

**MINUTES OF THE
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY–EAST
BOARD MEETING
THURSDAY, AUGUST 17, 2023**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority-East (Authority or FPA) was held on August 17, 2023, 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. Cosse called the meeting to order at 11:00 a.m. and led in the pledge of allegiance. Mr. Fierke called the roll and a quorum was present:

PRESENT:

Clay A. Cosse, President
Roy M. Arrigo, Vice President
Thomas G. Fierke, Secretary
William A. Settoon, Jr., Treasurer
Richard G. Duplantier, Jr.
Herbert I. Miller
K. Randall Noel
Derek N. Rabb

ABSENT:

Deborah M. Settoon

Mr. Cosse advised that Mrs. Settoon's husband was in the hospital and asked that everyone keep him in their prayers.

ADOPTION OF AGENDA:

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

RESOLUTION NO. 08-17-23-01 - APPROVAL OF THE MINUTES OF THE BOARD MEETING HELD ON JULY 20, 2023

On the motion of Mr. Miller,
Seconded by Mr. Arrigo, 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 20, 2023.

The foregoing was submitted to a vote; the vote thereon was as follows:
YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb and Mr. Settoon

NAYS: None
ABSENT: Ms. Settoon

SAFETY MINUTE:

Martin Eilers, Director of Risk and Project Management, reported on the following efforts:

- A new confined space policy was recently completed.
- The lock out/tag out policy was in the process of being updated.
- A fire watch procedure was recently completed and implemented during recent repairs to the fire suppression system.
- The FPA's Training Specialist coordinated a third-party's certification of employees on the operation of man lifts. The certification is for a two-year period and at its expiration employees will be re-certified.
- Training was conducted on working around Silica dust.
- CPR and first aid training was conducted on August 17th at the East Jefferson facility.
- Heat advisories were being monitored to ensure employees have the resources and training to operate safely.

Mr. Settoon inquired about heat related incidents. Mr. Eilers responded that to-date there had not been any heat related incidents this year. Last year one or two heat related incidents occurred, one of which required emergency medical attention. Staff has done a great job in the field to ensure work/rest schedules are implemented and employees are operating safely.

Mr. Fierke asked were the basements of the pumps stations considered confined spaces. Mr. Eilers responded that the basements are not considered confined spaces. However, if a pump is removed and there is a need for an individual to go down into the hole, it is considered a confined space and would require air monitoring, careful coordination on working/operating procedures and implementation of a watch. Mr. Fierke asked were there other confined spaces. Mr. Eilers explained that there are many incidents where employees, especially tradesmen, must access tight spaces that may not have good air circulation, which is the reason the FPA wants to have a strong policy and training in place.

OPENING COMMENTS BY PRESIDENT AND COMMISSIONERS:

Mr. Cosse thanked Mr. Noel for his service as President and for the calming influence that he brought to the Board. He stressed the importance of the Board speaking with a united voice. Mr. Cosse thanked the Commissioners who supported him and assured those who did not support him that he would work hard to earn their confidence and trust in the future so that the Board can move forward as one voice to provide the highest level of flood protection.

Mr. Cosse thanked Mr. Rabb for his contribution to the FPA employees' newsletter (In the Levee Loop).

PUBLIC COMMENTS: None.

PRESENTATIONS: None.

REPORT BY REGIONAL DIRECTOR:

Kelli Chandler, Regional Director, provided the Regional Director's Report:

- **Tropics** – Staff was monitoring two disturbances that were off the coast of Africa and were anticipated to remain in the Atlantic, and one disturbance in the Gulf of Mexico, which was not anticipated to develop into a tropical storm, but would probably bring rain in the next week.
- **PCCP Update** – The Joint Venture (JV) presented a very high level plan for the long term pump repairs and is expected to present a more detailed plan about August 25. Round table discussions, which the FPA will observe, will follow the presentation of the detailed plan. The FPA and Coastal Protection and Restoration Authority (CPRA) must sign a non-disclosure agreement in order to attend the round table discussions. The FPA will not address the JV or participants until a separate meeting is held with the U.S. Army Corps of Engineers (USACE). Representatives of the FPA, USACE and CPRA met to discuss the high level plan. Ms. Chandler advised that weekly calls take place between herself and the project manager so that she can receive status updates. The JV had 90 days to appeal to an administrative board regarding the Contracting Officer's Final Determination; however, it did not do so. The JV has nine months to appeal through the Federal courts. To-date no action had been taken by the JV to appeal the decision. The FPA is in a holding pattern until it receives a more detailed plan from the JV, negotiations with the USACE begin and the long-term fixes are made known.
- **East Jefferson Lakefront Levee Foreshore Protection** – The USACE received \$24 million for the East Jefferson Lakefront Levee Foreshore Protection restoration project. Right-of-entry for the project was being granted and the project will be designed in-house by the USACE. The project will be bid and construction is anticipated to begin early next year.
- **Human Resource (HR) Matters** – The new pay scales adopted by Civil Service for many of the trades, as well as merit increases, were implemented. As a result of the new pay scales, compression pay rules were being used by HR whenever possible in the following situations:
 - 1) When new employees are hired at a higher rate than current employees in the same job title, the rate for the current employees can be raised to the rate of the new employee.
 - 2) When a supervisor earns less than the employees he/she supervises, then the supervisor's rate can be adjusted.

