

NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
Minutes of the Joint Marina/Commercial Real Estate Committee Meeting
Tuesday November 10, 2015 – 11:30 A.M.

The regular meeting of the Commercial Real Estate Committee of the Non-Flood Protection Asset Management Authority was held on Tuesday, November 10, 2015 at 11:30 a.m., in the 6920 Franklin Avenue, 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 Green called the meeting to order at 11:38 a.m. and led in the pledge of allegiance. The roll was called which constituted a quorum.

Present: Commercial Real Estate:

Chair Eugene Green
Comm. Glenn Higgins
Comm. Leila Eames

Present: Marina:

Chair William Settoon
Comm. Leila Eames
Comm. Glenn Higgins

Furthermore Present:

Chair Greg Ernst
Comm. Wilma Heaton
Comm. Anthony Richard
Comm. Thomas Fierke

Staff:

Cornelia Ullmann – Chief Operating Officer
Sharon Martiny – Administrative Assistant
Charles Dixon – Marina Director

Also Present:

Al Pappalardo – Real Estate Consultant
Jim Martin – DEI
Tom White – Fairview Realty
Myrna Davis
Mr. & Mrs. Jose Garcia
Chris Fenner – Stuart Consulting
Steve Nelson – Stuart Consulting
Chris Blazo – Stuart Consulting
Tim Avegno – Eagan Insurance
Marc Eagan – Eagan Insurance

Adopt Agenda

Comm. Higgins moved to adopt the Agenda, seconded by Comm. Settoon. Motion passed.

Approval of Prior Minutes

Comm. Higgins moved to approve the October 6, 2015 Marina Committee meeting minutes, seconded by Comm. Brien. Motion passed.

Report on Current Marina Issues

Chuck Dixon, Marina Director, advised that the Pennick Dock repair project will be bid again due to cost, only a few bidders and one bid was inconsistent. The first request for bids included materials and one bidder did not include materials. The thought was that perhaps the cost of materials, along with the delay in waiting for the lumber to be treated might also be a factor in the bids. The Authority can purchase the materials and the bid can be for labor.

Approximately two years ago, the floodwall surrounding a portion of Orleans Marina was rebuilt and packed with crushed concrete. The marina bulkhead wall allows water to drain underneath the parking lot as a load equalizer. Vents in the parking lot were designed to allow the water to permeate up to keep the parking lot from being compromised. The vents were re-dug and loosened to allow the water to permeate up through the vents. With time, much of the asphalt surrounding many of the parking lot vents has begun to deteriorate. Areas that were patched around the vents need to be repatched.

Additional monitoring cameras were installed at South Shore Harbor. Guards are able to view the cameras from inside the guard shack and can monitor who comes into the marina and on the piers.

Presentations

Tim Avegno, Mark Eagan of Eagan Ins.

The COO advised that the majority of boathouse leases require \$1 million/\$2 million policies. The 1971 leases do not have limits; just that tenants require insurance. Several "N" boathouses have \$1/\$3 million policies.

Marc Eagan, Eagan Insurance, researched a sampling of boathouse leases and advised that there are several scenarios that dictate different ways to treat the insurance. The Authority must be protected with adequate limits and coverage, and should not make it too overly-burdensome or expensive for tenants to obtain insurance. On the corporation/business side a \$1/\$2 million limit is customary. Coverage can be obtained through an authorized insurance company approved in the State of Louisiana and the Authority can be named as an additional insured in the event of a liability lawsuit or accident.

With personal insurance coverage, it is difficult for the Authority to be named as additional insured as most insurance companies will not do so. The recommendation on personal policies is to endeavor to add the Authority as an additional insured, but maintain the \$1/\$2 million per occurrence limit. An umbrella policy would be required, and the Authority would endeavor to get named as an additional insured with the same limits. Lessees can readily obtain these policies and it is not out of line to require those limits.

Old Business

1) Discussion regarding insurance requirements for boathouses

The Committee discussed insurance requirements for boathouses and advised that limits are \$500,000 for individual homeowner's insurance and the umbrella policy is \$1 million. Without the umbrella does not give the Authority the adequate minimum. Mr. Eagan advised that straight limits of \$1 or \$2 million could be purchased on the LLC side. It is an available limit that will not cause pushback by tenants. There is usually no deductible on liability policies; only on property policies.

Comm. Richard suggested all further boathouse leases by a corporation or LLC have an insurance requirement of \$1/\$2 million in light of the difficulty securing the \$1/\$3 million insurance policy at a reasonable price. Comm. Settoon seconded the motion for discussion. Al Pappalardo, Real Estate Consultant, advised that \$1/\$2 million is the customary standard required for commercial tenants.

Mr. Eagan offered to assist by reviewing the insurance certificates to verify they are in compliance. An annual in-house review of each policy along with a form letter requesting proof of current insurance would guarantee certificates are received from the tenants upon renewal.

