

**MINUTES OF THE
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY–EAST
BOARD MEETING
THURSDAY, AUGUST 19, 2021**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority-East (Authority or FPA) was held on August 19, 2021, 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. Morgan 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:

Mark L. Morgan, President
Roy M. Arrigo, Vice President
Clay A. Cosse, Secretary
K. Randall Noel, Treasurer
Eugene J. Joanen, IV (arrived 11:20 a.m.)
Jason P. Latiolais
Herbert I. Miller
Herbert T. Weysham, III

ABSENT:

Richard G. Duplantier, Jr.

ADOPTION OF AGENDA:

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

RESOLUTION NO. 08-19-21-01 - APPROVAL OF THE MINUTES OF THE BOARD MEETING HELD ON JULY 15 2021

On the motion of Mr. Weysham,
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 15, 2021.

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

YEAS: Mr. Arrigo, Mr. Cosse, Mr. Latiolais, Mr. Miller, Mr. Noel and Mr. Weysham

NAYS: None

ABSENT: Mr. Duplantier and Mr. Joanen

EMPLOYEE RECOGNITION AND APPRECIATION:

Mr. Morgan announced that the Police Employee of the Month for August is Alex Mikkelsen, Police Officer 2A in the East Jefferson Levee District (EJLD) Police Department. Officer Mikkelsen was nominated by his colleagues and selected as the Police Employee of the Month because of his professionalism as a law enforcement officer and his dedication to the FPA's mission and public service.

On April 25, 2021, Officer Mikkelsen responded to a domestic disturbance involving a firearm in Harahan, LA. Immediately prior to his arrival, Harahan Police Officers witnessed the suspect shoot and kill the victim in front of them before exchanging gunfire with the suspect who was ultimately wounded before being taken into custody. Officer Mikkelsen assisted Harahan Police with securing the scene, clearing the residence and preserving evidence in reference to the homicide.

On April 28th, the Harahan Police Department had an officer involved shooting. Officer Mikkelsen immediately went to the scene in order to assist. Upon learning the scene was secure and he was no longer needed, he promptly contacted the Fourth District dispatch advising he was available for calls for service in the district and the Harahan area due to both agencies being tied up at the scene of the shooting.

Officer Mikkelsen represented the FPA and the EJLD Police Department with professionalism and his response to these incidents along with his actions thereafter were exemplary. He displays a genuine desire to help the public each day, and consistently monitors his radio, listening for other agencies call volume and assisting with calls for service when needed. Officer Mikkelsen is a tremendous asset to the FPA, the law enforcement community and the public we serve.

Mr. Morgan announced that the FPA Employee of the Month for August is David Mercadel. Mr. Mercadel was nominated by his colleagues and selected as the FPA Employee of the Month for August due to his teamwork, reliability, positive attitude and the way that he exemplifies the FPA's values.

Mr. Mercadel started with the FPA in October 2019 as a laborer. A little over a year later he was promoted to a Mobile Equipment Operator-Light. Unfortunately, soon after, Mr. Mercadel suffered an off-duty accident where he severely injured his foot and ankle. When he returned to work, he needed light duty in order to continue the healing process. He was assigned to the Purchasing Department working under Chris Lucas in the Store Room. Since that time he has established himself as a Team Player and proven to be invaluable to the Purchasing Team. Mr. Mercadel always has a positive attitude and a way of bringing laughter and smiles to everyone who come to the Store Room.

Mr. Mercadel's first assignment was to clean the floors in the Store Room annex and with that done, he moved on to cleaning the floors throughout the entire warehouse. He

took on this assignment with full force and all agree that the warehouse and Store Room floors have never looked so good and so clean.

As time has gone on, Mr. Mercadel has been assigned numerous tasks and takes each one on with a smile and a great attitude. He does not stop until the assignment is complete and the envisioned goal met. Mr. Mercadel has shown true initiative by taking on and completing tasks that improve both the overall appearance and functionality within the FPA facility, particularly the Store Room. He doesn't just bring an issue forward, he also brings ideas for solutions and improvements.

Mr. Mercadel is always ready to help and always has a positive attitude. He embodies all of the attributes of a Team Player and contributes to the Culture Change that the FPA is striving to achieve. All agree that it is a pleasure to have Mr. Mercadel working as part of the Purchasing Team. The FPA is fortunate to have Mr. Mercadel on its team and his efforts are a valuable contribution to the FPA's mission of flood protection.

Officer Mikkelsen and Mr. Mercadel were congratulated by the Board and presented with Certificates of Commendation for being selected the Employees of the Month.

SAFETY MINUTE:

Mr. Morgan explained that the Safety Minute was initiated about six months ago in the Operations Committee; however, since the FPA is striving to increase safety awareness across the organization, it was moved to the Board meeting. Rusty Kennedy, Director of Safety, Risk and Facilities, introduced Steve Durr, Facilities Maintenance Manager for Group 311 (Floodgates and Floodwalls), to present the Safety Minute. Mr. Durr's crew coordinates and implements gate closures; therefore, their efforts are vital to the FPA's storm response.

Mr. Durr advised that the focus of the Safety Minute was on safety awareness during nighttime hours. Many times floodgate closures in response to tropical storms take place during the night. Safety factors include vehicular traffic related to roadway and highway floodgate operations, equipment and machinery used for operating the various types of floodgates, the potential of falling objects when operating overhead floodgates, and ladder usage. PPE (personal protective equipment) plays an important part in all of the team's operations. Crew members must have all required PPE (including hard hats, safety shoes, safety glasses and safety vests) at all times. Crews must also use the safety gear associated with specific equipment, such as bucket truck harnesses. Crew members must remain focused at all times when using equipment such as a front end loader or skid steer for closing and reopening certain types of floodgates, and have a spotter when using ladders. Nighttime operations require a police escort, which also assists with traffic control. Crew 311 conducts safety meetings each morning prior to going into the field. The goal is to ensure that crew members remain safe and can return home without experiencing an incident.

Mr. Morgan thanked Mr. Durr for providing the Safety Minute presentation.

Opening Comments by President and Commissioners:

Mr. Morgan stated that there had been a great amount of focus on the FPA's Human Resources Committee and the resolution on today's agenda relative to police details. He said that the bottom line was that the Board wanted to assure that its Police Department knows that it would do whatever it takes to support the Department and ensure the Officers' families and income are not affected by the actions that it needs to take to ensure that the public and the Officers are protected. He added that at this time it was not the Board's intent to outsource police details. The Board came to realize that outsourcing police details would not work because it is too expensive since the vendor would have to make a profit and would charge more than detail requesters could afford.

Mr. Morgan advised that the members of the public who wished to comment on the resolution regarding police details could do so during the Public Comments portion of the meeting or at the time that the resolution was taken up by the Board. He noted that a number of emails were received favoring adoption of the resolution on police details.

PUBLIC COMMENTS:

Public comments regarding police details were taken when the Board took up consideration of the resolution. There were no other public comments.

PRESENTATIONS:

1. Recently Promulgated Lake Pontchartrain and Vicinity General Reevaluation Report –U.S. Army Corps of Engineers

Bradley Drouant, P.E., Senior Project Manager, U.S. Army Corps of Engineers (USACE), New Orleans District, provided an update on the progress of the study started by the USACE almost three years ago on future levee lifts. The draft report issued about a year ago recommended an alternative that would raise the levees over the next 50 years in order to sustain the one percent level of risk reduction currently provided by the Hurricane and Storm Damage Risk Reduction System (HSDRRS). The USACE used the past year to sharpen its pencils on the cost estimate and obtain a better idea of what would be needed. The good news was that the final study, which was out for review, came to the same conclusion; that is, it is in the Federal government's interest to continue cost sharing the levee lifts required to sustain the one percent level of risk reduction to offset the subsidence, sea level rise and settlement that naturally occurs in Southeast Louisiana.

