

**NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY
MINUTES OF THE SPECIAL AD HOC COMMITTEE MEETING
(OUTFALL CANAL CONSTRUCTION PROJECT)
FRIDAY, JANUARY 31, 2014 – 3:30 P.M.**

A special meeting of the Outfall Canal Construction Ad Hoc Committee of the Non-Flood Protection Asset Management Authority was held on Friday, January 31, 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 DeRouen called the meeting to order at 3:35 p.m. and led in the Pledge of Allegiance.

The roll called was which constituted a quorum.

PRESENT:

Chairman Patrick DeRouen
Commissioner Robert E. Smith Lupo
Commissioner William Hoffman
Commissioner Greg Ernst
Commissioner Michael Stack
Commissioner Rodger Wheaton

STAFF:

Louis Capo - Executive Director
Sharon Martiny – Non-Flood

ALSO PRESENT:

Gerard Metzger – Legal Counsel
Al Pappalardo – Real Estate Consultant
Jim Martin – Design Engineering, Inc.
Walter Baudier – Design Engineering, Inc.
Bill Blank – PCCP Constructors
Jay Proskovec - PCCP Constructors
Tyler Buford – PCCP Constructors
Dan Bradley - USACE
Tim Black – USACE
Brad Drouant – USACE Project Manager
Sara McLaughlin – USACE
Robert Guillot – USACE
Brett Herr – USACE
Todd Klock – USACE
Ron Elmer – CPRA/BEV
Robert Garner – SLFPA-E
Gerry Gillen – Orleans Levee District
Capt. Craig Boudreaux – Orleans Levee District Police
William Settoon – Resident
Tom Long – Resident
Mike McCrosson - Resident

APPROVAL OF AGENDA

Commissioner Ernst offered a motion to adopt the Agenda, seconded by Commissioner Hoffman and unanimously adopted.

OPENING COMMENTS

Chairman DeRouen thanked the Commissioners and staff for attending the meeting and noted that this has been a difficult meeting to schedule. We are all here to try and get three things accomplished.

The first issue is addressing traffic on Lakeshore Drive, making the curb cut in the median and the safety involved in the curb cut. Secondly, the matter of Marconi and traffic on Marconi has to be addressed. The final issue deals with repairs to the roadway when the pumping stations are complete.

NEW BUSINESS

1) Discussion on the request by PCCP Constructors, A Joint Venture (PCCP), to make a curb cut on Lakeshore Drive for access to the Permanent Canal Closure and Pump Station Project site on the east side of the London Avenue Canal and its effect on public safety, public use and access and citizens complaints and concerns.

Chairman DeRouen requested Tyler Buford, Project Director with PCCP Constructors, to update the Committee on discussions from the Recreation/Subdivision Committee meeting and PCCP's input regarding the use of flagmen and law enforcement directing traffic.

Mr. Buford advised that PCCP proposed at the January 9, 2014 Recreation/Subdivision Committee a curb cut which adjacent to the London Canal site. The curb cut would allow westbound traffic traveling westbound to make a left-hand turn into the construction site on the Flood side as opposed to entering in the back from Leon C. Simon. The motion went before the full Board on January 23, 2014. There were amendments to the motion regarding the use of policemen at London and Orleans. The motion passed with the amendments, but I respectfully disagreed.

Chairman DeRouen noted that PCCP's proposal was to use flagmen at PCCP's discretion when weather or traffic conditions warranted. The discretionary flagman would replace a full-time flagman or off duty police officer directing traffic at the site. Mr. Buford agreed and noted that the use of a flagman would be similar to what was done during the past five closures on Lakeshore Drive. Situations to use a flagman include large oversized truck loads (carrying 80-foot or longer piling or over-width pump parts), low visibility or foggy conditions where the site is obstructed and events that put heavy traffic on Lakeshore Drive such as a marathon or bicycling event. PCCP is not presently engaged in night operations so a full time flag man is not warranted. There are other night operations which crews work within the project right-of-way.

Mr. Buford advised that he did not have the number of trucks traveling down the road during the day, week or month broken down. A rough order magnitude was prepared for Orleans Avenue and over the next 2½ years it is estimated there will be approximately 10,000 truckloads hauling commodities, sand, dredge spoils, concrete and piling. The largest quantity loads for the three stations will go to the 17th Street location, London is the next largest and Orleans is the smallest. There are opportunities at 17th Street due to pilings that can come in and dredge spoils can leave via barge.

