MINUTES OF
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST
FINANCE COMMITTEE MEETING
HELD ON APRIL 3, 2008

PRESENT: Timothy Doody, Committee Member
Thomas L. Jackson, Committee Member

ABSENT: George Losonsky, Chairman
Sara Lee St. Vincent, Committee Member

The Finance Committee met on April 3, 2008, in the Second Floor Hall of the Lake Vista Community Center, 6500 Spanish Fort Blvd., New Orleans, LA. In Mr. Losonsky's absence, Mr. Doody acted as Chair and called the meeting to order at 2:12 p.m.

Opening Comments:

Mr. Doody reported he, Mr. Barry and Ms. Campbell just returned from a trip to Washington, D.C., where they met with a number of Congressmen and Congressional staff members, including Senator Landrieu, Senator Vitter's staff, Congressman Melancon, Mr. Roger Cockrell, Staff Director for Senate Appropriations Subcommittee on Energy and Water Development, and Assistant Secretary of the Army John Paul Woodley, along with Representatives Marion Barry from Arkansas and Jo Ann Emerson from Missouri, both members of the House who will join with the Louisiana Delegation in an attempt to come up with a better proposal than that offered by the Executive Branch in terms of financing the cost share for 100 year flood protection.

Adoption of Agenda: The agenda was adopted as presented.

Public Comments: None.

New Business:

1. Discussion of refinancing Orleans Levee District bonds pursuant to R.S. 38:330.8(B)5.

Mr. Jarrell Godfrey, O.L.D. Bond Counsel, explained four issues of bonds are outstanding: two secured by the General Tax and two secured by the Special Levee Improvement Tax. A provision of Act 475, which amended R.S. 38:330.8, provides that as long as these four issues are outstanding, the City Finance Department, which collects these taxes for Orleans Parish, must send tax collections directly to the Orleans Levee District (O.L.D.) Finance Department, and payment of the bonds would be provided for first and then the proportionate share of the net would go back to the West. The desire of the West Bank legislators was that the West Bank not participate in paying this debt service, which could not legally be done and would have impaired the contract. Therefore, in order to achieve the same end result; i.e., that the West Bank not contribute to the payment of the debt service on these projects which are located on the East Bank, they included a requirement that "the Orleans Levee District shall refinance all of its outstanding debts by July 1, 2008." Various O.L.D. representatives met with the sponsor of Act 475 and explained that the Legislature can mandate that the O.L.D. refinance its debt; however, investors must be willing to purchase the bonds ($35 million of Special Levee Improvement Bonds and $22.1 million of Public Improvement Bonds). The Special Levee Improvement (SLIP) tax was imposed by a vote of the people—both East and West Banks. The Public Improvement Bonds refinanced the construction of South Shore Harbor marina, which for a considerable number of years produced a substantial amount of revenue when the gaming operation was located at the marina. Mr. Doody pointed out because the O.L.D. had collected revenues of this type, it was only allowed to collect half the Constitutional millage that other levee districts are allowed to collect.

The difficulty of finding insurers and buyers for the refinanced bonds was discussed. The current bond insurers have indicated their desire to be replaced and that they will not bid on the new issue, and there is slim chance that another insurer will be found. Mr. Doody explained the Board needs to comply with the law, with the end result being that all the financial work will have been done and a package will be presented to the Bond Commission demonstrating the inability to repay the refinanced bonds. If the Bond Commission approves this refinancing, it would be approving a bond issuance that cannot be supported by the taxes raised, making the State of Louisiana responsible for this dilemma.

Mr. Godfrey commented since the O.L.D. could not pay this debt after Hurricane Katrina, the State of Louisiana loaned the O.L.D. money to pay the debt service for three years, in addition to approximately $10 million of FEMA loans obtained by the O.L.D. Therefore, the State went beyond its legal and moral obligation to help the O.L.D. in the situation existing before the bonds are refinanced. However, the Legislature is now telling the O.L.D. it must refinance these bonds. Therefore, if the bonds are refinanced because of this Legislative mandate and there is a possibility of a default and the State does not step in and assure the bonds do not default, it takes the chance of the rating agencies lowering the rating to below investment grade on every State bond issue. He cited the example of the Tallulah Juvenile Correction Facility wherein bonds were sold with payment subject to an annual appropriation risk by the Legislature and the action that was taken when there was a possibility of a default. He pointed out an additional factor is the Bohemia Spillway judgment and current Federal Court rulings that would have to be addressed in any offering document and the affect that may have on a possible insurer or buyer.

Mr. Doody pointed out that bringing this issue before the Bond Commission would provide an opportunity to place the O.L.D.'s financial condition before the Commission.