Mr. Settoon asked that staff explain the \$4 million budget item designated for erosion control on the east bank of the 17th Street Canal. Chris Humphreys, Director of Engineering, explained that erosion control projects were completed along the Orleans Canal and the 17th Street Canal from Pump Station 6 to Veterans Highway. The east bank of the 17th Street Canal from Veterans Highway to Old Hammond Highway is the only remaining canal bank requiring erosion control improvements. This project has been in planning for many years and the USACE's permit review had taken some time. The FPA can proceed with the project once the Coastal Use Permit is received. Due to the geometry and soil conditions, the project will be more expensive than the prior erosion control projects and will be multi-year (probably over two fiscal years) at a total estimated cost of \$9 million. Thirty-five or 40-foot long sheet piles will be driven about five to ten feet from the existing sheet pile wall. Most of the work will be accomplished from barges. A pile driver and sheet piles will be lifted either from one of the two bridges located at Veterans Highway and Old Hammond Highway or over the levee and placed on barges. The work will take place from the barges.

Mr. Settoon asked the number of part time individuals employed by the FPA. Ms. Chandler responded that the FPA has only one or two part time employees.

Mr. Rabb explained that he noticed a great deal of overtime for maintenance and engineering employees and that, typically, when that happens something important can be missed. He inquired about using engineering staffing companies for assistance until the FPA staffs up in order to avoid excessive overtime. Ms. Chandler responded that the FPA tries to utilize temporary staffing when possible to fill in gaps. Mr. Humphreys explained that temporary staffing was not used by Engineering because of training requirements and that he thought staff had been keeping up without missing anything. He clarified that Engineering staff did not have much overtime and that most of the overtime was for Maintenance employees.

COMMITTEE REPORTS:

Finance Committee: Mr. Settoon reported that the Finance Committee met prior to the Board meeting and received a report on the unaudited Fiscal Year (FY) 2023 year-end budget to actual. The Committee was informed that the auditors for the FY 2023 financial audit are on-site.

Operations Committee: Mr. Fierke advised that the Operations Committee did not meet this month. He commented about the two-person pump task force and advised that Ms. Settoon, although being out of town and dealing with personal problems, has been very active on this issue. Mr. Fierke explained that he met with staff and discussed government contract actions and answered some of staff's questions. The PCCP contract was a government contract between the USACE and the JV. He stated that, in his opinion, the USACE was taking the proper government contracts approach and had handled the issue superbly well; therefore, there was no need yet to go to litigation.

Mr. Fierke explained that he spoke to the general counsel of an international construction company that had not been involved in this issue, but had participated in a number of large billion-dollar joint ventures, and was advised that if the FPA could obtain insight into the JV's internal contracts, it might be fascinating, because there may be indemnifications between the parties and, for example, the pump companies may have been protected contractually. He noted that the prime contract should be accessible, except for certain cost data, and that the JV's internal contracts may be proprietary; however, the FPA should pay attention in the event some of this information does come out so that it has insight into how the JV is acting because of its internal contracts. He pointed out, for example, that although a company has 30 percent of the man hours on a project, it does not mean that company receives 30 percent of the profits. Costs and profits can be shared any way the participants wish on a joint venture. Mr. Settoon commented that he had asked Ms. Chandler if she had noticed any infighting within the JV, and the answer was, no, she had not observed any such behavior.

Mr. Fierke advised that he reached out to the CPRA's lead on the pumps and that they planned to meet within the next two weeks. He stated that the CPRA seemed to be 100 percent on task.