Chairman DeRouen advised that there is no intention to request the contractor hire an off duty policeman to regulate ingress and egress for construction workers or employees at the site. There is some concern due to the diminished site lines and there are safety issues that need to be addressed when there is truck activity going in and out of the site.

There is a need for law enforcement to regulate traffic going in and out to prevent rear-end accidents or a truck hitting a car or pedestrian.

Commissioner Wheaton clarified there would be approximately 10,000-15,000 ingresses and egresses at London and Orleans and noted that there would be times when traffic would be fairly intense and questioned if this would be 24 hours per day, seven days per week. Mr. Buford informed there could be times when work was necessary 24 hours per day, but PCCP has noise restrictions to adhere to. PCCP would like to reserve the right to work weekends as needed for makeup work to ensure the project continues on schedule.

Commissioner Wheaton advised that the issue is the near constant parade of cement or dump trucks loaded with fill and materials coming out of the work site. During those times of heavy traffic and equipment there should be something other than a blinking light directing traffic. All it takes is one person coming down Lakeshore Drive going 40 mph and getting involved in that mix which could create a big problem. Mr. Buford advised that PCCP in the past has requested a right hand lane closure during heavy traffic and cement pours. Construction traffic would be in the outer lane. PCCP currently has six haul plans from the Port of New Orleans which involve policemen, traffic patterns and public safety. There is much discovery to share regarding what PCCP's plans are, what has been done in the past and what is in the works. PCCP has weekly meetings which Mr. Capo attends. There are also construction updates for the client and third party. Those meetings consist of determining what the traffic load will be and making decisions on how to address such traffic. A three week look-ahead is discussed along with day and night shift work.

Commissioner Wheaton noted that whether cement trucks are heavily loaded, speed of the truck, load of the truck and frequency of truckloads have a significant impact on the roadway. There are many projects underway on Lakeshore Drive such as lighting, the Mardi Gras Fountain and seawall stabilization. Have there been geotechnical aspects proposed such as monitoring vibrations to determine if these other projects, which have been paid for and are currently underway, are protected? Mr. Buford advised that PCCP has submitted a noise and vibration study to the client and a base line sampling is presently being prepared. PCCP does not monitor any other finished projects, but if the Authority makes the request the Corps can take the request under advisement.

Commissioner Wheaton addressed the area where Lakeshore Drive turns and runs along the seawall, which was built approximately 80 years ago. There have been studies that cannot be replicated at any reasonable cost. There were many attempts to stabilize that area and a lot of money has been spent on the Mardi Gras Fountain and the 16" slab underneath. These areas should have some type of monitoring as many people are certain that truck vibrations will cause damage. Measures could be taken from a geotechnical standpoint to protect those structures. Heavily loaded trucks may have to pass through at 10 mph as opposed to 35 mph to avoid potential damage. Mr. Buford informed that PCCP would not do any of those investigations. That is a question that is more appropriate to ask the Corps of Engineers. Chairman DeRouen stated at the end of the day the Authority is

concerned about safety and the ongoing deterioration of the assets that this Board is charged with maintaining.

Chairman DeRouen questioned if PCCP would be willing to use off duty law enforcement for a certain level of traffic, which threshold level would be determined. Mr. Buford advised that PCCP is willing to have discussions to try to determine those thresholds.

Commissioner Stack advised the Committee that he viewed the site, particularly the driveway access at London, and questioned whether PCCP had a permit for a driveway. PCCP does not have a permit from the Non-Flood Authority. If this was a DOTD project, the driveway would be shut down due to site distance concerns. Mr. Buford stated that he could not answer that question. Commissioner Stack addressed the median and questioned if trucks are presently making turns on the median as sandbags have been placed near the median. Mr. Buford stated that he could not answer that question, but PCCP has not directed trucks to make turns on the median. Trucks are reportedly going around Paris and making a u-turn around the Lakeshore Fountain.

