

**MINUTES OF
LAKEFRONT MANAGEMENT AUTHORITY
JOINT MEETING OF THE MARINA AND LEGAL COMMITTEES
HELD ON TUESDAY, OCTOBER 11, 2022, at 11:00 PM**

PRESENT: Marina Chair Dawn Hebert
Marina Vice-Chair Renee Lapeyrolerie
Commissioner Stan Brien
Commissioner Esmond Carr (Arrived at 11:11 AM)
Commissioner Michelle White (On both Committees)

Legal Chair Robert Drouant
Legal Vice-Chair Jennifer Herbert
Commissioner Adonis Exposé
Commissioner Carlos Williams
Commissioner Michelle White

OTHER COMMISSIONERS PRESENT:

Commissioner Brian Egana
Commissioner Wilma Heaton
Chair Anthony Richard

STAFF: Louis Capo – Executive Director
Vanessa McKee – Assistant to the Executive Director
Adam Gulino – LMA Engineer
Helaine Millner – LMA Marina Staff
Michael Sciavicco – LMA Marina Staff

ALSO

PRESENT: Gerard G. Metzger – Legal Counsel to the LMA
Jeff De – LMA Counsel
Bridget Vinson – CBS #12
Hollie Radtke – CBS #8
Brian Whited – Municipal Yacht Club
Robert “Bobby” Savoie – CBS #10
Mike Fenasci – (Tenant) Attorney
William Snyder

William Taylor – CBS #21
Harold Matherne
Russell Choina CBS#2
Raj Anil CBS#
Don Cheramie – CBS#
Ray Blancher CBS #20
Steve Green – CBS #4
Mrs. Vincent – CBS (Apartment) Tenant
Nathan Junius – Linfield Hunter and Junius
Chadwick Boseman – Linfield Hunter and Junius
Fire Marshal Daniel Wallis – Chief Fire Marshal
Malinda Long – OSFM Legal
Joe Delaune – OSFM Chief Architect
Erin St. Pierre – OSFM Chief of Special Services
Chief Officer Nick Heineman – OSFM Chief of Enforcement

The Special Joint Marina and Legal Committee Meeting of the Lakefront Management Authority met on Tuesday, October 11, 2022, at the New Orleans Lakefront Airport at 6001 Stars and Stripes Blvd., New Orleans, LA 70126.

Chair Dawn Hebert called the meeting to order at 11:02 A.M.

Commissioner Lapeyrolerie led in the pledge of allegiance.

Chair Hebert called for a roll call. Director Capo called the roll for both committees, and a quorum was present.

IV. Opening Comments:

Chair Hebert thanked the Fire Marshal, Ms. Long, and other staff from the Fire Marshal's Office for coming to the meeting. She added that the purpose of this meeting is to listen and learn how to get the tenants back into the covered slips. She turned to Commissioner Drouant who chairs the Legal committee. He had no comments.

V. Director's Report - No Director's Report

VI. Public Comments

Chair Hebert asked for public comments.

Dr. Robert Savoie, UNO Robert Savoie College of Engineering/Naval Architecture and Marine Engineering, addressed finding item #7 in the Fire Marshal's report which listed several conditions related to the quality and condition of the vessels that could be considered hazardous. The conditions did not apply to the vessels on the covered boat slips. There was no explanation, only CEASE and DESIST orders to vacate our property.

He also commented that the CBS tenants received notice on Friday evening and filed an appeal early next week, which Ms. Long immediately rejected. He later found out that her information was incorrect but never received any resolution regarding his filed appeal.

Hollie Radtke requested to reserve her comments until after hearing from the Fire Marshal's office. She thanked the committees for the meeting.

Ray Blancher, also requested to reserve his comments to hear from the Fire Marshal's office.

Commissioner Carr arrived at 11:11 AM.

Commissioner Lapeyrolerie asked to be clear regarding the process for moving public comments for the record.

Jeff Dye advised the committee to make a motion to amend the agenda to move the public comments to another place on the agenda.

VII. Motion to Adopt and Amend the Agenda:

A motion was offered by Chair Hebert, seconded by Commissioner Carr.

Commissioner Lapeyrolerie commented that she only suggested this to establish order for the record.