Mr. Arrigo asked what did the FPA know about the JV's liability insurance. Mr. Fierke responded, nothing. Mr. Arrigo commented that his guess was that the JV had no liability insurance because the USACE does not require it and that the individual parties may be insured independently, but not as part of the JV. Kirk Ordoyne, Executive Counsel, explained that most government entities ensure that a prime construction contract specifies that any contract between a prime contractor and subcontractors must contain similar terms, indemnity provisions and insurance requirements as the prime contract. Therefore, there was a high likelihood that there were similar terms and conditions since this was a USACE contract. Mr. Fierke pointed out that the FPA may never see the contract agreements between the parties. Mr. Miller asked did the FPA have any reason to believe that the contractor or pump manufacturer was not cooperating with the USACE. Mr. Fierke responded that thus far the FPA had no insight or reason to think that they had not been cooperating. He advised that there were three entities in the JV and two main subcontractors (Stantec for design and Patterson Pumps). It is not known whether the three entities are participating in profit rather than having fixed price contracts within the JV. Kiewit is the lead or biggest name in the JV.

Legal Committee: Mr. Rabb reported that the Legal Committee met prior to the Board meeting. Under the Executive Counsel's Report, Mr. Ordoyne provided an update on the 30 current cases (four uninsured and 26 insured) and discussed market rates versus the Attorney General's (AG) approved standard rate schedule. The Committee also discussed the two resolutions that the Board would take up later in the meeting that restated and amended prior resolutions adopted by the Board (1) to retain Fisher and Phillips for legal counsel and representation for Louisiana Civil Service appeals and other labor and employment litigation and (2) to retain the Lane Law Group to provide legal counsel relative to insurance coverage litigation. The Committee recommended that the Board adopt the two resolutions.

Mr. Ordoyne recommended that the issuance of a Request for Qualifications (RFQ) for various legal services, which was discussed at the last Board meeting, be postponed. At this time only one law firm is being used for uninsured litigation (insurance companies choose the other counsel). Currently, the focus is on attempts to resolve the current cases and issuing the RFQ would take away from the limited available time.

Mr. Fierke asked Mr. Ordoyne did the FPA have any contracts or agreements with outside law firms to supplement his legal analysis of any given issue. Mr. Ordoyne responded, no. Mr. Fierke explained that the Board would not expect an Executive Counsel to be an expert in every area of law and suggested consideration of such a contract(s). Mr. Ordoyne replied that he would take the suggestion under advisement.

Coastal and Technical Committee: Mr. Fierke advised that the Coastal and Technical Committee did not meet this month.

NEW BUSINESS:

RESOLUTION NO. 08-17-23-02 - AMENDMENT OF RESOLUTION NO. 07-20-23-05 RELATIVE TO THE ANNUAL PAY INCREASE FOR THE REGIONAL DIRECTOR

Mr. Cosse explained that the resolution before the Board concerned an issue of fairness and would bring the Regional Director's annual pay increase in alignment with other unclassified positions.

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

WHEREAS, in accordance with Article VI, Section 6, of the Board's Bylaws, the annual salary adjustments for the Executive Counsel, Director of Engineering and/or Regional Director require Board approval; and

WHEREAS, at its regular monthly meeting held on July 20, 2023, the Southeast Louisiana Flood Protection Authority-East (FPA) adopted Resolution No. 07-20-23-05, and based on the successful performance evaluation for each position and usual considerations of adjustments considered typical to account for cost of living increases year over year, approved an annual pay increase of 3 percent for the Regional Director, 4 percent for the Executive Counsel and 4 percent for the Director of Engineering; and

WHEREAS, in order to allow an annual salary increase in line with the Director of Engineering, Executive Counsel and other unclassified positions, it is the intent of the FPA to approve a 4 percent annual increase in pay for the Regional Director, in lieu of the 3 percent increase approved by Resolution No. 07-20-23-05.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East amends Resolution No. 07-20-23-05 to approve a 4 percent annual increase in pay for the Regional Director, in lieu of the 3 percent increase approved by Resolution No. 07-20-23-05, thereby adjusting the annual salary of the Regional Director to \$183,049.98.

BE IT FURTHER RESOLVED, that all provisions of Resolution No. 07-20-23-05 not hereby amended remain in full force and effect.

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

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb and Mr. Settoon

NAYS: None

ABSENT: Ms. Settoon

Report by Lakefront Management Authority Executive Director Louis Capo on the LMA's Fiscal Year 2022-2023 Budget and information requested by the FPA Board at its June 15, 2023 meeting.

Mr. Cosse introduced Stanley Cohn, the FPA's new representative on the Lakefront Management Authority (LMA) Board. Mr. Cohn is a retired attorney who successfully practiced law for over thirty years in areas such as maritime, energy, oilfield and commercial litigation. He has served on the Sugar Bowl Committee since 1998 and was the 2016-2017 President of the Allstate Sugar Bowl Committee. Mr. Cohn was also past President of the New Orleans Bar Association and is known for his pro bono work after Hurricane Katrina helping citizens with Road Home issues. Mr. Cohn is very familiar with the LMA having previously served three years on the LMA Board and as Chair of the Legal Committee.