Mr. Drouant explained that everyone knew that the HSDRRS would require work going forward to sustain the current level of risk reduction. The HSDRRS is in good shape at this time and ready for the hurricane season. The FPA Board took action and used local tax dollars to perform near term lifts on levee reaches that might have required raising. However, significant money would be required to sustain the one percent level of risk reduction over the 50-year period. The estimate included in the current report for

this effort is \$1.1 billion, which is significantly less than the original estimate provided in the draft report about a year ago (\$2.6 billion). The original estimate was a ROM (rough order of magnitude) based on about three months of engineering work. Over the past year, the USACE had the opportunity to use data from the updated surge modeling that the State worked on separately from the USACE. In addition, the USACE had significantly improved its ability to estimate waves associated with storm surge during hurricanes. Due to the additional information and data, the USACE did not have to be as conservative as it was when developing the original estimate included in the draft report and was able to lower the ultimate design heights required over 50 years.

Mr. Drouant advised that, after the public review period ends on September 7, 2021, the next step would be for the Director of Civil Works to sign the report, and then it would be up to Congress to start appropriating funds so that construction could begin under the new authority. The construction authority for work authorized in WRDA 2014, Section 3017, currently ends in 2024. The FPA submitted a request last year, and is working with the Congressional delegation, for Congress to consider changing the authority sunset clause in WRDA 2022 and so that work can continue over the next 50 years.

Mr. Morgan advised that he understood that the Coastal Protection and Restoration Authority (CPRA) and the State offered to be the local sponsor for the work and provide the 35 percent matching funds. The FPA's Director of Engineering and his team would have the opportunity to review plans and specifications going forward and could influence the final decision on the work. He thanked the USACE for working with the FPA and CPRA to provide the best protection possible for the Greater New Orleans region.

Mr. Drouant commented that he knew that the FPA Board had an interest in a level of risk reduction that is higher than the currently authorized one percent level and that the FPA is pursuing with the Congressional delegation an authorization for a study to look at the higher levels. Due to several reasons, the USACE looked at an alternative that included a higher level of risk reduction, which had a positive cost-benefit ratio; however, due to the study authority and the National Economic Development Plan, the USACE could not select it. The information developed in the current study could be used in the FPA's pursuit of future studies for a higher level of risk reduction. In addition, only levee work would be done by the USACE in the next ten to twenty years on the HSDRRS. No floodwalls or harden structures would be built that would have to be changed should a study be authorized to consider a higher level of risk reduction; therefore, there would be no wasted investment. He noted that the larger expenditures would be towards the end of the 50-year period. The HSDRRS floodwalls and floodgates were constructed to last the 50-year period. Depending on sea level rise, potential changes to floodwalls and floodgates would be at least 20 to 30 years away. The only exception is the east bank Mississippi River Levee (MRL), which previously was not part of the HSDRRS. Due to sea level rise, slowly, portions of the MRL in St. Bernard Parish would become part of the project and require replacement; however, this is not anticipated in the next 10 to 20 years.

REPORT BY REGIONAL DIRECTOR:

Kelli Chandler, Regional Director, provided the Regional Director's report, after which a presentation was provided by the Public Information Department.

- Covid-19 Update – 16 employees tested positive from June 2021 to August 2021. 31 employees had tested positive from March 2020 to May 2021. 70% of the FPA's 261 employees (including police reserves and Commissioners) were vaccinated. Employees who are not vaccinated are encouraged to become vaccinated.
- A meeting was held during the past week with Arthur J. Gallagher representatives to review FPA claims starting in 2017 when regionalization took place. The report will be shared with the Board after it is finalized. Decreases have occurred in both the number of incidents and average claim dollars. There is room for improvement since some of the accidents were preventable. Additional data and trends will be analyzed.
- USACE General Reevaluation Report (GRR) – The Benefit-Cost Ratio is 7:3. The projected cost to maintain the HSDRRS is \$1.1 billion. FPA staff recently met with CPRA representatives to discuss the HSDRRS mitigation costs. Six mitigation projects are on-going with an estimated annual maintenance cost of \$676,000 per year. The FPA's reserve analysis on long term costs must be revisited due to the updated estimate received from the USACE. Adjustments to reserves are needed due to the updated USACE estimate and the mitigation maintenance costs.

Ms. Chandler introduced Kimberly Curth, the FPA's new Public Information Director, who began work at the FPA this month. Ms. Curth has a twenty-plus year career as a television reporter and anchor. She is an Emmy award winning investigative reporter who has worked for television stations across the country, including, most recently, in New Orleans and Nashville, Tennessee. During her career she was on the frontline as hurricane after hurricane impacted the Gulf Coast and reported live for CNN and the Weather Channel, as well as a media outlet in London during the storms.

Ms. Curth stated that she was honored and thankful to be the Public Information Director for the FPA, which she considered one of the most important agencies in the region and throughout the State. She advised that she and Colleen Billiot, Public Information Officer, have looked at areas where the FPA could expand its public education outreach and improve its social media and website, which are important avenues for providing information to the public.

- The FPA's new recently updated website is informative, innovative and interactive. Recent additions to the website include a media contact tab and a media frequently asked questions page.
- Efforts are ongoing to increase social media followers, including Facebook, Twitter and Instagram. Two new social media campaigns have been launched; i.e., See the Structure and Spot the Structure. The FPA's goal is to have a post on social media every day. A picture and information or trivia about a structure

will be posted as part of Spot the Structure and See the Structure campaigns to better educate the public about the flood defense system.

- Short social media videos, such as interviews with FPA staff, will be produced and posted on social media to better inform the public about who we are and what we do. In addition, in-depth videos will be produced for the FPA website, such as a recent four-minute video produced in light of the upcoming 16th anniversary of Hurricane Katrina to show the public how much better we are protected today and how the FPA works tirelessly every day to ensure a well maintained and operated flood defense system.

Ms. Curth advised that her door is always open and welcomed feedback and stories or social media ideas.

Mr. Cosse requested that the Board take Agenda Item XIII.A.1 as the next order of business. There was no objection.

RESOLUTION NO. 08-19-21-02 - A RESOLUTION TO HONOR GARY LEROUGE FOR HIS DEDICATION, COMMITMENT AND INVALUABLE CONTRIBUTION TO THE FPA AND NAME THE EAST JEFFERSON LEVEE DISTRICT EMERGENCY OPERATIONS CENTER IN HONOR OF GARY LEROUGE.

The resolution was read by Captain Terry Durnin, EJLD Police Department. Mr. Morgan expressed his appreciation for Sgt. Lerouge's commitment and contributions to the FPA and thanked Sgt. Lerouge's family for their support.

Sgt. Lerouge's daughter, on behalf of the family, thanked the FPA for giving her father a purpose during his cancer journey. She stated that the family believes that this was what kept him going for as long as he did and reiterated her thanks.

