

**NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
FINANCE COMMITTEE MEETING MINUTES
OCTOBER 21, 2010 – 3:00 P.M.**

The regular monthly meeting of the Finance Committee of the Non-Flood Asset Protection Management Authority of the Orleans Levee District was held on Thursday, October 21, 2010 at 3:00 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.

The meeting was called to order by Chairman Hoffman at 3:05 P.M.

The roll was called and a quorum was present.

PRESENT:

Chairman William Hoffman
Commissioner Michael Bridges
Commissioner Stanley Brien

ABSENT:

Commissioner Carlton Dufrechou

STAFF:

Vincent Caire, OLD
Tony Grego, OLD
Nick Tusa, OLD-PD
Dawn Wagener, OLD
Sharon Martiny, OLD

ALSO PRESENT:

Robert E. Smith Lupo
Alton Ochsner Davis - RCL Architecture
Randy Maddox – Morrison Insurance Agency
Michael Liebaert –Orleans Marina Tenant
Walter Baudier - DEI
Wesley Mills - DEI
Ron Carter – Lighthouse Harbor Condominium Association
Constandibos Vennis – Lake Terrace Resident

OPENING COMMENTS:

Chairman Hoffman welcomed everyone for attending the first official meeting of the Finance Committee. We have business items that need action and we will get information regarding financial activities from the staff. As opposed to adopting the Agenda, let's put the new business first so we can take action while we have a quorum. A motion to modify the Agenda was called by Commissioner Brien, seconded by Commissioner Bridges and unanimously adopted.

NEW BUSINESS

1. Annual Stormwater Management Report by Shaw Coastal

Mr. Capo introduced Mr. Brian Hava with Shaw Coastal to report on the Annual Stormwater Management Report. Mr. Hava stated Shaw Coastal has prepared the report in the past. The EPA requires that The City of New Orleans have a permit for the discharge of stormwater which permit also applies to the Levee District because those properties are owned and maintained by the Orleans Levee District. The permit requires annual stormwater reporting be provided to the City for submission to the EPA. Shaw

Coastal submitted an estimate of \$5,634.00 and Mr. Hava requested authorization to proceed with an expenditure of over \$5,000.00 to do the work if authorized.

Mr. Hava then addressed the procedure for compiling the report which is normally a week-long effort and stated that the report is due on Wednesday and we are on a tight time limit. He has received no information because he has not been authorized to do the work up to this point. The City does more entailed management efforts. Mr. Hava added that if we had the personnel, we could do this report but it may not be cost effective. The cost of \$5,600 is for the research obtained to put the report together and for the internal and external review processes.

Mr. Hava explained this report deals with tenant areas and stated that according to the permit, all leased areas should be monitored on an on-going basis. The City issued a deadline so they could assemble the report and get it to the EPA by November 1. If the report is submitted without the needed information, the EPA could come back to the Levee District and it is unknown how the EPA would respond.

Mr. Capo informed Commissioner Bridges that this expense was unknown and therefore not accounted for in the 2011 fiscal year budget. Mr. Capo then requested time to defer to get information on whether this is Non-Flood or Flood.

Mr. Hava informed that the EPA can impose penalties but could not guarantee whether they would penalize on this basis or on a request for extension.

Chairman Hoffman recommended deferring until November 4 for investigation with the City to find out exactly what their time table is and how much it is as Flood versus Non-Flood.

Mr. Lupo stated it has to be something new because it has not been around for the Orleans Levee District to provide this information to any agency nor had he seen it when he was on the Board during the Foster Administration.

Mr. Hava advised that he knows of nothing that would exempt the Non-Flood asset Division of the Orleans Levee District from the EPA requirements regarding the permit, a copy of which permit he has at his office.

Mr. Brien called for a motion to defer to get information to reasonably consider the signing, seconded by Commissioner Bridges and the motion was adopted.

Mr. Hava will provide a final copy of the proposal and e-mail Mr. Capo a copy of the permit as requested.

2. **Auto Liability Insurance**

Mr. Randy Maddox with Morrison Insurance updated the committee on the auto liability insurance. Mr. Maddox informed the committee that a split proposal was presented to Ms. Carol Kiefer with a renewal date of November 1. To avoid a lapse in coverage, a pro-rated policy was written effective November 1 to rate the Non-Flood Assets with no minimum earned premium or penalty if we decided to opt out at the Board Meeting November 18. This would be a separate policy with a separate named insured for the Non-Flood as opposed to a combined policy for the two.