Mr. Cohn stated that it was an honor to return to the LMA Board as the FPA's appointee. He said that he only knew one way to serve and that's with honesty, integrity and in the best interest of the LMA, which was the vow he gave to the FPA. Mr. Cohn was just one year removed from his prior service on the LMA Board and explained that one thing he noticed during his three years of prior service was that a lot of misinformation had been conveyed to the FPA Board and some people took action on this misinformation. He noted that in his experience when there is bad input, bad decisions are made and asked that FPA Commissioners contact him for verification should they hear comments or innuendoes. A lot of time and effort is wasted when there is misinformation. Mr. Cohn stated that he only wanted the FPA Board to receive good information so that it can have good output and make good decisions.

Mr. Settoon commented that he has known Mr. Cohn for many years both personally and professionally and that he was very happy to have Mr. Cohn serve as the FPA's appointee to the LMA Board.

Louis Capo, LMA Executive Director, introduced Stanley Brien, LMA Commissioner and member of the LMA Finance and Marina Committees. He also introduced Bruce Martin, Airport Director, and asked that Mr. Martin provide a brief presentation concerning the Airport.

Mr. Martin has been the Director of Lakefront Airport almost five years. Prior to taking this position, he spent 20 years in the U.S. Marine Corps. Mr. Martin served three times

in Iraq and once in Afghanistan and worked at airports across those countries. He also served in Japan at a joint commercial/military airport.

Mr. Martin provided the following information on the New Orleans Lakefront Airport:

- The contract with Boh Brothers to complete the first phase of the rehabilitation project for Taxiway Bravo (the main taxiway that feeds the primary runway) is being finalized.
- The pre-bid meeting was held on August 8 with potential contractors, suppliers and DBEs for the upcoming Drainage/Pump Station Project. The airport is outside of flood protection and aircraft cannot land or depart if the runway or taxiway is flooded; therefore, the pump station is vital and a main priority. Lakefront Airport is used for the evacuation of hospitals within the Greater New Orleans area. Mr. Martin advised that while LMA Commissioner Wilma Heaton has been working on obtaining flood protection for the airport, he has been working on the construction of the pump station. The LMA applied for supplemental grants for the pump station, competed with 453 airports and was one of the 73 airports selected to receive a grant. The LMA anticipates receiving about \$17.1 million for the first phase of the project, which consists of a reservoir and the pump station. The drainage pipe network will be constructed under separate phases in about two years.
- The FAA is planning to upgrade the pier that supports the MALSR (approach lighting system) for Runway 18R (the primary runway). The project, which consists of upgrading the wood piling to concrete pilings, is scheduled to take place from May 2025 to January 2026. Lakefront Airport is working with the FAA to ensure airport operations are not significantly impacted.
- Flight operations in every category, except military flights and fuel sales, continue to increase and traffic levels are rivaling pre-Katrina levels when the airport was a Part 139 airport (certification that certain FAA rules are followed). A general aviation airport is not required to follow Part 139 rules; however, Lakefront Airport tries at all times to comply with Part 139. Last year's numbers were somewhat skewed due to the Final Four event. However, the numbers are anticipated to continue to increase this year due to playoff games and the Super Bowl.
- The New Orleans Lakefront Airport five-year Capital Improvement Plan (CIP) was developed for 2024-2028:
 - The pump station is the top priority. When funding an airport, the FAA works from the centerline out and focuses on safe runways and taxiways. It does not fund buildings or hangars. The drainage project was tied to runway/taxiway safety. The flood protection valves are closed when storms approach, which results in flooding at the airport since it is outside of flood protection. When the pump station/drainage project is completed, drainage will flow from the airport to the pump station.

- The State would not fund new runway/taxiway signage or lights due to the flooding. Maintaining the old incandescent lighting is labor intensive and only two maintenance personnel are assigned to maintain the Airport, which is the second busiest general aviation airport in Louisiana. State funding can now be provided for new signs and LED lighting since the Airport can demonstrate actual steps towards the construction of a pump station and drainage system.
- Hangar development is included for 2025-2026. Prospective tenants are attracted to Lakefront Airport, but are not locating on the Airport because of the flooding that occurs almost every hurricane season. In the future Lakefront Airport will be able to bring in more hangars, attract new tenants and increase revenues.

Mr. Settoon asked that Mr. Martin explain the Airport's revenue sources. Mr. Martin advised that Airport operations are mainly funded by tenant rentals and fuel flowage assessments (25 cents per gallon). The Airport also receives revenues from events (e.g., movies filmed at the Airport). All Airport revenues must remain on the Airport, due to FAA regulations.