On the motion of Mr. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Latiolais, Mr. Miller, Mr. Morgan, Mr. Noel and Mr. Weysham, the following resolution was offered:

WHEREAS, Gary Lerouge began his career in law enforcement with the New Orleans Police Department (NOPD) and retired from the NOPD after 31 years of service; and

WHEREAS, on February 23, 2015, Gary Lerouge joined the East Jefferson Levee District Police Department (EJLDPD) as a Police Officer 2-A, and was promoted to Police Sergeant – A on June 4, 2018; and

WHEREAS, with his considerable experience as a law enforcement professional, Sergeant Lerouge immediately became a valued member of the EJLDPD and a mentor and friend to his colleagues, and because of his quiet leadership and extraordinary example, he became an inspiration not only to his law enforcement colleagues, but to the entire organization; and

WHEREAS, Gary Lerouge was a consummate law enforcement professional, and exemplified the values of the Southeast Louisiana Flood Protection Authority-East (FPA) throughout his career with the Authority; and

WHEREAS, the FPA recognized Gary Lerouge as the Police Employee of the Month for January, 2018, due to his outstanding performance, reliability, and professionalism as a Police Officer, and again as the Police Employee of the Month for August, 2019, for his dedication and commitment to the FPA, and for the determination, perseverance, and “can do” attitude he demonstrated while battling cancer; and

WHEREAS, after his cancer diagnosis and while receiving treatment, Sergeant Lerouge displayed leadership beyond words by working on projects to better the FPA and its employees, including investing many hours to become a National Incident Management System (NIMS) instructor and conducting NIMS training for FPA’s employees, and working on various grant applications; and

WHEREAS, Gary Lerouge passed away on August 7, 2020, after his long battle with cancer; and

WHEREAS, the Southeast Louisiana Flood Protection Authority-East wishes to honor Gary Lerouge for his dedication, commitment and invaluable contribution to the FPA, and recognize the immeasurable positive impact he made on his colleagues and all those who knew him; and

WHEREAS, the FPA also wishes to recognize Gary Lerouge for his outstanding commitment in developing the FPA Emergency Operations Center.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East hereby dedicates and names the Emergency Operations Center at the East Jefferson facility “The Gary Lerouge Emergency Operations Center”.

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

YEAS: Mr. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Latiolais, Mr. Miller, Mr. Morgan,
Mr. Noel and Mr. Weysham

NAYS: None

ABSENT: Mr. Duplantier

COMMITTEE REPORTS:

Finance Committee: Mr. Noel reported that the Finance Committee met prior to the Board meeting and considered the following items:

- Budget to actuals for the fourth quarter – A written report was provided to Committee members prior to the meeting, which included a comment section that fully explained the anomalies in the budget.
- Proposed development and implementation of a Covid-19 vaccine policy for FPA employees – 30 percent of the FPA’s employees are not vaccinated. In the Committee meeting questions were asked of the FPA’s Executive Counsel to

ensure that the Board would be on firm legal standing. The Committee recommended that the Board adopt the resolution relative to the proposed policy.

- Update on legal expenses and litigation – Three law suits are not covered by insurance, five suits are civil rights cases, and the remaining suits are related to injuries.

Operations Committee: Mr. Latiolais reported that the Operations Committee met prior to the Board meeting and considered the following items:

- The Committee recommended that the Board approve the proposed increase to the not-to-exceed amount of Task Order No. 20-02-07 with Burk-Kleinpeter, Inc. for Construction Administration and Resident Inspection Services for the Floodgate Painting Project (GIWW, MRGO, Lakefront and Outfall Canals).
- Proposed development and implementation of a Covid-19 vaccine policy for FPA employees – The Committee discussed the proposed vaccination protocols so that the Regional Director and her team could develop a plan to bring back to the Board.
- The Committee recommended that the Board approve the proposed issuance of a Change Order to the contract with Boh Bros Construction Co., LLC., for the Floodgate W-33 And E-07 Repair Project. – An increase to the contract amount was needed due to delays caused by the railroads.

Coastal Committee: Mr. Joanen advised that the Coastal Committee did not meet in August. He anticipated generating a report on his findings over the past year that would be distributed to Committee members and presented at the next Committee meeting for potential action.

Legal Committee: The Legal Committee did not meet in August; therefore, there was no report.

Human Resources Committee: The August 19th Human Resources (HR) Committee meeting was cancelled due to the decision to defer the discussion of the single item on the Committee's agenda to the Board meeting (Agenda Item XIII.A.3).

NEW BUSINESS:

RESOLUTION NO. 08-19-21-03 - A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST APPROVING THE DEVELOPMENT AND IMPLEMENTATION OF A POLICY MANDATING COVID-19 VACCINATION FOR EMPLOYEES OF SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST AND ALL LEVEE DISTRICTS WITHIN ITS JURISDICTION

Mr. Morgan pointed out that the proposed resolution was considered by the Finance and Operations Committees to ensure full participation on the discussion prior to its

presentation to the Board. Ms. Chandler advised that Capt. Donald Juneau with the EJLD Police Department asked to provide his personal experience with Covid-19.

Capt. Juneau advised that he had been with the Orleans Levee District and EJLD Police Departments for 30 years. He explained that he wanted to convey his personal experience with the Covid-19 virus because he had been anti-immunization since the vaccine had not received full FDA approval. In addition, he felt that he did not need the vaccine since he had limited exposure being the single occupant in his police take home unit and, as Internal Affairs Commander, had his own office. During 2020, he explained that he performed various errands for his family to limit their exposure; however, in September his 17-year old daughter came down with Covid and a week later his wife came down with the virus. He took two weeks of Family and Medical Leave (FMLA) to care for his family and did not come down with the virus, which reinforced his decision that he did not need to be vaccinated. On July 19, 2021, he had surgery on his right hand for an arthritic issue in a private hospital that had a lower infection rate. After having the surgery and being home two days he began running a fever, which was monitored using an infrared thermometer that consistently read 100 degrees. On the third day, he physically could not get out of bed and food tasted like burned metal such that he could not eat. By the fourth day, he developed a painful, aggressive cough and was brought to the emergency room of Ochsner Hospital in Luling where his temperature was taken and was 103.9 degrees. The nurse advised that the hospital only used digital and traditional thermometers, which are known for their reliability, and not infrared technology. He was diagnosed with Covid and pneumonia and was immediately admitted to the hospital. He was further advised that the Coronavirus had attacked his liver and kidney and that he would be treated from multiple, various levels. His temperature increased over the next two days to 104.3 degrees. Due to Covid protocols, he could not have family or others visit in the hospital.

Capt. Juneau stated that his purpose for conveying his personal experience was not to advocate for the FPA to mandate vaccinations. He said that he would like to speak to anyone who presents a valid reason for not being vaccinated. He stated that by the fifth day his fever began to break. After he went home from the hospital and his quarantine period was over, he and his family were vaccinated. He stated that as a higher level FPA employee, he did not lead by example, education or known science, and admitted that he made a mistake.

Mr. Morgan advised that the main reason he suggested that a resolution be placed on the Board's agenda was because FPA employees work in teams to close the floodgates that protect the Greater New Orleans region from flood waters. Should one of the teams be impacted by Covid, it could affect the FPA's ability to close floodgates, potentially impacting hundreds of thousands of people. The Board wants to do everything it can to ensure the success of its flood protection mission. He stated that his understanding was that the Commissioners reviewed the resolution and were satisfied that the FPA could develop a policy that could ensure not only its employees, but those who work with the FPA, can be vaccinated and minimize the risk of severe infection and possibly any infection.

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

WHEREAS, the Southeast Louisiana Flood Protection Authority- East (“FPA”) is a regional flood protection authority established as a political subdivision and levee district pursuant to Article VI, Section 38 and 381 of the Constitution of Louisiana and Acts 2006, 1st Extraordinary Session, No. 1 of the Louisiana Legislature; and

WHEREAS, pursuant to La. R.S. 38:330.2, the Board of Commissioners of the Southeast Louisiana Flood Protection Authority- East is tasked with carrying into effect and perfecting of a comprehensive levee system, having for its object the protection of the entire territory of the authority from overflow; and

WHEREAS, it is critical to the mission of the FPA to maintain a workforce that is not only adequately prepared and equipped, but in adequate numbers to carry out all tasks necessary to continuously operate and maintain the flood protection system that protects the citizens and property on the East Bank of the Mississippi River in Jefferson, Orleans and St. Bernard Parish; and

WHEREAS, the territorial jurisdiction of the FPA is an area the Centers for Disease Control and Prevention (“CDC”) defines as one experiencing a substantial and high transmission of COVID-19, at present; and

WHEREAS, there are multiple safe and effective vaccines readily available for COVID-19; and

WHEREAS, the presence of unvaccinated persons in the workplace at the FPA poses a health threat to others in the workplace as well as a threat to the workforce readiness of the FPA, in the event of a COVID-19 outbreak and consequent illness and absence; and

THEREFORE,

BE IT HEREBY RESOLVED that the Board of Commissioners authorizes the Regional Director or her designee to take the necessary steps to develop and implement a policy requiring that employees of the FPA and each of the levee districts within its jurisdiction, be immunized against COVID-19, consistent with the law and with the guidance provided by the State Civil Service, subject to any exceptions that such law and guidance may require; and

BE IF FURTHER RESOLVED that the Regional Director or her designee will report back to the Board of Commissioners on the employee vaccination statistics of the FPA workforce no more than thirty days after implementation of the policy.