Chairman Hoffman questioned the significant difference in the premium of the policy.

Mr. Maddox explained it is risky to insure police units because they can be involved in chases. The market has been very competitive but this carrier has written insurance for a number of years and is a good solid carrier whose claims have been paid. He added that FEMA is requiring the District purchase physical damage insurance for 10-12 units between Flood and Non-Flood. He stated the \$56,067 is an annual premium with the ability to opt out in November and is based on an actual vehicle count. Mr. Capo informed that we do have the money in the budget.

Mr. Brien called for the motion to approve the \$56,067 premium, seconded by Commissioner Bridges and unanimously adopted. There was no other new business.

At 3.25 p.m., Commissioner Bridges needed to step out and the quorum was lost at which time the committee meeting became an informational meeting.

NEW BUSINESS:

1. **Current Cash Flow Projections**

Mr. Capo addressed the Current Cash Flow projection for fiscal year 2011 of \$5.375 million adding that there are two large items transferring in to the revenue side. Non-Flood was reimbursed ½ of the police costs and the second transfer is the \$2.5 million from the Bally's settlement. We have \$2.1 left in transfers over the next nine months.

2. **Significant or Unusual Liabilities**

Mr. Capo addressed expenditures between now and the end of the fiscal year as follows:

Personal Services - \$3 million; Contractual Services; Insurance - approximately \$500,000.

Materials and Supplies: Airport - \$75,000; Autos - \$50,000; Auto Fuel - \$100,000. All other items under Materials and Supplies come to \$160,000.

Professional Services: Accounting/Audit Services - \$30,000; Legal Services - \$100,000; Real Estate - \$30,000; Bank Fees/Credit Card Fees - \$30,000. The total anticipated expenses are \$5,343,000, with a difference to the positive of \$31,000.00.

The budget for the remainder of the year is on target as long as we do not have any significant or unanticipated large expenditures that require additional funding. We don't

anticipate revenues to change unless we fill up South Shore Harbor and get some of the other properties in commerce. These numbers will be reflected in the budget presented to you on November 4.

The \$30,000 for Accounting/Auditing Services under Professional Services is for routine accounting services during the year and for the annual audit. If during the year questions or issues arise we contact LaPort and bring them in for assistance which is budgeted on that line item. Our portion of the annual audit is somewhere around \$20,000. If we are determined to be a separate reporting entity this year, \$20,000 may not be sufficient.

3. Operations Statement Through the Prior Month

Operations through the end of September are as follows:

Non-Flood Administration - \$331,000 from Flood Authority for Police and \$444,000 from the Bally's transfer in.

The next item was revenue on properties for this quarter: Lake Vista - \$32,000. Orleans Marina (2 items): Tenant Rental - \$200,000; Boathouses - \$100,000; South Shore Harbor - \$77,000. Airport: Flowage Fees - \$128,000; Tenant Rental - \$251,000; Tenant Reimbursement of Insurance - \$65,000 (represents wind, hail and fire insurance on three tenants - we pay the insurance premium, amortize that over the year and bill on a monthly basis, which is a requirement of the lease); New Basin Canal - \$183,000 for the quarter.

Mr. Capo addressed occupancy at the Marinas. Orleans Marina is somewhere around 90-95%. We have a number of slips that we cannot use for various reasons inside the Inner Harbor of the Marina and the New Basin Canal. South Shore Harbor is maybe 40-45%. From a future revenue standpoint we could increase our revenue if we could increase our occupancy because South Shore definitely has room to grow.

Mr. Capo also stated one significant line item on the expense side is Personal Services which are right around \$1 million dollars. Travel (registration for government financial offices/conferences) is very little.

Paid Contractual Services: Utilities - \$71,000; Grass Cutting - \$192,000; Insurance - \$636,000 (some of that is pre-paid); Workers Comp Insurance - \$79,000; Trash Collection - \$20,000; Repair and Maintenance of Building/Improvements - \$87,000. Those are some of the things that we try to do to keep our properties up and operating.

Materials and Supplies: Auto Fuel - \$23,000. This shows the expenses per property, showing a \$414,000 loss because of pre-paid insurance. Insurance and grass cutting will cost us a lot in the first quarter. With a slow period of grass cutting arriving, this \$413,000 should be a lot less next quarter and into the third fiscal quarter. The grass cutting does not include the grass cutting on the levees, it is strictly Non-Flood Properties.