Chair Green (Commercial Real Estate) moved to change insurance requirements in all leases going forward, including lease assignments, to \$1/\$2 million as opposed to \$3 million, second by Comm. Eames. Mr. Eagan suggested the

limits read the same for all commercial, LLC, corporation or personal leases across the board. As for personal policies, the Authority should endeavor to name the Authority as additional insured, provided an insurer will do so. On the corporation side the additional insured is mandatory. Motion to recommend to the full board passed.

Chair Brien (Marina Committee) moved to change the insurance requirements in all leases going forward, including lease assignments, to \$1/\$2 million aggregate as opposed to \$3 million, second by Comm. Higgins. Motion to recommend to the full board passed.

2) Update on Boathouses W-11, 12 and 13

Mr. Pappalardo advised that Fairview Realty (Capt. Tom. White) requested on May 7, 2013 that Fairview be allowed to demolish improvements to Boathouses W-11, 12 and 13, which were in a deteriorated condition. A resolution passed on May 16, 2013 allowing demolition and rebuilding of W-11, 12 and 13. An affidavit signed on May 21, 2013 by Capt. White outlined the terms under which the boathouse was to be rebuilt. A purchase agreement was signed by Tekie Kai Investments (Mrs. Myrna Davis) to assume these leases and purchase whatever improvements are on the property and the request for transfer of the leases to Tekie Kai by Fairview was approved. Additionally, at Fairview's request, the date to rebuild was extended from December 2014 to December 2015. A June 18, 2015 resolution recognized the approval for Tekie Kai to have the leases assigned to her, as well as her purchase of improvements and set a December 1, 2015 date for plans to be approved by the Authority's architect. The property was listed For Sale by Fairview Realty in 2010 and subsequently, with no success.

Capt. White requested the Authority terminate the leases for Boathouses 11, 12 & 13. He stated that the boathouse was demolished due to old age, not neglect. He further stated that the Authority has responsibility to demolish boathouses in its control. He also stated that Boathouses W-11, 12 and 13 cannot be rebuilt until the remaining boathouses are demolished. This is costing Fairview Realty a lot of money, and the property cannot be used.

CRE Chair Green noted that demolition will soon begin on Boathouse W-19 and 20. The Authority owns six Boathouses on that row: 1, 7, 15, 16, 19, and 20. There is some interest in a comprehensive plan involving Boathouses W-11 through 20. Until those boathouses are demolished, the impact on existing boathouses is unknown. Anything is speculation at this point. Capt. White noted that one boathouse owned by the Authority is connected to another boathouse. If the Authority tears down its boathouse, the remaining boathouse will also come down. Capt. White stated that no new piles can be driven due to liability issues. He further stated that the Authority has not maintained its properties, as indicated by the boathouses that are falling down. Further, he stated that two properties (W-10 and W-14), vacant since Katrina, have rotten pilings and that existing boathouses sit on top of pilings; they used to be bolted to the pilings. The COO advised of a verbal report that after the last storm in October that a portion of the W-14 walkway (Whitney) gave way and one additional piling is missing.

Capt. White requested that Fairview be relieved of its lease obligations if Mrs. Davis does not take over by December 1, 2015 as he has been dealing with this issue for over a year. CRE Chair Green noted that Capt. White signed a lease willingly and chose to tear down the boathouse, which could have been an asset. Capt. White clarified that the Authority will pursue tenants that did not maintain their boathouses. Boathouses W-11, 12 and 13 were demolished with the perspective to rebuild, but at this point he believes that pilings cannot be driven.

Mrs. Myrna Davis of Tekie Kai, the perspective purchaser of the improvements of W-11, 12 and 13, requested an extension on the December 1, 2015 date to

provide architectural drawings. Mrs. Davis stated for the record that she could obtain builders' risk insurance, and a \$1/\$2 million insurance policy.

Mr. Pappalardo advised that the boathouse rent is due in quarterly cycles. Fairview Realty paid rent through December 31, 2015. If the date is extended for Tekie Kai to provide plans and obtain insurance, Tekie Kai can go forward with the transfer. The lease would be in Tekie Kai's name as of January 1, 2016. Tekie Kai would be responsible for the first quarter rent if the transfer is completed before year end. Tekie Kai is also responsible for timely submission and approval of plans and specs. The Authority could allow the transfer and set a different date to get the plans approved. On behalf of Tekie Kai, Mrs. Davis advised on the record that insurance could be obtained, but additional time is required to get plans approved.

Comm. Higgins moved to extend the timeline for an additional 30 days, second by Comm. Eames. Chair Ernst noted that this recommendation must be approved by the full Board.

3) Update on Boathouses W-14, 15, 16, 19, and 20

The COO advised that demolition of Boathouses W-19 and 20 should be completed in the next month as the Authority is awaiting final demolition permits. Chair Green clarified that W-14 is owned by Whitney Bank, W-15 is owned by the Authority and W-16 has a \$190,000 tax lien. Boathouses W-17 and 18 are privately owned and will be discussed further at a later date. One of those boathouses is affected by demolition of W-19.