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

YEAS: Mr. Arrigo, Mr. Cosse, Mr. Latiolais, Mr. Miller, Mr. Noel and Mr. Weysham

NAYS: Mr. Joanen

ABSENT: Mr. Duplantier

RESOLUTION NO. 08-19-21-04 - SCHEDULING AND FINANCIAL MANAGEMENT OF LEVEE DISTRICT POLICE DETAILS

Mr. Cosse thanked the audience for their patience and the members of the public who corresponded regarding police details. He explained that he became a member of the Board about six years ago. At that time, the FPA's Internal Auditor, Louis Capo, had performed an in depth audit on the management of police details. Mr. Capo found that for many years the East Jefferson Levee District Police Department (EJLDPD) and Orleans Levee District Police Department (OLDPD) had successfully managed their details, money going in and money going out, and that everything was in order. Chief Najolia became the FPA Superintendent of Police about the same time that he became a Commissioner bringing with him, as stated by Mr. Capo, impeccable record keeping skills. Shortly thereafter, the FPA Chief Administrative Officer, Derek Boese, recommended changes that, he was sure, were well intended; however, the changes caused problems for the Officers and the Finance Department, which now wanted to outsource the details. The cost to outsource details would be 14 percent or \$6.50 per hour, whichever is higher, which would hurt the already underpaid Levee District Police Officers.

Mr. Cosse further explained that the solution is not complicated and is included in the proposed resolution before the Board. Outsourcing was no longer an issue. The Officers would manage details, as they have successfully done for many years. The Finance Department would be relieved of this burden. The resolution includes implementation of scheduling software that would produce monthly reports to the Finance Department. The \$2 per hour administrative fee and \$90 take home vehicle fee would remain in place. 1099 forms would be issued by the vendors to the Officers. One full or part time staffer would be hired to perform any required administrative work, which would be funded by the \$2 per hour administrative fee. The EJLDPD and OLDPD together average 33,000 hours of details per year and \$66,000 per year in administrative fees, which would be sufficient to pay the salary for a clerk. The Jefferson Parish Sheriff's Office currently has one clerk, who may be part time, to handle details for 1,400 deputies.

Mr. Cosse stated that it was unfortunate that the Board was even having this discussion or needed to pass a resolution because the system was fine before the changes were implemented. The resolution would bring the process back to what it had been with some improvements. Board members have had time to review the resolution, and he said that he had not received any telephone calls in opposition or recommendations from any Board member on improvements to the resolution. He reminded the Commissioners that Senator Harris sent strict orders for the Board to correct the problems that exist at the FPA or the State Legislature would correct them. Senator Harris wanted some immediate action and not action in two or three months.

Mr. Cosse stated that he has served on this Commission for over six years and that he spent a great amount of time and had resources invested in the resolution that was before the Board; therefore, he saw no reason to defer it. He added that this is a win-

win situation in a number of ways: the Finance Department would no longer have a burden; the Police would be implementing efficient new programs; there would be no loss in wages; there would be more checks and balances; residents would be better served; and businesses would save \$6.50 per hour on details. He reiterated that this is not a complicated issue.

Mr. Morgan stated that the Board recognized and appreciated the amount of work that Mr. Cosse put into this issue. About 15 emails were received in favor of the resolution and one email was in opposition because it was felt that the \$2 per hour administrative fee was too much. He called for public comments on the proposed resolution.

Esmond Carr, a resident who lived on Leon C. Simon Boulevard and appeared on behalf of residents of the Lake Oaks Subdivision, explained that the residents have a close relationship with the OLDPD and supported the resolution.

Eugene Green, a Commissioner on the Lakefront Management Authority (LMA) Board, stated that the OLDPD does a fine job along Lakeshore Drive. Due to the good job done by OLDPD, Lakeshore Drive is probably one of the safer areas in the City of New Orleans, and statistically may be the safest area in the City in some respects. OLDPD Officers respond in an expedited fashion when there are concerns. He stated that sometimes the OLDPD does such a good job that he disagrees with what they do, such as blocking off particular streets; however, when it is required, the OLDPD does a fine job. He asked that if the Board could in any way avoid outsourcing details and increasing fees to users of detail services, that it do so. In this particular instance, by working internally as opposed to outsourcing, vendors would save paying an extra \$6.50 per hour, which would not necessary provide them with any better service than they currently receive. He stated that he is a strong supporter of the OLDPD and that he knew a number of the Officers. He reiterated that the OLDPD Officers do a fine job and added that whatever can be done to support our Police, especially in this challenging time throughout the Nation relative to Police, should be done. The internal process requested by the Officers was known to be effective. He personally supported the proposed resolution.

Lynn Long, a Lake Vista Subdivision resident for almost 30 years and former Treasurer and President of the Lake Vista Property Owners' Association, expressed her support for the resolution and stated that should the Officers be unable to earn extra income, they would leave and would not be able to support their families. The OLDPD Officers do a great job of patrolling Lakeshore Drive. The Lake Vista Crime Prevention District has for many years employed OLDPD Officers. If the Lake Vista Crime Prevention District is forced to hire a private security detail, it would cost more money and the residents would not have as much protection. In this day and age to take away any Police or any police protection, and with crime as it is in this City, would not be good for anyone.

Kenneth Kuebel, a resident along Breakwater Drive, commended the current details with OLDPD Officers because they have eliminated crime on Breakwater Drive. Prior to

the details, there were drug sales at the Point. He stated that he did not want the details eliminated.

Mr. Morgan explained that the resolution before the Board was essentially about how the details would be managed to protect public liability and support the families of the Officers. The Board wanted to make sure that it can keep the details and the Officers can have supplemental income. The resolution describes one method of doing this, and the Board's discussion was about whether it was the correct method or whether the resolution should be changed to make sure that the public's liability is minimized and the Officers can do their job without further Board interference.

Mr. Kuebel stated that the cost should be borne by the requester of the detail and that he wanted to increase the Officers' take home pay as much as possible because they do such a great job keeping crime out of the Lakefront area.

Mr. Morgan further explained that the Board has come to the realization that outsourcing is not an alternative and that it would be too costly. Therefore, the Board would not be outsourcing details; it is just working on the best way to manage the details so that the Officers can maintain their supplemental income, the community can see their presence at all times, and the Officers can minimize crime and protect the public. He stated that some public monies would have to be used to support detail operations, and that the Board is attempting to define what that would be, so that it can say that it is managing the public interest in the best way possible.

Charles Blanchard, a longtime Lake Vista Subdivision resident and Commissioner on the Lake Vista Crime Prevention District, explained that the Crime Prevention District works with the OLDPD and that the Officers do a fantastic job. He said that he was happy with the OLDPD's work and supported the resolution, which does not allow a third party to be involved in the details. He added that dealing with the OLDPD Officers has been a pleasure and that the Officers couldn't be more professional and timely. Accounting-wise, dealing with the details has been like a well-oiled machine.

