that you will consider breathing a bit of life back into it with this operation.

Chairman Trask commented that it is his obligation to share his thoughts as to what he sees. There are a few things on the table. Like any good debate, usually it is never as extreme as one end or the other. Usually, there are some things that kind of blend. One of the concerns is the lease not supporting this type of business and the zoning not supporting it. Since the last meeting with Jerry Jones about a year or so ago, it does not sound like anything has really progressed beyond that. My biggest concern is this: if we grant a change for any one person, we have to grant the change for everybody. If we are going to grant the change, we have to be very prepared for this as a committee that we are going to have to allow any kind of change that comes. We need to have a comprehensive plan of some sort before we potentially do this. Chairman Trask stated he does not feel good about supporting any change for any lease because that will open up the box for everything. I'm not saying no forever, for anybody but I am wise enough to know that we are going to get hit with everybody else saying, you got to change it for me because you changed it for him. I am very concerned about that. It sounded like we had the potential for a motion to defer and that could be the way this committee goes. Chairman Trask questioned if this issue was settled as it stands today, is there anything that would prevent that from becoming an agenda item in future meetings. Mr. Capo stated if there are changes brought forth, we can put it back on the committee agenda in the future.

Chairman Trask requested comments from the committee members before a motion was entertained. Chairman Trask inquired if this would be tabled indefinitely or a motion be made to settle the agenda item since it is on the agenda. We need to take a comprehensive look at all these potentials for changes and try to get a better plan for everything in the future.

Commissioner Brien agreed with Chairman Trask and stated that the central issue is what this does for the balance of the leaseholds. We need to tread carefully because we owe it not only to the Board, but to the committee and the community, to take stock of where we want to go on this kind of issue.

Commissioner Hassinger agreed and added that the motion was made to defer until next month to give committee members a chance to see the proposed site and get more information on the issue.

Chairman Trask commented that tabling it indefinitely is not a good move. A decision needs to be made. We should go ahead and start to look at this down the road. Chairman Trask stated he would also entertain a motion to reject the request and not have it lingering in limbo. We could work together to see about bringing up a new motion at a future meeting.

Mr. Capo added that what is on the table right now is Commissioner Hassinger's motion to defer. If there is a second, you will need to call the vote.

Commissioner Brien seconded the motion to defer until the next committee meeting and a roll call vote was taken. Chairman Trask informed that there is a motion to defer that was seconded. There are two votes on the table and this is a committee of three, so the motion will pass that this is deferred until the next meeting scheduled for February 3rd at 1:30 P.M.

Chairman Trask commented that he was unsure 30 days would be enough to address this item and the concern about this going chronically into limbo. When we reconvene in 30 days, I would like to ask all parties to think about this. If we could get everybody on the same page and have a comprehensive that quickly – fantastic; if not, I think we may want to start considering some other options and give ourselves enough time to do this right. It is more important to do this right than to just meet a deadline.

Commissioner Brien offered a motion to adjourn, seconded by Commissioner Hassinger.

The meeting adjourned at 2:43 p.m.