

**MINUTES OF
LAKEFRONT MANAGEMENT AUTHORITY
REGULAR MEETING OF THE COMMERCIAL REAL ESTATE COMMITTEE
HELD ON THURSDAY, AUGUST 20, 2020**

PRESENT: Chair Robert Watters (*attended virtually via Zoom at 3:00 PM)
Vice Chair Thomas Fierke
Commissioner David Francis (*left at approximately 4:55 PM)
Commissioner Wilma Heaton
Commissioner Bob Romero

STAFF: Louis Capo – Executive Director
Madison Bonaventure – Assistant to the Executive Director
Daniel Hill – Director of Engineering & Operations

PUBLIC: Gerard Metzger – Legal Counsel to the LMA
David Jefferson “Jeff” Dye– Legal Counsel to the LMA
Al Pappalardo – Real Estate Consultant to the LMA, P.C.I.
Dr. Ed Boos– LMA Boathouse N-31 Lessee
Cesar Burgos– J&J Partners
Paul Bauer–Self
Rob Daigre – Burgos & Associates
Frank D’Amico – Self
Billy Gibbons – Legal Counsel to Dr. Edward Boos
Dieter Hugel– Self
Ray Landeche – Lakeshore Property Owners’ Association
Steven Massicot – Oceana USA, L.L.C.
Mickey Weiser–Schubert’s Marine

The Regular Meeting of the Commercial Real Estate Committee of the Lakefront Management Authority met on Thursday, August 20, 2020, in the Lakefront Airport Terminal Building, 2nd Floor Conference Center, 6001 Stars and Stripes Blvd., New Orleans, Louisiana.

Vice Chair Fierke called the meeting to order at 2:40 P.M. and led in the pledge of allegiance.

Opening Comments:

Vice Chair Fierke said that he would be chairing the meeting because Chair Watters would be attending virtually.

Adoption of Agenda:

A motion was offered by Commissioner Romero, seconded by Commissioner Heaton, and was unanimously approved, to adopt the agenda.

Approval of the Minutes:

A motion was offered by Commissioner Heaton, seconded by Commissioner Romero, and unanimously adopted, to approve the minutes.

Director's Report:

Director Capo said all but one of the New Basin Canal tenants was current on their rent. He said one of the New Basin Canal tenants has not paid two months of the previous quarter but has paid the current quarter. He said this tenant will remit the payments for missing months by adding a month's rent to subsequent quarters. Commissioner Romero asked who the tenant was. Director Capo confirmed that it was Landry's Seafood House.

Commissioner Heaton complimented staff for managing tenant payments during the COVID-19 crisis.

Vice Chair Fierke asked about J & B's Fuel Dock's outstanding balance. Director Capo said that their outstanding balance was a result of an audit regarding the CPI adjustment pursuant to the lease agreement. He said staff is working with them to continue to pay the balance down and stay current with their rent.

Director Capo said that Labbe Construction, tenant of Suite 6504 at the Lake Vista Community Center (LVCC), gave notice that they will not exercise their option. He said there are currently 2 spaces available at the LVCC.

He said that the former West End Resources site was under the LMA's control after the court ruled to evict. He said the site potentially has some environmental issues, so the LMA would be bringing in a consultant to advise on what environmental cleanup may be necessary for the LMA or subsequent tenant to perform.

Commissioner Heaton said that there are some ancillary issues regarding movables on the premises previously leased by West End Resources. She said that items under lien with the Mississippi River Bank have disappeared.

He said that the court ruled to evict Studio Network-Lakefront, LLC from the former Bally's site. He said that marina staff will be moved into the former Shore Shop building. He said that the trailer being used as the Harbor Master Office is in poor condition. He said that the new building will provide a safe place to conduct business. He said there may be opportunities in the future to add amenities for tenants such as additional bathrooms and an operation fuel dock. Director Capo said there were some concerns regarding ensuring the compliance of the fuel tanks' construction, and the fuel tanks would be inspected.

Vice Chair Fierke asked about the second-floor space of the new Harbor Master Office. Commissioner Heaton said the former tenant had a vision to utilize the space for small events, but due to challenges with the building codes it could not be outfitted in the manner the previous tenant had planned.

