MINUTES OF
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST
FINANCE COMMITTEE MEETING
HELD ON SEPTEMBER 21, 2023

PRESENT: William A. Settoon, Jr., Chair
Roy M. Arrigo, Committee Member
Deborah M. Settoon, Committee Member

The Finance Committee of the Southeast Louisiana Flood Protection Authority-East (FPA or Authority) met on September 21, 2023, in the Franklin Avenue Administrative Complex, Meeting Room 201, 6920 Franklin Avenue, New Orleans, La. Mr. Settoon called the meeting to order at 10:00 a.m.

Opening Comments: None.

Adoption of Agenda: The Committee adopted the agenda.

Approval of Minutes: The Committee approved the minutes of the Finance Committee meeting held on August 17, 2023.

Public Comments: None.

Regional Finance Director's Report:

Denise Williams, Regional Finance Director, provided the following report:

- The Fiscal Year 2023 Financial Audit has been completed. The final report is anticipated to be issued prior to the next meeting.
- The calendar year 2024 ad valorem tax millage rates are expected to be available in November or early December. The millages rates for the Orleans Levee District (O.L.D.) must be certified prior to January 1st. The O.L.D. millage rates were rolled forward (increased) for calendar year 2023. The FPA received a number of emails requesting that the millage rates not be rolled forward for calendar year 2024. Ms. Williams reminded the Committee that the FPA's future cash flow needs will be high due to inflation and supply chain issues. In addition, future levee lifts are estimated to cost over $300 million over the next 50 years with some of the maintenance projects starting as soon as 2025. Beginning with the next budget cycle, at least $6 million per year will be budgeted and reserved for the next 50 years.

New Business:

A. Presentation on Southeast Louisiana Flood Protection Authority-East (FPA) investments by Richard Kernion, Edward Jones.

Richard Kernion with Edward Jones reminded the Committee that the types of investments for FPA monies are restricted and governed by State statute. A chart with interest rates from 1999 through 2023 was distributed and reviewed. The three perceived risks for the FPA are 1) collection of taxes, 2) inflation, and 3) reinvestment risks (fluctuation of interest rates). In 2007 interest rates were brought to zero by the Federal Reserve to help get through a financial crisis and rates stayed at zero percent for seven+ years. The FPA could not have been protected between 2007 and 2015 relative to interest rate risks. Due to the statutory limit of five years for maturity, as bonds matured monies were reinvested at a lower rate. The Louisiana Asset Management Pool (LAMP) interest rate went to zero literally overnight. Going back ten years, as bonds matured in the portfolio, reinvestment was at .2 and .3 percent.

Mr. Kernion explained that after 2015 interest rates were creeping up; however, in 2021 rates went back to zero due to COVID. In 2020 and 2021 the Federal Reserve was anticipated to gradually raise interest rates over the next three to five years so that by 2025 rates may have increased from zero to one percent; however, this did not occur. Inflation roared and the Federal Reserve took on the task of slowing down inflation by raising rates very quickly up to 5.5 percent. Rates were expected to decline one percent before the end of 2024; however, the Federal Reserve met on September 20, 2023, and chose not to raise rates. This projection was revised and the Federal Reserve now expects that rates may increase one more time a quarter of a percent in November or December and drop a half of a percent in 2024. As interest rates stabilize, the FPA will be able to lock in much higher rates for longer (up to five year) periods.

Mr. Kernion pointed out that exact interest rates cannot be predicted; however, there will be a window of time (six months to a year) to gradually make longer term investments and lock in 5 percent plus rates. Two or three years ago following COVID, more money was left in LAMP hoping it would be the smarter position. This would allow more money to be available in the future to reinvest when rates began rising.

Mr. Kernion explained that $5 million of FPA bonds, which were locked in during the COVID timeframe at low rates, will mature in December 2023 and January and May 2024. He anticipated the ability to significantly increase bond earnings and advised he would contact Ms. Williams to discuss available rates. After the Federal Reserve's November and December meetings, he suggested that consideration be given to moving some monies from LAMP into longer term investments at the current higher rates. He pointed out that interest rates in 2023 are the second highest in 23 years and the highest in the last 15 years.