Mr. Noel asked was Runway 927 (the east-west runway) being closed. Mr. Martin responded that the CIP includes the relocation of Runway 927, which at this time stops all growth on the east side of the Airport. The FAA agrees with the proposed relocation and studies are being conducted relative to a proposed new location.

Mr. Duplantier asked did the Airport have dedicated or available funds for Capital Improvements. Mr. Martin explained that the CIP is essentially Lakefront Airport's means for requesting FAA and State grants. Since FAA/State grants do not fund buildings, they are not included on the CIP.

Mr. Miller commented that the CIP includes \$275 million for the Airport Floodwall Upgrade/Replacement construction. He noted that the LMA had tried to obtain FEMA funds for the project. In addition, the FPA Board previously authorized \$75 million towards Airport flood protection. He asked about the potential source for the \$275 million. Mr. Martin explained that the Airport Floodwall was included in the CIP to inform the FAA that the Airport is seeking other sources of funding for the project. The FAA would not fund the floodwall because it is not specifically runway related. The CIP also includes the fuel farm, which is funded by the LMA.

Mr. Miller asked about the status of requests for Federal or State funds for the Lakefront Airport Floodwall. Wilma Heaton, Director of Governmental Affairs for FPA and LMA Commissioner, pointed out that \$275 million is an arbitrary number. She explained that the estimate was previously lower, but had increased and would be exponentially more due to Hurricane Ida, COVID-19, and supply chain issues. In early 2021, the FPA Board committed to providing up to \$75 million for the project should Federal funds be obtained. About \$200 million of infrastructure monies were identified; however, funding has not yet been obtained. The FPA Board is working with AECOM to refine the numbers and aggressively look at funding sources. Discussions are taking place all the

way up to the Governor's Office. She stressed that the future of the Airport depends on flood protection.

Mr. Miller commented that FEMA should have funded flood protection for Lakefront Airport. In arbitration, FEMA's decision not to fund the project was sustained by a two to one vote. He stated that he read the report and the opposition to funding the project made no sense. He stressed the importance of funding flood protection for the Airport. Lakefront Airport played a critical role during Hurricane Katrina and will play a critical role in evacuations and recovery efforts should another major storm strike the Greater New Orleans area. Therefore, the FPA needs to continue its efforts to find funding for the project. Ms. Heaton added that if one of the alignments looked at by AECOM is selected, 40 acres of land on the Airport could be available for developers to build hangars. The Airport would then be able to generate sufficient revenues to fund its operations and the subsidies of about \$1 million from other non-flood protection assets to the Airport could be used for other needs.

In response to Resolution No. 07-20-23-02 adopted by the FPA Board at its July 20th meeting, Mr. Capo distributed spreadsheets that included agencywide revenues, expenses and net figures from FY 2006-2007 (the division of the flood and non-flood assets) to FY 2022-2023 and projections from FY 2023-2024 to 2027-2028. The LMA began receiving ad valorem tax revenues in 2016. Spreadsheets were also provided for each of the revenue producing non-flood protection asset properties (Lake Vista Community Center, Orleans Marina, South Shore Harbor, Lakefront Airport and New Basin Canal). There is no debt retirement for any of the non-flood protection assets. Grant revenues and grant expenditures were not included in the spreadsheets.

In response to Mr. Duplantier's question posed at the June 15th Board meeting about whether the LMA would have a surplus for FY 2023-2024, Mr. Capo advised that based on current information the LMA will have a surplus of about \$400,000, subject to audit adjustments.

In response to Mr. Duplantier's question posed at the June 15th Board meeting regarding the \$3.4 million designated for capital improvements, Mr. Capo provided a packet of information that included the drawdown of funds from the Bally's settlement for the period FY 2008-2009 to FY 2012-2013, the August, 2023, status of the LAMP (Louisiana Asset Management Pool) account, and the Capital Projects Budget/Plan for FY 2020-2023 thru FY 2023-2024, as well as the detailed major capital improvement costs by property from 2019 thru 2023, which demonstrates that the LMA has been spending money to keep the non-flood protection assets operational. He noted that the \$3.4 million discussed in the June 15th meeting was used in FY 2022-2023. Projects may spread across several fiscal years; therefore, at certain times excess money may remain in the LAMP account. Currently, the LAMP account has \$4.4 million. If contracts totaling \$3 million are issued, \$1.4 million would remain in LAMP. Ad valorem tax revenues will not be received until February thru April 2024; therefore, the LAMP account must also be used for working capital. He pointed out that the LMA allocated \$400,000 in FY 2021-2022 for the MOU debt payment; however, the LMA experienced unbudgeted excessive costs and insurance deductibles due to Hurricanes Zeta and Ida.