At this time Michael Liebaert introduced himself as a resident of 221 Lake Marina Avenue in the Orleans Marina and questioned Mr. Capo on transient rental in Orleans Marina which Mr. Liebaert stated was somewhere around \$125,000-\$150,000 per year prior to Katrina. Mr. Capo stated that although he did not have that number off hand, he would certainly believe it to be considerably down from what it was prior to Katrina.

Mr. Liebaert stated if transient slips were put back into regular commerce they would rent quickly which would increase rental income. Mr. Liebaert believes the problem is the Harbormaster has to estimate electrical use so that the slip tenant is reimbursed for the electricity used by the transient.

Mr. Capo continued with the Schedule of Cash Flow from the LAMP settlement (Balley's settlement) which shows the monies transferred out of the Balley's settlement and the items that make up the \$444,000 line item referred to earlier.

The Balance Sheet shows cash accounts (first column) and investments on the LAMP account (second column). This is where those monies are deposited and moved as needed into other accounts.

Accounts Receivable is a large number - \$847,000: \$34,000 - Lake Vista, which reflects non-payment of rent for one tenant on three spaces and on whom a suit was filed and unpaid utilities for another tenant; Orleans Marina - \$10,000, which reflects tenants that come in July 1 and pay for the full year. It is negative but that is unearned revenue, deferred credit; South Shore Harbor - \$1,600; Airport - \$772,000, which contains \$473,000 rent forgiveness for AeroPremier which has not been written off yet. Several tenants are slow payers, one owes us over \$100,000. We try to collect without getting attorneys involved or evicting them. If a default is placed on the tenant, to clear the default they will make payment which is a cycle that goes on every month, We have fewer tenants but a larger dollar amount.

Chairman Hoffman requested this item be put on the Airport Committee Agenda to discuss.

The \$34,000 for Lake Vista is the gross amount which includes the \$27,000 that they owe us in rent. Mr. Capo stated that chances are this company is probably going to go bankrupt and we are not going to see this money. We tried to negotiate with them and they didn't budge. We received Judgments on tenants who are paying off \$500 per month and others have come forward and settled for 45-50¢ on the dollar with the approval of DOA .

New Basin Canal - \$50,000 reflecting a tenant of the Hong Kong who defaulted on payment for two quarters and whom we filed suit to collect back rent. Adjacent to the Hong Kong is green space where the tenant defaulted because he didn't want the property so we filed suit. This is a shell company with no assets and we probably won't

be able to collect, but it is on our books as a receivable. As a government body we have to do everything we can to try and collect on the outstanding debt.

The Due Tos and Due Froms section of the Balance Sheet shows how various properties are accounted for. Cash received from the Orleans Marina goes into the cash account and a Due To is created to the Orleans Marina for that cash amount. This works across all property lines and is how we account for what is owed from the general fund to the other properties and also from the other properties. We have one checking account versus seven accounts, which would be cumbersome and present problems for internal controls and having multiple checking accounts.

The Levee District did not have as many funds. New Basin Canal and Lake Vista split out so we can see those properties as a stand alone. Due Tos and Due Froms are reconciled yearly but several issues don't reconcile such as Depreciation Expense, which shows up on the income statement but is not a Due To/Due From item. Timing is an issue as some things cross periods and some things are prepaid. Due To and Due From numbers look rather large - they are cumulative but eventually they clear out.

Mr. Capo stated that the Due From the Federal Government, State of Louisiana and FAA are more like an accounts receivable anticipated from FEMA and the only place you will see the FAA is under Airport.

Due From and Due To the other funds should equal amounts on the other side of the balance sheet. If it does not balance, it is because of minor clerical errors or timing differences. You should be able to take the P&L statement and compare that to the beginning balance of the Due To/Due From and an ending balance and that should fit right into that slot. Timing differences throughout the year will create a high or a low number. This is a mechanism to track what is owed to the other properties. The most important one on here is the Airport. We have the P&L statement showing revenues coming in and expenses for the Airport. But also it is important that we have the Due Tos and Due Froms for the Airport that show what the general fund has paid for the Airport and what the Airport has brought in.

Chairman Hoffman commented that the Airport is the only one that has contractual legal obligations to separately account from these other funds. The other funds are done for transparency, because it is easier to understand but there is no contractual requirement that we separate these funds, and Mr. Capo agreed.