Commissioner Heaton said that staff was being placed on the second floor in an abundance of caution regarding concerns about storm surge and other weather events. She said their equipment and documents would be better protected.

She said Al Pappalardo, Real Estate Consultant to the LMA, had prepared a report on the South Shore Harbor Marina trailer regarding its condition and fair market value.

She complimented Daniel Hill, Director of Engineering and Operations, on assisting marina staff with assessing the condition of the buildings.

Public Comment:

Mickey Weiser introduced himself to the Committee. He said he is the principal owner of Schubert's Marine. He said his business has about one year left remaining on their lease with the LMA. He said that he has delivered a letter to Director Capo so they may begin negotiations to renew or to confect a new lease.

Old Business:

1) Discussion of Extension of the term of the Lease with J & J Partners for the property located at 7412 Lakeshore Drive.

Rob Daigre, of J & J Partners, said the original lease began in August of 1994 and ended in July of 2019. He said in November of 2018 discussions began between J & J Partners and the LMA regarding J & J Partners' eligibility to renew its lease. He said the eligibility to renew the lease was predicated on J & J Partners' ability to confirm that it had spent over \$500,000 in permanent improvements to the building.

Mr. Daigre said Caesar Burgos became involved with J & J Partners and its leasehold in 2015 and said that documentation provided by the previous owner, Frank D'Amico, showed that money was spent on improvements.

Mr. Daigre said over \$1 million has been invested into the business, which operates as a special event venue, and at least \$700,000 in permanent improvements had been made to the building.

Mr. Daigre said that the idea was proposed to negotiate a new 99-year lease instead of the 25-year renewal option with the caveat to develop condominiums, but Mr. Burgos would need to give up his profitable business to do so.

Commissioner Heaton said that the development of condominiums was a suggestion for discussion and not a requirement for a possible new lease.

Mr. Daigre said Mr. Burgos wanted to learn if he can go back to marketing his business or prepare for litigation against the LMA.

Paul Dimitrios, of RCL Consultants, LLC, introduced himself to the Committee. He said he prepared three reports in pursuit of determining the total investment into permanent improvements by J & J Partners.

Mr. Dimitrios said that he and his staff went through several folders and boxes of receipts and invoices to attempt to match work completed to moneys spent. He said that many purchases had incomplete documentation to support the work done or outlined material costs only.

Mr. Dimitrios said that once further documentation was finally provided by Mr. Burgos, he and his team could only confidently confirm that approximately \$88,000 was invested in permanent improvements. Mr. Dimitrios said that many expenditure files were incomplete and did not properly document what the money was used for, so he could not determine that if it a certain expense was a permanent improvement or not.

Mr. Dimitrios offered examples of maintenance repairs versus permanent improvements based on his professional expertise:

- An HVAC replacement after Hurricane Katrina would be considered a maintenance repair.
- Piling and pier work would be considered an improvement.

Mr. Daigre said that there was a clear disagreement on the definition of the term permanent improvement.

Gerard Metzger, Legal Counsel to the LMA, said that he and Al Pappalardo, Real Estate Consultant to the LMA, have both reviewed Mr. Burgos' latest proposal. He said it requests a 10-year rent abatement. Mr. Metzger said that he has concerns this would not be permissible under the state constitution. Mr. Pappalardo said that the building's reversionary value is approximately \$400,000, and with the rent credit totaling to approximately \$1.5 million it does not benefit the LMA but rather only benefits Mr. Burgos.

Vice Chair Fierke said he was not averse to make a motion for eviction. Mr. Daigre said if the Committee moved in that direction that J & J Partners would litigate.

Frank D'Amico introduced himself to the Committee as the prior owner of J & J Partners. Mr. D'Amico offered that they could meet with board members, LMA staff, Mr. Dimitrios or the LMA's other consultants to determine which expenditures were spent on permanent improvements.

Commissioner Heaton added that this issue was challenging because Mr. D'Amico sold the business to Mr. Burgos, and they both said they were under the impression that the 25-year option would be granted as they believed they were entitled to it. Commissioner Heaton expressed the concern about what precedent this may set for the agency in dealing with other entities regarding permanent improvements.

She suggested that after they meet that Mr. Burgos come to the full Board with his best and final offer for consideration.