Mr. Capo stressed that the LMA does not have adequate funding for capital projects to maintain, improve and extend the useful life of the non-flood protection assets.

Mr. Capo explained that surpluses from revenue producing properties are moved as needed to cover losses and offsets. The New Basin Canal (NBC) land and water bottom leases are the major source for subsidies. NBC revenues for FY 2022-2023 totaled approximately \$1.4 million, expenses totaled \$112,000, and the \$1.2 million surplus was used to cover offsets and losses. The only property from which money cannot be moved is Lakefront Airport.

Mr. Capo discussed the status of South Shore Harbor (SSH) and the Orleans Marina. The LMA Board has not been inclined to increase rental rates at the marinas because of the loss of tenants to the City's Municipal Yacht Harbor (rebuilt after Hurricane Katrina with \$30 million from FEMA), which has numerous amenities within walking distance. At this time SSH does not have amenities (e.g., washers and dryers, upgraded restrooms, a day store, etc.). The Orleans Marina has a laundry facility and updated restrooms. Mr. Henry Coaxum, who was awarded the lease for the former Bally's site at SSH, has one month remaining on the 180-day due diligence period and anticipates development taking place within the next 18 months. The proposed development would increase the LMA's ability to attract tenants to SSH. Work was completed on the fuel tanks at SSH and the LMA will either recalibrate or, if necessary, replace the fuel dispenser. The LMA spent close to \$200,000 for 26 to 30 security cameras and has guards 24/7 at SSH. Security is a significant concern of prospective tenants and the LMA is trying to overcome the perception that SSH is in an unsafe location. The issue with the SSH boathouse sprinkler system has been resolved.

Mr. Rabb commented that he was learning a lot about the LMA and asked which capital projects would increase revenues. Mr. Capo explained that development and improvements to the properties would be needed to increase revenues; e.g., a laundry facility, updated restrooms and wifi are the types of amenities needed to attract tenants to SSH. He pointed out that when the Orleans Levee District had the lease with Bally's prior to Hurricane Katrina, it did not build a laundry facility or install a fuel tank. A former lessee began development of the Bally's site; however, the lease was terminated. The current developer envisions a restaurant, a music venue, and other amenities at the former Bally's terminal/site.

Mr. Rabb commented that he would like to visit the LMA in order to better understand certain projects. Mr. Capo welcomed Mr. Rabb's visit and offered to provide a tour of the properties for a better understanding of the LMA's management responsibilities.

Mr. Settoon inquired about the \$1.4 million from FEMA in FY 2023-2024 for SSH. Mr. Capo explained that the \$1.4 million was a projection. The LMA approved a contract in the approximate amount of \$1.3 million to repair almost 40 finger piers at SSH damaged by Hurricane Ida. This was the second time the project had been placed out for bid. The first bids were over \$2 million and the plans and specifications were reworked. FEMA had committed for \$1.4 million for the project.

Mr. Settoon commented, relative to upgraded restrooms at SSH, that at one time FEMA required restrooms to be built 18-feet above ground. Mr. Capo noted that SSH is outside of flood protection. He pointed out that the water tanks for the fire suppression system at the Airport had to be built 16-feet above ground to meet the base flood elevation.

Mr. Miller inquired about the projected \$500,000 increase in revenues for FY 2024-2025 for Lakefront Airport. Mr. Capo explained that the Super Bowl is scheduled to be held in New Orleans in 2025, which is anticipated to increase fuel sales and landing fees. In addition, Messina's lease has a tiered structure and provides additional revenues for the LMA when the terminal's atrium is used for events. The Super Bowl, Final Four and other events result in increased business for Messina's and increased revenues for both the restaurant and the LMA.

Mr. Miller commented about capital projects causing deficits for the LMA. Mr. Capo clarified that the lack of capital projects results in the properties not be upgraded and their useful life not being extended. The LMA does not have the funds to bring the properties to the level expected by tenants and at this time is doing what is necessary and barely maintaining the properties.

Mr. Cosse advised that he received a request to wrap up the discussion.

Mr. Fierke inquired about the Lake Vista Community Center (LVCC) roof replacement. Mr. Capo responded that the roof was replaced on the two side sections, but not the center section. The bids were too high to replace the entire roof. He pointed out that the LVCC was constructed in the 1940's and renovated in 1995. The building's elevator and second floor, which is used as an early voting site, are in need of care. The facility's exterior back doors are being replaced because the structure shifted and the doors would not properly close.

