

**MINUTES OF THE
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY–EAST
BOARD MEETING
THURSDAY, JANUARY 16, 2020**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority-East (Authority or FPA) was held on January 16, 2020, 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. Miller called the meeting to order at 11:00 a.m. and led in the pledge of allegiance. Mr. Cosse called the roll and a quorum was present:

PRESENT:

Herbert I. Miller, President
Mark L. Morgan, Vice President
Quentin D. Dastugue, Treasurer
Clay A. Cosse, Secretary
Andrew J. Englande, Jr.
Lambert J. Hassinger, Jr.
Jason P. Latiolais
K. Randall Noel

ABSENT:

Herbert T. Weysham, III

ADOPTION OF AGENDA:

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

Mr. Miller asked that a moment of silence be observed in memory of East Jefferson Levee District (EJLD) Police Officer Matthew White's 9-1/2-month infant son, Landon, who passed away on November 27, 2019, and Dr. Englande's son, Andrew, a married man with young children, who passed away on January 4, 2020.

Dr. Englande thanked everyone for their kindness, understanding and prayers over the past eight-plus months, which had been of great help to his family.

RESOLUTION NO. 01-16-20-01 – APPROVAL OF MINUTES OF BOARD MEETING AND SPECIAL BOARD MEETING HELD ON NOVEMBER 21, 2019

On the motion of Mr. Morgan,
Seconded by Mr. Latiolais, 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 November 21, 2019 and the Special Board Meeting held on November 21, 2019.

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

YEAS: Mr. Cosse, Mr. Englande, Mr. Hassinger, Mr. Latiolais, Mr. Morgan and Mr. Noel

NAYS: None

ABSENT: Mr. Dastugue and Mr. Weysham

EMPLOYEE RECOGNITION AND APPRECIATION:

The Board recognized the FPA's Co-Employees of the Month Thuy Do and Peggy Sembera. Thuy Do is an Accountant 2 and Peggy Sembera is an Office Manager in the Finance Department. Ms. Do and Ms. Sembera were nominated and selected as Co-Employees of the Month because of the way that they embrace the FPA's values and demonstrate these values every day in the performance of their work. Ms. Do is also known as "Miss Do Anything" and Ms. Sembera as "Miss Do Everything".

Ms. Do and Ms. Sembera are responsible for payroll, accounts payable, and reconciling and submitting benefit withholdings, including insurance, retirement, and deferred compensation. Ms. Do and Ms. Sembera work very well together to ensure that the FPA's employees are paid correctly and their benefit payments are submitted timely. They both excel at attention to detail and their understanding of the ADP payroll system.

Recently, a Finance Department employee had go on extended medical leave unexpectedly. Ms. Do and Ms. Sembera not only jumped in immediately and began determining what needed to get done, they did it with a positive, can do attitude. In addition, they analyzed the methods used for some of the reconciliations the employee was using and automated and standardized the process across the agencies. Ms. Do and Ms. Sembera always go the extra mile even working on holidays to ensure payroll is completed. They are a pleasure to work with, open to new ideas, and great members of the Finance team. Ms. Do's and Ms. Sembera's contributions and commitment make them invaluable to the FPA and the successful accomplishment of its mission.

Mr. Miller presented Certificates of Commendation to Ms. Do and Ms. Sembera and congratulated them for being selected the FPA's Co-Employees of the Month.

The Board recognized Police Officer Ryan Frazier as the FPA's Police Employee of the Month. Ryan Frazier is a Police Officer 2-A with the Orleans Levee District Police Department (OLDPD), who was nominated by his colleagues for his outstanding performance and exemplifying the values of the FPA. Officer Frazier focuses on getting the job done no matter how challenging or simple the task may be. Fellow officers know they can depend on him to have their backs or lend a helping hand.

Officer Frazier always maintains a professional attitude and appearance. In addition to his contribution to the FPA's public safety mission, he goes above and beyond in his

efforts to deter crime and comes to work ready to make a difference. He is outgoing and heroic when it comes to catching criminals.

Officer Frazier was on routine patrol when he noticed a vehicle on Hayne Boulevard matching an earlier broadcast from NOPD. The vehicle was a stolen gray Jeep Cherokee occupied by multiple suspects who were breaking into vehicles. Officer Frazier attempted to stop the vehicle; however, the driver refused to stop. The vehicle continued to elude Officer Frazier and finally came to a stop due to damage from striking a curb during the pursuit. The suspects then fled on foot. Officer Frazier was able to immediately apprehend the passenger. The driver was apprehended a short time later by a NOPD K-9 officer. Upon searching the vehicle, a stolen 9mm handgun with obliterated serial numbers and two pairs of gloves were found. Officer Frazier charged the driver with 13 traffic violations, one traffic arrest, possession of a stolen automobile, aggravated flight from an officer, illegal possession of a firearm by a convicted felon, and possession of an unidentifiable firearm. The driver was currently on probation for simple burglary. The passenger, who was on parole for negligent injury, was charged with possession of a stolen automobile and possession of an unidentifiable firearm.

