

**MINUTES OF THE
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY – EAST
BOARD MEETING
THURSDAY, JULY 19, 2007**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority - East (Authority or SLFPA-E) was held on Thursday, July 19, 2007, in the Lake Vista Community Center Second Floor Hall, 6500 Spanish Fort Boulevard, New Orleans, Louisiana, after due legal notice of the meeting was sent to each member and the news media and posted.

Mr. Doody called the meeting to order at 9:35 a.m., and led the Board in the pledge of allegiance.

The roll was called and a quorum of the Board was present.

Present:

Timothy P. Doody, President
Abril B. Sutherland, Vice President
John M. Barry, Secretary
David P. Barnes, Jr.
Thomas L. Jackson
Larry A. McKee
Ricardo S. Pineda
Sara Lee St. Vincent
Louis E. Wittie

Absent:

Stradford A. Goins
George Losonsky, Ph.D., Treasurer

OPENING COMMENTS:

Mr. Doody commented this is his first meeting as President and he will do his very best to serve in this capacity. He announced members appointed to serve as point people and their respective areas: Mr. Jackson – U.S. Army Corps of Engineers (USACE) projects; Mr. Barnes – media inquiries and presentations; Mr. Wittie – review of quarterly levee inspection reports to be submitted to DOTD; Mr. Barry – political and governmental relations; and Mr. McKee – special project (pump drainage system study).

RESOLUTION #07-19-07-001 - AGENDA

Mr. Jackson requested an item be added to the agenda (XI. 16.) to request an official Attorney General opinion with respect to payment of per diem for Committee meetings, and Ms. St. Vincent requested that Jonell Blowers (EJLD personnel matter) and Peggy Sembera (LBBLD personnel matter) be added under Executive Session.

On the motion of Mr. Barry,
Seconded by Mr. Wittie, the following resolution was offered:

“A resolution to adopt the agenda, as amended, for the Board Meeting of July 19, 2007.”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

RESOLUTION # 07-19-07-002 - MINUTES

On the motion of Mr. McKee,
Seconded by Mr. Barry, the following resolution was offered:

“A resolution to approve the minutes of the Board Meetings of March 15th and June 21st, 2007.”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

PUBLIC COMMENTS:

There were no cards received for public comment.

PRESENTATIONS:

A. Lake Pontchartrain Basin Foundation – IHNC Elevations.

Mr. Carlton Dufrechou, representing the Lake Pontchartrain Basin Foundation (“Foundation”), thanked the Board members for their dedication and efforts in turning a network of floodwalls and levees into a storm protection system. The Foundation’s mission is water quality and habitat restoration of the entire Lake Pontchartrain basin. The Foundation’s coastal work pulled it into storm protection work, and its storm advisory team has been looking at existing levee heights for St. Bernard Parish, with the purpose of determining which areas would have the potential for overtopping should a Katrina-like event happen tomorrow. An overview of the storm protection system with current flood protection heights for St. Bernard Parish was viewed, along with several

scenarios showing areas where the current heights are lower than authorized heights; areas where the current heights are lower than the theoretical 100 year storm surge height; and areas where the current heights are lower than a Katrina-like storm surge height. A computer generated fly-by of the St. Bernard Parish interior levee system was then viewed wherein the authorized flood protection height, 100 year storm surge height and the Katrina storm surge height were illustrated. The Foundation hoped to duplicate this effort for eastern New Orleans, the main basin of New Orleans and for East Jefferson. Mr. Dufrechou offered to share the Foundation's information and to assist and work with the Authority in its flood protection mission.

Mr. Doody requested that Mr. Rick Kendrick with the USACE Hurricane Protection Office (HPO) provide an update on the Caernarvon to Verrett levee project. Mr. Kendrick reported, currently, modifications based on comments are being made to the drawings. The USACE plans to advertise the project in August, with project award in late September. Borrow material issues had somewhat delayed the process.

B. Larry Ardoin, DOTD – Levee inspection program.

Mr. Larry Ardoin, Director, Hurricane Protection Operations, Department of Transportation and Development (DOTD), began the presentation by providing the motto of the Association of Levee Boards of Louisiana, "Without flood control, nothing else matters." Presentation topics included State Statutes and Code of Federal Regulations, Coastal Protection and Restoration Authority (CPRA), DOTD Organization, Levee Operation and Maintenance and Inspection Program, and Levee and Flood Control Works Inspection Training Course.

