

**MINUTES OF THE  
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY – EAST  
BOARD MEETING  
THURSDAY, AUGUST 16, 2007**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority - East (Authority or SLFPA-E) was held on Thursday, August 16, 2007, in the St. Bernard Public School Board Building, 200 East St. Bernard Highway, Chalmette, 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 9:33 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  
John M. Barry, Secretary  
George Losonsky, Ph.D., Treasurer  
David P. Barnes, Jr.  
Stradford A. Goins  
Thomas L. Jackson  
Larry A. McKee  
Ricardo S. Pineda  
Louis E. Wittie

**Absent:**

Sara Lee St. Vincent  
Abril B. Sutherland, Vice President

**OPENING COMMENTS:**

Mr. Doody welcomed everyone to St. Bernard Parish. He then recognized the example and accomplishments of Ms. Doris Voitier, Superintendent of St. Bernard Parish Public Schools. Two years ago the entirety of St. Bernard Parish was under from four to 20 feet of water and every structure in the parish was destroyed or damaged as a result of Hurricane Katrina. After the levee breaches were repaired and flood waters receded, Ms. Voitier, after seeking help from State and Federal agencies to rebuild the school system and not willing to wade through bureaucratic red tape, on her own put together enough people and equipment to reopen a school primarily to serve the needs of the children of the first responders just weeks after the hurricane. Today there are 4,000 children in the St. Bernard school system. Ms. Voitier was awarded the 2007 John F. Kennedy Profile in Courage Award for her bravery and accomplishments.

Mr. Doody noted one of the items on today's agenda is the discussion of the 100 year level of flood protection, local cost share for which is expected to cost well over

one billion dollars, but without which the entire region is threatened. Cost sharing will be a very big issue in this protection. Unless Congress can be persuaded to craft a unique solution to this problem, the safety of the entire region may be dependent on the ability of the tax base of St. Bernard Parish to fund the first line of defense. This is where the SLFPA-E can address such problems on a regional basis.

Mr. Doody commented on the challenges faced by the Board, which were far greater than what was envisioned when the Authority was being created, and recognized Mr. Thomas Jackson, the first President of the SLFPA-E, who stepped forward to assume leadership and created order out of chaos. He presented a plaque to Mr. Jackson in appreciation of his contributions to the Board and the region.

Mr. Jackson expressed his appreciation for the Board's recognition of the efforts over the first six months.

Mr. Doody presented a second plaque for Mrs. Patricia Jackson that expressed the Board's appreciation for her voluntary contributions to the SFLPA-E, which was accepted by Mr. Jackson on her behalf.

Mr. Jackson acknowledged Mrs. Jackson's contribution in attending to all the administrative details, which allowed him to focus on the job of President.

Mr. Doody informed the Board a conference call was held with the levee districts' executive directors to review emergency procedures, and action would be taken later in the meeting to allow the executive directors some autonomy to take quick and decisive action if faced with an emergency.

Mr. Barnes had been monitoring and providing members updates on weather developments. Mr. Barnes reported tropical storm Erin had moved into Texas and he would continue to monitor Hurricane Dean, which was five to six days away should it come into the northern Gulf coast region.

#### **RESOLUTION #08-16-07-001 – ADOPTION OF AGENDA**

Mr. McKee offered a motion, seconded by Mr. Barry, to add item IX.E. to the agenda for the discussion of the employment of a permanent Regional Director; and Mr. Doody offered a motion, seconded by Mr. Barry, to add item 11.A.0. for a resolution to allow the declaration of an emergency at a particular time which would then give some authority to the executive directors of the levee districts. The Board voted unanimously in favor of amending the agenda to include the additional items.

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

“A resolution to adopt the agenda, as amended, for the Board Meeting of August 16, 2007.”

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

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

NAYS: None

ABSENT: Mr. Goins

### **RESOLUTION #08-16-07-002 – APPROVAL OF MINUTES**

On the motion of Mr. Barry,

Seconded by Mr. Jackson, the following resolution was offered:

“A resolution to approve the minutes of 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. Losonsky,  
Mr. McKee, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Goins

### **PUBLIC COMMENTS**

Mr. Doody advised no cards were submitted for comment; however, should anyone wish to comment during the meeting, he/she should complete and submit a card and those comments would be received as the individual issues were heard.

### **PRESENTATIONS:**

#### **C. Matt Faust--five minute video of Katrina's St. Bernard devastation.**

Mr. Matt Faust explained the video presented was of his home which was located in St. Bernard Parish and the devastation caused by Hurricane Katrina. The film also depicts the affects on family and community. This film is an attempt to show the rest of the country what was truly lost and the reason for this on-going loss; i.e., a levee protection system that failed, which, Mr. Faust added, can and should be fixed. Copies of the film were presented to anyone wishing one.

#### **A. Presentation by USACE on St. Bernard Parish Urban Flood Control Feasibility Study. and**

#### **B. Presentation by USACE on St. Charles Parish Urban Flood Control Feasibility Study.**

Mr. Bobby Duplantier, USACE Project Manager, provided a briefing on the St. Bernard and St. Charles Parish Urban Flood Control Feasibility Studies. These studies deal strictly with interior drainage projects for rainfall events. The first step, the reconnaissance phase, determined a project existed and Federal assistance. The next step is the feasibility phase, during which actual engineering and hydraulics are looked

at and a determination is made whether there is a feasible project, a list of alternatives is created and a plan is recommended.

Mr. Duplantier first addressed the St. Bernard Parish Urban Flood Control Feasibility Study. The USACE has been working approximately five years with the St. Bernard Parish government, which is the non-federal sponsor, and LBBLD Executive Director Bob Turner on this study. Post Katrina \$1.2 million was received through a supplemental appropriation to complete the study. The project is currently at a stand still due to non-federal cost share participation. The feasibility study is cost shared 50% federal / 50% non-federal. The total federal cost is \$2.5 million and non-federal cost is \$2.4 million, the difference being the reconnaissance phase was 100 percent federally funded. The USACE and LBBLD are looking into the possibility of obtaining 100 percent Federal funding for the study.

The need for a master drainage plan was discussed. Mr. Duplantier explained a large part of St. Bernard Parish had been included in this feasibility study and it could be expanded to include the other areas. However, instead of slowing the progress of the current study by expanding the scope to include additional areas, he recommended the adjacent areas be annexed and included as a second study phase.

Mr. Jackson commented the SLFPA-E and LBBLD are responsible for major drainage and pumping and the St. Bernard Parish Council is responsible for other interior drainage; unless these two entities work together and have an overall master plan, St. Bernard Parish will not receive necessary improvements. He encouraged support of this study and the master plan and an attempt to obtain SELA funding.

