

**MINUTES OF
LAKEFRONT MANAGEMENT AUTHORITY
JOINT COMMERCIAL REAL ESTATE AND LEGAL COMMITTEE MEETING
HELD ON THURSDAY, FEBRUARY 13, 2020**

PRESENT (CRE): Chair Robert Watters
 Vice Chair Leila Eames
 Commissioner Wilma Heaton
 Commissioner Thomas Fierke
 Commissioner Roy Arrigo

PRESENT (LEGAL): Chair Stanley Cohn
 Vice Chair Robert Watters
 Commissioner Roy Arrigo
 Commissioner Thomas Fierke
 Commissioner Leila Eames

STAFF: Louis Capo – Executive Director
 Madison Bonaventure – Assistant to the Executive Director
 Sarion Granger – Human Resources Analyst A

PUBLIC: David Jefferson “Jeff” Dye – Legal Counsel
 Gerard Metzger – Legal Counsel
 Al Pappalardo – Real Estate Consultant
 Phil Cossich – Cossich, Sumich, Parsiola and Taylor, LLC
 Christina Cossich – Cossich, Sumich, Parsiola and Taylor, LLC
 Brandon Taylor – Cossich, Sumich, Parsiola and Taylor, LLC
 Virginia Miller – BMF on behalf of Studio Network, LLC
 Bruce Wallis – BMF on behalf of Studio Network, LLC
 Henry Coaxum – Coaxum Enterprises, Inc.
 Nick Asprodites – Blue Crab
 Tom Long
 Steven Massicot

The Joint Meeting of the Commercial Real Estate and Legal Committee of the Lakefront Management Authority met on Thursday, February 13, 2020, in the Lakefront Airport Terminal Building, 2nd Floor Conference Center, 6001 Stars and Stripes Blvd., New Orleans, Louisiana.

Chair Watters called the meeting to order at 4:45 p.m.

Opening Comments:

Commercial Real Estate Chair Watters wished to defer his comments until the Committee reached the related items of F&M Aviation and Studio Network, LLC.

Legal Chair Cohn had no comments.

Adoption of Agenda:

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

Approval of Minutes:

A motion was offered by Commissioner Arrigo, seconded by Commissioner Eames, and opposed by Commissioner Fierke. The minutes of January 16, 2020 were approved.

After approval of the agenda, Commissioner Fierke questioned why J&J Partners was not listed on the agenda and requested a follow up to last meeting's discussion on the matter in relation to the adequacy of their insurance and leasehold status. Director Capo said that J&J Partners provided the Authority with a general liability policy. Commissioner Heaton stated that she had a packet for the commissioners that Mr. Borgas of J&J Partners wanted them to review. She also noted that he is currently incapacitated, but Mr. Borgas has requested that the Committee consider a special meeting to discuss an agreement with J&J Partners to move forward with a lease.

Commissioner Fierke asked David Jefferson "Jeff" Dye, about the adequacy of Studio Network's boathouse insurance. Mr. Dye said their boathouse is to be included within the definition leased premises, and his position is that they do not have adequate insurance.

Director's Report: None

Public Comments: None

Old Business:

1) **Update on lease with Studio Network, LLC.**

This item was discussed after new business items.

2) **Update on lease with F&M Aviation.**

This item was discussed after new business items.

3) **Update on lease extension with Peninsula Condominiums.**

Chair Watters stated that the Committee was very close to an agreement on Peninsula Condominiums' land lease extension and reversionary premium payments.

Commissioner Watters said that the Committee was interested in having a special meeting next week in order to advance a better-defined agreement to the full board for approval. He anticipated generating a term sheet to summarize conclusions and present it to the board in hopes of reaching a resolution.

New Business:

1) **Recommendation to the Board to enter into a contract with Cossich, Sumich, Parsiola and Taylor, LLC to represent Lakefront Management Authority in a class action lawsuit.**

Chair Cohn noted that a memo from Cossich, Sumich, Parsiola and Taylor, LLC describing the class action lawsuit in relation to AFFF foam was available. He then introduced the firm to the board.

Phil Cossich introduced himself and Brandon Taylor as partners of Cossich, Sumich, Parsiola and Taylor, LLC. Mr. Cossich also introduced his daughter, Christina Cossich, who is also a partner at his firm. Mr. Cossich specified that his firm was based locally, but they practice nationwide and have been involved in multidistrict litigation regarding the negative effects of AFFF fire foam. He noted that his firm is currently representing airports and water suppliers who have been impacted. The firm is offering to test the foam and pursue a suit to finance remediation of AFFF foam use.

Chair Heaton said she talked with Airport staff and has substantiated that the Airport has used this product. She also noted that Mr. Cossich's firm is offering representation as a contingency term and can be recommended to the full board for approval, but the agreement terms must ultimately be approved by Louisiana's Attorney General's Office.