Commissioner Stack noted that a DOTD project would require a traffic operations engineer to design the crossing. Signage on the west side would be required along with ample advance warning. The left lane going westbound would be closed and a turning lane would be created for dump trucks. There are DOTD standards regarding use of a flagman and DOTD standards for the Project Engineer to determine if a policeman is needed at the site for safety purposes. DOTD then reimburses the contractor. This is not a DOTD roadway, but I am DOTD's representative on this Authority's Board and those are my concerns with the construction site. The DOTD standards state that a flagman is to be present when construction activities are underway and the Project Engineer makes the decision if a police is needed during heavy haul times. The Corps of Engineers is the Project Manager on the Outfall Canal Construction. Mr. Bradley stated that the Corps would take that issue under advisement regarding what the threshold would be.

Commissioner Lupo informed the Committee that the RFP stated the contractor would address the issues being discussed today, yet the Corps does not have an answer regarding the traffic control design or coordination with the local authorities (this Authority). The design/builder has not submitted to PCCP the approved signage nor has PCCP signed off on approved signage. PCCP has not signed off on qualified flag personnel, traffic controllers, or automatic traffic signs which issues were addressed in the RFP that the Corps sent to the contractors. Mr. Bradley advised that a traffic plan was submitted to the Corps and reviewed by the Construction Division and Safety Office. A traffic plan was submitted to DPW and one was also submitted to the Non-Flood Authority. Comments were received and adapted.

Commissioner Lupo clarified that the Corps showed this Authority one thing regarding Marconi Drive and presented something different to the City without referring back to this Authority. This Authority is the local authority for Lakeshore Drive. Mr. Bradley agreed and stated that the Corps interpreted Marconi as a City street and Lakeshore Drive as a

Non-Flood Asset. The plan was delivered to this Authority, but no written comments have been received to date. Commissioner Stack advised that the truck route plan was submitted, but that is not a traffic control plan. DOTD did not comment because this is not DOTD's facility. Mr. Bradley advised that a good size packet was delivered to all agencies. Mr. Capo noted that a disc was received and distributed at the last meeting. Mr. Buford advised that an abbreviated form and disc were given to Mr. Capo because the traffic control plan is over 200 pages. Commissioner Stack advised that the Committee would review the stamped and signed traffic control plan prepared by the licensed Traffic Engineer.

Commissioner Lupo addressed the condition of the roads and advised that a comment was made during the meeting in Lakeway that the Corps would allow normal wear and tear along the roads, but the Corps would not look at roadway surfaces to determine the present condition. In reviewing the RFP, it states that the design builder is responsible for restoring roads in the vicinity of each construction site to pre-construction condition. Mr. Bradley advised that this would be done. Video of the roads is currently being taken at a frequency interval to monitor the roads on the construction site. PCCP must comply with the RFP because that is the contract. PCCP monitors streets by taking video footage of the street and comparing pre-construction to post-construction video to determine any damage. The Corps has accepted this method. Any drop inlets, curbs or concrete in the vicinity of the project area will be monitored.

Mr. Bradley advised that in accordance with the RFP, the Corps intends to enforce the RFP by restoring the roadway to the structural number it was designed for. Commissioner Stack advised that the Authority has the design parameters and the structural number that Lakeshore Drive was designed for and questioned if the Corps would require the contractor to return Lakeshore Drive to the structural number it was designed for. Mr. Bradley could only state that the contract can be enforced with the RFP. The Corps can take the interpretation of that under advisement and have further discussions with the Authority regarding the issue. The contract is to restore the road to pre-construction condition.

Brett Herr, Branch Chief (Lake Pontchartrain Vicinity Project) Corps of Engineers, informed the Committee that the Corps does not pay for general degradation of a roadway due to use. The Corps built and raised those levees after Hurricane Katrina and that traffic far exceeded construction traffic for the permanent pumps. There is a contractor currently working on the seawall who also brings in significant construction traffic. It will be difficult to show that wear and tear on Lakeshore Drive is a direct result of PCCP Constructors. Commissioner Stack noted that the Corps is requesting concessions from this Board. Before those concessions are granted, this Authority needs some reassurance that what is torn up will be fixed. I cannot give my support without that reassurance. Mr. Herr stated the RFP provision generally applies to haul roads constructed for the sole purpose of Corps' construction. The road off of Lakeshore Drive is one of those roads, but Lakeshore Drive is a completely different story.

