

**MINUTES OF THE
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY–EAST
BOARD MEETING
THURSDAY, AUGUST 16, 2018**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority-East (Authority or FPA) was held on August 16, 2018, in the Franklin Avenue Administrative Complex, Meeting Room 201, 6920 Franklin Avenue, New Orleans, Louisiana, after due legal notice of the meeting was sent to each Board member and the news media and posted.

Mr. Hassinger called the meeting to order at 11:25 a.m. and led in the pledge of allegiance. Mr. Cosse called the roll and a quorum was present:

PRESENT:

Lambert J. Hassinger, Jr., President
Richard A. Luettich, Jr., Vice President
Mark L. Morgan, Treasurer
Clay A. Cosse, Secretary
Andrew J. Englande, Jr.
Jason P. Latiolais
Herbert I. Miller
Herbert T. Weysham, III

ABSENT:

Quentin D. Dastugue

ADOPTION OF AGENDA:

A motion was offered by Mr. Luettich, seconded by Mr. Miller and unanimously adopted, to adopt the agenda.

**RESOLUTION NO. 08-16-18-01 –
APPROVAL OF JULY 19, 2018 BOARD MEETING MINUTES**

On the motion of Mr. Luettich,
Seconded by Mr. Miller, the following resolution was offered:

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East approves the minutes of the Board Meeting held on July 19, 2018.

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

YEAS: Mr. Cosse, Mr. Englande, Mr. Latiolais, Mr. Luettich, Mr. Miller,
Mr. Morgan and Mr. Weysham

NAYS: None

ABSENT: Mr. Dastugue

EMPLOYEE RECOGNITION AND APPRECIATION:

Mr. Hassinger explained that each month the Board takes the opportunity to recognize an employee who is nominated by his/her peers as someone who is instrumental in ensuring that the FPA accomplishes its mission and exemplifies the values of the FPA. The Board recognized Shannon West for her commitment to the FPA's mission and contribution to its success.

Shannon West was nominated by her colleagues because she exemplifies the FPA's values in her commitment to the FPA's mission and in the performance of her day-to-day duties. She is a hard working professional who cares about the organization and has earned the admiration and respect of all of the members of the FPA team.

Shannon was hired by the East Jefferson Levee District (EJLD) on February 24, 2003 as an Accounting Specialist. Her position at the EJLD was upgraded on September 24, 2003 to Accounting Technician and reallocated on October 27, 2014 to Administrative Program Specialist A. Shannon was primarily performing Finance duties at the EJLD, but took on Human Resource (HR) duties at a time when assistance was sorely needed due to a coworker's retirement. Shannon excelled in her HR role to the point that she became a full time HR staff member and officially became a HR Analyst A on June 4, 2018. She provides exemplary service for employees, always with a positive attitude, and has done so even during the challenges caused by the FPA's reorganization and tumults experienced in the HR Department.

Shannon has had to relocate from the EJLD Administrative Facility to the Franklin Avenue Facility, which not only changes an individual's working environment, but also their personal life, and has done so with an exemplary attitude. She has also taken on a completely new role -- that of HR Analyst A -- at a time when the Flood Protection Authority urgently needed someone to provide much needed HR services for employees.

The professionalism and responsiveness that Shannon exhibited when she performed Finance duties at the EJLD carried over to her new position in Employee Services. She is always professional, positive, and responsive and cares about her coworkers. She is clearly a team player and there have been nothing but excellent reports from FPA team members regarding the services that she provides. Shannon is an invaluable asset to the organization and the FPA is fortunate to have Shannon West as part of its team.

OPENING COMMENTS BY PRESIDENT AND COMMISSIONERS:

Mr. Hassinger provided the following comments:

“Commissioners,

“After Katrina, leaders in this community propelled legislative reform of the levee board system in the metropolitan New Orleans area. With the litigation filed by St. Bernard Parish against the Flood Protection Authority, I fear that we all may be witnessing the beginning of the destruction of that reform.

"It is ironic that the principal author of the levee board reform legislation that created this Authority, Senator Boasso, hailed from St. Bernard Parish.

"Yet, today it is St. Bernard Parish Government that has filed four lawsuits against the Flood Protection Authority, that win or lose, might destroy what he and many others helped create.

"If, in the future, others look back to see when we recognized the beginning of the end of this Authority, we can turn to the minutes of the meeting of August 16, 2018.

"In the meantime, I will point out that the Flood Protection Authority has not spent taxpayer money and public time filing lawsuit after lawsuit after lawsuit.

"Instead it has attempted to negotiate a responsible solution that fairly and effectively protects citizens in Orleans, St. Bernard and East Jefferson.

"Litigation or Collaboration . . . Which path makes more sense?"