Comment cards were submitted by Brian Hope, President of the Lakeshore Property Owners Association, and a resident along Breakwater Drive. Mr. Morgan read the names of the individuals who submitted emails or letters in favor of the resolution: Robert Lupo, Van Robichaux, Thomas Long, Paul Caboche, Brian Whited, Kerry Cuccia, Louie and Sally Roussel, Eric Beier, Johnny Fisk, Lee Henderson, Marianna Artigues on behalf of Rick Paulk, Michael Marsiglia, Judy and Robert Quinilty, Ewell Potts, III, Al Copeland, Jr., Lee Giorgio, William Neilsen and Albert Salzer. An email was submitted Karen Comeaux who thought the \$2 per hour administrative fee was too high.

Mr. Miller congratulated Mr. Cosse on the job that he did and added that Mr. Cosse had been very productive, although he had some issues. He stated that he supported the Police continuing to have the opportunity to work details and from his discussions with Board members, there appeared to be a consensus that details be handled independent

of the FPA. He stated that it was encouraging that the Levee District Police Officers are willing to supplement their pay to provide a better life for themselves and their families. It is sad that they need to do so. He said that he believed that the two most underpaid public employees are police officers and school teachers. He stated that it was discouraging, based on some of the letters received and some of the public comments made, that some of the public and some of the Officers believe that this Commission wanted to abolish details. Nothing could be further from the truth. He stated that he knew that the Board supported continuing to allow the Officers to work details and that it was disappointing that some have misinterpreted its desire to get this right as opposition to details. This is simply not the case.

Mr. Miller stated that the Board received several letters mostly in support of the resolution and that he was glad that those who chose to write did so and that those who appeared today were welcomed as well, as the Board always welcomes public comments. That said, he stated that he has been around long enough to recognize a well-organized campaign to get these letters written. All those who wrote did not wake up this week and decide for the first time to look at the Flood Protection Authority agenda and chose an item to comment on. To the contrary, had the public in large done that, he suspected that the Board would have had a lot more comments both pro and con about the Covid-19 resolution that the Board passed earlier in the meeting. However, he did recognize that the comments were sincere and he congratulated those who took the time to prepare them and congratulated those who orchestrated this very well run letter writing campaign.

Mr. Miller stated that it is possible that a very similar proposal to the one before the Board would eventually be adopted by the Board as the best solution to the current situation; however, it is incomplete as there are a number of issues with the proposal that need to be addressed to ensure that not only is the Board providing the best option for the Officers, but it is protecting the best interest of the public it serves. He stated that his first concern involves insurance protection for the Officers. Workers Compensation (WC) has not been addressed in the resolution. If an officer is hurt working a detail, the FPA's WC does not protect or cover him, and he may not have WC or other recourse from the employer who hired him. Nothing in the resolution requires the hiring agency to provide this service to the employee. He asked, should the FPA or hiring agency be responsible for this? If the FPA is going to cover the Officers, how does it recover the increased insurance cost. If the hiring agency is responsible for this coverage, how does the FPA guarantee that it has the insurance or the ability to pay an Officer for his/her injury and time off. He asked, what if an Officer is involved in an accident while working a detail? He stated that he has seen Levee District Police vehicles working details. If there is an accident, who is responsible – the Officer, the person who hired the detail or the FPA? Who pays for the damages to vehicles? If the FPA has this liability, how much extra is the insurance cost and who pays the deductible? He stated that these are not just hypotheticals. The FPA is currently involved in litigation in a matter that involved an Officer while working a detail.

Mr. Miller stated that he also had a concern about the possible spread of Covid-19 among the Police Officers. The Police motto is to protect and to serve, yet more than half of the EJLD Police force and reserves would not be allowed to work a detail today at the Superdome or most venues in Orleans Parish or to enter a restaurant now because they are not vaccinated. Are they potential super-spreaders at an event if they do work? If so, can the FPA be held liable if they are determined to be a source of a super-spreader? Should the FPA prohibit the unvaccinated from working police details? He congratulated the OLDPD where 80 percent of the Officers are vaccinated.

Mr. Miller stated that it is also extremely imperative that the Police level with the Board and not use misleading statements in support of their position. In the minutes of the meeting with the Officers, Commissioner Cosse reported that "officers do not work details at alcohol outlets and bars". While this may be a true statement in the sense that they don't work details at places like Pat O'Brien's or Martin's Wine Cellar, they do, in fact, work details where alcohol is served. He stated that he attended a function at the National World War II Museum where alcohol was served and Levee District Police were working the security detail. He stated that he also suspected that the Officers work weddings and other functions where alcohol is provided to guests. He asked what liability does the Board incur should there be an alcohol related event where a Levee District Officer working a detail needs to intervene.

Mr. Miller again commended Mr. Cosse for his efforts; however, he stated that to-date the discussion has been one-sided, including that of the Police Officers only. He stated that the Board has not heard about the accounting issues, past issues with the IRS related to details, legal considerations, or insurance costs. These issues need to be addressed. He stated that it may well be that the plan before the Board today is the best plan; however, the issues that he raised and possibly others need to be considered.

Mr. Miller offered a motion to amend the resolution to provide that the Board have Mr. Cosse continue to work out the details with both the Police Department and the Administration to come up with a plan that addresses insurance, liability and other matters that provide protection to both the Officers and the FPA and report back to the Board with the amended plan. In the meantime, the Officers would continue to work details under the current procedures. The motion was seconded by Mr. Morgan.

Mr. Morgan stated that his opinion was that public money or FPA fees would have to support this in some way, shape or form, and that he did not want to change the \$2 per hour fee. He commented that \$6.50 may be the real number; however, the FPA would need to contribute to it and manage it. Under Mr. Miller's motion, Mr. Cosse's resolution would be accepted with the fact that the details offered by the Police would be amended to a future plan that all Board members, the Administration and the Police Officers could agree upon. He liked the fact that what was currently being done would continue without any significant changes, and, in the long run, the Police Officers would not see any changes. The Board would make this work such that Officers working details and detail vendors would have the support and services that they are looking for and the

FPA would at least have its liabilities defined such that they could be managed and addressed. He pointed out that accidents are going to happen. If the FPA sends Officers to work details, they are covered by WC. However, if an Officer is directly requested to provide a detail and paid, he/she may not be covered by the FPA's WC. Therefore, the Board needs to ensure that this is under control and that WC would step in if an Officer is hurt during the execution of his/her duty. He said that he thought that the Finance Department could manage the details without any additional people, and suggested that a different entity may have to be set up since the IRS frowns upon the FPA issuing both a W-2 and 1099.

Mr. Morgan continued, stating that he liked the idea of doing something quickly and that the Board can approve the resolution with the exception of the details, and the details can be worked out within the next 30 days or 45 days. He added that he wanted to keep Mr. Cosse and Chief Najolia involved, and that Joe Hassinger, a former Board member, offered assistance, if needed; however, the defining of the FPA's liabilities could be worked out internally.

Mr. Cosse asked Mr. Morgan if he was suggesting that the current process continue, even though the Finance Department had issues with it. Mr. Morgan responded, temporarily, while the details are being worked out. Obviously, Finance has been doing this for several years and could continue for another month or two.

Mr. Cosse explained that Mr. Miller mentioned liability, WC, increased insurance costs, and other "what ifs", in addition to Covid-19, and misleading alcohol statements. The Levee District Police Departments have provided detail services for many years. He asked, how have all of these issues been dealt with in the past? The current process where Finance has control is only two years old. The Police were previously doing fine and Mr. Capo advised that there had been no problem with way that the Police were running the details. The Officers are now asking that the process be returned to them. The \$66,000 generated each year could be used to pay a clerk, if one is needed.