Commissioner Arrigo asked how clean up would be organized and financed if the suit failed. Mr. Cossich said that there is no mandate to clean up the AFFF foam at this time, and clean up would be financed by the suit.

David Jefferson "Jeff" Dye, legal counsel to the Authority, asked to be recognized by Chair Cohn. He stated that he has been following this issue relating to PFAS compounds found in AFFF foam for approximately a year and has observed multiple instances where liability has been found.

Vice Chair Watters asked if there was any liability in relation to our employees' exposure to the product. Mr. Dye commented that there have been some cases proceeded against Dupont for instances of exposure; however, Mr. Cossich responded that Airport employees are likely not at risk in administering the foam and most liability remains with water providers who absorb it into the ground and into their water sources.

Commissioner Fierke asked when the Authority would advertise for an indefinite delivery/indefinite quantity (IDIQ) contract. Chair Heaton noted that the Mr. Cossich's firm approached the Authority due to the specific nature of the issue as a class action suit. She also noted that the Authority may hire anytime for special issue with approval of the board, but ultimately the AG's office must approve the terms and rates. She also reaffirmed that this is a contingency contract.

A motion was offered by Vice Chair Watters, seconded by Commissioner Arrigo, and unanimously adopted, to recommend that the Board to enter into a contract with Cossich, Sumich, Parsiola and Taylor, LLC to represent Lakefront Management Authority in a class action lawsuit.

2) **Preliminary discussion regarding the Commercial Real Estate budget and Legal budget.**

Louis Capo, Executive Director, reported that the Authority has spent \$171,047.00 year to December 31, 2019 on legal costs. He added that the overall budget is \$229,000.00 for the entire fiscal year leaving \$58,000.00 remaining in the legal budget. Mr. Capo said that this amount would not be enough to get through the rest of the year and suggested amending the legal budget.

Vice Chair Watters suggested that staff prepare a resolution for approval after consulting with hired legal counsel on estimated costs for the remainder of the fiscal year.

Commissioner Eames asked where the money will come from to finance additional legal services. Director Capo said he will need to identify where the funds will come from. Director Capo noted that typically the Authority would have received ad valorem tax from the City of New Orleans via the Flood Protection Authority (FPA), and the Authority has not received a payment from the FPA. Director Capo said that the FPA has not received ad valorem tax from the city either. Director Capo said the Authority will likely need to take funds out of the Louisiana Asset Management Pool (LAMP) account.

Commissioner Watters asked Director Capo about the typical timeline to receive the ad valorem funds. Director Capo replied that they typically receive funds in July, December and most of the funds during February, March and April.

Director Capo reported that revenues from the New Basin Canal and Lake Vista are expected to generate \$841,000 of revenue over expenses. He explained that while these properties are successful in generating revenue, the revenues are needed to offset assets

which do not generate revenue or assets which require substantial capital improvements or repairs. He commented that these revenues also help balance the general budget overall. Director Capo offered some examples of projects which require attention:

- A major waterline on Stars and Stripes Boulevard was in dire need of repair.
- Sinkholes at Orleans Marina needed to be remedied.
- Drainage issues on Lakeshore Drive needed to be resolved.

Director Capo mentioned that the budget represented is the draft of the Operations Budget, but he will also prepare the Capital Budget.

Commissioner Arrigo asked if action needed to be taken now to resolve the legal service funding issue. Director Capo said no and that some of the legal issues that have been paid for are resolved so costs should go down, but some cases will continue.

Old Business - Revisited

1) Update on lease with Studio Network, LLC.

Chair Watters introduced Virginia Miller, of BMF on behalf of Studio Network, LLC, and Henry Coaxum, of Coaxum Enterprises, Inc. Ms. Miller explained that she is a consultant for Studio Network, LLC, and Mr. Coaxum is a potential investor for their project. Ms. Miller added that Mr. Coaxum was the chair of the New Orleans Business Alliance where he was valued for his business acumen and accomplishments in the community.

Mr. Coaxum described himself as a local entrepreneur and a resident of eastern New Orleans. He noted that he has businesses in eastern New Orleans, and his children run the Munch Factory restaurant. He said it was his goal to attract people to eastern New Orleans and to make a positive impact on his community.

Commissioner Fierke asked if the arrangement has been definitized yet. Ms. Miller explained that they have a letter of intent and another investor is wanting to join to assemble an investment group.

Commissioner Cohn asked for an approximate timeframe in which the board could expect them to form their group. Mr. Coaxum responded that he felt like 30-45 would suffice.

Chair Watters said he thought Mr. Coaxum's involvement was real progress; however, that it was important to keep the lease current and that it was the board's intent to protect the state's interest. He also noted that there was an outstanding insurance issue.

Mr. Coaxum reiterated his excitement to get started on the entertainment district project.

2) Update on lease with F&M Aviation.