Mr. Luettich reminded everyone that the height of the hurricane season is about to occur (late August through September). He stated that this is the reason this regional Authority was set up – to protect the citizens of the region. Everyone is on heightened alert. He added that he has full confidence that the Flood Protection Authority's staff will rise to the challenge should the need occur. He reiterated that the next six to eight weeks is the crunch time of the year.

PUBLIC COMMENTS:

Roy Arrigo thanked the Board for the good work that it does for the community. He explained that he had speculated about the potential result of the litigation filed by St. Bernard Parish; e.g., would a ruling requiring funding from one parish to go to another parish be the unraveling of the regional Flood Protection Authority. Mr. Arrigo advised that he provided the following statement at the August 15th Coastal Protection and Restoration Authority (CPRA) meeting.

"Legislators outside of St. Bernard believed that St. Bernardians who were behind the legislation creating the Flood Authority East had the intention of using tax money from other parishes to fund St. Bernard's own flood protection and drainage. Those other legislators included wording to prohibit such co-mingling of funds in that legislation.

"Though St. Bernard Parish contributes only a small percentage to the Flood Authority's revenue, it quickly took control of that board. At one point, the president, vice president and executive director of the east bank authority were all from St. Bernard Parish. Predictably many millions of Orleans and Jefferson property tax dollars began flowing into St Bernard.

"Even though a RAND study commissioned by the CPRA found that, Orleans Parish...not St. Bernard, was most affected by the cost increases of the new flood protection system, they also found that this St. Bernard-dominated Flood Authority

had formed agreements for Orleans Parish to pay for 90% of the operating costs of portions of the system that are located in St. Bernard Parish.

“Claims that St. Bernard pays more for flood protection than Orleans or Jefferson is apples to oranges because it incorrectly compares what St. Bernard Parish pays for both perimeter protection and internal drainage against what the other parishes pay only for perimeter protection.

“Any benefit from St. Bernard Parish’s protection system to the other parishes is incidental. While other parishes voted to increase taxes to pay for their new flood protection costs, St. Bernard, whose flood protection was being supplemented by those other parishes, twice voted down such increases. Thus making St. Bernard paying pre-Katrina rates for their post Katrina flood protection system.

“St. Bernard Parish needs to take the internal drainage operations away from the Flood Authority. The small amount of property tax that St. Bernard currently does pay to the flood authority should be left there to pay for their perimeter protection. Funds from other parishes should not be an option for the drainage and flood protection of St. Bernard.”

Mr. Arrigo stated that he then asked the CPRA Board to use its authority to intercede and resolve this issue.

Anne Coglianese, Coastal Resilience Program Manager, Mayor’s Office of Resilience and Sustainability for the City of New Orleans, introduced herself to the Board and advised that she is the City’s designee to the Flood Protection Authority’s meetings. Ms. Coglianese explained that her specific focus is on coastal policy and she offered her assistance to the Flood Protection Authority.

John Riehm advised that Wood Materials (Wood) started work to retire the old haul road along the levee in Harahan. The road was graded and three openings in the berm were closed; however, no additional work has taken place during the last two weeks. Residents in the area hope that Wood will begin laying grass and placing tree curtains to alleviate the airborne sand issue. The litigation filed in the Fifth Circuit Court of Appeals relative to Wood’s composting operations is continuing with briefs being filed at this time. The case should be heard in October. He asked that the FPA’s new legal counsel review Wood’s permit regarding the composting operation on the Harahan bature, which is taking place contrary to Harahan’s ordinance against such activities.

COMMITTEE REPORTS:

Finance Committee: Mr. Morgan reported that the Finance Committee met prior to the Board meeting regarding the following items:

- Certification of the Orleans Levee District (O.L.D.) millage rates for calendar year 2019.
- Providing authority to the Chief Administrative Officer (CAO) to move surplus equipment between levee districts as necessary.

- Discussion of the Lake Borgne Basin Levee (LBBLD) budget for litigation expenses.
- Update on the investments placed with Edward Jones.
- Update on Employee Services.

Operations Committee: Mr. Miller reported that the Operations Committee met prior to the Board meeting regarding the following items:

- Progress update on the I-STORM Peer Review Report.
- Award of the contract for the O.L.D. Loft Building Demolition Project - The lowest bid was declared non-responsive and the Committee recommended that the Board approve the award of the contract to the lowest responsive bidder, Zimmer-Eschette Services II LLC.
- Award of the contract for the construction of the Franklin Administration Building and Warehouse Renovations – It was determined that Gottfried Construction, LLC did not comply with the specifications for the generator, which was Alternate No. 1. Gottfried was given the opportunity to provide a generator that meets the specifications, but declined to do so and withdrew its bid. Therefore, the Committee recommended that the Board approve the award of the contract to the second low bidder, CM Combs Construction, LLC. The bids were very competitive with the second, third, fourth and fifth bidders being within one percent of each other.
- The Committee deferred discussion on the amendment of the contract with RCL Architecture, LLC on the Franklin Complex Renovations to the Board Meeting at the request of the Committee Chair. Mr. Miller explained that he spent a significant amount of time over the past couple of days obtaining a good understanding of the issues and, in the interest of time, he had suggested to the Committee that the explanation be provided at the Board Meeting.

