

**MINUTES OF
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST
LEGAL COMMITTEE MEETING
HELD ON JULY 9, 2009**

PRESENT: Stradford Goins, Committee Member
Timothy Doody, President
Stephen Estopinal, Commissioner

ABSENT: Abril Sutherland, Chairman
Thomas Jackson, Committee Member
George Lososky, Committee Member

The Legal Committee met on July 9, 2009, in the Second Floor Hall, Lake Vista Community Center, 6500 Spanish Fort Boulevard, New Orleans, Louisiana. Mr. Goins, acting as Chair, called the meeting to order at 10:15 a.m.

Opening Comments: None.

Adoption of Agenda: The agenda was adopted as presented.

Approval of Minutes: The minutes of the Legal Committee meeting held on June 4, 2009 were approved.

Public Comments: None.

New Business:

A. Approval of Legal Invoices (Authority – East, O.L.D., EJLD and LBBLD).

A spreadsheet dated July 9, 2009 listing legal invoices for approval was distributed. The Committee discussed the booking of outstanding legal fees for the Fiscal Year ending June 30, 2009 and the issue of attorneys submitting invoices timely. The Committee reviewed and approved the invoices listed on the spreadsheet.

B. Discussion of permanent Servitude Agreement with U.S. Fisheries and Wildlife Service for LPV-109.02a, South Point to CSX Railroad. (O.L.D.)

T. Robert Lacour, Legal Counsel, advised that the U.S. Fisheries and Wildlife Service received the revised draft of the servitude agreement for review yesterday. In order to provide rights-of-entry timely, he requested that an item be placed on the Board agenda for the approval of any servitudes that may be necessary with the U.S. Fisheries and Wildlife Service. The Committee concurred with the recommendation.

C. Discussion of Servitude Agreement with City of New Orleans for LPV-103.1A1 (Bayou St. John Floodwall) (O.L.D.)

The Committee discussed the Servitude Agreement with the City for LPV-101, which was approved by the Board and is awaiting execution by the Mayor. A similar servitude agreement is required for LPV-103.1A1 for modifications to the Bayou St. John Floodwall. In order to expedite the granting of rights-of-entry, Mr. Lacour recommended that a resolution be drafted for the Board's consideration that authorizes the President to sign any servitude agreement with the City of New Orleans required for any LPV (Lake Pontchartrain and Vicinity) Project. The Committee concurred with the recommendation.

D. Discussion of acceptance of lots on canals in Lake Borgne Basin Levee District (LBBLD).

Robert Turner, SLFPA-E Regional Director, explained that the LBBLD was approached by the Louisiana Land Trust, which is the owner of properties taken over by the Road Home program. The LBBLD has had difficulty accessing some of the canals where the back edge of the subdivision is adjacent to the top of the canal. Basically, there is no room for maintenance on one side of some of the main drainage canals; however, the other side of the canal may have 15 to 20 feet. A map was provided delineating properties along the canals that are owned by the Louisiana Land Trust and the LBBLD was asked to determine whether it would be willing to take the lots or a subset of the lots. Mr. Turner stated he is currently in the process of looking at the lots to determine which properties the LBBLD would be interested in accepting. Lots that are accepted by the LBBLD must remain green space and cannot be placed into commerce. Stretches of lots can be turned into green space and used for canal access. He cautioned against the development of a situation where the lots cannot be properly maintained. He stated that he would provide a recommendation to the Board of the properties that would be beneficial for the LBBLD to acquire.

Mr. Doody commented that this would provide an opportunity not only to create linear parks, but also to create storage capacity similar to the concept used by the Dutch. He suggested that a memorandum of understanding could possibly be worked out with St. Bernard Parish to maintain the linear parks.

Mr. Estopinal recommended that private owners be approached relative to a swap for available lots on the other side of the canal in situations where the privately owned lots are needed for canal access. Lots with rebuilt homes that are needed for canal access could possibly be purchased and the owners provided with lots on the other side of the canal. A linear park could possibly be created along the entire stretch of the canal that could be used for canal access.

E. Discussion of lease of radio tower located at intersection of GIWW and Michoud Canal.

Gerry Gillen, Orleans Levee District (O.L.D.) Executive Director, explained that the current owner is in the process of transferring ownership.

Mr. Turner explained that in order for the U.S. Army Corps of Engineers (USACE) to meet its 2011 deadline, it will be awarding a number of Early Contractor Involvement (ECI) and Design-Build Contracts. These contracts will have contractors proceeding with work before final plans are completed. The Department of Transportation and Development (DOTD) has a policy of not providing letters recommending the granting of rights-of-entry unless they have 100% plans. Mr. Turner advised that he is attempting to bring the parties together in the next couple of weeks to work out a resolution of the potential problems. He stated that he recommended to the USACE that it determine its latitude relative to rights-of-entries. He stated that the Authority would like to have at least the major components tied down on a conceptual level on an ECI or Design-Build Contract before a right-of-entry is granted. The Authority would also like to have the ability to deny the corresponding portion of the right-of-entry for any major component on the conceptual level that is changed.

Mr. Goins inquired about a provision for small business involvement in the Authority's Engineering contracts. Mr. Lacour advised that the statute establishing the Authority specifies a program that can be used.

Mr. Turner advised that a meeting will be held in the next couple of weeks relative to the issue of credits towards the local cost share of the LPV Project. Credits can be obtained for work by contractors and staff on acquiring new rights-of-ways and for reasonable expenses for review of plans. An overhead factor must be calculated. Independent audits of the credits must be conducted annually. A timesheet will be developed that can be used by the USACE and the State.

There was no further business; therefore, the meeting was adjourned at 10:50 a.m.