Officer Frazier is an outstanding example of the OLDPD's professionalism and his willingness to go above and beyond makes him a tremendous asset to the FPA, the law enforcement community and the citizens of the region.

Mr. Miller presented a Certificate of Commendation to Officer Frazier and congratulated him for being selected the FPA's Police Officer of the Month.

OPENING COMMENTS BY PRESIDENT OR COMMISSIONERS:

Mr. Hassinger requested that Derek Boese, Chief Administrative Officer, relay his comments to the Human Resources (HR) staff, who were at that time in Baton Rouge for training. He explained that over the course of several years the FPA went through a culture change process. He stated that his comments stem from a recent conversation about another organization. He explained that it is critical that the HR function remain at the forefront of driving the culture change on a continuous basis so that the changes that were started become institutional and permanent, otherwise they will fade away. He said that there is no such thing as idle – we are either moving forward or falling backwards. He stated that he was mentioning this not because he thinks it is not happening, but to recognize that it has happened and to encourage everyone continue along this path because “if we take our eyes off of it for a minute, then it disappears”. He reiterated that it is critical that HR constantly be looking for ways to improve, and by doing this, they will help pull everyone else along.

PUBLIC COMMENTS:

None.

PRESENTATIONS:

1. Lake Pontchartrain and Vicinity General Re-Evaluation Report with Integrated Draft Environmental Impact Statement (LPV GRR-DEIS) (draft report) – U.S. Army Corps of Engineers – Bradley Drouant, P.E.

Mr. Miller advised that he, Mr. Boese and Chris Humphreys, Director of Engineering, recently met with Colonel Stephen Murphy, U.S. Army Corps of Engineers (USACE) New Orleans District Commander, Mark Wingate, USACE Deputy District Engineer for Project Management, and Bradley Drouant, USACE Project Manager, and discussed the draft Lake Pontchartrain and Vicinity General Re-Evaluation Report. Mr. Miller requested at the meeting that the USACE provide a summary of the draft report at today's Board meeting.

Mr. Drouant provided the background for the draft study. When Congress authorized the construction of the one percent system (Hurricane and Storm Damage Risk Reduction System – HDRRS) after Hurricane Katrina in 2006, authority was given only to build the HDRRS to the required height at the time of construction. Congress did not give the USACE the authority to sustain the level of risk reduction for the long term. Since the beginning, the USACE knew that future lifts would be required. Congress provided the authority in 2014 for the USACE to do the study and funding was received in order to start the study in 2018. The FPA Board took action and provided funds to construct some levee lifts that were required to ensure that the HDRRS would be at the one percent level of risk reduction in the coming years. The purpose of the study is to determine whether the Federal government would be able to participate in the cost sharing of this effort going forward into the future.

Mr. Drouant explained that the USACE began by looking at a number of alternatives, which included raising the levees through 2057. When the HDRRS was built, the floodwalls were constructed to the height that was thought would be needed through 2057 because of the difficulties involved in raising a floodwall. The USACE typically looks at a fifty-year period of analysis when doing a study. Therefore, if construction is started in 2023, the USACE would not only look at where the levees need to be in 2073, but also at the cost over the fifty-year period to sustain the one percent level and the benefits. The USACE also considered an alternative that would maximize benefits and build the most robust, cost effective system, and an alternative to only raise selected levees, should this be the only alternative that could be justified economically.

Mr. Drouant advised that the draft report dated December 1, 2019, was issued on December 9th and appeared in the Federal Register on December 13th. The preliminary analysis shows that the one percent level of risk reduction through 2073, that is, the National Economic Development (NED) Plan, is the tentatively selected plan. Of the alternatives considered, the NED Plan has the highest net annual benefits to the nation. The USACE's policy is to select the NED Plan. The cost of the NED Plan over a fifty-year period is \$2.6 billion, which would be cost shared 65 percent Federal / 35 percent non-Federal, subject to eventual authorization and appropriations by Congress once the report is finalized. The alternative that was considered that was very close to the

tentative selection would have provided the 200-year level of risk reduction over the fifty-year period (2023-2073) at a cost of \$2.85 billion dollars with the benefit-cost ratio for this alternative being a little less than the ratio for the one percent alternative. The USACE recognized how closely two alternatives were in the draft report when they were analyzed; therefore, they are doing some pencil sharpening to ensure the numbers are correct and the correct NED Plan was selected. The public comment period on the draft plan ends on February 7th. Public meetings, during which comments would be accepted from the public on the draft report, were scheduled in Algiers on January 21 and at the Lake Vista Community Center on January 22. If good feedback is received from the public and it is determined that the correct plan was selected, the USACE will move forward with the feasibility analysis of the selected alternative and work will begin on the final draft report, which will be published in late 2021.

Mr. Miller thanked Colonel Murphy, Mr. Wingate and Mr. Dourant for meeting with the FPA's representatives. He asked that Mr. Dourant confirm that as of this time the levees are still providing protection at the 100-year or one percent level, keeping in mind that over the 50-year period improvements will be needed.