PRESENTATIONS:

Levee Safety Action Classification (LSAC) – U.S. Army Corps of Engineers

Derek Boese, COA, advised that the U.S. Army Corps of Engineers (USACE) was asked to provide a briefing on its Levee Safety Action Classification (LSAC) and National Levee Database to ensure that the Board was made aware of the program. Media coverage of the LSAC began in the spring and the USACE officially rolled out the LSAC in late July during a series of public events.

Jennifer Stephens, P.G., USACE, explained that the USACE began the Levee Safety Program after Hurricane Katrina. The program was modeled after the Dam Safety Program with a focus on risk reduction on the levee systems throughout the nation. In WRDA 2004 Congress authorized the inclusion of all federal levees in a National Levee Database in order to assess the risk of people and infrastructure within the leveed areas. In 2014 Congress determined that all levee systems (non-federal and federal)

would be included in the National Levee Database, resulting in the Levee Inventory and Review Effort. The LSAC was developed to determine risks for the National Levee Database. The LSAC is used to determine the magnitude of risk and can be used as a tool by local sponsors and the public to prioritize or categorize urgency. The Risk Characterization explains the risk driver of a specific levee system. The elements that create the risk drivers are hazard, performance and consequences. The resulting LSACs range from very low to very high. A high number of uncertainties will result in a no verdict for the LSAC.

Ms. Stephens provided an example of the weight of consequences in determining the LSAC. The City of Sacramento, CA, on the east bank of the river is highly populated (440,000) with 134,000 structures at risk. The west bank of the same river has agriculture with no population or infrastructure. The levees on the east and west banks were constructed of the exact same material with the same foundations and are expected to experience the exact same events; however, the LSAC for the east bank is higher than the LSAC for the west bank because of the consequences within the leveed area.

Ms. Stephens provided breakdown of the Risk Characterization elements:

Hazards:

- Hydraulic Event (hurricane, riverine or rainfall)
- Probability of Events

Performance:

- Historical Performance
- Levee Construction
- Performance Ratings include embankment (factors of seepage, erosion and stability), floodwall (factors of under seepage and floodwall stability) and closures (the most critical closure in the system is considered)
- Evacuation Effectiveness:
 - Evacuation Planning
 - Public Awareness
 - Flood Warning Effectiveness (how long in advance is the public warned about an event)

Consequences:

- Population
- Infrastructure
- Environmental Losses

Ms. Stephens advised that LSACs are to be used to improve risk communication, inform the National Levee Database and to encourage partnerships between the Federal government and local sponsors. The LSAC can also be used to inform residual risk, encourage local sponsors to develop an evacuation plan and to encourage the public to obtain flood insurance through the NFIP. The worst case scenarios (regional and national impacts from inundation) are considered when developing the LSAC. The

LSAC can be used to assist with prioritization of projects and levee systems and to identify which systems to fund.

Ms. Stephens explained that the LSAC does not change or replace inspections, affect the NFIP or describe the condition of a levee system (e.g., a robust system may have a High Risk designation simply due to the consequences and adversely a poor levee system with nothing behind it may have a Low Risk designation).

Ms. Stephens reviewed the LSAC for the Mississippi River and the New Orleans East and West Bank Levee Systems:

- The Mississippi River East Bank Levee System has a High Risk LSAC. The hazard driving the risk is a riverine event. The Mississippi River Levee experiences high water almost every year loading the levee; however, the levee has historically performed well and is expected to perform as designed in the future. However, the primary risk driver is the consequences (i.e., one-half million people, \$81 billion of infrastructure and 150,000 structures).
- The New Orleans East and West Bank Levee System has a High Risk LSAC. The hazard is the high likelihood of tropical storms and hurricanes. The levee has performed as designed during past events and continuing improvements are expected to be performed in the future (e.g., armoring). The community is highly aware of its risk for a hurricane. However, the primary risk driver is the consequences (i.e., almost one million people, \$170 billion of infrastructure and over 325,000 structures).

Ms. Stephens explained that the National Levee Database is a great tool for local sponsors and the public to obtain information. The National Levee Database was developed in 2004; however, over the past year the Database was revised and expanded in order to provide a plethora of useful information for the public (e.g., FEMA information, levee topography and levee inspections).

Mr. Miller asked, if the FPA could improve the levee system to provide a 500-year level of protection, would the designated LSAC risk be lowered. Ms. Stephens responded that she could not guarantee that the improvement would have an impact on the LSAC. She explained that a levee system can be constructed to provide protection for the 1,000-year level; however, if one million people are being protected by the levee, the consequences of a failure would be significant.