Commissioner Stack clarified that the Corps had no agreements to restore any state highways. The point is that there are questions regarding whether Lakeshore Drive is a truck route. The Corps has previously used City routes with permission from the City, but the Corps is using a no truck route. This Authority did not approve Lakeshore Drive as a truck route. Mr. Herr advised that the Corps has used haul routes through the City that were not truck routes. The Corps requests right-of-entry from a non-federal sponsor. The Corps was granted right-of-entry from CPRA, a State agency. The Corps would like to work with the Management Authority to minimize damage and ensure public safety. Putting conditions on the Corps or PCCP to restore Lakeshore Drive, I don't see that happening. This Board passed a Resolution supporting right-of-entry for this project. Commissioner Stack questioned if passing the Resolution gave the Corps carte blanche to do what the Corps needed to do.

Mr. Herr read from a Resolution granted by the Non-Flood Authority as follows:

The Non-Flood Authority approves and ratifies all servitudes, deeds, rights of entry and AFREs for the LPV project and all other documents necessary and appropriate in connection with the foregoing hereto executed by its Executive Director and adopts such servitudes, deeds and rights of entries and other documents as acts of the Non-Flood Authority.

Mr. Herr noted that the above language is not required because the Corps was granted right of entry from CPRA who was responsible for obtaining the required approvals to use the roadways. The request is to cut through the median which should be designed by a certified traffic engineer. The only alternative for the Corps is that trucks will continue down Lakeshore Drive, make a u-turn and proceed right in front of many very nice homes.

Mr. Herr stated that the Corps must get a permit from this Authority for the median cut as this Authority controls Lakeshore Drive. This was part of the original submittal in response to the RFP. After PCCP Constructors was awarded the contract a comprehensive traffic study and traffic control plan was prepared and submitted by PCCP in June of 2013. Mr. Buford advised the Committee that previously PCCP requested the Authority close the Ted Hickey Bridge down to lift equipment into the London and Orleans canals. PCCP paid the Authority a \$5,000 permit fee and submitted plans which were reviewed by DEI. This issue could be worked through a permit fee. PCCP could pay the fee for DEI to review the plan and comments would be submitted through that review. The permit fee is an easy remedy as it has been done before.

Commissioner Wheaton advised that there are other issues such as the use of flagmen and safety of the public who use Lakeshore Drive. Mr. Buford advised that PCCP would discuss traffic counts, the three week look ahead, day operations and night operations with feedback from Mr. Stack on DOTD regulations and the use of flagmen and/or policemen if warranted.

Commissioner Stack suggested that PCCP submit a plan and DEI will review the plan and advise what issues must be addressed for the Authority to go ahead and grant a permit. There are safety concerns currently on site. Trucks are presently making those turns as can be seen by the tire tracks, which is certainly not safe right now. The Corps or whoever can enforce that and submit a plan that the Committee will look at the plan and we will have DEI review the plan. I will have my people look at the plan.

Chairman DeRouen advised that no recommendation is being made at this time. The Committee will do its best to turn around a permit request as quickly as possible and give a recommendation to the full Board. The Authority does ask for dialogue and good faith between PCCP, the Corps and the Authority. Chairman DeRouen informed the Committee that he drove Lakeshore Drive at 6:30 a.m. when a tandem dump truck passed his vehicle going more than 35 mph. Knowing the truck had to make a wide right-hand turn, I got in the left lane and slowed down. The driver was not able to negotiate the turn from the right lane and went from the right to the left lane, slightly over the double lines before turning into the gate. That is a huge problem.

Commissioner Hoffman addressed the proper weight of the truck and questioned how PCCP was able to ensure that drivers are complying with speed and load limits. Mr. Buford advised that several controls had been enacted regarding weight limits. Sand is brought in by the ton and the load out facility is obligated to check the weight. PCCP also periodically checks tickets to ensure trucks are not being overloaded. Commissioner Stack added that the Authority will not pay for an overweight truck; the driver does not get paid. There are incentives based on how many loads a trucker makes per day.

Commissioner Hoffman advised that the Authority had to solve the speeding issue. PCCP can warn the drivers, but they cannot give speeding tickets. Mr. Buford advised that PCCP reacts to tangible complaints and the drivers of those trucks will be removed from the site.

2) Discussion on the use of Lakeshore Drive and other area streets as a haul route during the Permanent Canal Closure and Pump Station Project and its effect on public safety, public use and access and citizens complaints and concerns.

