

Minutes of a Special Board meeting of the North Lafourche Conservation, Levee & Drainage District, Friday, March 24, 2017

A Special meeting of the North Lafourche Conservation, Levee and Drainage District Board of Commissioners was called to order by Board President Cory Kief at 5:00 PM on Friday, March 24, 2017. The meeting was held at the District's office at 3862 Highway 1 in Raceland. Commissioner Matherne led the assembly in the Pledge and Commissioner Tuck led the Invocation.

The President called roll. Commissioners present were: Timothy Allen, Rodney Foret, Cory Kief, Kenney Matherne, Adley Peltier, Robert Pitre, and Joni Tuck. Commissioners absent were: Louis Andolsek, Darcy Kiffe, Elmo Pitre, and Shawn Preston. Others present were NLLD Executive Director Dwayne Bourgeois; NLLD Administrative Assistant Madonna Viguerie; and Mr. Pat Amedee, Legal Counsel.

Board President Kief stated that the purpose of the special board meeting was to discuss and potentially take action, including expropriation, to address concerns for a particular property as it impacts the District's Lockport to Larose Levee Project, then he turned over the floor to the Director to discuss the issue at hand and the broader possibilities.

The Director reported that there is a landowner removing a considerable amount of material out of the area where the district is requesting the right of way. He explained that the board has authorized and instructed the Director to make offers to the landowners to donate or sell the requested right of way to the district and that has been done; however, when faced with this situation the Director does not have the authorization to rescind that offer, even though the actions of the landowner have substantially changed the material (dirt) value to the District. The Director suggested that the board should consider such an authorization, that if changes to the material are observed, the board can decide the next action on a case by case basis. He suggested that it be handled in two discussions: 1) consider the authorization to rescind by a motion of the board, and 2) discuss this particular case where it has occurred and the board can decide what action is appropriate.

As suggested by Mr. Pat Amedee, Legal Counsel, a motion was made by R. Pitre, seconded by R. Foret, to permit the Executive Director, with consultation of the Board President, to rescind any offer to purchase property where it is determined in the judgment of the Executive Director that the property has been materially altered by the landowner prior to the sale. Discussion ensued regarding the need for this resolution and the Director explained that although the motion does not suggest the next action, it is a guideline to pull the offer from the table, until further analysis can be made if any property has been materially altered, and this assures that all landowners are treated fairly. He reminded the commissioners that the board has said all attempts of expropriation are to be cleared by the committee and then the board. Regarding the current particular concern, the removed material at this time is just a remnant or spoil bank, but if the dirt removal continues, the district would have no need to expropriate, because without the material there is no value to the district. The Director explained that the board granted the authority to use the evaluation amount previously considered based on marketability of the property; however, he explained that the district's sense of value for the property is in the material (dirt) interest for the project. To offer a lower amount of money, given the fact the board has authorized the usage of the evaluation value by the appraisers, could subject the district to a possible suit. And if the dirt removal is taken to the extreme and if all of the material is gone, the district should not expropriate because there would be no value

to the District. With the authorization to rescind the offer, a letter could go out to any landowner putting them on notice to not take any more material and sign the right of way agreement which states "the grantor will not remove any material from the property." If the agreement gets signed and the landowner continues to remove material, there is a breach of contract and grounds for a law suit. If the landowner does not sign the agreement and continues to remove material, the board would need to analyze the particular situation for the next action.

Discussion ensued regarding the legal standing of the offered amount in the letter and the response card. Board President Kief suggested if a returned response to sell was received from the landowner manipulating the dirt, possibly the court could stop the removal of dirt until it would get cleared up; however, Attorney Pat Amedee said an ordinary lawsuit could take a year and that would not immediately stop the digging, which is what the district wants; therefore, expropriation would be needed. Mr. Amedee said the court could say the card was just a promise. To address the amount offered in the letter, the Director explained that when the appraisers performed the mass evaluation they were looking for how those individual lots would sell in the market, and the letter did not state that the value was attached to the value of the material. He added that it would seem that we would be subject to scrutiny if a landowner was paid something less than others, so pulling the offer is a first step, then negotiations would be on a case by case basis. For informational purpose, Attorney Pat Amedee briefly explained the expropriation process. Once the board would approve a resolution to expropriate a certain tract, the resolution would be attached to the petition with two appraisals. The District would be owners of the property immediately after filing and depositing the money in the registry of the court, and the only delay would be getting the appraisals. Suggestions were expressed on appropriate handling of the current concern; however, the Director suggested the commissioners complete their discussion about the motion at hand, then move on to a discussion of the landowner of concern at this time. With no further discussion, and no one from the public in attendance to offer comment, the motion passed unanimously.

The Director stated that now with the approved motion that allows the district to rescind the offer to the landowner, a letter can be sent to Mr. Cheramie. The Director distributed a draft letter to the commissioners that basically states the district is providing the landowner with the agreement to sign. While viewing the area on the overhead screen, the Director pointed out where the material was removed from and placed on other areas of Mr. Cheramie's property. He explained although not happy with the removal, the removed material is immaterial towards the entire project if he stops now. Commissioner Allen suggested that with the authority to rescind an offer, send the letter to Mr. Cheramie asking him to sign the agreement. If no signature, the District should move towards the quick take provisions upon the committee's blessings. It was suggested that these actions by this landowner may be retaliation of the Angelette dirt pit; however, the Director stated for the record, the Angelettes are donating their right of way and they were actually already a dirt business. The commissioners agreed that the letter should be personally delivered. Commissioner Tuck suggested that since Mr. Cheramie has already been brought into a committee meeting where progress was made, possibly the committee could have a role in the delivery of the letter. Motion was made by R. Pitre, seconded by T. Allen that the NLLD Executive Director, along with Commissioner Louis Andolsek, the Lockport to Larose/Valentine East/Gheens PA's Committee Chairman, go visit with Mr. Cheramie. Attorney Pat Amedee suggested they bring a notary and two witnesses with them to get Mr. Cheramie to sign the agreement right there. Motion was

made by R. Pitre, seconded by R. Foret to replace the original motion with additional directions that the NLLD Executive Director, along with Commissioner Louis Andolsek, LtoL/ValE/Gheens Committee Chairman, a notary, and two witnesses visit with Mr. Chermie to get him to sign the right of way agreement. Discussion ensued that the letter is a leave behind if he doesn't sign the agreement. Mr. Amedee suggested that the draft letter be edited to add that the NLLD reserves the right to take whatever action deemed appropriate, including expropriation. The compromise might be that all he wants to do is scrape off his headland. Mr. Amedee acknowledged that this action by the District is a good effort to maybe avoid expropriation. With no further discussion, and no one from the public in attendance to offer comment, the replacement motion passed unanimously.

The meeting was unanimously adjourned at 5:55 PM on motion by A. Peliter, with a second by T. Allen.

Cory Kief, President

Dwayne Bourgeois, Director