Mr. Ardoin reviewed recent legislation dealing with hurricane protection. Act 8 of the 1st Extraordinary Session 2005 created the CPRA, combining hurricane protection and coastal restoration efforts. Its responsibilities include production of a comprehensive State master plan, and providing leadership and direction for coastal restoration and hurricane protection. Functions and authorities of the CPRA were explained. Act 1 of the 1st Extraordinary Session 2006 reorganized governance of the levee districts. Act 6 of the 1st Extraordinary Session of 2006 was the primary legislation that reorganized DOTD and added Hurricane Flood Protection to its mission statement. DOTD Assistant Secretary Ed Preau became accountable for the South Louisiana hurricane and flood protection systems, and responsible for administering all matters relating to engineering, design, construction, extension, improvement, repair and regulation of hurricane flood protection systems, and authorized the establishment of a maintenance, repair and inspection program.

The organizational structure of the DOTD Office of Public Works and Hurricane Flood Protection was reviewed, which includes Flood Protection Programs, Water Resources Programs, Engineering and Technical Support, and Hurricane Protection Operations. The focus of the Flood Protection Program is on the management of USACE projects from the State's perspective and administering the Statewide Flood Control program. The Water Resources Program deals with dam safety and water

resources. Engineering and Technical Support provides technical and engineering services to the DOTD organization. Hurricane Protection Operations is responsible for levee inspection oversight and hurricane emergency response and recently developed a levee inspector certification course and is working on GIS based hurricane protection system mapping. The Levee Safety Branch will review levee inspection reports and do system analysis. Permits and letters of no objections will be moved under Hurricane Protection Operations.

Mr. Ardoin reviewed DOTD re-organization accomplishments and new programs being developed by Hurricane Flood Protection, including GIS system development.

DOTD assistance, cost share participation for 100 year flood protection and execution of Cooperative Agreements with the USACE were discussed, along with DOTD staffing of its New Orleans District office.

DOTD oversight and coordination of levee inspections was reviewed. Status reports on levee systems are presented by DOTD to the CPRA. Annual workshops are provided by DOTD, in association with the Association of Levee Boards of Louisiana, which meet the training requirement under RS 38:301 for Commissioners. Federal Inspection Requirements were reviewed. The importance of documentation of inspections was discussed.

C. USACE -- Real Estate/Legal Services Related to 100 Year Flood Protection

O.L.D. Executive Director Stevan Spencer provided an overview of the prospective work in Orleans Parish: starting at the 17th Street Canal with the construction of a T-wall from the 17th Street Canal to Lakeshore Drive; the Lakefront from Lakeshore Drive to the IHNC is divided into four sections consisting of phase one to authorized grade and phase two to the 100 year elevation; a T-wall would be constructed from Lakefront Airport to Downman Road; then continuing approximately five miles east to Highway 47 (Little Woods) the levee would be degraded and a T-wall constructed (100 year elevation); from Highway 47 (Little Woods) to South Point earthen levee raisings are being considered, which may require additional rights-of-way (ROW); along the north side of the GIWW earthen levee raisings are being considered; and to the east of the convergence of the GIWW and the MRGO, the USACE is considering a combination earthen levee and lock structure to close off surge from the Lake Borgne area. The USACE is currently raising the earthen levee on the south side of the GIWW from the Hwy. 47 bridge to the Industrial Canal to elevation 15 (authorized grade). Mr. Spencer pointed out massive amounts of borrow materials would be required for levee raisings, which may be costly and difficult to find, and, therefore, may economically drive some designs to T-wall construction.

Mr. Kendrick indicated the USACE is trying to avoid, especially along the north side of Lake Pontchartrain, increasing ROW's, although construction easements may be needed. Levee raisings to 100 year levels will require larger footprints; therefore, the decision may be made to construct floodwalls or a lake barrier in high population areas

to reduce the required footprint. The USACE will make these decisions with cost-effectiveness and the sponsor in mind. Typically, a Cooperative Agreement is signed for a Civil Works project, the real estate issues are identified, and the sponsor proceeds with the real estate process. The USACE is finding in many areas the critical path is along the areas of real estate and the Cooperative Agreement, and not project design. Therefore, on a case-by-case basis, the USACE will be coming to the Board, the State, or other appropriate entities for assistance to expedite the real estate process.

Mr. Joseph Kopec, Real Estate Project Manager for the USACE Hurricane Protection Office (HPO), advised Mr. Kevin Wagner, Project Manager for Orleans Parish, was unable to attend today's meeting due to another commitment; however, if the Board wished, Mr. Wagner could present a more detailed briefing at a future meeting. The USACE may potentially be looking at 60 construction contracts for Orleans Parish for which the Authority would be involved in acquiring ROW's.