Mr. Dourant responded that at this time the HSDRRS is in great shape. He stated that the FPA has been proactive and provided funding for some levee lifts. The study is the acknowledgement that over the 50-year period more work will be needed due to relative sea level rise, settlement and consolidation. The USACE expects that the HSDRRS will continue to be in great shape for the next several years with the FPA's efforts.

Mr. Dastugue asked what is the maximum storm surge that can be handled by the existing HSRRS. Mr. Dourant responded that the existing system was designed to reduce risks to the one percent level of risk reduction; however, it was also designed to be resilient up to the 500-year or .2 percent event, during which there would be overtopping, but no failures would be expected. Mr. Boese noted that the IHNC Surge Barrier is 26-feet high and deliberately allows for overtopping into the Industrial Canal. The floodwalls adjacent to the Surge Barrier are 32-feet high. Mr. Dourant added that the height of some of the floodwalls along the lakefront in Orleans Parish is 18-feet. The height of the HSDRRS varies throughout the system based on hydraulics and wave expectancy.

Mr. Boese pointed out that the majority of the Lake Pontchartrain and Vicinity (LP&V) system is under the jurisdiction of the FPA; however, it does include St. Charles Parish, which is under the jurisdiction of the Pontchartrain Levee District. Mr. Dourant noted that the new area covered in the study is a portion of the Mississippi River Levee in St. Bernard Parish, which would be raised under the alternative.

Mr. Hassinger thanked the USACE for removing the temporary sheet piling south of the permanent structure at the London Avenue Canal and capping the remaining sheet piling. Mr. Dourant responded that the USACE was pleased to leave the area in better shape than it had been in for some time. The temporary pumps and closures were an eyesore and the USACE appreciated the public's indulgence while the Permanent Canal Closures and Pumps (PCCP) were constructed.

Mr. Miller commented that the public does not always have the chance to see the cooperation between the USACE, FPA and Coastal Protection and Restoration Authority (CPRA) that takes place not only during emergencies, but throughout the course of the year.

2. Update by Lakefront Management Authority.

Louis Capo, Executive Director of the Lakefront Management Authority (LMA), advised that the 10-year anniversary of the establishment of the Non-Flood Protection Asset Management Authority, which was renamed the LMA by the LA Legislature during its last session, is in August, 2020. The properties operated, maintained and managed by the LMA stretch from the 17th Street Canal east to South Shore Harbor. The revenue producing assets include the Orleans Marina, New Basin Canal properties, Lake Vista Community Center, Lakefront Airport and South Shore Harbor. The non-revenue producing assets include the Lakeshore Drive greenspace and shelters, New Basin Canal green space, Seabrook Boat Launch and Frank Davis Fishing Pier, the subdivision parks, lanes and alleyways, and three fountains (Mardi Gras Fountain, Lake Terrace Fountain and Fountain of the Four Winds) and Stars and Stripes Boulevard. He provided additional information on the properties:

- **Orleans Marina** – The marina, which is protected from storm surge, experienced almost \$1 million of damages due to Hurricane Katrina and had six or seven sunken boats. The Orleans Marina was completed in 1962. The marina (inner harbor) currently has 349 open slips with 90 percent occupancy and ground leases for 64 boathouses. Many of the boathouses were lost due to Katrina and a number of tenants relinquished their leases. Currently, 44 houses are under lease and 20 have been demolished and returned to the LMA. Twenty boat slips were restored east of the inner harbor. A contract was executed to restore an additional 45 boat slips at a cost of about \$1.1 million east of the inner harbor with the restoration to be completed in mid-April. The Orleans Marina operated at a loss of \$64,473 for the Fiscal Year (FY) ending June 30, 2019, due to the reduction in boathouse leases.
- **New Basin Canal Properties** – There are a total of 17 parcels, which are all under lease, with the properties beginning at the lighthouse and stretching to the south side of the PCCP, and include properties along South Roadway. The ground leases include Landry's, Blue Crab, Felix's, the Benson Boat Dock, Lighthouse Harbor Condominiums and marine industrial boat facilities. These properties produce income for the LMA. The net income realized for FY 2019 was approximately \$823,000. The expenses for the last FY include engineering, appraisal and legal costs. Mr. Dastugue requested a copy of the profit-loss statement listing the expenses.
- **New Basin Canal Green Space** – Act 130 of 1985 provided for a land swap in which the Orleans Levee District (O.L.D.) received the strip of land 100-feet wide by 7,200-feet in length and New Orleans Canal, Inc. received Lincoln Beach. In 1986 the Department of Transportation and Development (DOTD) transferred the strip of land 210-feet wide by 7,200-feet in length to the O.L.D. The property starts at the

Civil Defense Fallout Shelter and stretches to Veterans Highway (approximately 46 acres). This past year DOTD installed new LED lighting on both sides of the park along the pathways at a cost of approximately \$1 million, which was cost shared 80% State and 20% local with local funding provided by the Friends of Lakeview.