Mr. Cosse stated that the Board has heard nothing but praise from the public regarding the Officers' performance of their duties. The resolution reflects the Officers' request; that is, for the Finance Department to be removed from the process and for the process to go back to way that it was previously handled with some additions. Implementation of the proposed software would allow the process to be handled even better. He stated that what he was hearing was not a solution, but a delay tactic. The Police Officers have been in limbo for the past three months. He noted that the resolution provides the quick solution, and after its passage, if a Commissioner find anything wrong with what was being done, he would welcome the Board coming back and amending the resolution to correct the issue. The Officers are doing a good job and deserve the quick solution reflected in the resolution. Details cannot be outsourced because businesses cannot pay \$6.50 per hour for a third party to provide their service. He added that if the Commissioners support the Officers, then they would vote for the resolution.

Mr. Joanen inquired about pooling the fees and depositing them into an account to pay the cost for gap insurance for WC or some type of liability package in order to remove liability from the FPA. He pointed out that the FPA is not the first entity to encounter this issue, so there must be a solution and gap coverage or additional insurance for all of the liability involved when Officers work details, along with a way to manage it. He stated that he would like to see this as an add on or have some type of reassurance. Once this issue is addressed, everything else is a policy issue.

Mr. Cosse responded that he is not an insurance expert, and that should a solution be found, it could be incorporated. He reiterated that the resolution would put to rest the issue of the process and return it to the proven way it was handled in the past.

Mr. Latiolais asked how much input did the Finance Department and the Administration have in the resolution. He asked to hear from Ms. Chandler. Mr. Joanen commented that this solution was not pulled from thin air, and that Mr. Cosse went back to what was already developed before the prior leadership had taken on this responsibility. He asked, how was it working successfully prior to former Chief Administrative Officer Derek Boese taking on this responsibility.

Ms. Chandler advised that the OLDPD established an LLC. After Kerry Najolia became Superintendent of Police, he realized that there was an LLC because the Auditor questioned it. Mr. Joanen said that he understood that some type of entity would be needed to issue 1099s and administer details; however, this should not be the FPA's issue, it should be something that the Officers put together themselves. Ms. Chandler stated that she was scheduled to meet on Monday with a representative from Gallagher and Michelle White, Executive Counsel, to discuss specific policies to do exactly what Mr. Joanen was suggesting. Mr. Joanen pointed out that he was speaking about the Officers independently covering the concerns and issues that were brought up today and that there should be a red line between what the Officers do for the FPA and what they do for others. He said that he did not necessarily want to rely on the Finance Department to make the final decision. He said that there should be a solution to address the concerns brought up in today's meeting and that this is not a deal breaker.

Mr. Arrigo advised that the resolution would just turn things back to how they were when they worked. He said that he was hearing a lot of talk about a gap with WC; however, this is a red herring. Police Officers, whether on duty or on a detail, are covered for WC for their police duties as long as they are policing. He stated that his source for this information was the FPA's insurer. The FPA has been sued; however, as a public agency with a police department, the FPA is going to be sued, but it has insurance. There's been no incident that brought on a need for changes. This solution has a track record of working and the biggest difference is the software for tracking assignments.

Ms. White explained that the original intention when Mr. Boese brought this up was not the administration of details or concerns about portions that were unaudited. The driver was unmanaged risks. It had less to do with the administration and more to do with the fact that with the exception of the Airport and Lake Vista details, most of the details

have no written contractual agreement that would even allow the FPA to specify how liability would be managed or shifted or determine whether there would be some indemnification. She stated that she worked with Sgt. Pinkston over a number of months last year to develop three very simple contractual agreements for long term, short term and one-time details. The intention was not to change in any manner how details were administered, but rather to have the points of contact that coordinate details negotiate the execution of the agreements so that the FPA would have something in writing that would define its potential liabilities. She stated that Mr. Arrigo was absolutely correct in that the FPA would not be able to keep people from suing the agency. She reiterated that Mr. Boese was trying to capture unmanaged risks.

Mr. Joanen asked why is the FPA involved in unmanaged risks. Ms. White responded that if the Board is supportive of the Officers working details, which it very clearly is, then the Officers will be wearing Levee District Police uniforms. She explained that Mr. Arrigo was correct in that WC is a tricky situation and that there is a small spread in case law. The FPA is currently in a WC suit where an Officer was in an accident in his police unit and injured while working a detail and WC denied coverage.

Mr. Noel asked was the change in the process made as a result of the Auditor's question about the details and was the LLC in violation of State law. He also pointed out that Police Officers work 24/7 and asked how does this work for Police Officers across the State. Ms. White explained, for example, if an Officer is working a private detail at a hotel providing general security in a common area and he observes a burglary in process across the street, when he responds to the burglary, he is policing and covered by the FPA's WC. If he is patrolling the lobby and slips and falls, he is not policing and not covered by the FPA's WC. The FPA has gap policy coverage, which is paid for by the FPA, that was intended for this specific purpose. Therefore, if an Officer is injured, a small amount of coverage is available for his injury. Thus far only one claim has been made on the policy.

Mr. Noel questioned whether setting up a separate system would violate State law and asked how would the reporting to the IRS take place since the FPA cannot issue a W-2 and a 1099 to the same individual.

Chief Najolia explained that the Jefferson Parish Sheriff's Office's (JPSO) current detail system was implemented beginning in the mid-1980's. EJLDPD Officers share the same details. He provided the example of the Louis Armstrong International Airport details, which JPSO and the FPA manage because the responsible entity for payment is the City of New Orleans. JPSO has successfully been able to pay JPSO deputies for the details because the detail payment is coded differently than the deputies' wages. JPSO reports wages to the Pension Board, wages and detail payments to the IRS, and successfully takes out taxes that are forwarded to the IRS without issue. JPSO issues one check to deputies for wages and detail payments and one W-2 is issued with wages and detail payments coded appropriately. The FPA Finance Department encountered issues because it began reporting wages and detail payments separately to the IRS. There is a way to accomplish the reporting to the IRS since JPSO has successfully

done so for decades. There are only a few details that are actually managed by the JPSO Finance Department. In addition, JPSO has a detail office that is manned by an individual who inputs all of the data. JPSO monitors and schedules all details and, if necessary, disciplines deputies working details. Except for the few details managed by the JPSO Finance Department, the vendors who request details work with, pay and issue 1099s directly to the deputies. All details worked by the deputies are recorded by the JPSO. Vendors can pay the administrative fee directly to JPSO General Fund or a deputy can collect the fee and pay JPSO through a payroll deduction each pay period.

Mr. Joanen commented that in order to supplement the deputies' wages and because JPSO recognizes the value, it supports the enterprise for the details. JPSO's system works because there is a consensus between the deputies and JPSO Administration. Chief Najolia added that JPSO has the historical perspective and experience that actually demonstrates that this is the best way to handle this type of situation.

Ms. Chandler stated that JPSO also requires the deputy or the vendor to provide insurance and that the indemnification language needs to be addressed.

Chief Najolia advised that the third party detail vendor told the Administration that if the FPA selects that company, all of the liability when an Officer is on a detail would be assumed by that company. He explained that the Police Department did the legal research, looking at district courts, courts of appeals and the Louisiana Supreme Court, and these cases are specifically dealt with on a case-by-case basis; however, all say the same thing, if the Officer is in the course and scope of his police duties, then the Police Department is responsible. If the Officer is in a uniform and slips and falls while working a detail, there is no course and scope dealing with the Police Department. Chief Najolia explained that he worked 35 years with JPSO and spent significant time with JPSO testifying in cases in defense of police officers, and, as far as liability issues, if there was any way that JPSO could remove its liability and place it somewhere else, it would do so.