Mr. Duplantier advised, after meetings with Mr. McKee, the USACE has been looking into the process required to get the scope expanded. Also, Mr. Turner has been sent some write up for potential legislation to attempt to get the remainder of the study 100 percent federally funded. Mr. Duplantier advised he would provide Mr. Barry with a rough cost for an expanded master plan study.

The possibility of obtaining SELA funding was discussed. Mr. Barry pointed out the need for the Board to decide whether it would try to obtain funding from the State and/or Federal government. This effort should be a partnership between the St. Bernard Parish Council and the Parish President, USACE and SLFPA-E.

Mr. Duplantier was unaware of conversations between Board members and others in the USACE on these issues, and Mr. Barry pointed out that this was further indication of internal communication problems within the USACE. The USACE needs to improve dramatically in this area.

Mr. Jackson pointed out SLFPA-E has no jurisdiction or responsibility for interior drainage in St. Charles Parish. Therefore, the Board felt a presentation on the St. Charles Urban Flood Control Feasibility Study was not required.

#### **D. Presentation by Sam Scandalianto.**

Mr. Sam Scandaliato explained he is a licensed civil and structural engineer, practicing engineering in the New Orleans area for almost 50 years, and a licensed surveyor. He felt the problems faced during Hurricane Katrina dealing with surge, breaches and overtopping in St. Bernard, Orleans and Jefferson Parishes could be dealt with rather inexpensively by using the double walled impact levee which he designed. The double wall impact levee consists of two rows of sheet piles placed relatively close together (from six to twelve feet) and filled in between with sand. In order to work, a system must be developed by coupling the two pieces of sheet pile together. He described how the system would work when hit by a surge or wind force. The system could be embellished by using a berm or rocks to prevent scouring.

Mr. Scandaliato advised he has shown this system twice to the USACE, who said it would not work for various reasons; however, he did not agree with those reasons. He stated he also showed the system to the St. Bernard Parish Council, who liked it and passed a resolution to have the USACE test it. He indicated he is now attempting to test the system himself and has received interest from the American Society of Minority Contractors. Mr. Scandaliato added, with this system, the Lakefront levees would still need to be raised three to four feet and the Mississippi River-Gulf Outlet must be closed. He felt with this system additional right-of-way would not be needed.

Mr. Doody requested that, as a special project, Mr. Goins evaluate this system and determine whether any action should be taken by the Board.

Mr. Goins requested for the evaluation that Mr. Scandaliato provide sample calculations showing the capacity of the system and how the ridged connection is proposed to be done between the two sides.

## **COMMITTEE REPORTS:**

### **A. Finance Committee: Chair Losonsky**

Mr. Losonsky reported the Finance Committee met last Friday and discussed seven items, most of which have been placed on the Board's agenda. Committee recommendations will be presented as each item is brought up for discussion. Additionally, financial audits are taking place of the levee districts and the Authority.

### **B. Operations Committee: Chair McKee**

Mr. McKee advised the Routine and Emergency Operations Committee has been renamed the Operations Committee. He distributed a copy of the minutes of the August 8<sup>th</sup> Committee meeting and reported on the items discussed, the first being the acceptance of completed works and the USACE's acceptance of projects that the levee districts are unable to maintain due to their condition. No conclusion was reached on this issue; however, it became apparent the Committee should work with the USACE on a cooperative endeavor agreement (CEA) to establish which entity should be responsible for the final acceptance of a contractor's work. The Committee also

discussed the maintenance required along the waterside of the outfall drainage canals for which the O.L.D. received bids. Mr. Joseph Becker had advised the Sewerage & Water Board (S&WB) was responsible only to the water's edge; therefore, it fell to the O.L.D. to provide this maintenance, and the Committee recommended acceptance of the low bid of \$263,000. Mr. McKee noted that construction or other actions that change the flow and affect the areas along the canals, such as causing erosion, should be the responsibility of the USACE and an element of the proposed CEA. The on-going development of a vehicle take home policy was discussed; Mr. Wittie presented information obtained from DOTD policy and the LA Association of Levee Boards will be contacted for additional information. The Operations Committee will hold regular meetings on the second Wednesday of each month, primarily to receive levee district reports and assure presentations are made on the results of levee inspections. He encouraged the USACE to appear before the Committee after its inspections.

Mr. Jackson commented that the 17<sup>th</sup> Street Canal hydraulics are very sensitive and critical to the function of the double pumping that is taking place along the canal, and he urged the USACE to review its responsibility relative to the erosion problem.

Col. Bedey, Commander of the USACE Hurricane Protection Office, advised the USACE is continuing to look at the 17<sup>th</sup> Street Canal erosion as it relates specifically to the technical necessity for immediate action. He noted, however, it has been determined the erosion is not in any way reducing the stability of the floodwall. The USACE will engage with the Operations Committee, levee districts and S&WB as it relates to a CEA and understanding of responsibility. The USACE is actively moving forward on a technical solution that will ultimately be implemented for permanent protection of the outfall canals, and an analysis is scheduled to be delivered to Congress on or about August 25<sup>th</sup> laying out the technical advantages and disadvantages of three different options. He agreed with the Authority regarding the clarifying of rolls and responsibilities and that all parties should work together on the issues of PCA's, CEA's, and O&M functions and responsibilities for 100 year protection.

Col. Bedey reported on the recent addition of eleven direct drive pumps at the 17<sup>th</sup> Street Canal, which were dry tested. Water will be run through these pumps within the next two to three days. He described the rigorous procedures used for testing the pumps in the dry. When the remainder of the work in bringing these additional pumps on line is finished, the range for pumping at 17<sup>th</sup> Street Canal will be between 8,800 to 9,200 cfs (cubic feet per second). At London Avenue Canal the wet testing requirement was completed on four east bank and four west bank pumps, bringing pumping capacity in the range of 5,000 to 5,200 cfs.

Mr. Jackson commented that he and Mr. Goins have been attending the Hurricane Protection Office's internal meetings that are held every second week, which demonstrates the USACE's openness and effort to achieve SLFPA-E participation.

Col. Bedey reported progress has gone extremely well on the site specific load test on the London Avenue Canal and the protocols are in place. Representatives engaged with the local residents, with flyers being passed out, and articles were run by

the media to make the public aware of the test. He provided a draft of the decision template, which is a very detailed, comprehensive approach to how the test will be executed. The goal is to obtain additional technical data to do an analysis on the safe water elevation. A copy of the external peer review report was provided, and some suggestions from the peer review were incorporated into the testing protocols.