- **Lake Vista Community Center (LVCC)** – The LVCC is located in the middle of the Lake Vista Subdivision and consists of 13 units, which are all under lease. One of the units is used as an O.L.D. Police Substation without rental. The LVCC produces about \$70,000 in revenues each year.
- **New Orleans Lakefront Airport** - Land and hangar leases and fuel flowage fees are the primary revenue producers. Lakefront Airport has operated at a loss for some time. Development of hangars has been maxed out at this time. Potential tenants have expressed a desire to build hangars; however, additional development has not taken place due to uncertainties and flooding issues. Fuel flowage fees have been increasing each year; however, the main runway underwent a major restoration and was shut down for over four months, which resulted in a significant loss in fuel flowage fees over this period (about \$150,000). An ADA compliant service elevator is being constructed in the Airport Terminal Building at a cost of about \$550,000, which will enhance services in the Terminal Building.
- **South Shore Harbor (SSH)** – SSH opened in 1986 with 450 open slips and 26 covered slips. Hurricane Katrina completely destroyed SSH. The covered slips were restored in 2008 and the open slips were reopened and placed back into commerce in the second quarter of 2009. SSH's operating income is about \$1 million and operating expenses are about \$1 million. SSH experienced an operating income loss of about \$65,000 primarily due to costs incurred order to acquire a dredging permit (\$160,000). Silting is taking place on the east side of SSH and boats are running aground creating challenges for the marina and development. Multiple agencies were involved in acquiring the dredging permit. Testing was required for placement of the dredged material and a final determination has been made on the location where the material will be placed. Wilma Heaton, FPA Director of Governmental Affairs and Chair of the LMA, advised that the LMA has millions of dollars of dredging needs and that the LMA will carve out about \$500,000 of dredging to be accomplished this year. The LMA replaced the entire roofing system over the covered boat slips during FY 2019 at a cost of \$498,000. Studio Network, LLC, developed the Ship Store with a reception hall on the second floor of the building and the PT 105 (WW II) covered boat slip.
- **Lakefront Subdivisions** – The LMA is responsible for reviewing plans for compliance with the building restrictions for East and West Lakeshore, Lake Vista, and Lake Terrace Subdivisions. At one point in time, the Mardi Gras Fountain and Lakeshore Drive were ranked second statewide as a New Orleans tourist attraction. The Mardi Gras Fountain was repaired and rededicated in 2005 shortly before Hurricane Katrina. The Mardi Gras and Lake Terrace Fountains have been restored and are operational. The Fountain of the Four Winds is being restored and the LMA is working to raise private funds to make the historic fountain operational. The LMA is responsible for the maintenance of the parks within the subdivisions.

- **Seabrook Boat Launch and Frank Davis Fishing Pier** – The LMA is applying for grants to restore the Seabrook Boat Launch.

Photographs of the destruction caused by Hurricane Katrina at Lakefront Airport and South Shore Harbor were viewed.

Mr. Capo explained that the July 1, 2019 to December 31, 2019 Budget to Actual figures indicate a loss of approximately \$289,000, primarily because the LMA had not received any ad valorem tax revenues for the FY and the loss in fuel flowage fees. The LMA is confident that this loss will be made up during the upcoming six-month period.

The LMA's current Major Capital Improvement Projects are:

- Main Runway 18R/36L Mill and Overlay (FAA and State) \$7.8 Million - 90% FAA 10% LA DOTD
- ADA Compliant and Service Elevator Lakefront Airport Terminal (LMA CIP) \$550K - 45% Complete
- Orleans Marina Pier Replacement and Improvements (LMA CIP) \$1.1 Million - Demo Complete
- Pathway Lighting along the New Basin Canal (LA DOTD and Friends of Lakeview Improvement Association) - \$989K 80% LA DOTD and 20% Friends of Lakeview
- Roof Replacement South Shore Covered Boat Slips (LMA CIP) \$498,000 - Project Complete
- Roof Repairs Various Hangars and Fire Station HVAC and Roof Replacement (LMA CIP) \$275,000 - 95% complete
- Sidewalk Replacement in Lake Vista (LA DOTD Grant & LMA) \$400K – LA DOTD \$200k LMA -Design Phase
- Buildout and Construct a Maintenance Facility for LMA Maintenance Crew (LMA CIP) \$155k - 95% Complete. The LMA's seven-man maintenance crew did not have a maintenance facility; therefore, a portion of one of the hangars was built out to provide a maintenance facility.

Mr. Dastugue explained that when he served in the Louisiana Legislature he was a fierce critic of levee boards as a whole because they seemed to be in every business but flood protection. He applauded everyone who was involved in the division of the flood protection and non-flood protection activities. He asked, why had the LMA maintained ownership of the subdivisions?

Mr. Capo explained that the O.L.D.'s obligations, such as maintaining the parks and lanes, were passed on to the LMA. Mr. Dastugue asked the reason the LMA does not charge the homeowners associations for these services. Mr. Capo responded that the requirement was included in the subdivisions' covenants. Mr. Dastugue pointed out that there are people who would buy this type of operation and raise and collect homeowner fees for the expenses.