Mr. Kopec explained the source of money from Congress determines which entity acquires ROW and explained various classifications:

- 337 money (1st Supplemental Appropriation) to restore to design level previously constructed, and 33x money (3rd Supplemental Appropriation) to complete the unconstructed portions of Federally authorized projects--construction is at full federal expense; however, the non-federal sponsor must provide ROW owned, claimed or controlled by it or other non-federal governmental entities, and the non-federal sponsor is expected to commandeer required ROW, if it can be legally done.
- 707 money (4th Supplemental Appropriation) for 100 year protection—new earthen levees and floodwalls are cost shared consistent with the cost share provisions under which the projects were originally constructed, and the non-federal sponsor acquires the ROW. Project construction may be within the existing ROW footprint; however, access roads, temporary construction and storage areas may be required.
- 394 money (4th Supplemental Appropriation)—repair and replacement of existing floodwalls for Lake Pontchartrain and Vicinity and West Bank and Vicinity is at full Federal expense; ROW is acquired Federally (similar to the 3rd Supp.) and the non-federal sponsor provides ROW owned, claimed or controlled by it or other non-federal governmental entities. The same requirements apply to armoring.

Mr. Kopec explained the USACE cannot award a contract if ROW is not available. Commandeering is the most expedient method to obtain right of use and follow-up with acquisition and payment of just compensation is required.

The typical acquisition process was described and discussed, which includes:

- Execution of an agreement;
- Receipt of final drawings from the USACE Engineering Division, Project Manager or Contractor;
- Estates are prepared providing description of the rights to be acquired;
- USACE provides copies of the minimum rights needed for the project;
- Formal transmittal of final ROW drawings to non-federal sponsor and instructions to acquire lands, easements, rights-of-way;

- ROW's acquired in accordance with the provisions of PL 91-646, as amended (a/k/a The Uniform Act), which sets standards of performance that come into play if a business or home is dislocated;
- Tract ownership data is obtained (last purported owner of record);
- Landowner meetings conducted;
- Mapping and legal descriptions are prepared for each ownership;
- Facility and utility relocations conducted;
- Title evidence obtained;
- Tract appraisals obtained (USACE approves appraiser and the appraisals);
- Good faith negotiations conducted (USACE must approve counter offers);
- Closings performed;
- If acquisition cannot be made through negotiation, then the entity must go to State Court for Condemnations (Federal) / Expropriations (non-Federal) to make the ROW available;
- Possession obtained;
- Complete PL 91-646, Title II Uniform Relocation Assistance Benefits;
- Sponsor tenders authorization for entry for construction with Attorney's Certificate of Authority;
- Sponsor prepares and submits credit request to USACE for approval, as applicable, in accordance with Agreement.

Should a borrow pit be required, compensation is per square foot or acre at market value and treated as a real estate item. On a case by case basis, the USACE has considered exceptions to this policy, such as requiring the contractor to provide the borrow material as part of its construction contract; however, this generally increases the cost of the contract and the Sponsor's cost share.

The Board discussed the receipt of preliminary information from the USACE on ROW requirements in order to perform up front work and the risks involved with those research dollars should flood protection alignments change. Under current rules, credit is received for "early acquisition"; i.e., acquisition based on best information, but accomplished before execution of an agreement; however, should the ROW requirement change, that credit may be lost. A USACE attorney's special interest report regarding utility relocations will address each pipeline, utility, etc., and identify the party responsible for that relocation expense.

The Authority's request for construction of 100 year flood protection at full Federal cost was discussed, along with the question as to which entity (Federal or non-federal sponsor) would be responsible for real estate acquisition should that request be approved by Congress.

Mr. Jackson raised a question relative to the status of the Agreement for the Topaz Street Closure. Mr. Spencer reported the Agreement is on the City Council's agenda; however, it is identified as being between the City of New Orleans and USACE, instead of the City and O.L.D. Ms. Gloria Just of the USACE HPO Real Estate office advised she will contact the City and provide the proper agreement.

COMMITTEE REPORTS:

Routine and Emergency Operations Committee: Chair McKee

Mr. McKee reported the Committee met last week and discussed the policy of employees of the various levee districts taking vehicles home; no action was taken by the Committee and Mr. Wittie was requested to chair a subcommittee for the development of a general policy for all levee districts concerning the positions using vehicles and associated costs. Mr. Jim Baker presented his findings at the Committee meeting on the 17th Street Canal inspection, advising considerable erosion had occurred over an approximately 800 lineal foot stretch of the canal. Mr. McKee stressed the Committee's goal is to develop procedures to respond to the identification of a problem or potential problem--going directly to the solution and then through the process of determining responsibility. Mr. McKee directed the Interim Regional Director to begin the development of such a policy. The second part of this proposed policy would involve informing the public of inspection results, the efforts taken to fix a problem and announcement when the problem is resolved.

Mr. Rick Kendrick advised a survey is being done to assure the integrity of the wall and then the type of maintenance issue or cause will be determined. Possible causes of the erosion were discussed.