Col. Bedey next informed the Board the request for flexibility to reprogram money within the Fourth Supplemental Appropriation in order to award the contract for the Inner Harbor Navigation Canal (IHNC) is working its way through to Congress. The USACE is actively in the contract acquisition process for the award of the design-build cost reimbursable contract to provide the 100 year level of protection to the IHNC. Within the next three days a decision will be made as to those proposers determined to have the necessary qualifications to continue on to phase two of the procurement process, at which time the USACE will issue its draft request for proposals. Col. Bedey projected the design-build contract will be awarded in early March of next year and anticipated construction beginning before the end of next calendar year. This particular project, in the way it was authorized and funded, is 100 percent federally funded for the construction; however, PCA's must be executed prior to construction, and operations and maintenance will need to be discussed.

Relative to the Caernarvon to Verrett levee, Mr. Chris Gilmore with the USACE reported the final plans and specifications have been delivered and data is being coordinated for contract advertisement, which is anticipated shortly after August 20<sup>th</sup>. The construction period is 365 days.

Mr. Doody requested the USACE representatives contact LBBLD Executive Director Robert Turner relative to the temporary pump situation in St. Bernard Parish.

Mr. Goins expressed his concern regarding the height of the proposed rock closure. Mr. Gilmore explained the authorization under which the draft report is being looked at is to deauthorize the channel for navigation and is not associated with storm surge. Additional shore protection for the GIWW for erosion control was discussed.

**C. Legal Committee: Chair Sutherland**

Mr. Goins reported at its August 3<sup>rd</sup> meeting the Legal Committee discussed the favorable ruling received from the 5<sup>th</sup> Circuit Court of Appeals on Bohemia litigation, the possibility of recommending counsel hold preliminary discussions and explore possible settlement of some small cases, and the draft request for proposals for legal services.

**D. Special Issues Committee: Chair Goins**

Mr. Goins advised the Committee did not hold a meeting this month; however, several projects were reviewed by members.

Mr. Pineda commented on the interest of the Netherlands in partnering with government organizations in the United States in order to learn from the Dutch's

technology on flood protection. He also commented on GIS mapping technology and offered to send copies of GIS maps received from the USACE to the Board and levee districts.

Mr. Pineda commented on the development of the SLFPA-E's strategic plan and provided a draft of the plan proposing a draft mission, eight guiding principals and twelve goals. He encouraged the Board to review the draft and submit comments.

**E. Discussion of Employment of Permanent Regional Director.**

Mr. McKee requested the Board discuss the employment of a permanent Regional Director and set benchmarks for the process.

Mr. Pineda explained some of the advertisements were delayed; however, advertisements were placed in the Association of State Flood Plain Managers and National Association of Flood and Storm Water Managers electronic newsletters, a commitment was received from the LA Association of Levee Boards to e-mail the advertisement to their members, and the position was recently posted on the American Society of Civil Engineers' job website, in addition to articles appearing this week in Engineering News Record and Civil Engineer Magazine.

Mr. Doody felt the Board could make a decision on or before November first; however, he requested, and the Board concurred, that the date for receipt of resumes needed to be extended to September 15th.

Mr. Barry agreed with the cut off date; however, he felt that a resume that is received late should not automatically be disqualified.

A selection committee has been created; however, any Commissioner wishing to review resumes or participate in meetings with candidates could do so.

**EXECUTIVE SESSION:**

Mr. Barry offered a motion at 12:07 p.m., which was seconded by Mr. Jackson and unanimously adopted, for the Board to convene in Executive Session to discuss the items listed on the agenda.

On motion by Mr. Barry, seconded by Mr. Wittie and unanimously adopted, the Board reconvened in regular session at 2:00 p.m.

Mr. Doody advised action would be required on two items which were discussed in Executive Session; i.e., to authorize the President to work with retained counsel, and if necessary, to execute any and all documents related to claims arising from Hurricane Katrina and to authorize legal counsel to settle a claim against the EJLD.

**RESOLUTION #08-16-07-003 – HURRICANE KATRINA CLAIMS**

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

**BE IT HEREBY RESOLVED**, That the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) authorizes the SLFPA-E President to work with retained counsel, and if necessary, to execute any and all documents related to claims arising from Hurricane Katrina.

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

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

NAYS: None

ABSENT: None

**RESOLUTION #08-16-07-004 –DELHOME, ET AL V. EJLD**

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

**BE IT HEREBY RESOLVED**, That the Southeast Louisiana Flood Protection Authority-East authorizes counsel retained by the East Jefferson Levee District to represent it in the suit captioned *Bernard Delhom, et al vs EJLD, et al*, 643-763 "A", 24th Judicial District Court for the Parish of Jefferson; to settle the case for the amount counsel recommended to the Board in its August 16, 2007 Executive Session; and further authorizes said counsel to take such actions and sign any and all documents necessary to accomplish the settlement.

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

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

NAYS: None

ABSENT: None

**NEW BUSINESS:**

**RESOLUTION #08-16-07-005 – EMERGENCY POWERS**

Mr. Doody explained, in discussing emergency powers, it became apparent in the event of a hurricane system within a certain proximity of New Orleans that the executive directors of the levee districts would probably need the same authority exercised during and after Hurricane Katrina. Because Board members are scattered in varying locations, with some at great distances, and the difficulties that would be involved in attempting to call a special Board meeting, he hoped that emergency procedures could be set up that would authorize the President to declare a state of emergency for the Authority's purposes and to then impart to the individual executive directors certain authority to exercise good judgment and take swift and immediate action, if required.

Ms. Denise Fitzgerald, Assistant Attorney General, advised something was needed to trigger the levee districts' emergency operations procedures manuals, and she proceeded to explain the emergency powers contained in the resolution.

The Board discussed the trigger points and concurred that the President should be granted the power to declare a state of emergency for the levee districts when a hurricane is within 1,000 miles of New Orleans and rescind that declaration when it is no longer needed. It was brought out that the Board's bylaws address line of succession in the absence of the President.

The Board questioned the procurement of materials and services under such a declaration. Mr. Robert Lacour explained procurements must be coordinated in accordance with the appropriate requirements under the public bid laws which contemplates three situations: an ordinary situation, an emergency situation and an extreme emergency.

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

“A resolution to automatically grant emergency powers to the President of the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) when a hurricane is within 1,000 miles of New Orleans.”

**WHEREAS**, the Board of Commissioners of the SLFPA-E, as the governing body of the East Jefferson, Lake Borgne Basin and Orleans Levee Districts, desires to automatically grant to the President of its Board certain emergency powers when a hurricane is within 1,000 miles of New Orleans; and

**WHEREAS**, those emergency powers shall include the power to authorize the expenditure or utilization of any levee district assets without prior authorization of the Board; the power to declare a state of emergency for the levee districts and rescind that declaration when it is no longer needed; and the authority to delegate to the executive directors of the levee districts the power to authorize the expenditure or utilization of the levee districts' assets without prior authorization by the Board.