Ms. Heaton explained that the O.L.D. was created in 1890. After the great flood of 1927, the City fathers realized that the citizens of New Orleans could not afford the needed flood protection. The LA Legislature rolled back the O.L.D.'s millage rate to half that received by other levee districts in the State. Under legislative mandate, the O.L.D. reclaimed over 2,000 acres of lake bottom. The O.L.D. was further mandated to maintain the interior parks, provide police protection, etc. Prior to Hurricane Katrina the O.L.D. had a full complement of employees that serviced flood protection and after hurricane season the employees were used to maintain the facilities. Rents from the facilities paid for half of the flood protection costs. After Katrina, a more robust system was constructed and levee districts became more accountable. After the establishment of the FPA, the non-flood protection assets remained blighted for five years. In 2010 the LA Legislature created a volunteer board to manage the non-flood protection assets and the Non-Flood Protection Asset Management Authority limped along with a very small staff. The interior parks are part of the history, legislatively, and any potential changes would have to be made by the Legislature.

Mr. Dastugue stated that he was only suggesting some ways for the LMA to generate revenues, such as selling the subdivision obligations to someone who could charge homeowner fees. Ms. Heaton pointed out that when the people paid the O.L.D. for the subdivision lots, they were promised in a covenant that the O.L.D. would provide maintenance.

Mr. Dastugue asked had the LMA considered professional outside management of the marinas. Ms. Heaton responded, absolutely; however, the marinas needed such a huge amount of capital investment that there was no interest. The LMA has a \$8.5 million budget and last year set aside \$1 million for capital projects. She added that she was proud of what the LMA has accomplished with just .49 mills.

Mr. Dastugue suggested, in looking forward, that the LMA consider private management of the marinas and subdivisions. He noted that the LMA has a 10 percent loss against gross income and a \$300,000 negative cash flow. Ms. Heaton pointed out that the negative cash flow is at this point in the fiscal year. She explained that the LMA will not have a surplus; however, at year's end the budget will be balanced. The LMA has ended each year with a balanced budget with very little revenue. Seventy-six percent of the LMA's operating revenues are self-generated. The LMA identified over \$40 million of capital needs and has prioritized needs and aggressively pursued grants. Over \$1 million from a very tight operating budget was spent this year on capital needs. The LMA has less than twenty employees, plus nine firemen who are required for the airport.

Mr. Dastugue stated that there are companies that would put up capital for management operations of the marinas. Ms. Heaton concurred, stating that the LMA had considered this option in the past and is getting close to the point where it could reconsider such an option. Mr. Dastugue added that the companies would make the repairs, arrange fees and make it a professional operation. He asked would the LMA consider this option. Ms. Heaton responded that the LMA Board, which she Chairs, has a membership of up to seventeen members and that it is a collaborative enterprise. Each elected official in

the City of New Orleans who has an asset in his/her district has a representative on the LMA Board. She stated that she works closely in collaboration with the LMA Board to move forward in the best way possible.

COMMITTEE REPORTS:

Finance Committee: The Finance Committee did not meet in January.

Operations Committee: Mr. Morgan reported that the Operations Committee met prior to the Board meeting and considered the two items listed on its agenda:

- Award of a contract to Kort's Construction Services, Inc., for the Lakeshore Drive Improvements Seawall Area Erosion Control Paving Project Reach 3A – The award of the contract must be deferred due to a Temporary Restraining Order (TRO) obtained by a bidder who did not properly submit his bid for the project.
- Award of a contract to the lowest responsive and responsible bidder for the Violet Canal North Realignment–Phase I Project – One bid was received from Cycle Construction. The bid was over the project budget amount; however, due to the need to move forward with the project, the Committee recommended that the proposed resolution be slightly modified to authorize a maximum contract amount in order to allow staff to negotiate with the bidder to achieve potential savings.

CHIEF ADMINISTRATIVE OFFICER'S REPORT:

Derek Boese, Chief Administrative Officer (CAO), reviewed the highlights of his report:

- High River – As of the date of the Board meeting, the Mississippi River was at 12.74-ft. at the Carrollton Gage and predicted to trend to 14-ft. and drop dramatically going into February. Inspections of the Mississippi River Levee (MRL) were being conducted by FPA personnel on Mondays, Wednesdays and Fridays and by U.S. Army Corps of Engineers (USACE) personnel on Tuesdays and Thursdays. Permitted work was not being allowed 1,500-ft. from the centerline of the levee unless a waiver was received. Should the river reach 15-ft., all work would be stopped with no waivers allowed.
- Annual USACE Inspections – The schedule was received for the USACE's Annual Inspections. FPA crews will be ensuring that everything is in order for the inspections. No issues are anticipated.
- Purchasing Update – Three of the four Purchasing employees chose to retire over the holidays. The FPA is focusing on improving the Department in 2020 and plans to improve the inventory management system and storeroom operations while ensuring that the short term actions fit into long term plans for Asset Management. Prior actions that have proven beneficial include personal protection equipment vending machines and nut/bolt bins.
- Training and Certifications – The FPA will continue to focus on training in 2020. Heavy equipment training was conducted in December. Only three senior level employees currently have an Herbicide License. Ten employees are currently in

the process of obtaining Herbicide Licenses. Internal training programs are being developed for the Complex Structures and PCCP Operators. Upcoming training includes lockout/tag out and First Aid/CPR.