Deferred Revenue of \$572,000 is a pre-paid amount for slips in South Shore Harbor which were sold at a long-term reduced rate in the 1980's when South Shore Harbor was developed. We have approximately 6 long-term covered and open slips. That is unearned revenue we carry on the books and each year we reduce it and account for the earned revenue accordingly.

5. Services or Activities Required by Law, Regulation or Contractual Agreement

i. Maintenance of Parks and Subdivisions

Chairman Hoffman requested a master list of contracts (grass cutting, auditing, etc.) from Mr. Capo.

Mr. Capo reviewed maps of the properties cut and stated that the acreage number obtained by the Flood side surveying crew before the split in 2006 didn't change a whole lot. Also included is the cost and cycle per month. To reduce our costs we cut areas that would not directly impact the residents in the subdivisions only once a month. In July that measure was impossible to maintain and we shifted back to twice a month. We cut only once in October November and December, stop in January and February and resume in March.

Chairman Hoffman pointed out the significance of these subdivisions which were set up with no funds set aside to pay for cutting these parks. This puts us in a situation with an obligation to maintain the parks with no source of identified revenue to do so.

Mr. Capo stated revenues from other properties are used to maintain Lakeshore Drive and the other parks, which are generally funded with tax dollars.

ii. Maintenance of Airport Activities

Insurance is one of the main cost items on the Airport which we will bring to the Airport Committee and eventually the Finance Committee. Issues on the Airport include broken, sunken concrete along the apron on the airfield side, which causes a safety issue. To break up the concrete, find out what is causing the area to sink, fill it and then re-pour the concrete it will cost \$50-\$70,000. Mr. Capo stated this was unforeseen and not in the budget which may call for us to move more money from the Bally's settlement because it is not covered by any type of FEMA or FAA funding.

PUBLIC COMMENTS:

Michael Liebaert introduced himself as a resident in the Orleans Marina for 28 years. Mr. Liebaert is a founding member and secretary of the Orleans Marina Tenants Association. He is also a member of the Board of Directors of the New Orleans Municipal Yacht Harbor Management Corporation. Mr. Liebaert is here personally today and does not represent either one of those entities he is associated with.

Mr. Liebert addressed the annual stormwater management report and problems created by Tetra Tech and their subcontractors in the construction of the flood wall along the Orleans Marina. Mr. Liebaert produced a photograph that shows a scaling operation on the wall using a needle gun to remove the finish or the exterior skin of the concrete to expose the aggregate and make the final finish. The resulting concrete dust is flying in the air space and we are forced to breathe that dust.

Mr. Liebert produced various photos to be submitted to the committee. The photos depict concrete being grinded on the wall and his vehicles with concrete dust on them. He stated the active chemicals in the concrete dust that lands on a vehicle or glass causes an etching of the glass or the finish of the vehicle when mixed with moisture. Mr. Liebaert stated when a vehicle is washed it must first be run through a spray wash -- not a regular wash that touches the vehicle -- to get excess concrete off. A regular car wash with brushes would scratch and ruin the paint job of the vehicle.

Mr. Liebaert stated his environmental engineer informed him that this is a violation of the air quality regulations. He added that mounds of spent solid waste line the parking lot in the Marina and the entrance steps on the piers. Another picture after the rain gives a better contrast of an area with solid waste which, when dry, is picked up by the wind, blown all over the vessels and vehicles and is inhaled. The environmental engineer informed Mr. Liebaert it is a solid waste that needs to be regulated. As far as I can tell, it is something that would go into your stormwater management report.

On July 8, Mr. Liebaert e-mailed Mr. John **Stammich**, Project Director for Tetra Tech, requesting continued extra effort in spraying broken concrete before it is hauled away, spraying the demolition site, covering stockpile sand, and cleaning up remnant sand and dirt to a greater degree. He enclosed photographs of concrete dust on vehicles and in turn they started spraying the demolition site where the wall is being taken down that has produced the concrete dust. Scaling and grinding is ongoing, creating a bad situation.