Mr. Luetlich asked is the LSAC analysis formulaic or qualitative. Ms. Stephens explained that the LSAC is formulaic; however, a long, highly complex process is used. The process includes plugging the most recent census data into the economics; reviewing the hydraulics, which includes the use of formulas to develop risks; reviewing the latest inspections for performance and levee ratings, and creating new ratings for the risk assessment based on reviews. The risk assessment is developed at the District, it is reviewed through superiors and then provided to a cadre (QAQC) for review. Comments are returned to the District and changes are made. The assessment is then provided to the Levee Senior Oversight Group for a formalized Headquarters LSAC and Risk Characterization.

Ms. Stephens advised that the USACE's future goal is to enable local owners and operators of levee systems to be able to maintain and inspect the non-federal levee systems similar to Federal levees systems, which would including training sponsors to use the USACE's risk assessment and inspection tool.

Ms. Stephens noted that the current LSACs were developed prior to the armoring of the levee system. The armoring will be included in the assessment; however, the LSAC is not expected to change.

CHIEF ADMINISTRATIVE OFFICER'S REPORT:

Derek Boese, CAO, provided highlights of his report:

- Maintenance – The flood protection system is in excellent condition. Overtime requirements continue due to rainfall and a shortage of manpower. Staff is evaluating additional contract support for mowing and herbicide.
- I-STORM Peer Review Report – An update was provided to the Operations Committee on the progress made as the FPA staff works thru the 400+ comments. A plan and program has been put in place to address all of the comments.
- IHNC Surge Barrier Barge Gate – The chain drive has been repaired and the gate is fully functional.
- Permanent Canal Closures and Pump Stations (PCCP) – FPA staff is working with the USACE to tweak the storm mode settings. The USACE has been responsive concerning the FPA's request for technical assistance on several issues. A very successful tabletop exercise was conducted with the Sewerage and Water Board of New Orleans on July 25th.
- Engineering – The USACE armoring and levee lift projects remain on track. The FPA is continuing to monitor the Bellaire Drive seepage and is still awaiting the USACE's response to the FPA's consultant's report. Multiple inspections are taking place in August on USACE projects.
- Technology – The FPA received consolidated guidance on the Authority's document retention policy from the State. A significant effort will take place over the next 18 months involving scanning/digitizing and disposal of records. Roger Cowell, IT Geographic Project Supervisor, is working on obtaining a license to become a drone operator and the FPA is exploring the best uses for a drone. FPA staff is investigating project management/scheduling software. The permitting software is online and functional. Comments are being received from users of the permitting software.
- Finance – The fiscal year financial audit continues. A question remains concerning the recording of assets on the books for the PCCP and Hurricane and Storm Damage Risk Reduction System (HSDRRS). Dialogue continues between the CPRA, Legislative Auditor, FPA East and West Authorities, and Pontchartrain Levee District on the methodology for recording the assets. FPA staff is working

through Pre-Katrina Work-in-Kind credits for the EJLD and O.L.D. Both levee districts have budgeted and set aside funding in anticipation of a required payment towards the local cost share.

- FY 19 Initiatives – The CAO is receiving input from staff on long-term goals and priorities. Phase I of the Culture initiative has been completed. Phase II of the Culture initiative is gearing up with a new group to work on the initiative. A new survey will be conducted along with focus groups. Goals will be established for the upcoming year. Training and safety will be a major focus.

Mr. Cosse asked did the FPA stop maintaining the canals in the LBBLD. Mr. Boese responded, no; the FPA has not stopped maintaining the canals. The FPA has used assets to catch up with the maintenance when possible and as resources allow. He pointed out that there are long standing historical issues, probably pre-Katrina, with access along some of the canals with certain banks that are a challenge and being investigated. Mowing has been taking place as resources and access allow. The cutting is being accomplished along the side slopes that can be reached with a boom. In some areas the homeowners have built up to the bank of the canal.

Mr. Cosse asked about the maintenance of the pump stations and whether they are in shape for the hurricane season. Mr. Boese responded that the pump stations are in as good of shape as possible with the LBBLD's budget. The capacity has been reduced because of the Parish contract issues on Pump Stations Nos. 1 and 4, which have motors out of service. The contract issues are in litigation. The Parish contract is impacting the pumping ability more than any other issue.

RESOLUTION NO. 08-16-18-02 - ADOPT MILLAGE RATES FOR THE YEAR 2019 AND CERTIFY THE LEVY OF THE THREE MILLAGE RATES TO THE CITY OF NEW ORLEANS FOR THE PURPOSE OF ASSESSING AND COLLECTION OF THE THREE TAXES

Mr. Hassinger read the entire resolution aloud. Mr. Cosse conducted a roll call vote on the adoption of the resolution.