Finance Committee: Chair Losonsky

Ms. St. Vincent advised many of the issues discussed by the Committee are agenda items and will be addressed as they come up.

Legal Committee: Chair Sutherland

Ms. Sutherland reported the Committee met last Friday, and major topics were real estate and legal services required for 100 year flood protection, and the Haspel-Davis litigation, which will be discussed in Executive Session.

Discussion on the SLFPAE web site.

Mr. Doody presented the SFLPA-E's revised website, which offered access to agendas, minutes (as approved), resolutions, employment (Regional Director advertisement), Presentations, and useful links. Additionally, each Board member has e-mail capability on the site. He announced Ms. St. Vincent will be the webmaster.

Special Issues Committee: Chair Goins

Mr. Pineda reported he toured the Lake Borgne Basin Levee District and was impressed with the operations and maintenance staff, both with their operation of the current complex pumping system, and with their dedication during the Katrina event.

EXECUTIVE SESSION:

A motion was offered at 12:15 p.m. by Mr. Barry, which was seconded by Mr. Jackson and unanimously adopted, for the Board to convene in Executive Session to consider the items listed on the amended agenda.

On motion by Mr. Barry, which was seconded by Mr. McKee and unanimously adopted, the Board reconvened in regular session at 3:17 p.m.

Mr. Doody reported in Executive Session the Board heard a report on legal matters that primarily affect the Orleans Levee District and recommendations on personnel issues.

Due to the necessity for Mr. Romig to bind liability coverage before close of business today, Mr. Doody requested that Items 4, 5, 7 and 8, covering general liability and auto liability insurance issues, be taken together as the next order of business. There was no objection.

Mr. Doody advised the Finance Committee recommended obtaining general liability coverage from ACE through Mr. Romig.

Mr. Romig explained, if approved, he would bind general liability coverage for all three levee districts through the same carrier, ACE. The O.L.D. was without general liability coverage prior to today, and ACE agreed to cover all three levee districts at a reduced premium. A major change to coverage is the levee failure exclusion; however, after much consultation with the President and Finance Committee, the opinion is this is the best way to go. Coverage savings will be approximately \$100,000 for LBBLD and \$175,000 for EJLD on an annual basis; the premium for the O.L.D. will be about \$100,000 on an annual basis and will include property in Algiers. The only other quote received was \$1.2 million for general liability coverage.

Mr. Doody commented these savings are not only due to the work performed by Mr. Romig on the Authority's behalf, but also by approaching underwriters with the entire book of business, pointing out this is the beginning of efficiencies that can be achieved.

RESOLUTION #07-19-07-003 – GENERAL LIABILITY INSURANCE FOR ORLEANS LEVEE DISTRICT

On the motion of Mr. McKee,
Seconded by Mr. Jackson, the following resolution was offered:

“A resolution authorizing Orleans Levee District Executive Director to execute a general liability contract through Arthur Gallagher Risk Management Services

Inc., at a cost of \$109,098.15 on behalf of the Orleans Levee District from July 29, 2007 to July 29, 2008.”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

**RESOLUTION #07-19-07-004 –
GENERAL LIABILITY INSURANCE FOR LAKE BORGNE BASIN LEVEE DISTRICT**

On the motion of Mr. McKee,
Seconded by Mr. Jackson, the following resolution was offered:

A resolution authorizing Lake Borgne Levee District Executive Director to execute a general liability contract through Arthur Gallagher Risk Management Services Inc., at a cost of \$84,256.20 on behalf of the Lake Borgne Levee District from July 19, 2007 to July 19, 2008.”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

**RESOLUTION #07-19-07-005 –
AUTO LIABILITY INSURANCE FOR EAST JEFFERSON LEVEE DISTRICT**

On the motion of Mr. McKee,
Seconded by Mr. Jackson, the following resolution was offered:

“A resolution authorizing East Jefferson Levee District Executive Director to execute an automobile liability policy through Arthur Gallagher Risk Management Services Inc., at a cost of \$173,857.00 on behalf of the East Jefferson Levee District from July 19, 2007 to July 19, 2008.”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

**RESOLUTION #07-19-07-006 –
GENERAL LIABILITY INSURANCE FOR EAST JEFFERSON LEVEE DISTRICT**

On the motion of Mr. McKee,
Seconded by Mr. Jackson, the following resolution was offered:

“A resolution authorizing East Jefferson Levee District Executive Director to execute a general liability contract through Arthur Gallagher Risk Management Services Inc., at a cost of \$74,588.85 on behalf of the East Jefferson Levee District from July 19, 2007 to July 19, 2008.”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

RESOLUTION # 07-19-07-007 – O.L.D. LEGAL SERVICES

Mr. Doody explained the Board approved the engagement of Gordon, Arata in April, 2007; this is a request for an increase to hourly rates, subject to Attorney General approval. Gordon, Arata has indicated, however, if this increase is not approved, they would abide by the current contractual terms through the end of the contract term.