**BE IT HEREBY RESOLVED**, That the Southeast Louisiana Flood Protection Authority-East hereby grants emergency powers to the President of its Board when a hurricane is within 1,000 miles of New Orleans.

**BE IT FURTHER RESOLVED**, That the granting of these powers occurs automatically, and without the need of further instrument or action, upon the occurrence of a hurricane within 1,000 miles of New Orleans.

**BE IT FURTHER RESOLVED**, That said emergency powers granted to the President shall include:

- 1) The power to authorize the expenditure or utilization of any levee district assets without prior authorization of the Board;
- 2) The power to declare a state of emergency for levee districts, as required to implement actions under the emergency operations plans and manuals previously adopted by the levee districts and approved by the Board;
- 3) The power to rescind that declaration when it is no longer needed;
- 4) The authority to delegate the power to authorize the expenditure or utilization of the levee districts' assets without prior authorization by the Board, to the executive directors of the levee districts, when the President determines conditions are such that an impending threat exists and immediate action is required.

**BE IT FURTHER RESOLVED,** That the President's delegation of authority to the executive directors of the levee districts is effective when the President, upon determining that conditions are such that an impending threat exists and immediate action must be taken, communicates the delegation of authority to the executive directors, regardless of how said communication occurs or by what means.

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

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

NAYS: None

ABSENT: None

## **1. Discussion of non-federal responsibility for the 100-year project.**

Mr. Barry addressed federal responsibility and advised he had nothing to report since a recent e-mail sent to Commissioners after a meeting with representatives of OMB and the USACE. The Authority is awaiting OMB's proposal, which will be sent to Congress. Should OMB propose the cost share be less than the standard 30 percent, it would be an enormous step forward; however, Congress appropriates funding and would determine cost share, if any. He added, the case for 100% federal funding of 100 year protection is being presented, and he would be talking to more people in Washington about it. Mr. Barry felt the USACE recognized the need to place this matter in a supplemental, which would go forward under emergency procedures, and explained the benefits. He mentioned the State's interest in this issue; however, there are many demands on State dollars.

Mr. Doody stressed the importance of this issue for everyone west of St. Bernard Parish, because if St. Bernard Parish cannot afford 100 year protection, no protection will be afforded to Orleans or Jefferson Parish.

Mr. Pineda explained he requested this item be placed on the agenda to address timing, since this 100 year protection project is supposed to be completed by the end of Federal FY 2011. Since the non-federal responsibility on a USACE flood control project also includes lands, easements, rights-of-ways, relocations, disposal sites and borrow

sites, the Authority should begin thinking about the timing of each component and having rights-of-way ready and lined up for construction. He recommended the Board begin thinking about the manner in which rights-of-way can be organized, prior to knowing whether the cost share will be reduced or money will be received from the State, which may include hiring a knowledgeable right-of-way consultant to investigate and identify these needs and then going through the legal process of acquisition.

Mr. Doody felt this issue fell under special projects and requested that Mr. Goins, working with the members he selects, develop an action plan.

The potential cost for the volume of right-of-way identification and acquisition that would be needed was discussed, along with the possibility of requesting Federal advancement of this expense.

Mr. Spencer added, the USACE is putting together construction drawings showing existing rights-of-way and servitudes, as best they can determine, and potential needs, as part of the design process and determination of type of design (e.g., levee vs. floodwall) for 100 year protection.

**2. Motion to approve policy and procedures for initiating and executing new mineral leases.**

Mr. Goins advised this matter was discussed at the last Legal Committee meeting, and the Committee concluded that DNR (State Mineral Board) should be requested to handle this process on behalf of the Authority.

A substitute resolution was presented that requested and directed DNR to lease lands, which Ms. Fitzgerald advised is the language required by statute. The necessity for the adoption of a resolution at this time was discussed, and the Board concurred that its policy would be that DNR would represent it in such matters, and a resolution would be adopted by the Board if and when it wishes to lease a specific tract of land.

**3. Motion to establish parameters for single signature checks for the SLFPAE.  
and**

**7. Motion to establish parameters for single signature checks for the O.L.D., EJLD and LBBLD and to add the Regional Director as an additional signatory for said districts.**

Mr. Losonsky advised the Finance Committee recommended that SLFPA-E and levee district checks under \$500 require only one signature, which is an amount defined based on practical needs, and that the Regional Director be included as an additional signatory for the levee districts.

Mr. Jackson inquired about the single signature policy of other levee districts and State agencies, and questioned the need for single signature checks.

Mr. Doody explained the Committee felt \$500 was a reasonable sum of money to designate for single signature, pointing out in his professional experience he noted checks from governmental agencies requiring two signatures for amounts in excess of \$500. The Finance Committee had also discussed auditing procedures and controls.

The Board discussed the current signature requirements of the levee districts, and the various signatory needs of the three levee districts.

Ms. Fitzgerald was requested to contact the Legislative Auditor regarding guidelines and this issue will be revisited at the next meeting.

**RESOLUTION #08-16-07-006 -- RESPONSE TO THE “INTEGRATED FINAL REPORT TO CONGRESS AND LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT FOR THE MRGO DEEP DRAFT DE-AUTHORIZATION STUDY”**

Mr. Doody explained a copy of this very lengthy report, which included an executive summary, was received, and he requested the technical members of the Board to review the report and that Mr. Jackson author the Authority’s official response.

The Board discussed the resolution prepared by Mr. Jackson and comments that were offered via e-mail by Mr. Goins relative to the insufficient height of the rock closure, the need to assure bank stabilization along the GIWW with the proposed rerouting of ship traffic, and a separation between the MRGO and Lake Borgne.

The Board concurred with usage of the work “economically” in lieu of “cheaply” and to include an additional section, as follows: **Section 4:** The Southeast Louisiana Flood Protection Authority East urges the following additional considerations: bank stabilization along the GIWW, a separation between Lake Borgne and the MRGO, and raising the height of the proposed rock closure from five feet (5-ft.) to fifteen feet (15-ft.).