On the motion of Mr. Luettich,

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

BE IT RESOLVED, that the Southeast Louisiana Flood Protection Authority–East (“the Authority”), acting as the governing authority of the Orleans Levee District (“the District”), that:

Section 1. Millage to be levied in 2019. The following millages are adopted and levied for the tax year 2019 on all property subject to taxation within the portion of Orleans Parish located on the East Bank of the Mississippi River by the Orleans Levee District:

General Tax	5.46 mills
Special Levee Improvement Tax (SLIP Tax)	6.07 mills

Maintenance Tax	<u>0.75 mills</u>
Total Millage	12.28 mills

The General Tax is authorized by Article 6 Section 39(A) of the Constitution.

The Special Levee Improvement Tax is authorized by the Special Election of November 6, 2012.

The Maintenance Tax is authorized by the Special Election of March 5, 1974 and imposed by the District's Resolution No. 1-081899.

Section 2. Statement of Total Millage to be levied. A total of 12.28 mills shall be levied in 2019.

Section 3. The Authority, acting for the District, hereby certifies the annual levy of the General Tax, the SLIP Tax and the Maintenance Tax to the Council of the City of New Orleans for the purpose of causing the three taxes to be entered on the assessment rolls of said City for the tax year 2019, and that the taxes herein levied shall become a permanent lien and privilege on all property subject to taxation as herein set forth, and enforced and collected by the City's Finance Department in the manner and under the conditions and with interest and penalties prescribed by law for City taxes; and such monies, the ad valorem taxes including interest and penalties connected therewith, thus collected shall be paid to the District as provided by law for the tax year 2019.

Section 4. Further Action. The President of the Authority or the Authority's Chief Administrative Officer is and hereby authorized and empowered to execute any and all documents necessary to accomplish the above purposes.

The foregoing resolution was read in full, the roll was called on the adoption thereof, and the resolution was adopted by the following votes:

YEAS: Mr. Cosse, Mr. Englande, Mr. Latiolais, Mr. Luettich, Mr. Miller,
Mr. Morgan and Mr. Weysham

NAYS: None

ABSTAINED: None

ABSENT: Mr. Dastugue

RESOLUTION NO. 08-16-18-03 - RETENTION OF LEGAL SERVICES OF BURGLASS & TANKERSLEY, LLC

Mr. Hassinger explained that the Board adopted a resolution to approve the retention of Burglass and Tankersley, LLC for a law suit filed by St. Bernard Parish Government. The recommendation is to retain the firm for the four additional suits, which interrelate and overlap.

Mr. Morgan inquired about retention of the firm for the suit filed in the U.S. District Court on a contractual issue. Mr. Hassinger explained that a subsequent suit was filed in the 34th Judicial District Court asking that a judge declare that the FPA/LBBLD pay any

additional money that may be owed to the contractor. Michelle White, Assistant Attorney General, added that in the 34th Judicial District Court case the resolution adopted by the Board is cited as part of the reason that the indemnity has been brought into focus.

On the motion of Mr. Luettich,
Seconded by Mr. Miller, the following resolution was offered:

WHEREAS, the Southeast Louisiana Flood Protection Authority-East and Lake Borgne Basin Levee District ("FPA") have been named as defendants in the following suits:

"St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al",
34th Judicial District Court for the Parish of St. Bernard, Division C, Civil Action
No. 18-1065

"Fucich Contracting, Inc. versus Shread-Kuyrkendall and Associates, Incorporated, et al", U.S. District Court for the Eastern District of Louisiana,
Section E, Civil Action No. 18-02885

"St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al",
34th Judicial District Court for the Parish of St Bernard, Division D, Civil Action
No. 18-1018

"St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al",
34th Judicial District Court for the Parish of St. Bernard, Division A, Civil Action
No. 18-1066; and

WHEREAS, Burglass and Tankersley will be compensated pursuant to the Louisiana Attorney General's maximum Hourly Fee Schedule of February 8, 2016, which allows:

<u>Rate</u>	<u>Description</u>
\$225 per hour	For attorneys having experience of 10 or more in the practice of law
\$175 per hour	For attorneys having experience of 5-10 years in the practice of law
\$150 per hour	For attorneys having experience of 3-5 years in the practice of law
\$125 per hour	For attorneys having experience of less than 3 years in the practice of law
\$60 per hour	For Paralegal Services
\$40 per hour	For Law Clerk Services

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East pursuant to La. R.S. 42:262 does hereby retain and employ Burglass

& Tankersley, LLC as special counsel, effective August 6, 2018, for representation in the litigation entitled:

“St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al”,
34th Judicial District Court for the Parish of St. Bernard, Division C, Civil Action
No. 18-1065

“Fucich Contracting, Inc. versus Shread-Kuyrkendall and Associates,
Incorporated, et al”, U.S. District Court for the Eastern District of Louisiana,
Section E, Civil Action No. 18-02885 and

“St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al”,
34th Judicial District Court for the Parish of St Bernard, Division D, Civil Action
No. 18-1018

“St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al”,
34th Judicial District Court for the Parish of St. Bernard, Division A, Civil Action
No. 18-1066

BE IT FURTHER RESOLVED, that the FPA Chief Administrative Officer is authorized to execute an agreement with Burglass & Tankersley, LLC for the aforementioned legal representation.