Mr. Fierke pointed out the contention experienced when marina rate increases are mentioned. Mr. Settoon noted that FEMA did a marvelous job constructing floating piers and renovating the City's Municipal Yacht Harbor at a cost of about \$30 million. Mr. Capo added that a number tenants from SSH and Orleans Marina had moved to the Municipal Yacht Harbor after its reopening.

RESOLUTION NO. 08-17-23-03 - A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST TO AMEND AND RESTATE RESOLUTIONS NOS. 05-18-23-04 AND 07-20-23-03 AUTHORIZING THE RETENTION OF FISHER & PHILLIPS LLP TO PROVIDE LEGAL COUNSEL AND REPRESENTATION FOR LOUISIANA CIVIL SERVICE APPEALS AND OTHER LABOR AND EMPLOYMENT LITIGATION

Mr. Cosse advised that the Legal Committee recommended that the Board approve the resolution before the Board, which includes additional language required by the Attorney General (AG).

Mr. Noel asked what would happen should the AG not approve the higher rates requested in the resolution. Mr. Ordoyne responded that, in the alternative, and the attorneys have agreed, the 2016 AG approved rates would be used. The attorneys are continuing legal services.

Mr. Miller commented that in his opinion the resolution was flawed as written because the rates should be included in the RESOLVED portion of the resolution in lieu of the WHEREAS portion. He asked what were the rates for the services provided to-date.

Mr. Ordoyne advised that, in accordance with the insurer's contract with the Fisher & Phillips, the hourly rates were \$305.00 for Edward F. Harold, Partner, and \$270.00 for Lawrence J. Sorohan, Of Counsel. The attorneys provided services because the insurer had initially stated on several pending cases that it would cover the claims. After the attorneys began providing services, the insurer decided that it would not cover the claims. The prior resolutions adopted by the Board were submitted to the AG's office. Thus far the AG's office has not expressed a problem with the higher rates; however, they required additional language to be included in the resolution and contract. He pointed out that the AG's resolution template was used to draft the resolution before the Board; therefore, he was reluctant to make any changes to the resolution.

On the motion of Mr. Fierke,
Seconded by Mr. Rabb, the following resolution was offered:

WHEREAS, certain employees filed appeals with Louisiana Civil Service in connection with alleged actions taken by the Southeast Louisiana Flood Protection Authority-East ("FPA"); and

WHEREAS, the aforementioned appeals were submitted to the FPA's Public Officials/Employment Practices Liability insurer for assignment of legal representation for said appeals to insurer's approved labor and employment law firm Fisher & Phillips LLP; and

WHEREAS, Fisher & Phillips began rendering legal services on each of the appeals based on previous assignments by the insurer; and

WHEREAS, new management for the insurer subsequently and untimely denied coverage and payment of legal services for the aforementioned appeals, which are currently pending with Civil Service; and

WHEREAS, the FPA is in the process of appealing the insurer's denial of coverage for the aforementioned appeals; and

WHEREAS, defense of these appeals requires specific legal expertise in the subject matter involved and as such, a real necessity exists to retain outside counsel for legal representation in these cases and any future labor and employment litigation, as needed; and

WHEREAS, Fisher & Phillips was assigned to provide legal services for these appeals based on the insurer's assignment of similar cases in the past; therefore,

the firm has the familiarity with the entity and the necessary expertise required for the defense of said appeals; and

WHEREAS, Fisher & Phillips LLP shall be compensated at the insurer's contract rate of \$305.00 per hour for Edward F. Harold, Partner, and \$270.00 per hour for Lawrence J. Sorohan, Of Counsel, in accordance with previous assignments by the insurer, subject to the approval by the Louisiana Attorney General; and

WHEREAS, the date and term of the contract is March 28, 2023 and ending on June 30, 2024, and the total of all sums payable under the contract shall not exceed \$100,000.00 per employee for each Civil Service Appeal filed and/or \$100,000.00 per employee suit filed in any Louisiana or Federal Court with jurisdiction over said employee claims; and

WHEREAS, the scope of this legal representation does not involve federal claims; and

WHEREAS, this resolution shall take effect immediately; and

WHEREAS, in the alternative, if the Louisiana Attorney General denies the approval of payment of the insurer's contract rates to Fisher & Phillips, said firm shall be compensated pursuant to the Louisiana Attorney General's maximum Hourly Fee Schedule of February 8, 2016, which allows:

Rate	Description
\$225.00 per hour	For attorneys having experience of 10 or more in the practice of law
\$175.00 per hour	For attorneys having experience of 5-10 years in the practice of law
\$150.00 per hour	For attorneys having experience of 3-5 years in the practice of law
\$125.00 per hour	For attorneys having experience of less than 3 years in the practice of law
\$60.00 per hour	For Paralegal Services
\$40.00 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 authorize the retention of Fisher & Phillips LLP as counsel to represent the FPA on certain Civil Service Appeals in which the insurer denied coverage and any future labor and employment litigation, as needed.