Commissioner Wheaton advised that this issue is an attempt to redirect truck traffic off of Marconi. PCCP is of the opinion that Marconi is necessary during times when Lakeshore Drive cannot be used. This Authority would like to take steps with the contractor to eliminate heavy truck traffic on Marconi. Mr. Bradley advised that the Joint Venture (PCCP) may be unable to completely eliminate truck traffic on Marconi due to the maintenance facility located on Marconi. Mr. Buford added that during weekends and bad weather events, portions of Lakeshore Drive are closed and the Orleans Canal is accessible via Marconi only. An adjacent haul route on Marconi can be discussed, but there may be obstacles with environmental issues that cannot be solved immediately. It is unclear what is being proposed as the alternate.

Commissioner Ernst clarified that Marconi was to be used only on the weekends for nothing other than light truck traffic. Commissioner Stack agreed and noted that if Lakeshore Drive was shut down for two weeks due to weather conditions or construction issues, PCCP is allowed use of Marconi for those two weeks. Commissioner Ernst noted that the original presentation to the Board was that Marconi was not considered as a haul route. After this Board gave approval for Lakeshore Drive, someone approached the City and received a permit for the use of Marconi. Mr. Buford advised that PCCP felt directed by the Corps to get approval from the City as Marconi belongs to the City. Allen Ural gave approval from the City. It is not known if Mr. Ural contacted the City Council or any property associations in the area. Commissioner Ernst advised that a representative from District A or D was invited to

attend this meeting as well as the gentleman responsible for signing the permit for Marconi.

Commissioner Stack noted that it was unclear whether PCCP, the Corps or the residents are making the request for the use of Lakeshore Drive on the weekend in an effort to keep traffic off of Marconi. Marconi was approved by the City because it is a City route. Mr. Herr advised that use of Marconi was part of the Corps' Right Of Entry granted by the state. Commissioner Stack clarified that the agreement does not state that the Corps can haul on a no truck route, but that is what the Corps is doing on Marconi. All local and state laws must be followed. However, PCCP received approval from the City to haul on Marconi. If Lakeshore Drive is opened on weekends for the Corps and PCCP, the contractor can refuse because right to use Marconi on the weekend was given by the City. Mr. Buford noted if west bound lane closures used for recreation on the weekend did not exist, PCCP would use the west-bound lane out of Orleans on Lakeshore as opposed to Marconi.

Commissioner Wheaton advised that the residents, particularly in Lake Vista, use Marconi as a major recreation area. Also, the truck vibrations will impact homes in that area. This Authority does control Lakeshore Drive and the many recreational elements along Lakeshore Drive. This Authority would be willing to trade the recreational elements of Lakeshore Drive on weekends in an effort to eliminate trucks in the neighborhoods along Marconi by the use Lakeshore Drive.

Commissioner Lupo noted that Orleans Levee District Police advised of a very unsafe situation on Lakeshore Drive due to the 25-30 year history of Lakeshore Drive being open to recreation on weekends. If Lakeshore Drive was used on weekends, PCCP would have to devise a really good plan for directing vehicle traffic. There is a 25-30 year history engrained in people who use Lakeshore Drive for recreational activity. The Authority is trying to assist the neighborhoods, which is the Authority's responsibility. Marconi is a City street, but the neighborhoods are the Authority's responsibility. This Authority is trying to protect the neighbors and their homes by taking traffic off Marconi, which is not an easy task. Commissioner Wheaton added that the recreational side may have to give way to allow the residents of Lake Vista not to have the traffic on Marconi. Those are streets that this Authority has a responsibility for and that is owed to the residents. The Authority should allow PCCP use of Lakeshore Drive on the weekends. Other recreational traffic could be modified or shut down to ensure safety.

Gerry Gillen, Orleans Levee District, stated that the current construction project has the right lane of Lakeshore Drive closed during working hours and fences have been moved back. Construction crews do work on weekends. The right lane is closed on Saturday and impacts recreational use. Commissioner Stack noted that closing the right lane gives residents pockets away from active construction to bike and skate and the left lane is available for traffic. Mr. Gillen added that there is no safety issue as construction crews are cognizant of the shut down areas. Commissioner Ernst clarified that the open lane would not be for bikers and skaters, it would be open for vehicular traffic. Mr. Gillen advised that putting recreation on the other side of the fence once

construction is complete on the Flood side would be a learning curve and something the Non-Flood Authority may want to consider.