BE IT FURTHER RESOLVED, that this Resolution and proposed contract described herein shall be submitted to the Attorney General for the State of Louisiana for approval.

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

YEAS: Mr. Cosse, Mr. Englande, Mr. Luettich, Mr. Miller, Mr. Morgan and
Mr. Weysham

NAYS: None

ABSTAINED: Mr. Latiolais

ABSENT: Mr. Dastugue

RESOLUTION NO. 08-16-18-04 - AUTHORIZATION FOR THE INTER-ORGANIZATIONAL TRANSFER OF EQUIPMENT

Mr. Boese explained that currently equipment is loaned for short periods of time between the levee districts and a back charge is made for the appropriate work. In some situations there may be excess property that can be sold or otherwise disposed of that another levee district could use. The FPA would like the ability to transfer equipment between the levee districts in order to meet long term needs.

On the motion of Mr. Luettich,

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

WHEREAS, the Southeast Louisiana Flood Protection Authority-East (FPA) is the governing authority over the East Jefferson Levee District (EJLD), Lake Borgne Basin Levee District (LBBLD) and Orleans Levee District (OLD), collectively “the levee districts”; and

WHEREAS, the FPA and the levee districts under its jurisdiction are responsible for the management, maintenance, operation, safety and repair of the Hurricane and Storm Damage Risk Reduction System and the Mississippi River Levee System protecting the Greater New Orleans Area (“the regional flood protection system”); and

WHEREAS, the transfer of surplus or used equipment that is no longer needed by one of the districts to another district in need of said equipment within the jurisdiction of the FPA would ensure the efficient and effective management, operation and maintenance of the regional flood protection system and the wise use of taxpayer money; and

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East authorizes the FPA Chief Administrative Officer to effectuate the transfer of surplus or used equipment between the FPA, East Jefferson Levee District, Lake Borgne Basin Levee District or Orleans Levee District in furtherance of the purpose of managing, operating and maintaining the regional flood defense system, and to execute any and all documents necessary to accomplish the above.

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

YEAS: Mr. Cosse, Mr. Englande, Mr. Latiolais, Mr. Luettich, Mr. Miller,
Mr. Morgan and Mr. Weysham

NAYS: None

ABSENT: Mr. Dastugue

RESOLUTION NO. 08-16-18-05 - ORLEANS LEVEE DISTRICT LOFT BUILDING DEMOLITION - OLD PROJECT NO. 24767

Mr. Miller advised that the low bidder, DLH Contracting, LLC, was disqualified. Zimmer-Eschette Services II LLC was the second low bidder. The second, third and fourth lowest bids are within about two percent of each other. Ryan Foster, Engineer, explained that the apparent low bidder was disqualified due to an issue with the qualifying party for the contractor. The qualifying party listed on the State website and the bid documents was no longer employed by the contractor. Therefore, the contractor did not have a qualifying party at the time of the bid opening. Mr. Boese added that the FPA followed the informal hearing process taking the appropriate steps under the advice of legal counsel.

On the motion of Mr. Luettich,

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

WHEREAS, the Orleans Levee District’s (O.L.D.) Loft Building was recently vacated and is steadily deteriorating; and

WHEREAS, the Loft Building Demolition Project was advertised, and 11 bids were opened and read at the O.L.D. on Wednesday, June 27, 2018, as follows:

Bidding Contractors	Total Base Bid Price
DLH Contracting LLC	\$87,173.00
Zimmer-Eschette Services II LLC	\$134,593.00
Bayou General Contractors Inc.	\$136,000.00
Insulation Technologies Inc.	\$137,000.00
LLJ Environmental Construction LLC	\$155,517.50
Hamps Enterprises LLC	\$165,500.00
Construction Management Enterprises LLC	\$181,400.00
Gulf Services Contracting Inc.	\$209,136.00
Durr Heavy Construction LLC	\$225,000.00
SEMS, Inc.	\$239,982.00
Cycle Construction Co., LLC	\$302,100.00

WHEREAS, the bid of DLH Contracting, LLC was declared non-responsive; and

WHEREAS, funds for this project are available from the approved FY 2019 Budget.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority–East (FPA) approves the award of a contract in the amount of \$134,593.00 to Zimmer-Eschette Services II LLC for the Orleans Levee District Loft Building Demolition Project, and authorizes the FPA Chief Administrative Officer to sign said contract and any and all other documents necessary to accomplish the above.

