

Minutes of the meeting of the **North Lafourche Conservation, Levee & Drainage District Legal and Development Committee Meeting**

Date: Wednesday, June 29, 2022

A meeting was conducted on June 29, 2022, of the Legal and Development Committee of the North Lafourche Conservation, Levee and Drainage District. The meeting was called to order by Chairman Percy Gasery at 4 pm. The pledge was led by Percy Gasery and invocation given by the Tory Hebert. The Chairman called roll. Committee members present were Percy Gasery, Tim Allen, Tory Hebert, Rodney Foret (appointed by the chair to serve on behalf of committee member Robert Pitre). There was a full committee present. Others in attendance were: Executive Director Dwayne Bourgeois; Project Manager Arthur Ostheimer; Administrative Assistant Madonna Viguerie; Executive Assistant Katie DeRoche; Project/Accounting Assistant Brandy Theriot; and Field Coordinator Travis Colombel.

Construction Project and Equipment/Materials Anticipated Liquidated Damages Process:

Executive Director Dwayne Bourgeois stated he would like the committee to discuss the process for how the District would consider construction project and equipment/materials anticipated liquidated damages when applicable to a contract. He stated NLLD has never had to address liquidated damages, but he thinks it is important for the NLLD Board to adopt a process and in doing this, the NLLD will be much less likely to be accused of being arbitrary and capricious. D. Bourgeois said he and the staff came up with a framework of a draft process for the Legal and Development Committee to review. This will not be for recommendation or approval at this meeting, but for recommendation at another Legal and Development meeting before the July NLLD Board meeting for approval. D. Bourgeois began reading the purpose and preamble of the construction and equipment/materials project anticipated liquidated damages. The preamble describes the importance of the NLLD to be fair to all contractors and have a timely delivery of its projects to fight against flooding for the public when unexpected extratropical events take place. He then explained in detail a flowchart of the construction and equipment/materials project anticipated liquidated damages steps the NLLD will take. T. Allen stated this is a good start to the liquidated damages process. He mentioned there is a possibility to go to court on these issues and suggested the flowchart be more consistent with acronyms, naming our entity as North Lafourche Conservation, Levee and Drainage District (NLCLDD) and specifically stating who will be taking certain actions. He also stated he will add comments to the purpose and preamble of the process to recommend at the next Legal and Development Committee meeting. D. Bourgeois stated that although the Legal and Development Committee is not recommending this process at this meeting, he is asking the committee's consent of the first step of the process in sending Circle, LLC. and Marsh Buggy's Inc. a letter to begin discussions for consideration of mitigating circumstances in determining the number of liquidated damages days/amounts they have; he said this is a time critical process that is needed to have a recommendation of liquidated damages for the next NLLD Board meeting. The Legal and Development Committee was okay with sending the letters to Circle, LLC. and Marsh Buggy's Inc. before having the final draft of process adopted. NLLD Attorney Pat Amedee said this process should benefit the District in presenting a legal case to a judge because it shows the District's efforts to be fair and just for all parties involved. T. Hebert stated with a few corrections, this is a very good process, especially because the NLLD does have to be timely with the work it does in preventing flooding for unexpected events during hurricane season. P. Gasery expressed his appreciation for the NLLD staff in putting a lot of thought and effort into

this process and thanked T. Allen for his suggestions and positive constructive feedback. He stated this will be a very good and transparent product. T. Allen motioned, seconded by T. Hebert to enter Executive Session, pursuant to LA R.S. 42:17A (2), to discuss the procurement contract with Marsh Buggy's Inc. for the Linkbelt 130 Marsh buggy. No discussion or public comment. Motion passed unanimously. T. Hebert motioned, seconded by T. Allen to return to regular session. No discussion or public comment. Motion passed unanimously. T. Allen motioned, seconded by R. Foret to take any action authorized by the Board in Executive Session. No discussion or public comment. Motion passed unanimously.

The Chairman called for public comments; there being none, a motion for adjournment was made by R. Foret, seconded by T. Hebert and the meeting was unanimously adjourned at 5:28 PM.

/s/Cory Kief, President

/s/Dwayne Bourgeois, Executive Director