Ms. Settoon asked were the investments staggered. Mr. Kernion responded that the majority of the investments mature within the next three years. Over $100 million is invested in LAMP, which is a qualified investment earning roughly 5.3 percent. The FPA can invest in U.S. Treasuries and Federal Agencies, which are AAA rated and government backed. The FPA's statutory responsibilities are, first, principle protection, second, liquidity, and, third, yield. The FPA has $50 million of bonds maturing by 2025 and $100 million in LAMP. Due to low interest rates, two-thirds of FPA investments were kept in LAMP. He recommended that over the next six months the LAMP account be decreased from $100 million to $75 million or $85 million. Kelli Chandler, Regional Director, explained that LAMP was started by the State Treasurer and is a pool of excess cash of government agencies across Louisiana. LAMP has very short term investments (not exceeding one year) and monies are very liquid. Mr. Settoon added that LAMP offers next day access to monies.

B. Discussion of the proposed updated Memorandum of Understanding between the FPA and the Lakefront Management Authority (formerly the Non-Flood Protection Asset Management Authority) for the Management of the Non-Flood Assets of the Orleans Levee District and recommendation to the Board.

Stanley Cohn, FPA representative on the Lakefront Management Authority (LMA) Board, advised that he spoke to President Cosse several days ago. Mr. Cosse requested that Mr. Cohn provide his perspective on the proposed Memorandum of Understanding (MOU) based on his three prior years of service and experience as an LMA Commissioner. Mr. Cohn advised that the attorneys for the FPA and LMA discussed the MOU the evening prior to the Committee meeting and made some slight changes that did not alter the thrust of the initial proposed document.

Mr. Cohn explained that in 2005, when the Orleans Levee District (O.L.D.) operated the non-flood protection facilities, the revenues generated from the facilities were adequate to accomplish daily operations and all maintenance tasks. As a result of Hurricane Katrina, the management of the flood protection and non-flood protection assets was divided. At that time, there was uncertainty as to how much funding would be needed for the non-flood protection assets. Therefore, assets that would be needed by the LMA were not allocated. This was discovered several years later when major maintenance / structural issues occurred (e.g., repairs due to aging and decaying structures, as well as maintenance that should have happened years prior to 2005). Some structures on the Airport and in other locations are 40 to 50 years old. Major structural issues and failures, such as breaks in corroded underground pipes, can occur suddenly and be very costly.

Mr. Cohn commented that during his prior three years of service on the LMA Board he heard terms like “malfeasance and incompetence” thrown around regarding the LMA budget; however, this was not the case. He explained that no one would have been able to anticipate the types of problems that evolved over the past several years, which were impossible to properly budget. The proposed MOU attempts to address these issues by clarifying that certain aspects of the O.L.D. properties would become the financial responsibility of the FPA in order to relieve the inevitable shortfall. A vote for the MOU will help remedy the problem. A vote against the MOU will perpetuate the problem and create a failure every year to meet the budget.

Mr. Arrigo stated that he agreed with the concept, especially the imbalance that was created when the pie was divided, and that he was in favor of addressing and fixing this situation. However, in his opinion, there were issues with the MOU and the document was a little rushed. He stated that there were a number of issues in the MOU that needed to be fixed, such the separation of powers, non-flood assets being on the FPA side of the balance sheet and the Civil Defense Shelter being on the non-flood side.

Mr. Cohn pointed out that it can be argued that some of the properties owned by the O.L.D. are interrelated with flood protection. The MOU needed to be approved to ensure all of the assets are adequately taken care of, and if needed, the MOU can be amended at a later time.

Wilma Heaton, Director of Governmental Affairs and LMA Commissioner, explained that over sixty years ago, a land lease was executed between the O.L.D. and the City of New Orleans, and the City of New Orleans constructed the Civil Defense Shelter. Decades ago, the City of New Orleans suddenly vacated the facility and discontinued use of the shelter. A few years before Hurricane Katrina, the O.L.D. was concerned about the environmental issues. Ms. Heaton found the original lease and explained to the O.L.D. Board that a provision in lease required the City to return the property in good condition, which did not happen. The City of New Orleans ordered an environmental study immediately prior to Katrina. A few years ago, the former FPA Chief Administrative Officer, Derek Boese, ordered an environmental study. Ms. Heaton advised that she did not receive a copy of the study. She explained that the Civil Defense Shelter was clearly a flood asset because it was used for emergency operations. The 2018 MOU negotiated by Mr. Boese provided that the LMA would take the Civil Defense Shelter after the environmental issues were handled. The property could then be used for another purpose.