Chair Hebert called for a vote, all were in favor, and it was unanimously approved to adopt the agenda and amend to move Public Comments below New Business item 1-A.

VIII. New Business:

1. Joint Meeting of the Legal Committee and Marina Committee:

A. The Office of State Fire Marshal reported on Covered Boat Slip Inspection.

Chair Hebert introduced the staff of the State Fire Marshal's office to speak on the issues of their report.

Fire Marshal Daniel Wallis thanked the LMA for the invitation to meet on this significant issue. We all have the same objective to preserve life and property from the standpoint of code enforcement. He has been Fire Marshal since May of this year.

He introduced his staff who were also there to provide information and answer questions.

- Malinda Long – OSFM Legal
- Joe Delaune – OSFM Chief Architect
- Erin St. Pierre – OSFM Chief of Special Services
- Chief-Officer Nick Heineman – OSFM Chief of Enforcement

He talked about the OFSM system that has worked well for a long time, his staff, the general process of his office, and the order of the system in place to evaluate, address, and resolve the issues at the covered boat slips to reestablish a life safety plan. He mentioned the following two items which need to be evaluated, addressed, and resolved at the CBS:

- There have been substantial renovations at the CBS properties where there may have been a failure to submit the plan of construction to the Fire Marshall's office before renovations were made may be from several years back before any of us were involved.
- (Features of Life Safety) The fire sprinkler system needs some major repairs.

Fire Marshal Daniel Wallis closed by adding when we run into issues such as these, it is a common procedure for us to evaluate what we find as it relates to the life safety code. He introduced Mr. Delaune to expound.

Joe Delaune – OSFM Chief Architect, stated that he's been with OFSM for 24 years, and over time he has seen many code changes over the years.

This building came to him about a year ago. Plans were drawn up to change the sprinkler system. Once the price came back, it wasn't feasible and the plan came to a standstill.

He has read everything on the covered boat slips and disagreed with the many arguments that the building doesn't require a sprinkler system. He said codes, standards, rules, and laws change often. He would like the opportunity to discuss other applicable laws to come up with other useful ideas.

He added that the use of the building goes beyond storage, there is also sleeping that goes on in the building. He affirms that to continue in its current use, it needs to have a sprinkler system.

Mr. Delaune offered an option, allowable by law during plan review, 'to apply equivalencies', which allows you to propose to do something in addition to or equivalent, to bring something up to code standards. All these things point to protecting the building.

Malinda Long – OSFM Legal spoke to the appeal process.

- At first receipt of appeals, she discussed with staff and was told how the appeal time was calculated by the previous attorney's interpretation of the law.
- Later, after speaking with LMA staff, Mr. Capo and Mr. Dye, who have been great advocates for the CBS tenants, it was discovered that Saturday and Sunday should not be included. Still, only one person, Des Cranes, filed his appeal in time to which all of his questions received a response.

Erin St. Pierre – OSFM Chief of Special Services, yielded her time to Officer Heineman to give an overview of the OFSM process and what happens when we:

- receive complaints.
- Investigate a complaint.
- See a danger that poses a life safety threat to people.

Chief Officer Nick Heineman – OSFM Chief of Enforcement spoke about the obligation to investigate once a complaint is received. We are not limited to inspecting just the original complaint, which was about a sprinkler system in disrepair, in this case. We are also obligated to make sure all life safety features in the building are maintained.

He reported finding construction that was never submitted and reviewed. Part of the inspection process would be to have an accurate review and release of plans from the Plan Review Division. The constructions encountered upon entering the structure were not submitted for review, were not proper, and were deemed a life safety hazard because of the impairment to egress including the sprinkler system as designed.

Chair Hebert called for public comments.

IX. Public Comments

Mike Fenasci –Attorney addressed his clients’ issues with the State Fire Marshal Office’s Cease and Desist order and the faulty Appeal process. While he appreciated the Fire Marshal’s comments on the preservation of life but there are limits to those things as well. The covered boat slip leaseholders have cleaned the entire CBS marina area and to his knowledge, the Fire Marshal’s Office has not been back out to inspect the facility.