- O.L.D. and EJLD Police Officers worked closely with their Federal partners and provided support at the Lakefront Airport, Louis Armstrong International Airport and the Superdome, during the recent College Football Championship and President's Visit.
- Safety Awards/Luncheon – The FPA recognized Dwayne Johnson as the Employee of the Year and Police Officer Jerald Holmes as the Top Gun. The employees were briefed on the 2020 safety goals. The FPA's statistics improved in 2019, compared to 2018; however, the CAO stressed that the FPA can do better and placed emphasis on the culture and ensuring that everyone leaves work without injury. Safety themes to improve include teamwork, awareness, communication, and supervisory and individual accountability. The following will be implemented in 2020:
 - Updated Agency Safety Policy
 - Facility Drills
 - Improved & Increased Training Opportunities
 - Increased field visits by Safety Staff
 - New Employee Safety Orientation
 - Improved Reporting Forms
 - Improved Facility Inspections

Mr. Miller asked were drones being used in connection with the levee inspections. Mr. Boese responded that there is no role for drones in the USACE's inspections. The FPA has six certified drone operators and is developing a drone program. FPA staff will conduct a pilot project inspecting the Forty Arpent Levee. Staff must also develop standards for this purpose. A teleconference will be held tomorrow between FPA staff and I-Storm members to share information on drones and other subjects.

Mr. Morgan commented, relative to safety, that studies show that most accidents occur within the first six months of employment; therefore, he stressed new employee training. Mr. Boese noted that the FPA has reached out to the Association of General Contractors for partners to share information on best practices and is reaching out for feedback and ideas from multiple sources. Mr. Latiolais offered the assistance of Barriere Construction on this issue.

NEW BUSINESS:

RESOLUTION NO. 01-16-20-02 - ADOPTION OF FY 2019 FINANCIAL AUDIT REPORT

Kelli Chandler, Regional Finance Director, advised that the audit report has been reviewed and that there were no findings or mentions of internal control weaknesses.

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

WHEREAS, Ericksen Krentel was retained by the Louisiana Legislative Auditor on behalf of the Southeast Louisiana Flood Protection Authority-East (FPA) to conduct the financial audit of the FPA, East Jefferson Levee District, Lake Borgne Basin Levee District and Orleans Levee District for the fiscal year ending June 30, 2019; and

WHEREAS, Ericksen Krentel completed the aforementioned audit and has issued the Financial Report for the fiscal year ending June 30, 2019.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East adopts the Financial Report issued by Ericksen Krentel for the fiscal year ending June 30, 2019.

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

YEAS: Mr. Cosse, Mr. Dastugue, Mr. Englande, Mr. Hassinger, Mr. Latiolais,
Mr. Morgan and Mr. Noel

NAYS: None

ABSENT: Mr. Weysham

Motion to authorize the execution of a contract with Kort's Construction Services, Inc., in the amount of \$10,495,752.60 for the Lakeshore Drive Improvements Seawall Area Erosion Control Paving Project Reach 3A (Project No. 27862).

Michelle White, Executive Counsel, explained that the motion to award the contract to Kort's Construction Services, Inc., must be deferred for at least a month until the litigation that was instituted by Command Construction, LLC, is resolved. The TRO in place specifically enjoins the Board from awarding the contract. She suggested that the Board take action on a substitute motion to retain counsel to represent the FPA in this litigation. She recommended that the firm of Butler Snow be retained to represent the FPA and confirmed that the firm has no conflict of interest and has the experience needed in this matter. The litigation involves the inadvertent submission of an on-line bid to the wrong project.

A motion was offered by Noel, seconded by Mr. Morgan and unanimously adopted, to accept the substitute motion.

RESOLUTION NO. 01-16-20-03 - RETENTION OF LEGAL SERVICES OF BUTLER SNOW

On the motion of Mr. Noel,
Seconded by Mr. Englande, the following resolution was offered:

WHEREAS, the Southeast Louisiana Flood Protection Authority-East (FPA) has been named as defendant in the litigation entitled, "Command Construction, LLC v. Orleans Levee District, et al, Civil District Court, Orleans Parish, No. 20-378"; and

WHEREAS, in accordance with La. R.S. 42:263, the Flood Protection Authority declares that a real necessity exists to engage professional legal services to provide representation and counsel in regards to litigation

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

Rate	Description
\$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 Butler Snow as special counsel, effective January 16, 2020, for representation in the litigation entitled, "Command Construction, LLC v. Orleans Levee District, et al, Civil District Court, Orleans Parish, No. 20-378".

BE IT FURTHER RESOLVED, that the FPA Chief Administrative Officer is authorized to execute an agreement with Butler Snow 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. Dastugue, Mr. Englande, Mr. Latiolais, Mr. Morgan and Mr. Noel

ABSTAINED: Mr. Hassinger

NAYS: None

ABSENT: Mr. Weysham

RESOLUTION NO. 01-16-20-04 - AWARD OF CONTRACT FOR VIOLET CANAL NORTH REALIGNMENT – PHASE I PROJECT

Mr. Morgan advised that the Operations Committee recommended that the contract be awarded to the submitter of the only bid received, Cycle Construction, and that the resolution be modified to include a maximum contract amount.