Chair Watters invited Mr. Dye, the Authority's legal counsel, to give an update. Mr. Dye reported that both Studio Network, LLC and F&M were behind on rent. He also noted that insurance coverage has also lapsed. He said Studio Network, LLC's rent was not paid for February and F&M Aviation's rent has not been paid for six months.

Chair Cohn asked if this topic was on the agenda for executive session. Commissioner Fierke suggested that the agenda could be amended. Gerard Metzger, the Authority's legal counsel, stated that the topics of Studio Network, LLC and F&M Aviation would not be appropriate for executive session as there is no pending litigation or written demand.

Mr. Dye reported that the current owner of F&M Aviation, Bill Hammick, does not believe he is responsible for paying rent owed. Mr. Dye said that the company was not in good standing with Secretary of State. Mr. Dye said it is Mr. Hammick's position that Mr. Kurnatowski, the previous owner of F&M Aviation, did not have legal authority to enter a lease with the Authority and that the lease itself is defective. Mr. Dye said it was his position that Mr. Hammick's claims lacked merit.

It was Mr. Dye's recommendation that the Authority give written demand to F&M Aviation and Studio Network, LLC outlining instances of default. He also added that granting a curative period and triggering a curative period would be appropriate.

Vice Chair Eames wished for clarification on the occupancy of F&M Aviation's leased area. Mr. Dye clarified that the new owner of F&M Aviation is using the space for aviation activities, and Studio Network, LLC is using office space there. He added that F&M Aviation did not provide insurance despite their using the space and Studio Network's insurance expired this month.

Chair Watters suggested that the Authority send a letter to F&M Aviation only. Commissioner Arrigo questioned why he suggested doing so. Chair Watters replied that a state of default could damage potential investment opportunities to advance the project.

Vice Chair Eames expressed that the Authority must act on F&M Aviation and suggested that a reminder letter be sent to Studio Network, LLC instead. Director Capo said he has sent a reminder letter to Studio Network, LLC.

Mr. Dye said that he has requested an insurance package from Studio Network, LLC and has gotten no response.

Ms. Miller addressed the board and let them know that they have diligently been working on the insurance issue and will have it resolved soon.

Chair Heaton reiterated that Mr. Coaxum's potential investment was real progress and she agreed.

Ms. Miller added that Studio Network, LLC is vacating the office space within F&M Aviation's leasehold.

A substitute motion was offered by Chair Watters and seconded by Vice Chair Eames, opposed by Chair Cohn and Commissioner Fierke, to send a demand letter to F&M Aviation regarding rent owed and insurance requirements needed and to postpone sending a demand letter to Studio Network, LLC regarding rent owed and insurance requirements. The motion carried.

Executive Session

Mr. Metzger noted that the item named “ 2) *In re West End Resources, Inc.*, No. 19-12902, Section “A”, United States Bankruptcy Court for the Eastern District of Louisiana” on the agenda had been resolved on the previous day and need not be included in the executive session. Mr. Metzger said the following issues were appropriate for executive session because the matters will entail strategy discussions relating to pending litigation. The board voted to go meet in an executive session to consult with legal counsel on the following issues:

- 1) Boh Bros. Construction Co., LLC v. Orleans Levee District and the Non-Flood Protection Asset Management Authority, No: 2019-10953, Division “L-6,” Civil District Court for the Parish of Orleans, State of Louisiana.

A motion was offered by Commissioner Fierke, seconded by Commissioner Eames, and unanimously adopted, to discuss Boh Bros. Construction Co., LLC v. Orleans Levee District and the Non-Flood Protection Asset Management Authority, No: 2019-10953, Division “L-6,” Civil District Court for the Parish of Orleans, State of Louisiana.

- 2) Lakefront Management Authority v. West End Resources, Inc., Mississippi River Bank, TresMonet Luxury Yachts, LLC, TresMonet, LLC and TresMonet Products, Inc., No. 19-10700, Division “C-10”, Civil District Court for the Parish of Orleans, State of Louisiana.

A motion was offered by Commissioner Fierke, seconded by Commissioner Eames, and unanimously adopted, to discuss Lakefront Management Authority v. West End Resources, Inc., Mississippi River Bank, TresMonet Luxury Yachts, LLC, TresMonet, LLC and TresMonet Products, Inc., No. 19-10700, Division “C-10”, Civil District Court for the Parish of Orleans, State of Louisiana.

No action was taken by the board during the executive session.

Announcement of next Commercial Real Estate and Legal Committee Meetings:

- 1) **Thursday, March 19, 2020 – 3:30 P.M. (CRE)**
- 2) **Thursday, March 19, 2020 – 4:30 P.M. (LEGAL)**

Adjourn:

A motion was offered by Chair Watters, seconded by Commissioner Arrigo, and unanimously adopted, to adjourn. The meeting was adjourned at 5:04 PM.