Chief Najolia explained that he was part of a system that worked without any issues his entire career, and after coming to the FPA, his intent from day one was to implement the same system. The FPA was just never able to get in step with the JPSO model. He explained that the State Auditor alerted him about the OLDPD checkbook used for paying details; therefore, an investigation was undertaken by Louis Capo, who was at that time the FPA's Internal Auditor. His audit took about six to eight weeks to complete. The Internal Auditor's report was turned over to investigators from the Ethics Commission and Attorney General's Office and the investigators from both entities concurred with the Internal Auditor's report and closed their investigations. Therefore, Police Administration is comfortable with handling this type of situation should it arise. The checkbook and LLC were closed in order to shift to the JPSO model. Police Administration attempted to hire an individual from the detail office to manage the Levee District Police details; however, this did not work out. He reiterated that his intent from the time that the Internal Audit was done was to implement the JPSO model and added that there is no need at this time to reinvent the wheel.

Chief Najolia stressed that the OLDPD and EJLDPD are able to manage the details, and with the support and coordination of the Finance Department, this issue should have never gotten to this level and could be resolved in minutes. It would just take effective communication and active listening. This information was shared with JPSO Administration and the JPSO Comptroller offered his assistance at any point and time.

Mr. Noel asked did the FPA pay into a pension plan or FICA. Ms. Chandler explained that the FPA pays into the Louisiana State Employees Retirement System (LASERS). She clarified that Chief Najolia had referred to separate pay codes, not two separate W-2s. If a detail goes through the FPA's Tax ID number, it would not be subject to Social Security or LASERS.

Mr. Miller stated that it was apparent from what Mr. Cosse had put together that many of the Police Officers are not happy with the current process. After talking to the Board members, many of them would prefer that the Board get out of the detail business. The Board wants the Police to have details, but does not want to be involved, providing it can obtain the protections. He stated that Mr. Cosse was 95 percent of the way there, and he asked that Mr. Cosse meet with the Administration, Legal and FPA insurance representatives, and develop language to be included in the agreements that would be sent to the companies requesting details to limit the FPA's liability and that would address any other issues of the Board. He reiterated his request that language be developed that protects the FPA and the Police Officers, and stated that the issue could then be put to rest.

Mr. Cosse reiterated that the process wasn't broken two years ago and that it is broke now. The resolution puts back the former process and includes additions, such as the software program for more efficient record keeping. He stated that the Board should consider the morale of the Police Officers and pointed out that this issue has been drug out for three months. The Board has heard nothing but praise today for the Officers' performance. The resolution is a solution that he did not want to defer; therefore, he asked the Board to approve the resolution.

Mr. Weysham stated that there are two issues; i.e., administration, which Mr. Cosse is trying to have returned to the way that it was previously handled, and liability and the protection of the FPA. A cost for the liability issue must be determined. He agreed with Mr. Cosse relative to the administration and returning it to the way it that had previously worked. He added that the two issues should not be combined.

Ms. Chandler advised that Mr. Weysham was correct in that there are two different issues. She stated that the Administration was trying to address the liability issue with indemnification language and contracts. There are about 58 details. Only six to eight of those details go through the Finance Department and the remaining details are paid directly to the Officers. The issue is that all of the details that go to the Officers directly, which she stated is fine because they receive 1099s, have no contracts or indemnification language in place. One of the things that the Administration wanted to

do was to draft the language. In addition, the Finance Department does not collect any fees on the details that are paid directly to Officers. Therefore, the Administration wanted to determine the FPA's cost after meeting with the insurance company, make sure the FPA has indemnification language to protect the agency and limit its liability, and have an idea of what needed to be charged to cover the FPA's expenses for the insurance and other things that it must provide. She reiterated that managing the risks was all that the Administration was trying to do.

Mr. Joanen commented that the FPA will never be risk free. Police Officers are the exception to the rule of the typical civil servant. The Officers remain Police Officers at all times. He expressed his support for the resolution and stated that the liability issue and costs would be part of the evolution of returning the process to a working one.

Mr. Arrigo stated that the resolution resolves a lot of things and foremost addresses the morale of the Police Officers. It does not tie the Board's hands. The Board can continue to work out the issues. He requested that the Commissioners support the resolution. He reiterated that adopting the resolution does not prohibit the Board from going forward with the contracts and making modifications.

Mr. Miller reminded the President that there was an amendment on the floor, which was seconded, to ask Mr. Cosse to work with the Administration. He called for the vote on the amendment.

Mr. Cosse stated that if there was anything that the resolution as it stood was missing, the Board had his full pledge and cooperation to correct it.

Mr. Miller stated that his amendment was that the Board ask Mr. Cosse, and if he doesn't want to do it, then the President can appoint someone, to take what it had and work out the remaining issues with the Administration and come back to the Board with those issues addressed and then the Board would pass it. He said that he liked what Mr. Cosse had done, but it was not, in his opinion, complete.

Mr. Morgan stated that his understanding was that the Board would accept Mr. Cosse's resolution with one additional contingent point, that is, that the Board continue to work on the liability issues, which are undefined, over the next thirty days. Basically, the Board would be moving forward with the resolution and would make sure that the FPA's liabilities are defined and managed. Mr. Miller added that the language would be brought to the Board for approval.

Mr. Noel stated that the issue relative to W-2s and retirement needs to be worked out.

Mr. Morgan reiterated that the proposed amendment was to adopt the resolution with additional language to provide that the Board would continue to define the FPA's liabilities and work on this issue with the Administration, Legal, Police and Mr. Cosse. Mr. Cosse clarified that the administration would immediately go back to the Police Department. Mr. Morgan concurred with Mr. Cosse.

Mr. Noel questioned how W-2s, retirement and FICA would be handled when details go through Finance. Chief Najolia advised that he would consult with JPSO to determine how these issues should be handled.

Mr. Miller clarified that his amendment was to keep the current process in place while the language is developed for inclusion in the contracts. The language would be brought back before the Board, hopefully, at its next meeting for adoption, and the process could be returned to the way it was formerly handled, but with the FPA's protections.

Mr. Morgan suggested that 1099s for the Officers could be run through the Lake Borgne Basin Levee District since it has its own tax ID number. Ms. Chandler advised that she would have to consult a tax attorney or a CPA regarding the suggestion.

Mr. Cosse asked that the Board vote down the amendment, adopt the resolution, and he reiterated his pledge to work in full cooperation with Ms. Chandler or anyone else should any other issues need to be worked out.

A roll call vote was conducted on the amendment, which failed, with Mr. Latiolais, Mr. Miller, Mr. Noel voting yea, and Mr. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Weysham voting nay.

A roll call vote was conducted on the resolution, which was adopted, with Mr. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Morgan and Mr. Weysham voting yea, and Mr. Latiolais, Mr. Miller and Mr. Noel voting nay.

Mr. Morgan advised that the Board had Mr. Cosse's commitment to continue work on the liability and other issues, several meetings would be conducted with insurance companies, and the plan would be tweaked. Mr. Noel reiterated that the W-2 problem with the retirement had not yet been solved.

On the motion of Mr. Cosse,
Seconded by Mr. Arrigo, the following resolution was offered:

WHEREAS, the Southeast Louisiana Flood Protection Authority-East (FPA) is responsible for the management, operation, maintenance and security of a multi-billion-dollar flood defense system that protects nearly one million citizens, as well as properties valued in the billions of dollars; and

WHEREAS, the police officers employed by the Orleans Levee District and East Jefferson Levee District Police Departments (OLDPD/EJLDPD) are fully commissioned, POST certified officers with full arrest powers across Orleans, East Jefferson and St. Bernard Parishes; and

WHEREAS, OLDPD/EJLDPD Officers patrol and secure levees and major complex flood defense structures valued in the tens to hundreds of millions of dollars; remain

on active duty and act as first responders during and after hurricane events; and are dedicated law enforcement professionals sworn to protect the public; and

WHEREAS, the FPA and levee districts under its jurisdiction operate under Louisiana State Civil Service and must adhere to the Civil Service rules and pay structure, which makes no distinction in its classification or pay structure between officers who operate in a rural versus a major metropolitan setting; and

WHEREAS, many OLDPD/EJLDPD Officers rely on working police details to supplement their police salaries in order to support their families and meet their financial obligations; and