Ms. Settoon stated that with seeing the document only several days ago it was difficult for her to understand the reason the subdivisions were under the FPA and that she would eventually move them under the LMA. She said she understood that there was an urgency and that there were problems. She asked could the FPA deal with the MOU with the stipulation that it be revisited in a year. Louis Capo, LMA Executive Director, responded that the MOU can be revisited at any time. The LMA has sufficient revenues for operations; however, it needs funds for major maintenance/capital improvements in order to extend and improve the life of the O.L.D. non-flood protection assets.

Ms. Settoon commented that the reason the FPA was formed after Katrina was to deal with flood protection issues. Therefore, she felt the MOU needed to be overhauled and, if the LMA needed money in the taxation scheme, this must be figured out. The FPA should not be doing anything but pure flood protection. She added that she would have to abstain today because she did not have enough information.

Mr. Capo explained that projects were identified in the attachment to the MOU and that that the MOU included mechanisms for the LMA to report to the FPA. He advised that the latest revision of the proposed MOU and the 2018 MOU, which was approved by the FPA and LMA Boards, included the same language on the Civil Defense Shelter. He explained that Stars and Stripes Boulevard and the flyover (east/west approach) were included under the FPA because flood protection (SLIP - Special Levee Improvement Project) funding was used in 1995 and 1996 to construct the flyovers, which were considered part of the evacuation route. He also advised that Jeff Dye, attorney for the LMA, was present to answer any questions.

Mr. Dye explained that he drafted the proposed MOU and that in many cases it and the 2018 MOU are word for word; however, the documents are organized differently. The primary difference is formatting. For example, the 2018 MOU intermixed LMA and FPA responsibilities under each asset. The revised MOU breaks LMA and FPA responsibilities into different sections. The only additional difference relates to parking lots along Lakeshore Drive. Part of the discussion with the FPA's attorney was matching provisions in the revised MOU with the 2018 MOU.

Mr. Dye advised that his last draft of the proposed MOU was on September 1st and that the document had gone through several channels since that date. He explained that he received some edits from the FPA's attorney yesterday along with some questions. Mr. Dye advised that he made the requested changes to the document and returned the corrected document last night. Mr. Dye added that he ran a comparison report to note the changes between the September 1st and the September 20th editions. The comparison was distributed prior to the Committee meeting.

Kirk Ordoyne, Executive Director, advised that one of the changes under Lakefront Subdivisions was that the FPA shall be responsible for the interior drainage infrastructure. Mr. Dye explained that this language is based on RS 38:330.12 A, which defines drainage assets as flood assets.

Mr. Arrigo stated that there were some glitches in the MOU and that the MOU should be adopted after the glitches are worked out.

Mr. Dye explained that his role is to ensure the language of the MOU is correct and reflects the agreement between the parties.

It was noted that the 2018 MOU provided that the document be updated no more than every four years and the proposed MOU stated no less than every four years. This change was included after the September 1st version.

Mr. Miller asked that the Committee recommend deferring the MOU to a later meeting. He stated that Ms. Settoon's and Mr. Arrigo's points made it clear that there were questions. His concerns related, first, to Section 10, which included blanks for the dollar amount and the time period for the repayment of inter-fund receivables and payables, which were to be discussed at this meeting, and, second, that some of the things the FPA was being asked to take over, such as maintenance of parking lots, in his opinion, were not related to flood protection and a violation of State law.

Mr. Cosse recommended that the Committee move forward with the proposed MOU. Mr. Cohn commented that over the years of his involvement with the LMA and as the FPA's representative, he often saw the can kicked down the road. He explained that some of the things discussed should be done today and not down the road. He stressed that if a decision was not made today, there would be even more problems in the future. He asked the FPA not to kick the can down the road. Ms. Settoon and Mr. Arrigo asked about delaying the MOU one month. Mr. Cohn responded that he did not see a problem with delaying it a month; however, in his experience once something is delayed, the delay becomes longer and longer.