Mr. Humphreys explained that only one bid was received from Cycle Construction in the amount of \$870,764. The bid was over the FPA's budget for the project of \$500,000 due to the lack of USACE approved borrow pits. At this time, only one borrow pit located in St. Charles Parish is operational resulting in high transportation costs for the borrow material. The Engineering staff supported the award of the contract to Cycle Construction, as the company has done good work for the PFA in this location in the past. Mr. Humphreys pointed out that the bid is reasonable in light of the lack of available borrow material. Representatives of Cycle Construction have agreed to work with FPA staff on ideas to lower the contract cost. He requested that the resolution reflect the authorization of a contract in an amount up to \$870,764, pending negotiations that could lower the amount.

Ms. White advised that the award of the contract for an "up to" amount is not impermissible or prohibited. The question was whether the Board, as a matter of policy or principal, wanted to rebid the project.

Mr. Humphreys explained that the 40 Arpent Levee is currently provisionally accredited through FEMA. The proposed contract is the last piece of work to accredit the levee; therefore, it is important that the work be accomplished soon.

Ms. Chandler advised that the Lake Borgne Basin Levee District (LBBLD) budget includes \$150,000 for the MRL Slope Paving Project that will not take place in this fiscal year and the LBBLD is under budget in personnel services. Therefore, the LBBLD will be under budget even though this particular project is over the budget amount.

The amendment to authorize the award of a contract "up to" an amount of \$870,764 was accepted by Mr. Morgan and Mr. Dastugue as a friendly amendment and no objection was offered by the Board.

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

WHEREAS, the Violet Canal North Realignment – Phase I Project (LBBLD Project No. 4081222) was advertised with bids to be opened and read at the FPA Franklin Avenue Office on January 14, 2020; and

WHEREAS, only one bid was received from Cycle Construction in the amount of \$870,764; and

WHEREAS, funding for the project is included in budget line item BPROE010.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority–East (FPA) authorizes the award of a contract up to an amount of \$870,764 to Cycle Construction for the Violet Canal North Realignment – Phase I Project (LBBLD Project No. 4081222).

BE IT FURTHER RESOLVED, that the FPA Chief Administrative Officer, or in his absence the Director of Engineering, is hereby authorized to execute the aforementioned contract with Cycle Construction, and to sign 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. Dastugue, Mr. Englande, Mr. Hassinger, Mr. Latiolais,
Mr. Morgan and Mr. Noel

NAYS: None

ABSENT: Mr. Weysham

EXECUTIVE SESSION:

1. Henry Schlorff, et al v. Digital Engineering & Imaging, Inc., et al, 24th JDC, Parish of Jefferson, No. 761-045 C.
2. TKTMJ v. SLFPAE and Orleans Levee District, Orleans Parish Civil District Court, No. 19-10467.
3. St. Bernard Parish Government v. Lake Borgne Basin Levee District, et al, 34th JDC, Parish of St. Bernard, No. 19-0937.
4. Litigation instituted pursuant to Resolution No. 11-21-19-11 relative to the enforcement of the agreement between the FPA and St. Bernard Parish Government for the transfer of the drainage and pumping responsibilities in St. Bernard Parish.

A motion was offered by Mr. Morgan, seconded by Mr. Noel and unanimously adopted by a roll call vote, for the Board to convene in Executive Session to discuss the items listed on the Board's Agenda.

The Board reconvened in regular session and the meeting was called back to order.

A motion was offered by Morgan, seconded by Latiolais and unanimously adopted by roll call vote, to add a motion to the agenda to accept the recommendation of the FPA's counsel, Burglass & Tankersley, LLC, to resolve the litigation captioned "Henry Schlorff, Et Al V. Digital Engineering & Imaging, Inc., Et Al, 24th JDC, Parish of Jefferson, No. 761-045 C.

RESOLUTION NO. 01-16-20-05 - AUTHORIZING COUNSEL TO PROCEED WITH RECOMMENDATION OFFERED IN EXECUTIVE SESSION IN THE MATTER OF HENRY SCHLORFF, ET AL V. DIGITAL ENGINEERING & IMAGING, INC., ET AL, 24TH JDC, PARISH OF JEFFERSON, NO. 761-045 C

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

WHEREAS, the East Jefferson Levee District is a named defendant in litigation captioned Henry Schlorff, et al v. Digital Engineering & Imaging, Inc., et al, 24th JDC, Parish of Jefferson, No. 761-045 C, a suit filed seeking damages resulting from repeat flooding of a residence at 3267 Grandlake Boulevard, Kenner, Louisiana; and

WHEREAS, the Board of the Southeast Louisiana Flood Protection Authority – East (FPA) convened in Executive Session for the purpose of receiving legal advice regarding the potential resolution of the litigation; and

WHEREAS, the advice offered by legal counsel in Executive Session was given due consideration by the Board; and therefore

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East (FPA) agrees to proceed with settling the captioned litigation on terms offered confidentially by plaintiffs.