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

**RESOLUTION #08-16-07-006**

**Resolution in response to the “Integrated Final Report to Congress and Legislative Environmental Impact Statement for the Mississippi River – Gulf Outlet Deep Draft De-Authorization Study”**

**WHEREAS,** The U.S. Congress has directed the Secretary of the Army, acting through the Chief of Engineers, to develop a plan for de-authorization of deep-draft navigation for the Mississippi River-Gulf Outlet (MRGO) from the Gulf of Mexico to the Gulf Intracoastal Waterway (GIWW), and;

**WHEREAS,** The goals and objectives of this study are:

- Develop a comprehensive plan to de-authorize deep-draft navigation on the MRGO channel from the GIWW to the Gulf of Mexico

- Evaluate any navigation functions that should be maintained on the MRGO channel
- Identify measures for hurricane and storm damage reduction
- Refine the plan to be fully integrated and consistent with the LACPR Final Report to Congress, and;

**WHEREAS**, Wetland/marsh restoration is a vital part of hurricane protection in Southeast Louisiana, and;

**WHEREAS**, Between 1964 and 1996, 5,324 acres of marsh have been lost adjacent to the MRGO channel as well as 3,350 acres of fresh/intermediate marsh and 8,000 acres of cypress swamp converted to brackish marsh and 19,170 acres of brackish marsh and swamp became saline marsh (USACE 1999) and bank erosion along the MRGO has been estimated to occur at rates of between 27 and 38 feet per year on the Inland Reach (USACE 2004), and;

**WHEREAS**, Loss of this wetland marsh and the open channel of the MRGO has increased tidal surges into St. Bernard Parish and the Industrial Canal corridor causing devastating flooding during hurricanes Betsy and Katrina, and;

**WHEREAS**, Failure of the levees along the Inner Harbor Navigational Canal (“the Industrial Canal”) due to hurricane tidal surges from the MRGO presents the greatest risk of loss of life and property damage under the jurisdiction of the Southeast Louisiana Flood Protection Authority – East; and;

**WHEREAS**, the United States Army Corps of Engineers (“USACOE”) in its ongoing Deep Draft De-Authorization Study has determined as its most effective option for closure of the MRGO, Alternative 1 - Alternative 1 – Construct a Total Closure Structure across the MRGO near Bayou La Loutre immediately; and

**NOW THEREFORE**, be it resolved that the Southeast Louisiana Flood Protection Authority – East, acting as the Board of Commissioners for the Orleans Levee District, the Lake Borgne Levee District and the East Jefferson Levee District that:

**Section 1.** Strongly supports the Tentatively Selected Plan and urges that the Corps quickly complete its study of de-authorizing the MRGO as a navigable channel;

**Section 2.** The United States Congress must quickly act to de-authorize the Mississippi River Gulf Outlet as a navigation channel so that this channel can be closed to hurricane tidal surges as quickly and economically as possible;

**Section 3.** The Southeast Louisiana Flood Protection Authority – East shall distribute this resolution to the President of the United States, the Governor of the State of Louisiana, the United States Corps of Engineers, the U.S.

Environmental Protection Agency, the Louisiana Delegation to the United States Congress, the Orleans Parish, St. Bernard Parish and Jefferson Parish Delegations to the Louisiana Legislature.

**Section 4:** The Southeast Louisiana Flood Protection Authority -- East urges the following additional considerations: bank stabilization along the GIWW, a separation between Lake Borgne and the MRGO, and raising the height of the proposed rock closure from elevation five feet (5-ft.) to fifteen feet (15-ft.).

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie  
NAYS: None  
ABSENT: Mr. Barry

**RESOLUTION #08-16-07-007 - INTERIM AND PERMANENT FLOOD PROTECTION MEASURES ON THE IHNC, CLOSURE OF GIWW AND THE MRGO**

Mr. Jackson expressed his concern in that he felt the USACE did not have an absolute commitment to construction of interim protection, and that should the Authority and local officials and entities not actively pursue this effort, it may not be done. The resolution presented at this meeting is more definitive than those previously adopted. He commented on the spending of \$100 million, or \$30 million per year, for interim protection to protect these communities against devastating flooding, and the questionability of whether all aspects of permanent protection would be completed by 2011. He felt the decision relative to this risk should lie with local, State and Federal elected officials and not the USACE. He strongly urged the support of this interim protection.

Mr. Doody commented on his frustration on hearing the USACE may be abandoning any interim protection after reporting it had come up with an interim solution.

The Board discussed the intent of the resolution, which is, to get interim protection as soon as possible.

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

**RESOLUTION #08-16-07-007**

**Resolution Urging Interim and Permanent Flood Protection Measures on the Inner Harbor Navigational Canal (IHNC), Closure of Gulf Intracoastal Waterway (GIWW) and Re-Urging Closure of the Mississippi River Gulf Outlet (MRGO)**

**WHEREAS**, failure of the levees along the Inner Harbor Navigational Canal ("the Industrial Canal") presents the greatest risk of loss of life and

property damage under the jurisdiction of the Southeast Louisiana Flood Protection Authority – East because such failure would result in flooding on most of the east bank of the City of New Orleans, most of St. Bernard Parish and portions of the East Bank of Jefferson Parish; and

**WHEREAS**, the United States Army Corps of Engineers (“USACOE”) in it’s ongoing environmental studies has determined as it’s most effective option for closure of the IHNC to hurricane tidal surges that a navigation gate across the GIWW, closure of the MRGO east of the Michoud Canal, and a navigable gate across the IHNC at Seabrook would be the best permanent remedies for this risk; and

**WHEREAS**, de-authorization of the Mississippi River Gulf Outlet as a navigation channel, which is still under study by the USCOE, is necessary before the design and construction of these permanent remedies can begin; and

**WHEREAS**, the USCOE has estimated that these permanent measures will be accomplished no sooner than the 2011 hurricane season and the estimates of the USCOE regarding the completion of flood protection projects in Southern Louisiana have often been overly optimistic, thus this tremendous risk to life and property will remain for four (4) or more Hurricane seasons; and

**WHEREAS**, the Southeast Louisiana Flood Protection Authority - East has been advised that there are insufficient funds appropriated at this time for the construction of these permanent measures, thus construction of these permanent measures will most likely be later than 2011, if ever; and

**WHEREAS**, interim measures must be immediately implemented to reduce the intolerable risk to life, property and the rebuilding of the New Orleans area under the present situation; and

**WHEREAS**, several alternatives have been studied by the convened study team and are still being investigated for immediate implementation including a barge gate across the GIWW next to the I-510 bridge, or raising the “I” wall levees along the Industrial Canal with “bolt on” steel plates, or construction of rock jetties so as to reduce water flow into the IHNC during a hurricane event so as to lessen the tremendous risk of loss of life and property damage and is the minimum flood protection measure acceptable at this time; and

**WHEREAS**, the best interim solution seems to be the construction of barge gates across the GIWW next to the I-510 bridge; and

**WHEREAS**, it is absolutely necessary that the USACOE begin immediately to proceed on the interim gates across the GIWW in order to reduce this risk.