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

YEAS: Mr. Cosse, Mr. Englande, Mr. Latiolais, Mr. Luettich, Mr. Miller,
Mr. Morgan and Mr. Weysham

NAYS: None

ABSENT: Mr. Dastugue

RESOLUTION NO. 08-16-18-06- O.L.D. FRANKLIN ADMINISTRATION BUILDING AND WAREHOUSE RENOVATIONS - OLD PROJECT NO. 24769

Mr. Miller explained that Gottfried Construction, LLC was the low bidder on the project; however, upon review of the contractor's bid documentation, a determination was made that the company did not comply under Alternate No. 1 with the specifications relative to the generator. Gottfried Construction, LLC was given an opportunity to agree to comply with the specifications, but chose instead to withdraw its bid. CM Combs Construction, LLC then became the low bidder. The second (starting with Combs), third and fourth lowest bids are within one percent of each other. The Operations Committee recommended that the Board approve the award of the contract to CM Combs Construction, LLC.

A substitute motion was offered by Mr. Miller, seconded by Mr. Luettich and unanimously adopted, to approve the award of a contract in the amount of \$4,058,000.00 to CM Combs Construction, LLC for the Base Bid and Alternate No. 1 of the O.L.D. Franklin Administration Building and Warehouse Renovations Project.

On the motion of Mr. Luettich,
Seconded by Mr. Morgan, the following resolution was offered:

WHEREAS, renovations are required to the Orleans Levee District's (O.L.D.) Franklin Administration Building and Warehouse in order to provide sufficient office space for the increased number of staff at the location and to improve and modernized the facilities; and

WHEREAS, the Franklin Administration Building and Warehouse Renovations Project was advertised, and nine bids were opened and read at the O.L.D. on Monday, August 6, 2018, as follows for the Base Bid and Alternate No. 1:

Bidding Contractors	Total Base Bid and Alternate No. 1
Gottfried Construction, LLC	\$3,843,500.00
CM Combs Construction, LLC	\$4,058,000.00
Stallings Construction Company, Inc.	\$4,067,000.00
Industrial & Mechanical Contractors, Inc.	\$4,085,000.00
Boasso Construction, LLC	\$4,087,000.00
Smith Construction Company, LLC	\$4,145,950.00
Dixon Contracting Group, LLC	\$4,267,055.00
J. Caldara & Company, Inc.	\$4,315,000.00
Battco Construction & Maintenance, Inc.	\$4,501,500.00

WHEREAS, the bidder who submitted the lowest bid, Gottfried Construction, LLC, has withdrawn his bid; and

WHEREAS, funds for the project are available from the approved FY 2019 Budget.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority – East (FPA) approves the award of a contract in the amount of \$4,058,000.00 to CM Combs Construction, LLC for the Base Bid and Alternate No. 1 of the Orleans Levee District Franklin Administration Building and Warehouse Renovations Project, and authorizes the FPA Chief Administrative Officer to sign said contract and any and all other documents necessary to accomplish the above.

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

YEAS: Mr. Cosse, Mr. Englande, Mr. Latiolais, Mr. Luettich, Mr. Miller,
Mr. Morgan and Mr. Weysham

NAYS: None

ABSENT: Mr. Dastugue

RESOLUTION NO. 08-16-18-07 - AMENDMENT OF CONTRACT WITH RCL ARCHITECTURE, LLC FOR THE ADMISTRATION BUILDING AND WAREHOUSE RENOVATIONS

Mr. Miller advised that the amendment of the contract with RCL Architecture, LLC (RCL) was placed on the Operations Committee Agenda for consideration; however, at his request, the Committee deferred discussion of the item to the Board Meeting. He explained that he had a lot of questions about the substantial dollar value increase

between the original contract price and the amended price and that he spent a significant amount of time over the past two days discussing this matter with the CAO, Richard Lambert and Paul Dimitrios, RCL Project Manager. He stated that he, and he was sure most of the Board members, if not all, would have preferred for the Board to have been kept up to date as things progressed rather than getting to this point.

Mr. Miller advised that he was convinced that the increase in cost is justified. The original contract was awarded to RCL in October, 2017, with a scope of work based on the plans provided by the firm that performed the original program analysis, AGL Designs (AGL). The estimated cost of the RCL contract was based AGL's design work with an estimated project cost of \$2 million. The decision was made to move at least 13 additional people (six from the Lakefront Airport, five from EJLD and two from LBBLD administration) into the Franklin Administration Building. RCL recognized that due to the increase in staff, the addition of about 8,000 sq. ft. of office space and the modifications to the Warehouse building as a result of the renovations, the current cooling system with two chillers for the Administration Building and Warehouse was inadequate and that another cooling tower and chiller would be needed.