- There must be a higher level of reasonability in the way you invoke your authority. He used the example of the threat of arrest if the tenants went to their boats in the latest Cease and Desist order. The LMA was served, not the tenants. Under the law, the Code of Civil Procedure has not been followed by OSFM as a governmental authority.
- The Appeal process was a joke. The LMA was served, not the tenants. Tenants cannot be denied an appeal if they have never been served with the original complaint.

Mr. Fenasci closed by suggesting that the OSFM work closer with Mr. Gulino and staff to resolve the issues of the Covered boat slips.

Fire Marshal Wallis requested to respond stating that this was his and his staff's first meeting.

Chair Drouant interjected to suggest that the public be allowed to complete all their comments and have the OFSM follow with their response after, rather than the back and forward of questions and responses.

Hollie Radtke – CBS #8 expressed the stress and undue burden this has caused to her family and all involved. She commented on the following:

- There has been no permanently affixed “renovation or construction” to anything in this building. There are tools stored in the sheds which were there when she leased the slip 2 11/2 years ago.
- As she understood the history of CBS, the structure has been inspected annually. There is (1) one apartment of the (26) that was supposed to have been built in existence since 1986. She stated that the apartment and other add-on structures have been in existence since 1986.
- If the building has been inspected annually, why is it that there is this big problem this year?
- She wants clarification on financial reimbursement for the extraordinary expense incurred.
- She also added that the appeal process was faulty. The tenants received notice of the Cease and Desist post close of business on a Friday. She filed her appeal by the following Wednesday before 4 PM. If the weekend days do not count, she does understand why her appeal was deemed “filed untimely”. The OSFM Appeal Process is unfair. At a minimum, her appeal and several others should be considered.
- Exhausted with (2) minute public comment meetings and would appreciate a forum where she could have an honest and truly informative conversation.

Ray Blancher CBS #20 commented on the following:

- asked if the OSFM had reinspected the building.

- There is only one structure that is livable, which is the apartment. The other structures are simply sheds used for storage.
- Stated that the report was very general and poorly written.
- Let the panel know how he is a live aboard and this has totally disrupted his life.

Russell Choina CBS#2, NOFD Fire Captain with knowledge and training for fire suppression system flow testing, posed the following questions and concerns about the fire sprinkler system:

1. Were annual flow tests performed on the sprinkler system?
2. Where are the annual reports from the city or state fire marshal office and how were the issues addressed back then?
3. How is it that the tenants have been displaced by issues they did not cause?

Don Cheramie CBS tenant, commented on the stress this is causing tenants. They want to remain safe and do what is right for all parties involved. He suggested contacting Jefferson Sprinkler to address the issues. They gave savable options to bring the building back into compliance. In closing, he expressed that the tenants felt abused.

Raj Anil, CBS tenant and registered engineer (40ys), commented on the issues with the fire sprinkler system and the city's water supply (flow) to the sprinkler system.

Rick Renfroe CBS#5, state-certified general contractor, commented on his family's use for the slip since moving to New Orleans. In his line of work, is very knowledgeable about what is going on. He understands that we have proper water pressure and volume for the sprinkler system. LMA staff has made several life safety improvements since the latest Cease and Desist order was issued. The tenants are asking for discretion.

He closed by stating that the tenants do not have clarity on how to obtain the proper permits. He called the Fire Marshal's office himself and was told that they do not issue permits, nor does the city. He was given permission for his pavilion by

the previous harbor master and has gone on the record with the current board to ask for assistance with obtaining proper permissions.

Chair Hebert commented to the Fire Marshal's office that the tenants are passionate about getting back to their slips. She invited the OSFM to speak about the tenant's questions and concerns.

Fire Marshal Wallis asked for a brief recess to consult with his staff before addressing the public.

Commissioner Carr asked for clarification from Mr. Dye on who issued the letter(s) that were issued addressing the arrest and fine.

Jeff Dye stated that there was no letter from the Fire Marshal. LMA Staff met with Captain Russell Shultz on Friday, September 16th. He informed us that anyone who entered the building in violation of the Cease-and-Desist order would be subject to possible arrest and provided revised the statute that provides for arrest. That information was incorporated into the letter to the CBS tenants.