Although the Legal Committee did not have a recommendation, Ms. Sutherland felt a fair, middle of the road solution could be to increase the hourly rate of the underpaid attorney from \$125 to \$140 per hour.

Mr. Jackson commented on the quality of services received and the excellent job Gordon, Arata has done representing the Authority and O.L.D. and on the significant amount of money that is at risk. He felt even the proposed rates are on the low side for attorneys who deal with these types of cases and supported passage of the resolution.

The Board briefly discussed a compromise between the current and proposed rates. Mr. Barnes offered a friendly amendment to the resolution to increase the hourly rate for Sara Mouledoux from \$125 to \$140 and to increase the hourly rates for those attorneys with 15 or more years of experience from \$200 to \$225. The amendment was accepted by Mr. Jackson and Mr. Barry, who offered and seconded the original motion, and there was no objection.

On the motion of Mr. Jackson,
Seconded by Mr. Barry, the following resolution was offered:

“A resolution amending the legal services contract with Gordon, Arata, McCollam, Duplantis & Eagan, LLP.”

WHEREAS, on April 19th, 2007 SLFPA-East Resolution No. 04-19-07-005 approved the engagement of the firm of Gordon, Arata, McCollam, Duplantis & Eagan, LLP due to their experience and expertise in ongoing Bohemia litigation and claims, as well as oil and gas matters; all of which are the subject of extensive litigation substantially affecting the financial condition of the Orleans Levee District;

WHEREAS, Gordon, Arata, McCollam, Duplantis & Eagan, LLP has proposed that the current approved contract rates be amended for the following attorneys only, considering their experience and expertise and further that the standard scheduled rates of the Louisiana Attorney General remain acceptable for all other attorneys and staff:

Attorney Abaigeal L. Van Deerlin (1 year experience)	\$100 per hour (no change);
Attorney Sara E. Mouledoux (4 years experience)	\$140 per hour (from \$125);
Attorney Aimee W. Hebert (9 years experience)	\$150 per hour (no change);
Attorney Demarcus J. Gordon (10 years experience)	\$175 per hour (no change);
Attorney Fernand L. Laudumiey, IV (11 years experience)	\$175 per hour (no change);
Attorney Scott A. O'Connor (18 years experience)	\$225 per hour (from \$200);
Attorney C. Peck Hayne Jr. (20 years experience)	\$225 per hour (from \$200);
Attorney Matthew J. Randazzo, III (23 years experience)	\$225 per hour (from \$200);
Attorney Michael E. Botnick (32 years experience)	\$225 per hour (from \$200);
Attorney John M. McCollam (48 years experience)	\$225 per hour (from \$200);
Attorney Blake G. Arata (54 years experience)	\$225 per hour (from \$200);

WHEREAS, that the firm has exhibited judicious utilization of attorneys assigned to various matters appropriate to the complexity thereof; as well as appropriate utilization of law clerks and paralegals;

WHEREAS, said amendment to the contract for legal services shall be submitted to the Louisiana Attorney General's office for approval; and

WHEREAS, said amendment shall coincide with the current engagement that commenced on January 1, 2007 and ends on December 31, 2007. All other terms and conditions of the original contract shall apply.

BE IT HEREBY RESOLVED, That the rates for legal services for the firm of Gordon, Arata, McCollam, Duplantis & Eagan, LLP be and they are hereby amended as follows effective for legal services performed by the following attorneys on or after July 20, 2007:

Attorneys with 3-5 years experience (including the following): \$140 per hour;

Sara E. Mouledoux

Attorneys with 15 years or more experience (including the following): \$225 per hour;

Scott A. O'Connor

C. Peck Hayne Jr.

Matthew J. Randazzo, III

Michael E. Botnick

John M. McCollam

Blake G. Arata

and the rates for legal services by any other attorneys or staff of Gordon, Arata, McCollam, Duplantis & Eagan, LLP shall remain at the standard scheduled rates of the Louisiana Attorney General;

BE IT FURTHER RESOLVED, That the firm is to continue to judiciously utilize attorneys assigned to matters appropriate to the complexity thereof;

BE IT FURTHER RESOLVED, That this Resolution be submitted to the Office of the Attorney General for the State of Louisiana for approval, under the terms set forth above; and

BE IT FURTHER RESOLVED, That the President is authorized to sign any and all documents necessary to carry out the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins and Mr. Losonsky

Motion carried.