Mr. Miller explained that issues had arisen during the construction of the safehouse buildout in the Warehouse Building and that the Board approved the settlement of the contract. The O.L.D. received compensation under the settlement; however, the work that was remaining was not accomplished. Mr. Boese had recommended that since the renovations would take place in the same area that the remaining improvements from the safehouse buildout be included in the renovations project and RCL's contract.

Mr. Miller further explained that there is a problem with the switchgear on the big generator; therefore, a new generator was included in the RCL contract and bid as an alternate in the construction specifications. The new generator added close to \$1 million to the construction project. In addition, the Board approved the execution of a contract in the amount of \$966,347 for the modular wall/furniture system. The modular wall/furniture system was broken out of the construction project and contract in order to obtain better pricing for this specialty work. If the modular wall/furniture system had been bid as part of the construction project, the provider would have been a subcontractor and the construction contractor would have included costs for oversight and profit.

Mr. Miller concluded that the original low bid of \$3,843,000 for construction as a result of the additional work, plus \$966,347 for the modular wall/furniture system, led to a total construction cost of approximately \$4,800,000. The FPA typically uses the formula developed by State Facilities and Planning Control to estimate engineering fees. RCL performed all of the additional engineering work without a change to the contract with the understanding that it would be presented to the Board. Mr. Miller reiterated his desire that this issue should have been presented to the Board as the project progressed rather than receiving the information at the end.

Mr. Miller advised that he verified that the fee requested by RCL is in compliance with the architectural fee in the State formula. He added that RCL is not requesting a fee based on the award of the contract to the second lowest bidder after disqualification of

the first lowest bidder (an increase of about \$200,000). He pointed out that under the rules and regulations that were in place at the time, the CAO kept the President informed; however, after speaking with the President he realized that he was not fully aware of the cost changes. The Board adopted new rules this year that require engineering contract increases that exceed a certain amount be presented to the Board.

Mr. Hassinger commented that Mr. Miller's explanation is accurate. He explained that various aspects of the project had been discussed by the Board; however, he did not realize that the Board had not approved a change to the architectural contract.

Mr. Boese noted that he needed to do a better job of ensuring that the Board was informed about the multiple additions that took place as the project progressed. The project is well done and on target. The increase to RCL's contract includes construction administration (about 30 hours per week).

On the motion of Mr. Luettich,
Seconded by Mr. Morgan, the following resolution was offered:

WHEREAS, by Resolution No. 11-20-14-06, the Southeast Louisiana Flood Protection Authority-East (FPA) approved the execution of a contract with RCL Architecture, LLC to provide Professional Architectural and Engineering Services associated with the Administration Building and Warehouse Renovations; and

WHEREAS, the total not to exceed contract amount for the aforementioned work is \$149,954.27; and

WHEREAS, additional work was required beyond the original scope of the contract; therefore, an amendment is needed to the contract to increase the total not to exceed contract amount to \$496,470.41.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East approves the amendment of the contract with RCL Architecture, LLC for Professional Architectural and Engineering Services to increase the amount of the contract to \$496,470.41 (an increase of \$346,516.14) due to the additional work required beyond the original scope of work, and authorizes the FPA Chief Administrative Officer to execute the aforementioned amendment, and 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. Cosse, Mr. Englande, Mr. Latiolais, Mr. Luettich, Mr. Miller,
Mr. Morgan and Mr. Weysham

NAYS: None

ABSENT: Mr. Dastugue

EXECUTIVE SESSION:

1. *St. Bernard Parish Government v. Lake Borgne Basin Levee District, et al*", 34th Judicial District Court, Division E, Parish of St. Bernard, Civil Action No. 18-0865
2. "*St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al*", 34th Judicial District Court for the Parish of St. Bernard, Division C, Civil Action No. 18-1065
3. "*Fucich Contracting, Inc. versus Shread-Kuyrkendall and Associates, Incorporated, et al*", U.S. District Court for the Eastern District of Louisiana, Section E, Civil Action No. 18-02885
4. "*St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al*", 34th Judicial District Court for the Parish of St Bernard, Division D, Civil Action No. 18-1018
5. "*St. Bernard Parish Government versus Lake Borgne Basin Levee District, et al*", 34th Judicial District Court for the Parish of St. Bernard, Division A, Civil Action No. 18-1066

A motion was offered by Mr. Luettich, seconded by Mr. Miller and unanimously adopted, for the Board to go into Executive Session to discuss the items listed on the agenda. The Board convened in Executive Session at 12:40 p.m.

The Board reconvened in regular session at 1:40 p.m.

The next regular monthly Board meeting will be held on September 20, 2018 at the Franklin Avenue Administrative Complex.

There was no further business; therefore, the meeting was adjourned at 1:42 p.m.