Fire Marshall Wallis thanked the board members for allowing him to confer with his staff to provide the best information and to talk about how to move forward. He talked about his 43 years of service and the experience of having witnessed loss from life safety hazards. OSFM wants to work with both LMA and the tenants. It is hard and often unpleasant. However, there is always a solution that will take an effort in concert to resolve this issue.

He introduced Ms. **Erin St. Pierre** – OSFM Chief of Special Services to speak more about the background information.

Ms. St. Pierre addressed the following questions and concerns:

- What was given to Mr. Capo?
 - o Mr. Capo was served with the Inspection Report and Cease and Desist Order on a Thursday

- Mr. Fenasci's question regarding service and due process
 - o The law relative to service is RS: 40:1576. This law allows us to serve the person in charge of the premises.

- She stated that OFSM is willing to serve the tenants. However, this often does not lead to a solution because the tenant is not able to resolve the issue. However, serving the tenants will start the appeal process again where they would have (3) business days to appeal to the State Fire Marshal. He would issue a response and the tenants would follow up with the board of review 5 days after the response is issued.
 - She detailed the authority of the Board of Review which can assist with equivalencies.
- Assertions to annual inspections:
- The OSFM is not required to perform annual inspections.

Chair Hebert asked if there had been any inspections done recently.

Ms. St. Pierre stated that the OSFM was not asked to do a re-inspection.

Mr. Dye stated that LMA did request a reinspection through a discussion with Ms. Long. We were informed that there would be a reinspection before today's meeting. Reinspection was requested in discussion and in writing.

Ms. Long stated that she would consult with them about a reinspection but unfortunately, Captain Shultz is deployed to the Florida hurricane response. If we could get a list of things that have been before inspection.

Chair Hebert asked if this could be done today.

Chief Officer Nick Heineman stated that he could look at the schedule and let the board know.

Ms. St. Pierre added that the report is used as a checklist during the reinspection, to see if the issues were corrected and or if we find new violations that would also go into the report.

- Sprinkler System Issues:

- Louisiana law is that contractors licensed through OFSM, perform inspections, repairs, service maintenance, etc. to properly tag the fire suppression systems.
 - **Yellow tagged denotes:** Impaired but functional. Additionally, if impaired for 60 days or more it then becomes red-tagged.
 - **Red tagged denotes:** Nonfunctional.
 - The sprinkler system at the CBS slips is not tagged at all which is a real red flag. What happened to it is not noted in the report at all.

Mr. Delaune stated that the missing tag and impaired state of the sprinkler system is the real issue. The building is defined by the code. He does not write the code, the laws, or the rules. However, as the chief architect, he tries to help with compliance wherever he can. The extent of the system is to protect everything under the roof.

Specific items like the bar can be done, but must legally go through the process approval process.

He understood the tenants to say that the CBS slips were built in 1986. We haven't seen it since. Until we received the complaint.

As the chief architect, plans have not been submitted to plan review. The goal is the repair of the sprinkler system. Then we can address the buildouts.

Ms. St. Pierre added that the sprinkler system and the additional renovations have not been submitted to the OSFM for review as required by RS 40:1574.

Fire Marshal Wallis stated that the OSFM wants to work with the tenants and the LMA to resolve these issues. OSFM received a complaint and by law had to carry out an investigation. We found things that no one in this room created and we are charged with enforcing the codes to create a safe environment for all involved.

He added that Jefferson Sprinkler is a licensed reputable sprinkler company that can come out and certify the sprinkler system they report it to us and the issue

becomes smaller. OSFM is willing to do anything it can to expedite them within the limits of the law.

Ms. St. Pierre requested a list of tenants for future reference. It would be helpful.

Chair Hebert asked what needs to be done to get the tenants back into their slips. Also, will there be a reinspection?

Fire Marshal Wallis stated that plans need to be submitted for the sprinkler system for the CBS slip building since 1986.

Chief Officer Nick Heineman responded that the Cease and Desist were put on the occupancy of the building because of the deficiencies of the building. We worked with the LMA to establish a fire watch to allow tenants time to get their belongings. We would like to see this practice continue until a suitable resolution for repair is reached for the sprinkler system.