BE IT FURTHER RESOLVED, that the Board of Commissioners authorizes Executive Counsel to retain the firm of Fisher & Phillips to represent the FPA on said Civil Service appeals and any future labor and employment litigation, as needed, and that the Regional Director is authorized to execute said contract with Fisher & Phillips, LLP.

BE IT FURTHER RESOLVED, that the Board of Commissioners ratifies the legal services provided to-date by Fisher & Phillips on the Civil Service Appeals described by this resolution and denied by the insurer.

BE IT FURTHER RESOLVED, that this Resolution and the proposed contract described herein 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. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Noel, Mr. Rabb and Mr. Settoon
 NAYS: None
 ABSTAINED: Mr. Miller
 ABSENT: Ms. Settoon

RESOLUTION NO. 08-17-23-04 - A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST (“FPA”) TO AMEND AND RESTATE RESOLUTION NO. 07-20-23-03 AUTHORIZING THE RETENTION OF LANE LAW GROUP, LLC TO PROVIDE LEGAL COUNSEL FOR INSURANCE COVERAGE LITIGATION

Mr. Ordoyne explained that the AG’s office required the following additional language to the resolution and/or contract:

- The not to exceed amount (resolution)
- The Louisiana Department of Revenue Account Number (contract)
- The lease term (resolution)
- Language regarding vendors who boycott Israel (contact)
- A provision that jurisdiction for any litigation between the Lane Law Group and FPA would be in a Louisiana State Court (contract)

On the motion of Mr. Fierke,
 Seconded by Mr. Rabb, the following resolution was offered:

WHEREAS, certain employees filed appeals with Louisiana Civil Service, and filed lawsuits in courts with jurisdiction in Louisiana, in connection with alleged actions taken by the Southeast Louisiana Flood Protection Authority- East (“FPA”); and

WHEREAS, the aforementioned appeals and lawsuits were submitted to the FPA’s Public Officials/Employment Practices Liability insurer, Chubb, for assignment of legal representation for said appeals and lawsuits to insurer’s approved labor and employment law firm Fisher & Phillips LLP; and

WHEREAS, the Southeast Louisiana Flood Protection Authority-East (FPA) has been denied coverage under the FPA’s Public Entity Liability Policy; and

WHEREAS, Lane Law Group, LLC shall be compensated at the rate of \$225.00 per hour for attorney Michael D. Lane, which is pursuant to the Louisiana Attorney General’s maximum Hourly Fee Schedule of February 8, 2016,

Rate	Description
\$225.00 per hour	For attorneys having experience of 10 or more in the practice of law
\$175.00 per hour	For attorneys having experience of 5-10 years in the practice of law
\$150.00 per hour	For attorneys having experience of 3-5 years in the practice of law
\$125.00 per hour	For attorneys having experience of less than 3 years in the practice of law
\$60.00 per hour	For Paralegal Services
\$40.00 per hour	For Law Clerk Services

WHEREAS, this claim requires specific legal expertise in the subject matter involved and as such, a real necessity exists to retain outside counsel for legal representation in this case, and

WHEREAS, the date and term of the contract is July 30, 2023 and ending on June 30, 2024, and the total of all sums payable under this contract, including fees and reimbursement of expenses, shall not exceed \$50,000.00; and

WHEREAS, the scope of this legal representation does not involve federal claims; and

WHEREAS, this resolution shall take effect immediately.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East, pursuant to La R.S. 42:262, does hereby authorize the retention of Lane Law Group, LLC as counsel to represent the FPA on certain insurance coverage matters, as needed.

BE IT FURTHER RESOLVED, that the Board of Commissioners authorizes Executive Counsel to retain the firm of Lane Law Group, LLC to represent the FPA on said insurance coverage litigation, and that the Regional Director is authorized to execute said contract with Lane Law Group, LLC.

BE IT FURTHER RESOLVED, that this Resolution and the proposed contract described herein 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. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb and
Mr. Settoon

NAYS: None

ABSENT: Ms. Settoon

Mr. Settoon requested that the FPA's new Chief Engineer be introduced to the public. Mr. Humphreys introduced Malay Ghose Hajra, Ph.D., P.E., ENV SP, who joined the FPA on August 7, 2023. He stated that he has known Dr. Ghose Hajra for twenty years and that he is an outstanding individual and a talented engineer.

The next regular monthly meeting of the Board will be held on Thursday, September 21, 2023.

There was no further business; therefore, the meeting was adjourned at 12:18 p.m.