4) Update on Boathouse W-21

The COO advised that Boathouse W-21 is a large boathouse that used to be a commercial lease, subsequently changed to a private residence and sold after Katrina for approximately \$700,000. Iberia Bank took the boathouse back under its mortgage, and the boathouse lease was later transferred to Mr. Garcia who has been working diligently to get the boathouse renovated. Mr. Garcia is currently one quarter behind in rent, and does not have the proper permits for renovation. Previous plans did not include a fire wall and fire wall protection, which is required for renovation.

Mr. Jose Garcia advised that he has had drawings for one year, and is losing money to pay rent. Comm. Settoon noted that Mr. Garcia's boathouse is five feet from the flood wall and must adhere to rules that stipulate what kind of permits are needed. The proper permits are required due to public interest and safety precautions regarding damage to the floodwall. To make improvements to the boathouse, permits may be needed from the USACE, which application is made through the Orleans Levee District.

The COO advised that original plans (dated April 2015) were provided July 23, 2015. The plans were returned due to issues regarding the fire wall. The same April 2015 plans were brought to the Authority in September. The Authority is still awaiting plans that include a fire wall, which is required by the City. Nyka Scott, executive counsel for SLFPA-E clarified that the plans did not need O.L.D. or CPRA approval. The Authority's architect reviewed the plans and advised of one simple modification that is needed. Mr. Garcia's investor (Mr. Testa) has previously advised that he would request their architect modify the plans so this matter can move forward.

5) Update on status of rub rails and Pennick Dock by Stuart Consulting

Steve Nelson (Stuart Consulting) advised that the two FEMA-related projects (rub rails - \$37,000 and Pennick Dock - \$15,000) will be advertised in approximately one week. Construction should start at the first of the year.

6) Update on east side of Orleans Marina

Mr. Nelson addressed the two silt removal projects at South Shore Harbor and New Basin Canal and informed that additional bathymetric survey information found from 1991 filled the hole in the data and revises the previous estimated cost to approximately \$3.5 million in construction. The New Basin Canal is more challenging as there is no pre-storm bathymetric survey data. Letters/affidavits from boat owners and new bathymetric survey information will be used in the place of pre-storm data. Plaquemines Parish utilized affidavits signed by boat owners, which may or may not be approved by FEMA.

Public Comments

Capt. White voiced concern regarding Boathouses W11, 12 and 13 as the Board extended an additional 30 days (to December 31, 2015) to Mrs. Davis/Tekie Kai. Fairview continues to lease the property and pays all bills. Chair Green noted that the date was internal for the Authority to receive the plans.

Marina Chair Settoon clarified that Fairview is free to advertise the boathouses for sale. Capt. White felt that he could not advertise the boathouse because the Authority just extended the date for transfer of the leases an additional 30 days. If someone offered cash for the boathouse, nothing can be done because the Authority extended the deadline for Mrs. Davis' agreement. Capt. White stated that the papers have been signed by Mrs. Davis. All that is needed is for Tekie Kai to obtain insurance for the Authority to complete the assignment of the lease. The Committee should have set a date for Mrs. Davis to obtain the insurance and take over the lease. The COO advised that Tekie Kai's insurance agent advised the cost for the insurance is approximately \$1,800. The COO has not received documents indicating that Tekie Kai had executed the assignment.

Capt. White requested the Authority terminate the lease with Fairview Realty. The Authority extended Mrs. Davis deadline an additional 30 days, which blocks Fairview Realty as the Authority cannot even give permission to drive a piling as long as an agreement is in place with Mrs. Davis. Mr. Pappalardo added that the Authority authorized the transfer of the three boathouses exclusively to Tekie Kai. The December 31st date extends Capt. White's authority to transfer the boathouses to Tekie Kai Holdings only. Comm. Eames suggested Mrs. Davis be required to move forward with the transaction. The Authority will then extend 30 days for the plans. Fairview could proceed with the lease transfer previously approved by the Authority.

Capt. White requested the resolution state if Mrs. Davis does not own the property by the next Board meeting, the Authority's agreement with Mrs. Davis is null and void, and his agreement is null and void. Chair Green was not opposed to the suggestion as the only issue is insurance. Chair Ernst clarified that if the Authority did not have insurance within the parameters discussed, the 30 additional days for the plans would not be granted. Tekie Kai must execute the lease and obtain insurance.

Announce Next Meeting

Chairman Green announced that the next Commercial Real Estate Committee meeting is scheduled for Tuesday, December 8, 2015 at 11:30 a.m.

Announce Next Meeting

Chairman Settoon announced that the next Marina Committee meeting is scheduled for Tuesday, December 8, 2015 at 11:30 a.m.

Adjournment

Comm. Settoon offered a motion to Adjourn, seconded by Comm. Higgins and unanimously adopted. The meeting adjourned at 1:53 p.m.