He added that is not their primary focus is not arrest.

Holli Radtke had questions regarding the process of repair for the sprinkler system.

Mr. Delaune detailed the process for a project this size. The professional of record provides the speculations to develop plans. To his understanding, there are plans for a sprinkler system. What has not happened is the plans have not been submitted to the fire marshal for approval.

Adam Gulino explained that Jefferson Sprinkler has done an inspection and provided us with a list of items to be repaired to be completed on October 25th and hopefully green tag the system.

He added that Linfield Junius and Hunter will also be submitting the plans to the OSFM for review to start the process of equivalency.

Commissioner Carr asked what equivalency meant.

Mr. Gulino stated that we do not have the required flow pressure. We would have to use equivalencies such as safety lighting, exit signs, and emergency lights.

Mr. Delaune stated that equivalencies are an option, not a law. It is something we like because it is common sense. We cannot change the law, but we can accept them because of sensibility.

Chair Hebert stated that going forward, the sprinkler system is the biggest issue. The LMA is moving forward with sprinkler system repair.

Ms. Vincent asked for clarification to get the tenants back on their slips.

Mr. Delaune stated that the sprinkler system must be able to protect life.

Chief Officer Nick Heineman explained what it would take to get the tenant's temporary occupancy which is the sprinkler system repaired.

Jeff Dye provided a detailed history of the cease-and-desist orders from June 23rd to September 15th. There has been a lot of effort by the tenants and the LMA has done a lot to correct those conditions. Can the conditions that resulted in the Cease-and-Desist order on September 15th be revisited to go back the June 23rd so the tenants can go back to their slips?

Fire Marshal Wallis asked for the opportunity to go back and look at their documents before giving a definitive answer.

Mr. Delaune asked for a list of the live-aboard tenants and what fire protection is on their boats.

Hollie Radtke asked for additional consideration for the following.

1. Opportunity to maintain their vessels.
2. Establish Provisions for hurricane /storm prep.
3. Asked to be included in the conversation.
4. Boat owners need a structured storage facility to hold tools and supplies for the boat

Commissioner Carr asked for a timeline for repairs.

Gerry Metzger stated that the immediate goal is what Mr. Dye stated to the Fire Marshal to return to the June 23rd Cease and Desist order and have the tenants gain immediate temporary occupancy to their slips in the short term. The long-term is to work on the equivalencies and to get the sprinkler system back into compliance. We have the information to provide to the chief about everything that staff has

done to put the facility in a condition to show we're back to where we were in June. Unfortunately, that may include the removal of the structures that we have asked to be removed.

Commissioner Carr spoke on behalf of the tenants who have expressed that it's not feasible to ask tenants to remove their structures.

Mr. Dye stated that it's not permitted under their lease.

Chair Drouant stated that it is important to continue to work on the issues that we can. The only committee left is the Legal committee. He is the chair of the Legal committee which has a meeting scheduled for October 20th. He would like Mr. Dye and the Fire Marshal to meet to discuss the (2) orders; on June 23rd and September 15th to work out the compliance issues with that and Mr. Dye can report back to the legal committee on October 20th. He would also like to see a discussion on a timeline as well.

Commissioner Carr asked for clarification regarding the structures not being permitted in the lease. Is the board recommending the removal of the structures or is this something we could work on with the tenants and the fire marshal?

Chair Drouant asked for a copy of the Marina lease for his review.

Commissioner Carr also stated that there was a tenant meeting with the previous board to discuss drafting a new lease for the covered boat slips. He asked for relief from enforcing the lease that doesn't apply to the CBS.

Fire Marshal Wallis asked if he could be excused due to another meeting in Baton Rouge.

Mr. Dye asked if they could return to the June Cease and Desist Order.

Fire Marshal Wallis asked him to send the detailed information and he will formally review it and respond tomorrow.

Chair Drouant thanked the OSFM for their time and adjourned the meeting at 1:05 PM

1. Announcement of the next Marina Committee Meeting

1) Tuesday, October 18, 2022 – 3:30 P.M.

Announcement of the next Legal Committee Meeting

2) Thursday, October 20, 2022 – 2:30 P.M.

2. Adjourn at 1:05 PM