Ms. Settoon commented that she needed a better understanding regarding the taxation portion. Mr. Dye advised that there was no difference between the 2018 MOU and the proposed MOU relative to the millage or taxation component. Financially, the only difference is the addition of Item 10.B., which provides that the FPA pay to the LMA all revenues generated from O.L.D. assets and related interests in the Bohemia Spillway (Bohemia). Ms. Settoon stated that if the Bohemia monies are not related to flood protection, which she understood, then they should be used for the non-flood protection assets; however, she did not know the amount of revenues received from Bohemia. However, this can be done if the FPA looks at the monies, the LMA has an idea of what it can do and had responsibly managed the assets that it had in order to try to obtain other monies. She noted that the allocation of the properties was not exactly correct in the proposed MOU.

Mr. Capo reiterated that the revenues generated by the non-flood protection properties cover the LMA's expenditures agencywide. The LMA was requesting funding for capital improvements and major maintenance for the O.L.D. non-flood protection properties. The LMA is also responsible for the O.L.D.'s non-revenue producing non-flood protection properties (e.g., the Seabrook Boat Launch and Frank Davis Pier). The LMA is in line to receive Capital Outlay Project (COP) funding for the rehabilitation of the Seabrook Boat Launch, which had to be closed this week due to issues. At this time the LMA is attempting to have one of the boat launch piers repaired by a contractor for public use. He noted that the LMA paid $1 million for the installation of a sprinkler system for the covered boat slips at South Shore Harbor. The covered boat slips generate $40,000 per year in revenue. In 1984 the initial sprinkler system was incorrectly installed by the O.L.D. The LMA incurred the expense of correcting this mistake.

Ms. Settoon commented that once the assets and capital investments are aligned, then a stream of revenues can be aligned. If the legislation did not provide monies for the LMA to construct capital projects, then this needs to be discussed with legislators in order to solve the problem. Mr. Capo agreed with Ms. Settoon, but pointed out that this may take some time. The LMA receives .61 mills from the O.L.D.'s SLIP tax millage, which replaced the Bally's settlement that funded LMA operations from 2007 through 2010. The LMA has 35 employees, including three maintenance personnel, one engineer, three financial personnel, and 14 Airport personnel/firemen. The LMA budget is $9 million per year; however, a budget of $12 million to $15 million is needed to adequately operate the non-flood protection assets. The Orleans Marina was given to the O.L.D. in the 1960's.

Ms. Settoon stated that the discussion kept going to the history; however, the reason the FPA Board was created was to ensure that sufficient attention is given to the flood protection assets. She stated that she was willing to work with the LMA and to look at the issues on a broad scale. Mr. Capo clarified that in the interim, the LMA was asking for the Bohemia revenues for the next four years and the transfer of the responsibility for the deductibles for the O.L.D.'s properties to the FPA (the policyholder). Ms. Settoon asked that the LMA wait one month so that the issues could be hammered out or, at this time, have a certain amount of money provided for a certain number of years with the issues to be hammered out in six months.

Ms. Williams advised that the Bohemia revenues for the last four fiscal years were: FY 2023 - $743,000, FY 2022 - $107,000, FY 2021 - $169,000 and FY 2020 - $356,000.

Mr. Settoon suggested that the Finance Committee defer this item for one month, and that Ms. Settoon and Mr. Arrigo meet with the LMA's representatives to lay out and compare the financial needs for capital improvements over the next two years along with the estimated revenues from the Bohemia over the next two years.

Mr. Cosse noted that the LMA provided an attachment identifying the proposed list of capital improvement projects.

Mr. Arrigo asked that Board members submit their issues to him relative quickly so that the issues can be worked out and the document approved at the next meeting.

Mr. Cohn requested that the Committee keep the momentum going and reminded the Commissioners that there was a great deal of history behind some of the assets which spoke to the reason for their location in the document.

Mr. Settoon advised that he did not see a list of the LMA's future capital improvement needs. Mr. Duplantier requested that the FPA's Executive Counsel be involved in the process. Mr. Fierke asked that the FPA's insurance broker review the additional insured and indemnification provisions to ensure they follow the industry's standard.

Mr. Arrigo offered a motion to recommend that the Board defer the MOU until next month, which was seconded by Ms. Settoon. Mr. Settoon asked that Mr. Capo contact him to schedule a meeting as soon as possible with the related parties. He also asked for a document with two columns providing the needs and the expected revenues from Bohemia. He suggested a time limit on the Bohemia revenues of two years. The Committee voted unanimously in favor of the motion.

There was no further business; therefore, the meeting was adjourned at 11:05 a.m.