**NOW THEREFORE**, be it resolved that the Southeast Louisiana Flood Protection Authority – East, acting as the Board of Commissioners for the Orleans Levee District, the Lake Borgne Levee District and the East Jefferson Levee District that:

**Section 1.** Strongly urges that the Corps quickly complete its study of de-authorizing the MRGO as a navigable channel and that the United States Congress quickly act to de-authorize the Mississippi River Gulf Outlet as a navigation channel so that this channel can be closed to hurricane tidal surges as quickly and economically as possible;

**Section 2.** The US Army Corps of Engineers (“USACOE”) be authorized to begin as soon as possible the design and construction of a permanent gate across the IHNC at Seabrook and closures of Mississippi River Gulf Outlet and Gulf Intracoastal Waterway and that all necessary funding be appropriated;

**Section 3.** The United States Corps of Engineers (“USCOE”) immediately begin to construct any and all interim measures necessary to reduce this risk during the time before the permanent closures can be accomplished to lessen the tremendous risk of loss of life and property damage at this time;

**Section 4.** The Southeast Louisiana Flood Protection Authority – East shall distribute this resolution to the President of the United States, the Governor of the State of Louisiana, the United States Corps of Engineers, the U.S. Environmental Protection Agency, the Louisiana Delegation to the United States Congress, the Orleans Parish, St. Bernard Parish and Jefferson Parish Delegations to the Louisiana Legislature.

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

**RESOLUTION #08-16-07-008 - O.L.D. –  
SERVICE AGREEMENT FOR THREE DRAINAGE OUTFALL CANALS**

Mr. Stevan Spencer, O.L.D. Executive Director, explained this maintenance along the three outfall drainage canals was publicly bid, with the assistance of DOTD and following the USACE’s guidelines used for the original clearing of the canals. The low bid was \$263,000 for work that is primarily hand labor in clearing along approximately 13 miles of levee and floodwall.

The Operations Committee requested the Orleans Parish Sheriff’s Office be contacted regarding the possible use of prison labor for this work. The Sheriff’s Office asked for a request in writing, and the Board concurred the request should be for

upkeep of this maintenance, and that the services contract be awarded due to the immediate need to accomplish this work.

The Board discussed the appropriate individuals to execute contract documents, and from a checks and balances perspective Mr. Pineda requested the Finance Committee contemplate for the future having two signatures on large contracts.

Mr. Jackson directed the levee districts put into practice the requirement that a corporate resolution be obtained from contractors or vendors executing contracts that empower the individual named to sign the document. This requirement should also be included in bid specifications.

On the motion of Mr. Goins,  
Seconded by Mr. Barnes, the following resolution was offered:

**WHEREAS**, the vegetation growing along the floodside of the Orleans Parish Drainage Outfall Canals (17<sup>th</sup> Street, London and Orleans Avenue Canals) must be cut and removed, and

**WHEREAS**, due to personnel shortages, the O.L.D. advertised for bids for the above maintenance work, and

**WHEREAS**, five bids were submitted, with two responsive bids received.

**WHEREAS**, funding for this project is anticipated to be designated in the FY2008 Major Maintenance and Capital Improvement Budget.

**BE IT HEREBY RESOLVED**, That the Board authorizes the award of a services contract in the amount of \$263,000 to Great Southern Dredging, Inc., the lowest responsible bidder, for clearance of the interiors of three drainage outfall canals (17<sup>th</sup>, Orleans and London) and further authorizes the O.L.D. Executive Director 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. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

**RESOLUTION #08-16-07-009 -  
O.L.D. – SERVICE AGREEMENT FOR NEW ORLEANS EAST LEVEES**

Mr. Spencer explained seven bids were received; the lowest bid being \$56,000 and the next lowest \$136,000. The in-house estimate was \$100,000 and the Operations Committee placed a cap of \$150,000 on the work. The low bidder acknowledged the two addendum issued and provided the sheet required to place his response and cost in the package. He recommended awarding the services contract for the low bid of \$56,000.

On the motion of Mr. McKee,

Seconded by Mr. Wittie, the following resolution was offered:

**WHEREAS**, due to personnel shortages and in anticipation of U.S. Army Corps of Engineers Phase I Construction work due to commence in approximately three months on the New Orleans East Lakefront and New Orleans East Southpoint to GIWW levees, the O.L.D. advertised for a service contract to provide for four grass cuttings of said levees at two week intervals, and

**WHEREAS**, funding for this work is anticipated to be designated in the FY2008 Major Maintenance and Capital Improvement Budget.

**BE IT HEREBY RESOLVED**, That the Board authorizes the award of a services contract in the amount of \$56,000 to Johnson's Total Lawn Care, Inc., the lowest responsible bidder, for the New Orleans East Lakefront and New Orleans East Southpoint to GIWW levees, and further authorizes the O.L.D. Executive Director 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. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

#### **RESOLUTION #08-16-07-010 - SERVITUDE FOR TOPAZ STREET CLOSURE**

Mr. Spencer explained this closure is part of Lakefront Project LPV 102. Local residents suggested the floodgate at Topaz Street be eliminated and replaced by an earthen levee as part of 100 year protection. The City of New Orleans has requested execution of a Servitude Agreement, in lieu of a Cooperative Endeavor Agreement as previously requested.

On the motion of Mr. Jackson,

Seconded by Mr. Wittie, the following resolution was offered:

“A resolution to amend and restate Resolution #03-15-07-016 to provide for a Servitude Agreement with City of New Orleans for Topaz Street Closure, in lieu of a Cooperative Endeavor Agreement.”

A resolution authorizing the President of the Southeast Louisiana Flood Protection Authority - East to execute a Servitude Agreement on behalf of the Orleans Levee District with the City of New Orleans for the right of use of a portion of the Topaz Street right-of-way at Lakeshore Drive between Squares 525 and 526, 6<sup>th</sup> Municipal District, for the placement of an earthen hurricane protection levee, in lieu of the existing flood control structure, and authorizing the Orleans Levee District to perform any and all relocations or other work required, and the President to execute any and all other documents necessary, to

implement this storm protection upgrade, provided 100 percent of the cost is paid by the U.S. Army Corps of Engineers.

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

### **RESOLUTION #08-16-07-011 - LBBLD PROPERTY INSURANCE**

Ms. Peggy Sembera, representing LBBLD, advised Mr. Romig was attempting to obtain quotes, but is having difficulty. Coverage expires on August 30, 2007, and the current carrier will not extend coverage.

Mr. Doody explained this matter was discussed at the Finance Committee meeting. The need to bind coverage in such a way that there is no lapse was discussed and the Board concurred that authorization should be provided to the President.