RESOLUTION #07-19-07-008 – DELEGATION OF APPOINTING AUTHORITY

O.L.D. Executive Director Stevan Spencer indicated this motion clarifies the Executive Director as the appointing authority for the O.L.D.; previously, the appointing authority for the O.L.D. was the Director of Non-Flood Assets.

The issue of delegation of appointing authority as the old boards were dissolved and the new board was seated was discussed. To provide clarification, Ms. Sutherland advised she wished to amend her motion to delegate appointing authority to the Executive Director of each of the three levee districts, which was accepted by Mr. Jackson, who had seconded the motion, and also accepted by the Board.

The term “limited authority” was discussed, and it was pointed out, although the agenda item read “limited” the resolution did not state “limited” authority. Ms. Fitzgerald explained “appointing authority” is a Civil Service term and provides authority to grant pay raises, within Civil Services rules, and to hire, discipline and terminate Civil Service employees, subject to Civil Service rules and appeals process.

On the motion of Ms. Sutherland,
Seconded by Mr. Jackson, the following resolution was offered:

“A resolution delegating appointing authority to the Executive Directors of the Orleans Levee District, East Jefferson Levee District and Lake Borgne Basin Levee District.”

WHEREAS, pursuant to La. R.S. 38:330.5(A), 38:330.5(B) and Article X of the Louisiana Constitution, the Board of Commissioners of the Southeast Louisiana Flood Protection Authority East is the appointing authority for the

Orleans Levee District, East Jefferson Levee District and Lake Borgne Basin Levee District; and

WHEREAS, the appointing authority was previously delegated to employees of the Orleans Levee District who are either no longer employed by the Orleans Levee District or serve in other capacities and inappropriate for those delegated duties; and

WHEREAS, the Board desires to delegate its appointing authority as it relates to the Orleans Levee District as follows: Executive Director: appointing authority for all employees assigned to the Orleans Levee District; and

WHEREAS, the Board additionally desires to delegate its appointing authority as it relates to the East Jefferson Levee District and Lake Borgne Basin Levee District to the respective Executive Directors of those districts.

RESOLVED, the Board hereby delegates its appointing authority as it relates to the Orleans Levee District, retroactive to January 1, 2007, as follows: Orleans Levee District Executive Director: appointing authority for all employees assigned to the Orleans Levee District.

FURTHER RESOLVED, the Board hereby delegates its appointing authority as it relates to the East Jefferson Levee District, as follows: East Jefferson Levee District Executive Director: appointing authority for all employees assigned to the East Jefferson Levee District.

FURTHER RESOLVED, the Board hereby delegates its appointing authority as it relates to the Lake Borgne Basin Levee District, as follows: Lake Borgne Basin Levee District Executive Director: appointing authority for all employees assigned to the Lake Borgne Basin Levee District.

FURTHER RESOLVED that the President is authorized to sign any and all documents necessary to accomplish the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins and Mr. Losonsky

Motion carried.

RESOLUTION #07-19-07-009 – EXTENSION OF POSTLETHWAITE & NETTERVILLE CONTRACT FOR FY'07 AUDIT OF ORLEANS LEVEE DISTRICT

Ms. St. Vincent advised the Finance Committee discussed Postlethwaite & Netterville's experience with the O.L.D. and auditing procedures, and recommended approval. The proposed fee is approximately \$2,200 higher than last year's fee.

On the motion of Ms. Sutherland,
Seconded by Mr. Jackson, the following resolution was offered:

WHEREAS, due to its expertise and familiarity with the Orleans Levee District, the Legislative Auditor agreed to consider an extension of the contract

with Postlethwaite & Netterville (P&N) to perform the annual audit for the Orleans Levee District for the fiscal year ending June 30, 2007, and by Resolution #03-15-07-020 the Board approved the extension of said engagement; and

WHEREAS, the Legislative Auditor's Office has negotiated a fee with P&N not to exceed \$42,500 for the audit of the fiscal year ending June 30, 2007.

BE IT HEREBY RESOLVED, That the SLFPA-East approves the execution by the LA Legislative Auditor, on behalf of the Southeast Louisiana Flood Protection-East and the Orleans Levee District, of the extension of the engagement of Postlethwaite & Netterville for audit services for the Orleans Levee District for the fiscal year ending June 30, 2007, at a cost not to exceed \$42,500, and authorizes the Orleans Levee District Director of Hurricane and Flood Protection to sign any and all necessary documents or take any and all actions necessary to carry out the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins and Mr. Losonsky

Motion carried.