Mr. Buford noted that use of Marconi on the weekends would be as schedule dictates. There may be a Saturday with an extreme amount of traffic due to weather or wind putting the project behind schedule. Marconi, Pratt, Paris and Beauregard are not used for heavy traffic during the weekdays. PCCP has a construction hotline which is given out to various stakeholders, neighbors and public awareness people and PCCP will respond to any tangible request or report. PCCP uses GPS for local sand, haul and concrete truck drivers. There are certain trucks that come from various ports of entry that PCCP does not give the GPS to. If a GPS controlled truck goes off track, PCCP receives a report and contacts the trucking company, identifies the driver and the driver is asked not to return to the site. The frequency to which PCCP reports these issues could be provided to the Authority. Commissioner Ernst advised the information would advise the Board how often the violations are occurring along with the reports from residents.

Mr. Buford advised of additional construction activities on Lakeshore Drive and Hammond Highway not connected to the Outfall Canal Project. Residents may get frustrated and perceive PCCP is not responding to reports that are given regarding trucks being used on those projects. Commissioner Stack noted this is a mutual benefit that addresses the neighborhood's concerns and this Authority devising a plan in cooperation with PCCP and the Corps. Mr. Buford noted this was understood and agreed.

Commissioner Stack proposed a Resolution that DEI or another traffic engineer prepare a plan that this Authority and the Levee District Police Dept. are comfortable with. This issue is not on the Corps or PCCP. There are concerns that Lakeshore Drive is going to fall apart and who will be responsible for repairing that one year from now. West bound traffic can be accommodated on the weekends safely, but a traffic engineer should review this issue. Chairman DeRouen agreed and suggested a public meeting for residents and non-neighborhood residents that use the Lakefront can weigh in before a decision is made to close Lakeshore Drive.

Commissioner Lupo advised this would be the stretch from Shelter #1 to the east side of Marconi. There is also another contractor working on Saturdays through April. Mr. Buford advised that PCCP would work out all issues before requesting westbound lane closures. PCCP must understand how the current contractor uses the area as well. Giving PCCP access to Lakeshore Drive on Saturdays would help PCCP. This would be exclusive access or access to traverse westbound lanes. Exclusive use may be more of a safety risk for recreational users that have been riding and skating along Lakeshore Drive for years. It is uncertain what points of access would be blocked to restrict residential vehicles and allow construction vehicles to pass.

Commissioner Ernst advised that Lakeshore Drive would primarily be closed on Saturdays, which would allow Lakeshore Drive to be open for recreation on an as-needed basis. Commissioner Lupo stated that keeping one lane open in that section could not be done safely and Commissioner Hoffman agreed. Commissioner Stack advised that it

could be done safely with a lot of work on the engineering side. It will impact the other projects. Commissioner Hoffman requested help from the Corps' media on getting the word out to neighborhoods and recreational users of Lakeshore Drive on what is taking place and why so the public understands what is going on. This Authority does not have the money for any advertising. Advertising could be accomplished by newspaper ads, public meetings, flyers and e-mails. Commissioner Ernst suggested a large construction sign advising that the area is closed, what days the area is closed and for what purpose. The sign should also advise that recreational use is prohibited.

Mr. Gillen advised that the Flood Authority would continue to open and close Lakeshore Drive as needed. Commissioner Hoffman advised that this may be a solution because this construction will be ongoing for 2 ½ years and that will limit physical damage to homes. Recreational users of Lakeshore Drive may be inconvenienced, but everybody is invited to walk in City Park as opposed to the Lakefront for 2½ years.

PUBLIC COMMENTS:

Mike McCrossen – Resident

Mr. McCrossen thanked the Honorable Commissioners and the Chairman.

Tom Long – Resident of Lake Vista

Mr. Long stated that a case could be made regarding the wisdom of opening westbound lanes on Lakeshore Drive during the weekend. By opening the western reach from Orleans Canal to West End recreational users can be kept off of the concrete as there is space on the south side of Lakeshore Drive to picnic, there is a sidewalk, the Mardi Gras Fountain and plenty of green space. Residents could still bike and skate along the entire eastern side of Lakeshore Drive between Marconi and London Canal. It is a small price to pay to protect homes and lives of residents living within several blocks of Marconi who are impacted by vibrations of large haul trucks. The contractor will haul 10,000 loads in 2½ years which is 80 loads per week. If those trucks are run down a two lane street for two days, the Authority is begging for a problem. What the Authority has done is the wise thing to do: Let the contractor use Lakeshore Drive westbound seven days per week. PCCP would not have an excuse to use Marconi and this Authority has done everything in its power to keep trucks off of Marconi. The Board will be praised for its wisdom.