On the motion of Mr. Wittie,

Seconded by Mr. McKee, the following resolution was offered:

**WHEREAS**, Mr. Clint Romig with Arthur Gallagher Risk Management Services, Inc., is currently attempting to place coverage and exhausting all available options to obtain quotes for Property Insurance Coverage for the Lake Borgne Basin Levee District, which will expire on August 30, 2007, and

**WHEREAS**, due to the difficulty in obtaining quotes in advance from insurance carriers, and in order to assure there is no gap in coverage, authorization to bind coverage in the best interest of the LBBLD is required.

**BE IT HEREBY RESOLVED**, That SLFPAE President is hereby authorized to procure and bind Property Insurance Coverage for the LBBLD on or before August 30, 2007, and 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. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

### **RESOLUTION #08-16-07-012 - LBBLD – ASPECT ENERGY, LLC RESTATEMENT OF UNIT GEOGRAPHICAL REFERENCE**

Mr. Del Barnes, representing Aspect Energy, L.L.C., explained a lease was acquired from LBBLD and a successful well was drilled. He further explained the Unitization process and reasons for filing an application for a pre-drilled unit. Aspect filed application for three pre-drilled units in which the rectangles were referenced to a

section line; however, it was subsequently realized this reference would not work. Therefore, Aspect is requesting a letter of no objection be granted to changing the georeferencing from a reference to a section line to an X – Y coordinate under the State Plane Coordinate System which would then proceed to metes and bounds.

Mr. Goins advised this matter came before the Legal Committee and approval was recommended.

Mr. Hanna, LBBLD legal counsel, advised a letter of no objection was received from the State Mineral Board, and Ms. Denise Fitzgerald, Assistant Attorney General, added, the State Lands Office reviewed this request and it was found acceptable.

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

A resolution authorizing Robert Turner, Executive Director of the Lake Borgne Basin Levee District, to execute correspondence/documentation acknowledging that the Lake Borgne Basin Levee District does not object to Aspect Energy, LLC's application to the Louisiana Office of Conservation to restate the geographical reference of a unit described as: Aspect Energy, LLC, Cris I RD/SUB Unit, Northwest Kenilworth Field, St. Bernard Parish, Louisiana. The current Unit Order Plat is attached as Exhibit A. The restated Unit Order Plat is attached as Exhibit B.

**WHEREAS**, the unit is currently referenced to section lines as shown in Exhibit A and Aspect Energy, LLC intends to apply to the Louisiana Office of Conservation to restate the geographical reference using corner coordinates as shown in Exhibit B as there is lacking a certified plat that correctly locates the pertinent section lines; and

**WHEREAS**, the Louisiana State Mineral Board approved a request to Aspect Energy, LLC to escrow royalty payments pending the resolution of the title issue and has no objection to the application of Aspect Energy, LLC to the Louisiana Office of Conservation to restate the geographical reference for this unit.

**BE IT HEREBY RESOLVED**, That Robert Turner, Executive Director of the Lake Borgne Basin Levee District, is hereby authorized to sign letters and/or documents pertaining to the aforementioned unit and indicating that the Lake Borgne Basin Levee District does not object to the application of Aspect Energy, LLC.

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie  
NAYS: None  
ABSENT: Mr. Barry

**RESOLUTION #08-16-07-013 -**

**RATIFICATION OF PURCHASE OF THREE JOHN DEERE TRACTORS**

Ms. Sembera explained this equipment had been previously budgeted and Mr. Turner was unaware that this purchase required Board approval; therefore, it was being presented for ratification.

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

WHEREAS, the Louisiana Division of Administration through its Procurement and Contract Network is able to extensively bid goods, equipment and services and award contracts to the most competitive and responsive vendors for utilization by agencies of the State of Louisiana (Louisiana State Contract), and

WHEREAS, LBBLD Executive Director Robert Turner authorized the purchase of two John Deere 6430 Comfort Gard Premium Cab Tractors, totaling \$86,093.28, and one John Deere 6615 Comfort Vantage Cab Tractor, totaling \$39,718.08, which were much needed by the levee district and available on Louisiana State Contract.

BE IT HEREBY RESOLVED, That the Board ratifies the purchase of the aforementioned equipment acquired by the LBBLD via Purchase Order No. 6564 dated March 28, 2007.

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

- YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee, Mr. Pineda and Mr. Wittie
- NAYS: None
- ABSENT: Mr. Barry

**RESOLUTION #08-16-07-014 -  
RATIFICATION OF PURCHASE OF SUPER DUTY CUTTERS AND 20' A-BOOM**

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

WHEREAS, the Louisiana Division of Administration through its Procurement and Contract Network is able to extensively bid goods, equipment and services and award contracts to the most competitive and responsive vendors for utilization by agencies of the State of Louisiana (Louisiana State Contract), and

WHEREAS, LBBLD Executive Director Robert Turner authorized the purchase of four Flex 15 Magnum Super Duty Cutters, totaling \$63,068.80, and One 20' A-Boom with spool valve, totaling \$35,537.98, which were much needed by the levee district and available on Louisiana State Contract.

BE IT HEREBY RESOLVED, That the Board ratifies the purchase of the aforementioned equipment acquired by the LBBLD via Purchase Order No. 6562

dated April 4, 2007 and Purchase Order No. 6561 dated March 30, 2007, respectively.

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

**RESOLUTION #08-16-07-015 -  
LBBLD – CEA FOR BORROW MATERIAL FROM WHISPERWOOD PIT**

Ms. Sembera explained after Hurricane Katrina St. Tammany Parish needed a retention pond and the LBBLD was in need of borrow material for levee reconstruction; therefore, an agreement was executed among the LBBLD, St. Tammany Parish and St. Bernard Parish. St. Tammany Parish would like to enlarge the retention pond and is making the material available to the LBBLD; however, the post-Katrina agreement has expired and a new agreement is required for the LBBLD to accept the material. The material has not yet been designated for a specific project.

The Board discussed the benefit for the LBBLD and their concern that this endeavor be at no cost to the LBBLD or SLFPA-E.

Mr. Mark Hanna, LBBLD legal counsel, advised he would perform a legal review of the Cooperative Endeavor Agreement (CEA) to assure it does not have language that creates liabilities or problems for either the LBBLD or SLFPA-E. Should he determine a problem exists, it would be brought to the Board so that it could revisit the issue.

The Board discussed the need to proceed with approval of this matter; however, Mr. Jackson requested that in the future the legal counsels for the levee districts review such documents before they are brought to the Board.

Mr. Pineda pointed out, normally, for projects with Federal/non-Federal sponsor participation, the non-federal sponsor is responsible for borrow and spoil sites; however, the Federal government is responsible for 100% of the Caernaveron to Verrett levee project.