On September 9 he wrote Mr. **Stammich** informing him that the glass on his girlfriend's car had been etched requiring a body shop to remove the concrete residue. Mr. Liebaert requested they settle the damages but received no response. On October 16 the scaling had come closer to the piers in the Marina and was behind the Harbor Master's office sending windblown concrete dust into the Marina. Mr. Liebaert advised Mr. Stammich he would go public with a complaint if no action was taken to control the dust and clean up the solid waste in the Marina. Mr. Liebaert then filed a Complaint with the Louisiana Department of Environmental Quality and is appearing before this committee today. On Monday Mr. Liebaert will go to the newspaper, the Times Picayune and all the television stations.

After receiving the memo, Mr. Stammich advised Mr. Liebaert that he forwarded the e-mail to United States Army Corps of Engineers Office in New Orleans who are overseeing this project. Upon his arrival in New Orleans, Mr. Stammich hired a public relations firm to advise the Orleans Marina Tenants Association, New Orleans Municipal Yacht Harbor Corporation and other tenants that there would be traffic problems and a lot of construction and if there were any problems they would correct it. Mr. Liebaert has gone to them with relatively simple things to fix such as sweeping up the solid waste and covering baskets so solid waste does not fly all over the Marina.

It is Mr. Liebaert's understanding a mist could be sprayed on before scaling so the dust would drop, be swept up and contained or a tent be put around the scaling operation to

contain it, none of which has happened. Mr. Liebaert received a message from Nancy Allen, Public Affairs Officer of U.S. Army Corps of Engineers advising she will relay the concerns to one of her team members working on the project. Ms. Allen informed Mr. Liebaert that the U.S. Government has claims procedures for any damage resulting from construction activity that requires filing Form SF95. Mr. Liebaert stated they are passing the buck, making us run up against the Corps of Engineers and creating roadblocks. I beg you to go to Tetra Tech and the Corps of Engineers and ask them to contain the concrete dust created during the scaling at the Marina and clean up solid waste.

Mr. Liebaert then referred to a photograph depicting wet solid waste as a slip and fall hazard. He stated that a New Orleans Motorcycle Police living on Pier 3 in the Marina had an accident a couple of weeks ago requiring a brace on his leg. The officer had a subsequent slip and fall in the wet spent material in the past couple of weeks. There is an increased chance of injury from slip and falls. Mr. Liebaert added that it is a simple matter to address which requires better housekeeping and concern for the tenants in the Marina.

Mr. Capo informed Mr. Liebaert that the Flood Authority has given the Corps the right of entry into the Marina. The Non-Flood Division has not given any right of entry into the Marina.

Mr. Liebaert stated he had not brought his concerns to the Flood Authority. He then reviewed the Rules and Regulations, Attachment 2 in the Lease at Orleans Marina, stating, "*All parties to this Lease Agreement, including Orleans Levee District tenants and visiting vessels will comply with all federal and state and local environment regulations and be responsible for all penalties and fines imposed as a result of pollution. The Orleans Levee District has the authority to make such rules as are deemed necessary to ensure legal compliance with all federal, state and local environmental regulations. Further, the boat lessee is responsible for any and all pollution which emanates from their vessel and/or boathouse, slip, dock...*" it goes on and on. So the contractor is not a party to this lease, but in your lease you are saying that you have the authority to make such rules as are deemed necessary. So that to me spreads to everybody. You are the frontline manager of that Marina and it is you that I beg for help.

Mr. Liebaert requested Orleans Levee District join in going to the Corps and Tetra Tech to request they handle these housekeeping activities because of the impact on the tenants. He stated traffic is messed up, hammering starts very early in the morning, including Saturdays, and the place is a mess. We are not trying to stand in the way of the Flood Protection or citizens of Orleans Parish, we are asking they use common sense, common courtesy and clean up the mess that we have to walk through and breathe.

Chairman Hoffman requested we bring this up at the Marina Committee for discussion to try and help bring whatever pressure we can and to invite a member of the Corps. Mr. Capo will contact Nancy Allen, the Corps Public Relations person, to request someone for that meeting.

Mr. Bridges then commented on the photographs provided and stated he was a representative on this Board from DOTD. Mr. Bridges added that it is an expectation of the contractor to make sure that his impact on adjoining property be minimized and stated that it would take something like this Board as a whole and in conjunction with the Flood group to try and put a little leverage on the Corps and make them do what they are supposed to do.

Chairman Hoffman asked for public comments and hearing none stated that there is no old business since this is our first meeting. Chairman Hoffman announced the next Finance Committee meeting is on November 4 at 5:00 p.m. Chairman Hoffman asked for a **Motion to Adjourn, seconded by _____**.