Vice Chair Fierke requested that they present at the next Board Meeting, scheduled on August 27, 2020.

Mr. Burgos said that his business was profitable before the COVID-19 pandemic. He said he believes J & J Partners has invested enough to earn its 25-year renewal.

Commissioner Fierke asked what type of business J & J Partners operates at the leased site. Mr. Burgos confirmed that it was an event venue. Mr. D'Amico said that prior to Katrina, it was used as office space. Mr. D'Amico said he took over the lease and J & J Partners in 1999. Mr. D'Amico said that by the time Mr. Burgos purchased the business, it had been fully converted as an event space.

It was agreed by the Committee and the representatives of J & J Partners that they would present at the next Board Meeting, and Mr. Burgos said he was eager to have a decision made.

Commissioner Heaton committed to putting the presentation on the next Board Meeting agenda.

2) Update on property located at 424 South Roadway formerly leased by West End Resources.

Dieter Hugel introduced himself to the Committee. Mr. Hugel said that he was interested in leasing the property located at 424 South Roadway.

Director Capo read the letter dated August 19, 2020 from Mr. Hugel into the record. The letter stated that Mr. Hugel was interested in leasing the property and wished to negotiate a lease to put the property back into commerce.

Vice Chair Fierke asked what part of the property he was interested in leasing. Mr. Hugel said he was interested in leasing the entire property.

Al Pappalardo, Real Estate Consultant to the LMA, explained that the property had operated as a multi-faceted marine repair facility. He said in addition to the main marine repair facility, there was a sail maker and propellor shop for several years.

He said that the tenant, West End Resources, leased the entire facility for about 25 years and had the right to sublease units to ancillary services to support the marine community. He said it was his understanding that Mr. Hugel wanted to lease the premises in the same manner as West End Resources.

Commissioner Heaton recommended that the remaining subtenants be considered for a short term lease until a master lessee was found or other arrangements could be made. She believed that the services they provided were beneficial to the community in the West End area.

Old Business:

1) Discussion of a lease with Schramel Sails, Inc. d/b/a/ Quantum Sail Design Group for space in the building located at 424 South Roadway.

Chris Schramel introduced himself to the Committee as a subtenant of the former master tenant of 424 South Roadway, West End Resources. He said that his company repairs and designs sails, and the location is ideal for his business operations. He said that he had been in the West End area servicing clients for about 40 years.

Mr. Schramel explained that he began escrowing his rent instead of handing over rent payments to Tres Monet, as he was not convinced that they had the authority to demand rent from him.

Mr. Schramel said that he wanted to work with the LMA to stay in his unit. He said that he believes that the property should remain marine related, especially with the new construction of Municipal Yacht Harbor.

Gerard Metzger, Legal Counsel to the LMA, said that Mr. Schramel agreed to pay \$1,285.00 per month on a month-to-month basis with a 90-day termination clause via email on August 19, 2020.

Mr. Schramel said he would be remitting half of his escrow balance to the LMA and remit rent monthly.

Commissioner Heaton made a motion to recommend approval of a lease with Schramel Sails, Inc. d/b/a/ Quantum Sail Design Group for space in the building located at 424 South Roadway with the terms outlined on the communication from Mr. Schramel dated August 19, 2020. The motion was seconded by Commissioner Romero and was unanimously approved. Chair Watters was present virtually and voted in the affirmative.

2) **Discussion of a lease with Nick Portillo d/b/a Nick's Prop Shop and Machine Works for space in the building located at 424 South Roadway.**

Director Capo said that Nick Portillo moved his business to another site but expressed interest in returning to his original location on South Roadway.

The Committee agreed that they could offer a similar arrangement that was offered to Quantum Sails Design Group if Mr. Portillo were agreeable.

3) **Motion to recommend approval of the request to Transfer the Lease with Tom Benson for the property located at 7420 Lakeshore Drive to Oceana USA, LLC.**

A motion was offered by Commissioner Romero, seconded by Commissioner Heaton, and was unanimously approved, to recommend approval of the request to Transfer the Lease with Tom Benson for the property located at 7420 Lakeshore Drive to Oceana USA, LLC.

Steven Massicot introduced himself to the Committee as a representative of Oceana USA, LLC.