WHEREAS, the OLDPD/EJLDPD utilize Reserve Officers, who are fully commissioned, POST certified law enforcement professionals, and who volunteer a minimum of 20 hours of service per month to the FPA to supplement levee district police officers in order to fulfill the FPA responsibilities, many of whom rely on police details to supplement their salaries; and

WHEREAS, the Officers and Reserve Officers of the EJLDPD and OLDPD adhere to the standards and ethics of their profession, as well as their oath to serve the public, which necessitates that off-duty officers take police action in response to any serious police matter that comes to their attention at any time; and

WHEREAS, the use of take home vehicles by EJLDPD/OLDPD Officers not only allows effective response to various situations in an appropriate and timely manner if called upon 24/7, but also plays a role in community policing, since the high visibility of a police vehicle deters criminal activity; and

WHEREAS, the OLDPD/EJLDPD Manual includes policies and procedures on police details, which if violated would result in the appropriate disciplinary action; and

WHEREAS, the procedures and controls used by the OLDPD/EJLDPD for administering and scheduling details have proven to be effective; however, the current procedures for receiving payments from detail vendors and the payment of officers who work details have placed an undue burden on Finance Department staff; and

WHEREAS, OLDPD/EJLDPD Officers and Reserve Officers currently pay an administrative fee of \$2.00 per hour for each hour of detail work, as well as a \$90 per month fee for their take home Police vehicles; and

WHEREAS, currently, a total of 57 OLDPD/EJLDPD Police and Reserve Officers work details. EJLD Officers/Reserves average a total of 3,600 detail hours per year and OLPD Officers/Reserves average 30,000 detail hours per year, which, using the current \$2/hour fee, would produce an annual revenue of \$63,000; and

WHEREAS, OLDPD/EJLDPD officers recommended that a more efficient plan be put in place for the scheduling and financial management of police details, which includes:

- Detail vendors would be required to make direct payment to officers for the details that they work. A \$2/hour administrative fee would be included in the

rates presented to vendors and the payment of said fee to the FPA would be the responsibility of the officer. Detail vendors would issue a 1099 to officers. In the event that a vendor is unable to issue a 1099, payment of the appropriate taxes would be the responsibility of the Officer/Reserve Officer.

- Implementation of suitable scheduling software, which would be utilized to produce monthly or bimonthly reports on all details for submittal to the Finance Department.
- Collection of the \$2/hour administrative fee would be accomplished by inputting data from the report into the FPA payroll system to ensure that the fee is deducted from the appropriate Officers' wages. Currently, the \$90 per month vehicle fee is collected by the FPA through payroll deductions.
- A full or part time Police Department staff member would be hired to input data and perform the required administrative work on both OLDPD and EJLDPD police details, as well as be responsible for the collection of the administrative fee from Reserve Officers and submittal of said amount to the FPA Finance Department. The revenues received by the FPA from the administrative fee on details would be used to offset the salary of said full or part time administrative staff member.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East supports and approves the aforementioned plan recommended by the OLDPD/EJLDPD Officers for the scheduling and financial management of police details.

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

YEAS: Mr. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Morgan and Mr. Weysham

NAYS: Mr. Latiolais, Mr. Miller and Mr. Noel

ABSENT: Mr. Duplantier

RESOLUTION NO. 08-19-21-05 - AMENDMENT OF TASK ORDER WITH BURK-KLEINPETER, INC., FOR CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES FOR FLOODGATE PAINTING PROJECT

Mr. Latiolais advised that the Operations Committee recommended that the Board approve the proposed amendment to the Task Order with Bulk-Kleinpeter, Inc.

On the motion of Mr. Latiolais,

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

WHEREAS, by Resolution No. 11-19-20-14, the Southeast Louisiana Flood Protection Authority-East (FPA) authorized the issuance of Task Order No. 20-02-07 to Burk-Kleinpeter, Inc. with a not to exceed amount of \$98,172.25 for Construction Administration and Resident Inspection Services for the Floodgate Painting Project (GIWW, MRGO, Lakefront and Outfall Canals); and

WHEREAS, an amendment is needed to the aforementioned Task Order to provide an increase of \$25, 600.00 to the not to exceed amount due to weather delays and contractor production issues; and

WHEREAS, funding for the proposed services is included in Budget Line Item No. BIDIQ01.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East authorizes an amendment to Task Order No. 20-02-07 with Burk-Kleinpeter, Inc. to increase the not to exceed amount to \$123,772.25 (an increase of \$25,600.00) for Construction Administration and Resident Inspection Services for the Floodgate Painting Project (GIWW, MRGO, Lakefront and Outfall Canals).

BE IT FURTHER RESOLVED, that the FPA Regional Director, or in her absence the Director of Engineering, is hereby authorized to execute the aforementioned amendment to Task Oder No. 20-02-07, 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. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Latiolais, Mr. Miller, Mr. Noel and Mr. Weysham

NAYS: None

ABSENT: Mr. Duplantier

RESOLUTION NO. 08-19-21-06 - CHANGE ORDER TO CONTRACT FOR FLOODGATE W-33 AND E-07 REPAIR PROJECT

Mr. Latiolais abstained from the discussion and vote on the proposed Change Order.

Mr. Morgan explained that, basically, the damages to the floodgates were the result of train derailments. Railroad operations significantly delayed the contractor's work; therefore, a Change Order was needed to the Contract for the repairs with the cost to be reimbursed by the railroad. The Operations Committee recommended that the Board approve the Change Order.

On the motion of Mr. Weysham,

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

WHEREAS, Floodgate W-33, located on the west side of the Industrial Canal directly under the I-10 high rise, was damaged as a result of a train derailment that occurred on January 13, 2019, and Floodgate E-07, located on the east side of the Industrial Canal directly under the I-10 high rise, was damaged as a result of a train derailment that occurred on January 10, 2019; and

WHEREAS, the repair plans for the aforementioned floodgates were coordinated with the U.S. Army Corps of Engineers, Coastal Protection and Restoration Authority and the New Orleans Public Belt Railroad; and

WHEREAS, by Resolution No. 01-21-21-06, the Southeast Louisiana Flood Protection Authority-East awarded a contract in the amount of \$411,620.00 to Boh Brothers Construction Co., LLC (O.L.D. Project No. OLD O2280556); and

WHEREAS, due to unknown railroad delays the Contractor's daily work schedule had to be reduced and altered throughout the repair project, which resulted in the addition of 2 ½ months to the construction duration (additional equipment costs, overhead, standby time), and changes in construction methods (demolition by hand in lieu of large machinery) thus reducing work efficiency; and

WHEREAS, a change order is needed to the contract to increase the total contract amount by \$118,732.71 due to said delays and changes; and

WHEREAS, the cost of the aforementioned floodgate repairs, including the aforementioned additional cost due to delays and changes, will be reimbursed by the New Orleans Public Belt Railroad and/or any other parties or entities determined liable for said repairs; and

WHEREAS, funding for the project is included in Budget Line Item BPROJ048.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East approves the issuance of a Change Order in the amount of \$118,732.71 to the Contract with Boh Bros Construction Co., LLC. (increases total contract amount to \$530,352.71), due to unknown railroad delays and changes required in construction methods for the Floodgate W-33 And E-07 Repair Project.

BE IT FURTHER RESOLVED, that the FPA Regional Director, or in her absence the Director of Engineering, is hereby authorized to execute the aforementioned Change Order to the Contract with Boh Brothers Construction Co., LLC., 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. Arrigo, Mr. Cosse, Mr. Joanen, Mr. Miller, Mr. Noel and Mr. Weysham

NAYS: None

ABSTAINED: Mr. Latiolais

ABSENT: Mr. Duplantier

The next regular monthly meeting of the Board will be held on September 16, 2021, at the Franklin Avenue Administrative Complex.

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