

**NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
MINUTES OF THE COMMERCIAL REAL ESTATE COMMITTEE MEETING
THURSDAY MARCH 6, 2014 – 3:30 P.M.**

The regular monthly meeting of the Commercial Real Estate Committee of the Non-Flood Protection Asset Management Authority was held on Thursday, March 6, 2014 at 3:30 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 Ernst called the meeting to order at 1:46 p.m. and led in the Pledge of Allegiance.

The roll was called which did not constitute a quorum and the meeting was informational only.

PRESENT:

Chairman Greg Ernst
Commissioner Eugene Green

ABSENT:

Commissioner John Trask
Vice Chair Robert E. Smith Lupo

FURTHERMORE PRESENT:

Commissioner Stan Brien

STAFF:

Louis Capo, Executive Director
Sharon Martiny, Non-Flood

ALSO PRESENT:

Gerard Metzger – Legal Counsel
Al Pappalardo – Real Estate Consultant
Dawn Hebert – Resident, New Orleans East
Octave Rainey – Resident, New Orleans East
Nancy Marsiglia – Resident, Lakeshore Drive

OPENING COMMENTS

Chairman Ernst informed the Committee that there was no quorum present, but there are several interesting items on the Agenda for discussion.

APPROVAL OF AGENDA

As the meeting was an informational meeting only, the Agenda was not approved.

APPROVAL OF PRIOR MINUTES

The March Commercial Real Estate meeting is informational only. Approval of the December 5, 2013 Commercial Real Estate meeting minutes was deferred until April 3, 2014.

NEW BUSINESS

1) Discussion and review of facts relative to Louisiana Revised Statutes regarding the development of Zone 5

Commissioner Green distributed a Memo to the Commissioners, which was attached as part of record. Land developed by the Levee District decades ago includes subdivisions in this area, UNO and Lakefront Airport, which was developed by reclaiming the bottom of Lake Pontchartrain. Four Zones were developed, Zones 1 through 4, starting at New Basin Canal and stretching over to South Shore Harbor Marina and Lakefront Airport. Zone 5 was not developed possibly for no other reason than funding to move forward with development.

Commissioner Green suggested that the Non-Flood Authority move forward with development of Zone 5, which runs from Lakefront Airport to Paris Road.

Redevelopment of Zone 5 would provide a tremendous economic stimulus to the City and New Orleans East. Regulations allow this Authority to go three miles into the Lake. Commissioner Green proposed that the Non-Flood Authority approach the State of Louisiana to secure funding to prepare a study, design and analysis of the environmental impact of developing Zone 5, which could include beaches in New Orleans that would enhance the tourist industry. Commissioner Green requested the Committee pass a Resolution to secure funding from the State of Louisiana to support the necessary studies and analysis to begin the development process. Legal precedence is established in Title 38 §336. In a meeting with Mr. Metzger and Mr. Capo regarding potential development of Zone 5, Mr. Metzger expressed some issues which would require further research.

Mr. Metzger stated that the area is a beach; it is the 1918 shoreline that has never been changed. The bed of Lake Pontchartrain is owned by the State of Louisiana and as stated in the Revised Statutes, this Board has authority to develop three miles out east from Lakefront Airport and to South Shore Harbor. Once the Authority decides how far to go out and develop the front line, that is as far as the front line can go. The seawall is the front line of development in the other zones. Language in the Statutes requires an engineer to review the front line. In the Guste case, the Supreme Court found that the District did have authority to develop three miles into the lake; the land had to be reclaimed first. When this issue was moved to the Revised Statutes in the 1970's there was one entity, the Orleans Levee District Board. The Non-Flood Authority would have to consult with and determine the Flood Authority's position on this matter and determine whether there is a legal objection to this Authority developing Zone 5. Other agencies that have to be consulted include the Environmental Protection Agency, the Corps of Engineers and CPRA, as those entities did not exist when the project went forward in the late 1920's. An Attorney General's opinion may be required if the Flood Authority took the position that they were the entity with authority to develop Zone 5.