Commissioner Fierke asked if the LMA would receive revenue from a transfer of the lease. Mr. Metzger replied that no revenue would be collected from the transfer of the lease because there is no provision for it in the lease.

Mr. Metzger recommended that the resolution include reimbursement for any legal fees necessary to complete the transfer.

Mr. Pappalardo said that there were letters from Oceana USA, LLC and the Bensons confirming that there was no exchange of money between the parties for the transfer. Mr.

Pappalardo said this was done to ensure that there was no profiteering from transferring Orleans Levee District property.

Commissioner Francis left the meeting.

4) **Discussion of the request to Transfer the Lease for Orleans Marina Boathouse Site N-31 by Dr. Edward J. Boos.**

Director Capo showed before and after photos of Boathouse N-31. Director Capo said there was a fire at Boathouse N-31. Director Capo said the Boathouse had since been gutted and the second floor had caved in.

Dr. Ed Boos introduced himself to the Board as the owner of Boathouse N-31. He said on November 30, 2019 there was a substantial fire at the property. He said he originally wanted to restore it and ultimately sell it. He said he had recently invested in renovations in the boathouse prior to the fire.

Dr. Boos said he was approached by Mr. Paul Bauer who wanted to enter the lease in as-is condition. He said it made sense to him to transfer the lease to Mr. Bauer so Mr. Bauer could build the boathouse to his satisfaction.

Commissioner Fierke said that he felt that transferring the lease with the property in the condition it was in was not acceptable as the LMA would lose the improvements on the leasehold.

Dr. Boos said that a couple years ago he was advised by his insurance broker that he should purchase insurance through a new carrier. He said when he purchased the new insurance, the insurance agent failed to add the LMA as additionally insured and to ensure that he had proper liability insurance.

Commissioner Fierke asked what the legal remedy would be. Mr. Metzger said that the LMA had the authority to place Dr. Boos in default of his lease.

Director Capo said that Dr. Boos was current on his rent.

Dr. Boos said that his intention was to get the LMA a new tenant as quickly as possible.

Chair Watters said that he thought that the insurance proceeds should go into an escrow account that the Authority and Dr. Boos would have access to, and the funds would then be used to improve the property back to the way it was before the fire.

The Committee members discussed that they were not in favor of allowing the transfer of the lease in its current state. Chair Watters said that the only way for the Committee to consider the transfer would require detailed schematic plans from the buyer and a performance bond.

Mr. Billy Gibbons, Legal Counsel to Dr. Boos, introduced himself to the Committee. He said he wanted to see that the property is restored to its condition prior to the fire. He said the new buyer would replace Dr. Boos and be subject to the same lease terms. He said the purpose of their visit was to learn how they could accomplish the transfer.

Vice Chair Fierke asked if any other tenants were suing Dr. Boos. Mr. Gibbons confirmed that one tenant had filed suit against Dr. Boos and his insurance company. He said Dr. Boos' separate liability policy is handling that case.

Mr. Metzger said that the liability insurance should have covered the LMA as well.

Commissioner Heaton said she understood that the situation was difficult for Dr. Boos but that the LMA needs to ensure that the boathouse will be restored. She suggested that Mr. Gibbons determine a solution that would benefit his client and the citizens of New Orleans.

The Committee recommended that Dr. Boos and his team make a proposal to Director Capo for consideration and agreed to hold a special meeting if necessary.

Director Capo inquired if Dr. Boos was properly insured currently. Mr. Gibbons said that Dr. Boos is carrying insurances on the property.

Paul Bauer introduced himself to the Committee as the potential buyer of Boathouse N-31 and a 15-year tenant of Orleans Marina. He said he did not previously know Dr. Boos before inquiring about the boathouse. He said he would not be interested in buying the boathouse if Dr. Boos renovated it with his insurance proceeds. He said that he could get another boathouse nearby for cheaper rent.

Commissioner Fierke reminded Mr. Gibbons about the piling inspection requirement that Dr. Boos must conduct.

Announcement of next Commercial Real Estate Committee Meeting:

- 1) Thursday, September 17, 2020 – 3:30 PM

Adjourn:

A motion was offered by Commissioner Heaton, seconded by Commissioner Romero, and unanimously adopted, to adjourn. The meeting was adjourned at 5:15 PM.