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

YEAS: Mr. Dastugue, Mr. Englande, Mr. Latiolais, Mr. Miller and Mr. Morgan

NAYS: None

ABSENT: Mr. Cosse, Mr. Hassinger, Mr. Noel and Mr. Weysham

**RESOLUTION NO. 01-16-20-06 - RETENTION OF LEGAL SERVICES OF
BURGLASS & TANKESLEY, LLC IN LITIGATION AGAINST ST. BERNARD PARISH
GOVERNMENT**

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

WHEREAS, pursuant to La. R.S. 38:330.1, the Southeast Louisiana Flood Protection Authority-East (“the Flood Protection Authority”) through its Board of Commissioners, exercises authority over and has management, oversight, and control of the Lake Borgne Basin Levee District; and

WHEREAS, the Flood Protection Authority is authorized under La. R.S. 38:281 et seq., La. R.S. 38:301, La. R.S. 38:327, and La. Constitution Art. VI, Part III to provide for the construction and maintenance of levees, levee drainage, flood protection, and hurricane flood protection within the territorial jurisdiction of the Flood Protection Authority and each of its constituent levee districts; and

WHEREAS, in addition to these prescribed statutory responsibilities, the Flood Protection Authority and Lake Borgne Basin Levee District at present also operates interior drainage pumps and maintains drainage canals in St. Bernard Parish; and

WHEREAS, pursuant to La. R.S. 38:330.2, the Flood Protection Authority is permitted to divest responsibility for internal drainage or pumping responsibilities that would otherwise fall the parish governing authority, and in accordance

therewith, by resolution dated June 14, 2018, and numbered 06-14-18-04, the Flood Protection Authority Board of Commissioners resolved to divest internal drainage or pumping; and

WHEREAS, the Flood Protection Authority Board of Commissioners approved multiple delays of statutory divestiture as the Flood Protection Authority and St. Bernard Parish Government engaged in negotiations regarding the transfer of interior drainage and pumping responsibilities to the parish on mutually agreeable terms to avoid unilateral divestiture; and

WHEREAS, negotiations between the Flood Protection Authority and St. Bernard Parish Government, facilitated by the Coastal Protection and Restoration Authority (CPRA) ultimately resulted in an agreement to terms of transfer on or about July 2, 2019, with reciprocal resolutions to be considered by the Flood Protection Authority Board of Commissioners and the St. Bernard Parish Council to approve the terms of said agreement; and

WHEREAS, the Flood Protection Authority, by Resolution No. 07-18-19-07 adopted on July 18, 2019, and the St. Bernard Parish Council, by Resolution SBPC #1966-08-19 adopted on August 6, 2019, each approved the terms of permanent, voluntary transfer of all interior drainage and pumping functions from Lake Borgne Basin Levee District to St. Bernard Parish Government, to be effective January 1, 2020; and

WHEREAS, thereafter, on or about November 18, 2019, St. Bernard Parish Government informed the Flood Protection Authority that the parish government would not effectuate the transfer on January 1, 2020; and

WHEREAS, St. Bernard Parish Government demanded an extension of the effective date of transfer to June 1, 2020, with transfer on that date further premised on St. Bernard Parish's passage of a tax millage to renew or replace the expiring 2020 millage on the May 2020 ballot; and

WHEREAS, the Flood Protection Authority, acting in reliance on the agreement reached with St. Bernard Parish Government for the permanent, voluntary transfer of all interior drainage and pumping functions from Lake Borgne Basin Levee District to St. Bernard Parish Government, to be effective January 1, 2020, did not divest interior drainage and pumping functions, as permitted by La. R.S. 38:330.2, as it had resolved to do effective July 1, 2019; and

WHEREAS, pursuant to Resolution No. 11-21-19-11, the Board of Commissioners of the Flood Protection Authority authorized the institution of litigation to enforce the agreement between the Flood Protection Authority and the St. Bernard Parish Government for the transfer of drainage and pumping responsibilities in St. Bernard Parish to St. Bernard Parish Government on the terms agreed upon; and

WHEREAS, in accordance with La. R.S. 42:263, the Flood Protection Authority declares that a real necessity exists to engage professional legal services to provide representation and counsel in regards to litigation to enforce the agreement between the Flood Protection Authority and the St. Bernard Parish Government for the transfer of drainage and pumping responsibilities in St. Bernard Parish to St. Bernard Parish Government on the terms agreed upon; and

WHEREAS, legal services for representation in this litigation 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 January 16, 2020, to represent the Flood Protection Authority in litigation instituted to enforce the agreement between the Flood Protection Authority and the St. Bernard Parish Government for the transfer of drainage and pumping responsibilities in St. Bernard Parish to St. Bernard Parish Government.

BE IT FURTHER RESOLVED, that the FPA Chief Administrative Officer is authorized to execute a professional legal services contract 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. Dastugue, Mr. Englande, Mr. Latiolais, Mr. Miller and Mr. Morgan
 NAYS: None
 ABSENT: Mr. Cosse, Mr. Hassinger, Mr. Noel and Mr. Weysham

The next regular monthly meeting of the Board will be held on February 20, 2020.

There was no further business; therefore, the meeting was adjourned.