William Settoon – Resident

Mr. Settoon advised that he may be able to assist in public relations and spreading the word regarding closures on Lakeshore Drive. There is concern regarding a comment from the Senior Manager, Corps of Engineers, regarding the Corps and its contractor not being responsible for Lakeshore Drive. I have a question for the Senior Manager: If our home two doors off of Marconi Drive is damaged by vibrations of truck traffic on Marconi Drive what is the recourse and specific process to pursue recourse to remedy any damages. Mr. Settoon requested the answer be read into the record.

Mr. Herr advised that residents with concerns or complaints regarding potential damage as a result of the Corps' construction activity should

call the construction hotline. Residents will be provided a number to the Corps' counsel who will provide forms to any resident wishing to file an official claim for damage. I would like to point out the way the federal government works

When the Corps builds a project the Corps' sponsor (the federal government) holds the Corps harmless unless there is negligence on the part of the government or the contractor. The state is responsible for damages due to negligence on the part of the government or the contractor. This is specifically in response to house being damaged from vibrations. The Corps and the contractor are not responsible for general degradation of a roadway due to construction traffic. Commissioner Ernst noted that the RFP held the contractor bound to restore Lakeshore Drive to its pre-construction condition and asked Mr. Herr to clarify that. Mr. Herr advised that the RFP states all roads in the vicinity would be repaired; roads from Lakeshore Drive to the construction site and damage in the immediate vicinity of where trucks turn off of Lakeshore Drive. This would be handled on a case by case basis. How do you show that it was the contractor's trucks on those days that caused damage on Lakeshore Drive versus traffic for the last 15 years?

Commissioner Ernst questioned why the Corps was filming and documenting the condition of the present roadway if repairs will not be the Corps' responsibility. Mr. Herr informed that when the Corps receives a complaint, the contractor can view the video to determine if the condition existed the week before. These issues are resolved on a case by case basis. If the contractor runs over and breaks a curb, the contractor is responsible for fixing the curb. If a pothole develops over time the contractor would not likely be responsible. Commissioner Hoffman noted that the Corps would not be responsible if the trucks were of legal weight.

Mr. Metzger noted that Mr. Gillen issued Rights Of Entry by the Flood Authority on behalf of CPRA as the non-federal sponsor. The State of Louisiana, the Flood Authority East and the District have "no responsibility to hold and save the Department of Army harmless for any negligence done" under these documents. Historically, a Hold Harmless had been given by the non-federal sponsor to the Corps and its contractor. That was part of the program until Hurricane Katrina. The provision states that the CPRA and the Department of the Army, U.S. Corps of Engineers agree to act in a reasonable manner conducting activities on property covered by this authorization for a Right Of Entry for construction. The United States had waived sovereign immunity for negligence in the Federal Tort Claims Act. The Dept. of Army acknowledges that in the event its employees are negligent, liability may attach for such negligence under the Federal Tort Claims Act. Any resident having damage to their property should consult with their attorney as there may be relief in this instance under these Rights Of Entry. This Authority has not granted a Hold Harmless or executed a Right of Entry for this project.

Chairman DeRouen suggested another public meeting to discuss the merits of closing westbound Lakeshore Drive between Marconi and West End on Saturdays. The public will be given the opportunity to weigh in on this issue. Lakeshore Drive would be closed to recreational

traffic to assist the contractor. The Committee is not making a recommendation at this time. A public meeting will be held to give residents the opportunity to voice their opinions because I am not comfortable making a recommendation that westbound Lakeshore Drive should be closed to recreational use. It is appropriate that people other than the interested parties have a chance to speak.

Commissioner Hoffman recommended Lakeshore Drive be closed both Saturday and Sunday so recreational users will not have to guess which Sunday Lakeshore Drive is open and vehicular drivers would not guess whether Lakeshore Drive can be used. The weekends should be the same as the weekdays so crews working on the project know the haul routes and can communicate it that way.

ADJOURNMENT

Commissioner Stack offered a motion to adjourn, seconded by Commissioner Hoffman and unanimously adopted.

ANNOUNCEMENT OF NEXT MEETING

The next Special Ad Hoc Committee meeting will be scheduled upon request.

The meeting adjourned at 5:13 p.m.