**RESOLUTION #07-19-07-010 –LAKE BORGNE BASIN LEVEE DISTRICT
DEPARTMENT OF NATURAL RESOURCES TEMPORARY EASEMENT**

LBBLD Executive Director Robert Turner explained the Department of Natural Resources set up monitoring equipment in certain areas of the coastal parishes to gather data on rates of settlement. This resolution authorizes right-of-entry and right-of-way on LBBLD marsh property.

On the motion of Ms. Sutherland,
Seconded by Mr. Wittie, the following resolution was offered:

“A Resolution granting the Department of Natural Resources, a Temporary Right-of-Way, servitude and Easement, to 250 acres of land in Section 34 of Township 13 South, Range 18 East, for the purpose of constructing, maintaining, servicing and accessing monitoring stations established in connection with the COASTWIDE REFERENCE MONITORING SYSTEM PROJECT and authorizing Lake Borgne Basin Levee District Executive Director, Robert Turner, Jr., to execute same.”

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins and Mr. Losonsky

Motion carried.

RESOLUTION #07-19-07-011 – PURCHASE OF MAINTENANCE EQUIPMENT FOR EAST JEFFERSON LEVEE DISTRICT

EJLD Executive Director Fran Campbell advised this expenditure was approved in the budget and explained the need for this equipment.

On the motion of Mr. Jackson,
Seconded by Mr. Barry, the following resolution was offered:

“A resolution authorizing the purchase of Maintenance Equipment (Utility Tractor, Crew Cab Truck, Two Finishing Mowers and Heavy Duty Trash Dump Truck) under state/parish contract for the East Jefferson Levee District Maintenance Department for a cost not to exceed \$319,950.00. Approved in the 2007-2008 Budget”

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

Item 10 - Discussion of SLFPA-E’s role in drainage and flood control issues in areas outside the jurisdiction of EJLD, OLD and LBBLD.

Mr. Pineda explained he had requested this item be placed on the agenda relative to the question of the Authority’s role concerning drainage issues in the portion of St. Tammany and Tangipahoa Parishes that do not have a levee district, but are under the jurisdiction of this Authority.

Mr. Jackson advised funds cannot be commingled between levee districts or parishes. He explained, early in his presidency, he requested that Mr. Barnes and Mr. Wittie meet with their respective parish presidents and explain that a referendum would be needed in order to activate and support a levee district to whatever level the public approves in each of the two parishes; however, the parish presidents did not feel at this point in time their parishes were prepared to activate a levee district. He did not feel the Authority had the authority under Act 1 to become involved with interior drainage, with the specified exception of the major canals and pumping in the Lake Borgne Basin Levee District.

Mr. Barnes explained he met with the President of St. Tammany Parish and two of his engineers, along with two representatives of the Department of Transportation and Development, and offered any possible support the Authority may be able give to assist funding efforts.

Ms. Sutherland noted the use of the word “may” in Act 1 relative to certain drainage issues and the duties and powers of the Board. She suggested those parishes may wish to hold a referendum to pay for a study to determine their needs.

Mr. Doody requested Mr. Barnes and Mr. Wittie keep in touch with their respective Parish Presidents concerning possible interest in the future.

Item 11 - WITHDRAWN - Motion to amend by-laws regarding publication of minutes for SLFPAE.

Mr. Doody advised approved minutes are now published on the Authority’s web site and briefly discussed the legal requirement for publication of minutes.

Item 12 - Discussion on the SLFPAE web site.

Discussed previously in meeting.

RESOLUTION #07-19-07-012 – REGIONAL DIRECTOR SIGNATORY

Mr. Doody described the difficulty obtaining two signatures when those who are currently authorized to sign checks are out of town; therefore, this motion is to authorize the Regional Director to sign checks for the Authority.

Mr. Barry suggested a limit be established for single signature checks, and Mr. Doody recommended this issue be considered by the Finance Committee.

On the motion of Mr. Barry,
Seconded by Mr. Jackson, the following resolution was offered:

“A resolution granting the Regional Director of the SLFPA-E signatory powers on all SLFPA-E bank accounts containing funds of the SLFPF-E.

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie
NAYS: None
ABSENT: Mr. Goins and Mr. Losonsky
Motion carried.

RESOLUTION #07-19-07-013 – PUMP DRAINAGE PROPOSALS

Mr. McKee explained this resolution evolved from the legislative mandate for the Authority to conduct a study of the pumps and drainage systems within its jurisdiction to determine the complexity, desirability and effectiveness of incorporating them into one single system. After a meeting which included Mr. McKee, Mr. Doody, Mr. Ed Preau, representing DOTD, Ms. Monique Edwards, representing the Department of Natural

Resources (DNR), among others, at which the law and its intention, along with the polders concept, were discussed, it was concluded the best way to proceed would be to advertise for statements of qualifications. The request for qualifications included language concerning the law, polders, and the requirement to engage the public as aggressively as possible. In order to promote DNR funding, a resolution was requested authorizing the request for proposals.