On the motion of Mr. Barnes,  
Seconded by Mr. Losonsky, the following resolution was offered:

“A resolution authorizing execution of a Cooperative Endeavor Agreement and any other documents necessary to obtain borrow material from the Whisperwood Pit in St. Tammany Parish for use in levee construction projects in St. Bernard Parish.”

**WHEREAS**, post-Hurricane Katrina, the U.S. Army Corps of Engineers’ (USACE) obtained borrow material for the repair and rehabilitation of St. Bernard

Parish levees under Task Force Guardian from the Whisperwood Pit located in St. Tammany Parish in return for the construction of retention ponds by the USACE, and

**WHEREAS**, suitable borrow material is required for further enhancement of the levee systems in St. Bernard Parish for 3rd and 4th Supplement Projects.

**WHEREAS**, the Whisperwood Pit is environmentally cleared for use and was not previously depleted of material during Task Force Guardian, and

**WHEREAS**, St. Tammany Parish is agreeable to supplying additional borrow material in return for the USACE's construction of retention ponds; however, the Cooperative Endeavor Agreement (CEA) under which Task Force Guardian activities were performed has expired and a new CEA will be required between St. Tammany Parish, SLFPAE and the Parish of St. Bernard.

**BE IT HEREBY RESOLVED**, That the SLFPAE President is hereby authorized to execute a Cooperative Endeavor Agreement between St. Tammany Parish, SLFPAE, and the Parish of St. Bernard, along with the Authorization for Entry for Access, Borrow and Construction, and any other documents necessary to acquire borrow material as provided hereinabove.

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

#### **RESOLUTION #08-16-07-016 - LBBLD PUBLIC OFFICIALS INSURANCE COVERAGE – EXTENSION OF REPORTING PERIOD OPTION**

Ms. Sembera explained the LBBLD 's public officials insurance coverage is now with a new carrier; however, since the potential for claims under the previous policy still exists, an offer has been made for the option to extend the reporting period.

On the motion of Mr. Barnes,  
Seconded by Mr. Losonsky, the following resolution was offered:

**WHEREAS**, as of July 10, 2007, the Lake Borgne Basin Levee District (LBBLD) has been included in the master policy with AIG Insurance Company for Public Officials Liability Insurance Coverage, and

**WHEREAS**, LBBLD's prior carrier of said coverage, Ace Insurance Company, has offered an extension of the reporting period at the cost of \$10,067, and

**WHEREAS**, procurement of this additional protection would be in the best interest of the LBBLD.

**BE IT HEREBY RESOLVED**, That procurement of the option to extend the reporting period on Public Officials Liability Insurance Coverage for the LBBLD with Ace Insurance Company is approved, and that LBBLD Executive Director Robert Turner is hereby 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. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie  
NAYS: None  
ABSENT: Mr. Barry

**RESOLUTION #08-16-07-017 – ENGAGEMENT OF DANIEL DYSART AS SPECIAL COUNSEL TO REPRESENT THE LAKE BORNE BASIN LEVEE DISTRICT**

Mr. Hanna advised litigation was filed by Olivier Plantation, L.L.C., a property owner who claimed borrow material was taken within a servitude located on property that it owns, and alleges that damages that have been incurred that should be paid for by LBBLD. Steps were taken to notify the LBBLD's insurance carrier, St. Paul's Travelers, of the suit; however, St. Paul's by letter denied coverage, as well as the duty to defend. Mr. Hanna explained since his firm has represented St. Paul's Travelers in the past, he was in a conflict situation in regards to giving an opinion to the LBBLD or SLFPA-E as to whether St. Paul's Travelers' position was correct. Therefore, he advocated that the LBBLD and/or SLFPA-E retain outside counsel to given an opinion as to whether St. Paul's Travelers' actions are justified on both duty to defend and coverage. He encouraged the SFLAP-E to adopt the resolution allowing Mr. Dysart to review the case and St. Paul's Travelers' coverage opinion, and advise the Board on the way this matter should be handled. He further advised he filed an answer to protect the interest of the LBBLD insofar as the underlying litigation.

Mr. Doody explained this matter was discussed with the Chair of the Legal Committee. This engagement is for a very specific issue; i.e., the question of coverage and the duty to defend; once that question is decided, representation of the underlying suit will go back to Mr. Hanna.

On the motion of Mr. Losonsky,  
Seconded by Mr. Goins, the following resolution was offered:

“A resolution authorizing the engagement of Daniel Dysart as special counsel pursuant to R.S. 42:263 to represent the Lake Borne Basin Levee District in certain legal matters.”

**WHEREAS**, a real necessity exists to engage legal counsel to advise and represent the Lake Borgne Basin Levee District (LBBLD), including the pursuit of a claim against St. Paul Insurance Company arising out of case #109-272 filed in the 34<sup>th</sup> Judicial District Court, Parish of St. Bernard, captioned *Olivier Plantation, L.L.C., Park Investments, LTD., et al vs. Parish of St. Bernard, et al.*

**WHEREAS**, these legal services are to be provided under the immediate supervision of the Executive Director of the LBBLD and subject to secondary review by the Board of Commissioners of the SLFPAE and the Louisiana Department of Justice, Office of the Attorney General.

**WHEREAS**, in consideration of services performed, the LBBLD agrees to pay counsel as follows:

\$175.00 per hour for attorneys with 10 or more years of experience

\$150.00 per hour for attorneys with 5 to 10 years of experience

\$125.00 per hour for attorneys with 3 to 5 years of experience

\$100.00 per hour for attorneys with 1 to 3 years of experience

\$45.00 per hour for paralegals

**WHEREAS**, the total of all sums payable under this contract including fees and reimbursement of expenses shall not exceed **\$25,000.00**;

**WHEREAS**, this engagement shall commence July 23, 2007 and end on July 23, 2008, and said contract shall be terminable by the Authority and Counsel at any time, with or without cause; said contract may be terminated by counsel by providing thirty (30) days written notice of cancellation to the Executive Director of the District and the President of the Authority Board – East. The Authority Board East has the right to cancel this contract at anytime by providing written notice to Counsel;

**BE IT HEREBY RESOLVED**, that the Authority retains the services of Daniel Dysart as counsel for the above-described legal matter and authorizes the President to sign any and all documents necessary to carry out the above.

**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.

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

YEAS: Mr. Barnes, Mr. Goins, Mr. Jackson, Mr. Losonsky, Mr. McKee,  
Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Barry

Mr. Doody announced the next meeting will be held on Thursday, September 20, 2007, in Jefferson Parish.

There was no further business, therefore, the meeting was adjourned at 4:18 p.m.