Post-Katrina revenues from non-flood assets during the rehabilitation period were discussed. The Division of Administration is not obligated to report revenues and expenses to the O.L.D., but only to notify the O.L.D. within 90 days if it determines it has income to distribute to the District (the term income is not defined). It was pointed out the Non-Flood Division has also taken on the responsibility of non-revenue producing assets, such as the lakefront parks and one-half of the O.L.D. Police Department.

Mr. Godfrey advised, although he could find no criminal provisions for any failure of the Board to do anything, there is a malfeasance in public office statute that provides if a public official intentionally refuses to carry out a duty, he/she can be guilty of criminal malfeasance in office. He felt that going through the process of the Finance Committee and Board meetings would eliminate any charge of any intentional refusal to refinance the bonds. He also felt that going to the Bond Commission is probably a good idea; however, the down side is that West Bank representatives may be able to prevail. A recommendation would be needed from the Finance Committee in order for the two bond resolutions be presented to the Board for action.

Mr. Jackson felt due to its importance this matter should be presented to the Board, without action by the Committee, for consideration. Therefore, he offered a motion, which was adopted by the Committee, that the refinancing issues be presented to the full Board for a decision at the April 17th meeting.

2. Discussion of Healthcare Renewal for East Jefferson Levee District (EJLD).

EJLD Executive Director Fran Campbell distributed a copy of premium costs for renewal of the current plan and a Reduced Premium Option by Humana. The current plan could be renewed at a 9 percent increase in premium and funding is provided in the budget.

Premium costs are paid 100% by the EJLD, 85% by the O.L.D and 75.5% by the LBBLD. Mr. Doody asked that Mr. Turner look into the levee districts coverages.

Mr. Jackson offered a motion, which was adopted by the Committee, to recommend renewal of the current EJLD Healthcare coverage to the Board.

3. Discussion of renewal of flood policies for administration, maintenance and police buildings. (EJLD)

Mr. Clint Romig of Arthur Gallagher Risk Management Services advised three buildings are covered in this flood policy: the Plauche Court location at $2,129 and two buildings at Lesan Drive at $591 each, which includes a slight Citizens rate increase.

The Committee approved forwarding the renewal of the flood policy to the Board for approval.

4. Discussion of renewal of police bond. (EJLD)

Mr. Romig explained the police bond is a $10,000 bond required by the State of Louisiana for levee district police departments. It renews as expired, unless canceled by the EJLD, with an annual premium of $735. Mr. Romig indicated a ruling from the State could be requested relative whether one bond could be used to cover the three levee districts under SLFPA-E's authority.

The Committee approved forwarding the renewal of the police bond to the Board for approval.

5. Discussion of execution of contract for the Repair/Renovation of the Lake Borgne Basin Levee District (LBBLD) Office/Warehouse Building Project.

Mr. Turner explained this project was bid twice. The first time the project was bid, all bids were rejected due to omissions by the bidders. The second time the project was bid, only one bid was received; however, the amount of that bid was fairly close to the low bid the first time bids were received. FEMA has provided its approval. LBBLD legal counsel Mark Hanna is reviewing and revising the construction contract document.

A motion was offered by Mr. Jackson and the Committee approved recommending Board approval of the execution of the construction contract.

6. Discussion of renewal of property insurance coverage. (O.L.D.)

O.L.D. Executive Director Stevan Spencer advised the O.L.D.'s agent is currently shopping the market for this coverage which will expire on April 20, 2008.

Ms. Carol Kiefer, O.L.D. Safety-Risk Manager, explained coverage will be priced out under the O.L.D. since all the property still belongs to the O.L.D.; however, two separate policies will be issued—one for flood and another for non-flood—in accordance with the schedule of values for the properties.

Mr. Tim Avegno with Eagan Insurance Agency further explained a rate reduction can be anticipated this year, but not a reduction in premium since values have been doubled. Last year approximately $36 million of values were insured because damaged properties were not included. This year values close to $70 million (flood and non-flood) will be insured. Under the current structure there is one policy for the first $5 million of coverage and a second policy for the next $5 million of coverage, which was the only available and affordable coverage in the market place last year. Eagan will be searching for higher limits of coverage since there is more capacity and competition this year in the insurance property market. He anticipated the highest rate of premium would be on the first $5 million of coverage and would go down with succeeding layers of coverage. Premium costs will be presented at the Board meeting.

The Committee concurred that the renewal of this coverage should be placed on the Board's agenda for action.

There was no further business, therefore, the meeting was adjourned at 3:00 p.m.