The Authority advertised three times in four weeks for statements of qualifications and an announcement was placed in the Bulletin of the Council of Engineering Companies of Louisiana. Statements of qualifications are due by July 31st. Mr. McKee recommended President Doody appoint a committee to review the submittals and select no more than five highly qualified firms to continue the process. The selected firms would then prepare a scope of work, including the overlay of polders, which would primarily determine whether polders would interfere with internal drainage from major rain events and the concept pursued.

The Board discussed possible funding for the study by DNR and the development of a scope of work by the selected firms versus development of a scope of work by or on behalf of the Board. Mr. McKee anticipated the magnitude of the study would not put an over due burden on the selected firms to do the leg work to come up with a detailed scope of work, along with timeframes for completing components of the work, and the presentation of the scope will be a strong basis for selection. After selection of the top firm, a fee would be negotiated. He suggested when the selected firms are interviewed, the Authority would learn whether or not the firms would be willing to develop a scope of work. Guidelines could be provided so that there is not a wide variation in the scopes developed.

Mr. Doody suggested, if it is determined after statements of qualifications are received that a firm should be engaged to develop a scope of services, Mr. McKee could bring that recommendation to the Board at its next meeting.

Mr. Doody offered a friendly amendment that the resolution read “request and receive” proposals, which was accepted by Mr. Barry and Mr. Wittie, who offered and seconded the original motion, and by the Board.

On the motion of Mr. Barry,
Seconded by Mr. Wittie, the following resolution was offered:

A resolution authorizing the President of the SLFPA-E to request and receive proposals from qualified engineering firms to conduct “a study of pump drainage systems operated by entities within the territorial boundaries of the SLFPA-E” as required by Section 5 of Act 1 of the 2006 First Extraordinary Session of the Louisiana Legislature.

WHEREAS, Act 1 of the 2006 First Extraordinary Session of the Louisiana Legislature requires the SLFPA-E to conduct a study of pump drainage systems operated by entities within its territorial boundaries to determine the challenges, benefits, and opportunities of developing a plan to fully coordinate the systems; and

WHEREAS, the SLFPA-E has received qualifications from engineering firms in response to its advertisement.

BE IT RESOLVED, the Board hereby authorizes the President to request and receive proposals from qualified engineering firms to conduct “a study of pump drainage systems operated by entities within its territorial boundaries”, as required by Act 1 of the 2006 First Extraordinary Session.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins and Mr. Losonsky

Motion carried.

Item 15. Motion to authorize EJLD to enter into Interagency Agreement with Jefferson Parish regarding mutual aid in emergency situations.

EJLD Executive Director Fran Campbell explained there was a difficulty with some wording in the draft agreement proposed by Jefferson Parish relative to a liability issue. Since Jefferson Parish was anxious to have the agreement signed, she suggested the President be provided the authority to approve the agreement, subject to review by Mr. LaCour and Ms. Fitzgerald.

Mr. Jackson, the representative on the Board from East Jefferson, advised he had not received a copy of the proposed agreement and requested the item be deferred until the next meeting.

RESOLUTION # 07-19-07 014 – A RESOLUTION TO REQUEST A LEGAL OPINION FROM THE LOUISIANA ATTORNEY GENERAL RELATIVE TO PAYMENT OF PER DIEM FOR COMMITTEE MEETING ATTENDANCE.

Mr. Jackson recommended an official Attorney General opinion be requested relative to the payment of per diem for Committee meeting attendance as stated in the Board’s bylaws.

On the motion of Mr. Jackson,
Seconded by Mr. Barry, the following resolution was offered:

WHEREAS, the Bylaws of the Board, adopted on May 2, 2007, provide under §8. Remuneration to Board Members, “B. Per Diem. Board members shall receive a per diem equal to the rate allowable for per diem deduction under

Section 162(h) (1) (B) (ii) of Title 26 of the United States Code for their attendance at regular, special and committee meetings, not to exceed one committee meeting per month.”

WHEREAS, the Board desires legal clarification concerning the payment of per diem for committee meeting attendance.

RESOLVED, the Board hereby requests a legal opinion from the Louisiana Attorney General relative to the payment of per diem to its members for Committee meeting attendance, and authorizes the President to sign any and all documents necessary to accomplish the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Jackson, Mr. McKee, Mr. Pineda
and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins and Mr. Losonsky

Motion carried.

Mr. Doody advised the next Board meeting will be held on Thursday, August 16, 2007, at 9:30 a.m. in St. Bernard Parish (place to be determined).

There being no further business, the meeting was adjourned at 4:35 p.m.