Al Pappalardo, Real Estate Consultant, noted that the Authority often reverts to the MOU to determine what assets the Non-Flood Authority has control over to manage and the Lake Pontchartrain beds are not listed. Mr. Metzger advised that the beds are owned by the State of Louisiana with the District having rights to reclaim and develop the beds. The Orleans Levee District is now governed by two Boards depending on the asset.

Commissioner Green added that Zone 5 has not yet been developed and does not exist; therefore it is a Non-Flood asset. The development of Zone 5 would include a recreational beach component, waterways and the extension of Stars & Stripes Boulevard. The Lakefront is underutilized as there is nothing enticing beyond the Mardi Gras Fountain. Developing Zone 5 would be the beginning of getting the area incorporated into the Master Plan. The City, State Representatives and State Senators will have to be consulted in this first step to begin a process of securing support. The State of Louisiana Capital Appropriations will be approached for the funding to perform the studies regarding development.

Chairman Ernst stated that the Board has previously discussed preparing a Master Plan for the Authority, but financially it is not affordable at the present time. There are a number of questions and concerns regarding what should be done procedurally before anything moves forward. Chairman Ernst noted that Commissioner Dufrechou is interested in developing the old Pontchartrain Beach site; Zone 5 is much bigger than that small parcel. The only objection is that there are many undeveloped tracks in the City of New Orleans and it is troubling to contemplate developing a whole new neighborhood given the situation within

the current geography of the City. There is not much hope that there will be much appropriation money available as the budget is stretched and appropriations have been practically non-existent. Chairman Ernst recommended scheduling a meeting in which a quorum is present to make a recommendation to the full Board or to place the item on the full Board Agenda in two weeks. Mr. Metzger advised that this item could be moved to the full Board without any recommendations. Chairman Ernst requested this item be added to the Recreation/Subdivision Committee without objection.

2) Discussion regarding the old Pontchartrain Beach site behind UNO Technology Park

Chairman Ernst noted that Commissioner Dufrechou has been working on this issue regarding the old Pontchartrain Beach site for some time. This item was put on the Agenda for discussion of whether the area is within the jurisdiction of the Flood Authority or the Non-Flood Authority. Commissioner Green stated that the area is the edge of a waterway, there is no levee at all and may be something that legislation can amend and put under the jurisdiction of the Non-Flood Protection Asset Management Authority.

Mr. Metzger informed the Committee that the area was leased to UNO in the 1980's after Pontchartrain Beach was closed. UNO has maintained the area and in 2012 this Authority received a notice of termination of the lease from UNO. Under the terms of the lease, UNO had the right to terminate at any time prior to the end of the lease term. The original UNO letter regarding termination came to Mr. Capo at the Non-Flood Authority in August of 2012 during a time in which there were several drownings and maintenance obligations. At that time there was media attention regarding the drowning, the liability, and what was in the water. The Non-Flood Authority did not want the liability so the asset was sent to the Flood Authority. The issue did not go before the Board. A letter was issued to UNO directing them to the Flood Authority. It is unknown whether the SLFPA-E accepted the property as a flood protection asset. Mr. Capo advised that there is no conflict regarding the liability and ongoing maintenance of approximately \$150,000. In talking with Gerry Gillen, SLFPA-E would not have any issues to turn the area back over for public use.

Chairman Ernst stated that the jurisdiction properly belongs to the Non-Flood side because if the area is ever developed as a beach again it will be for recreational purposes. Commissioner Dufrechou has expressed an interest in trying to get the Lake Pontchartrain Basin Foundation to develop that area. Technically, even though it is not listed on the MOU, because it is for a recreational use, the Non-Flood Authority would be listed as the lessor. This issue is something for continued review pending any headway Commissioner Dufrechou makes regarding the beach idea. If the issue moves forward a clarification will have to be made regarding which Authority has the right to lease the space to the public/private partnership. Mr. Capo added that the area is not a revenue producing asset, but it will return a public beach area to the public.

ANNOUNCEMENT OF NEXT MEETING

Chairman Ernst announced the next scheduled Commercial Real Estate meeting is Tuesday, April 3, 2014 at 1:30 p.m.

ADJOURNMENT

No adjournment was need as a quorum was not present. The meeting ended at 2:31 p.m.