

**ROAD HOME CORPORATION, d/b/a LOUISIANA LAND TRUST  
BOARD OF DIRECTORS MEETING  
MINUTES OF MAY 15, 2009**

held at  
Lindy C. Boggs International Center  
2045 Lakeshore Drive  
New Orleans, Louisiana

**CALL TO ORDER AND INITIAL MATTERS**

The May 15, 2009 meeting of the board of directors was called to order by Vice Chairman Water Leger, Jr. The roll was called with the following results:

Present: Walter Leger, Jr., Vice Chairman  
Joseph Williams, Treasurer  
Donald Vallee  
Dr. Daryl Burckel  
Wesley Wyman  
Alvin Guillory  
Absent: None

A quorum of the board was present.

Mr. Leger, as Vice Chairman, presided over the meeting in the absence of former Chairman Ernest Broussard. Mr. Leger suggested that replacement officers should be addressed at another time, given that the board was still one member short, awaiting another appointment by the Governor.

Mr. Leger extended thanks to former Chairman Broussard whose term ended when Mr. Alvin Guillory, a real estate broker from Lake Charles, was appointed in Mr. Broussard's stead. Mr. Leger welcomed Mr. Guillory, who was introduced to the board. Mr. Guillory stated that he was looking forward to serving.

Mr. Leger moved to create a plaque for Mr. Broussard to show the board's appreciation. After a second by Mr. Williams, the motion passed unanimously.

**CONSIDERATION OF THE MARCH 11, 2009 MINUTES**

Approval of the minutes of the March 11, 2009 meeting was considered, but deferred pending preparation of formal minutes from the transcript of that meeting.

Mr. Leger outlined his expectation that the prepared minutes would be confined to action taken (including the movant, the board member seconding a motion, and the vote), and subjects discussed. The minutes need not recite all the discussions. However, any board member could specifically request that the minutes reflect the comment or position.

## **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Mike Taylor reported on the surprising growth in LLT's inventory, which now stands at 9,807 properties, and could exceed 10,000 properties soon. LLT received 175 properties last week alone. About 1,500 Road Home Program grant applications are still being processed. LLT Real Estate Manager Cathleen Carney estimated that another 550 to 600 houses would end up in LLT's inventory.

There was a general discussion about LLT's inventory of properties, demolition contractors and budget, as well as the processing of new applications in the Road Home Program.

Mr. Taylor reported that LLT is in the process of completing Cooperative Endeavor Agreements with four or five parishes that have not adopted disposition plans. All but two have agreed to sign. Lafayette Parish declined to sign, and instead asked that LLT dispose of the one LLT property in that parish. Plaquemines and St. Mary Parishes haven't signed yet; LLT is waiting to get them to agree.

Mr. Vallee reiterated the request he made at the March 11, 2009 meeting for a monthly report by parish as to where we are, and a critical path schedule showing a time line is for every event going out through completion. It needs to cover the disposition plan, the environmental, the demolition schedule, how long it's going to take for each activity, who's holding up what, where, when, and how. He stated LLT needs a schedule to anticipate when the lots would be taken down and to forecast by parish when LLT is going to complete these transactions.

## **PROCUREMENT AUTHORITY FOR DEMOLITION CONTRACTS**

LLT's General Counsel, Victor Franckiewicz presented his recommendation to the board to amend LLT's procurement policy to facilitate the process of awarding demolition contracts. As background, he explained that LLT's authorizing statute created does not require LLT to comply with public bid law, but because of its federal funding, LLT must follow CDBG regulations, which require a written procurement policy. LLT

has elected to track the public bid law process closely because it is well known in the contractor community.

The dollar value of most demolition contracts generally requires board approval before award. Because of the large number of demolition contracts that need to be awarded during the demolition program, LLT staff, counsel, and CDM's program management team recommend an amendment to the procurement policy to authorize the Executive Director to award demolition contracts without prior board approval, subject to the key conditions that the board members are notified in advance, and that the award is to the low bidder. Mr. Franckiewicz handed out copies of the proposal. He noted that the proposal would merely authorize the Executive Director to proceed. It would not eliminate current pre-award procurement procedures.

The board generally discussed the merits of the proposal, and raised several concerns about board oversight, the sizing of contracts, contractor capabilities, and outreach programs for disadvantaged businesses, minority business enterprises, and other small businesses. Mr. Franckiewicz summarized current efforts, which include advertising in media outlets in addition to the Times Picayune (such as the Louisiana Weekly), and distributing bid announcements to an extensive list of small minority business contractors through the same group that handles outreach efforts for the Recovery School District. Mr. Taylor also noted that LLT will conduct a workshop for prospective bidders as part of its outreach to small contractors.

Both Mr. Leger and Mr. Williams stated that the board needs to maintain some oversight, even with a streamlined contract award process.

Mr. Williams moved adoption of the proposed amendment to the procurement policy for the purpose of further discussion. Mr. Wyman seconded the motion. Mr. Franckiewicz suggested that the proposal could be revised to provide for a board-member objection procedure, and to incorporate other ideas raised by the board. He suggested that the board allow him time to redraft the language to propose to the board later in the meeting following CDM's presentation of the demolition program. The board agreed to defer action on the procurement policy until later in the meeting.

## **DISCUSSION OF ETHICS AND CONFLICTS OF INTEREST**

Because of the impending discussion of awarding one of the demolition contracts, Mr. Leger disclosed that he recently had represented one of the bidders – Cross Environmental Services, who was not the low bidder – in unrelated litigation, and that Cross Environmental is now a former client of his. Mr. Leger indicated that if Cross Environmental had been the low bidder, he would recuse himself.

## **STATUS OF LLT LEGISLATION (HB670)**

Mr. Franckiewicz reported to the board on the status of LLT's Legislation, HB670. He distributed copies of the legislation, as introduced, and explained amendments anticipated in the Appropriations Committee. He expected the amendments to eliminate the proposed revisions to the Louisiana Recovery Authority's statute. While those changes are desirable to draw a better distinction between the road Home Program and Road Home Corporation (LLT's official name), the changes could create unintended consequences for the Road Home Program that have not been fully addressed.

The board discussed the relationship between Road Home Program and Road Home Corporation/LLT, and the problems created by the confusion between the two, most notably that Road Home Corporation/LLT is frequently sued by dissatisfied Road Home Program grant recipients, even though LLT has nothing to do with awarding grants.

Mr. Vallee moved to seek an amendment to the pending LLT legislation to allow LLT to change its official name to Louisiana Land Trust. Mr. Williams voiced a second to the motion, which carried unanimously.

## **ADMINISTRATION FEES FOR PARISH LOT NEXT DOOR PROGRAM**

Responding to an information request made at a prior board meeting, Mr. Taylor briefed the board on the effort required at the parish level in large parishes such as Orleans and St. Bernard to manage their lot next door programs, including the cost of researching records to determine eligible buyers, notification, appraisals, and other costs of administering the program. OCD, LRA, and LLT jointly agreed that the reasonable cost, including appraisal, was \$1,345.00 per fair market value closing. Without an appraisal, the fee would be \$970. These fees are paid at closing from the proceeds of the sale, and would be paid to NORA (in the case of Orleans Parish) or to St. Bernard Parish, which would use the funds to defray the cost of its lot next door program administrator. This fee has been in place for a while, but has never formally been considered by the board.

Mr. Vallee moved to approve the fee and the procedure for paying it for sales where cash is available from the proceeds of the sale at closing, and that the costs should be reevaluated every 90 days. Mr. Williams seconded the motion, which passed unanimously.

## **ENGAGEMENT OF LEGISLATIVE AUDITOR FOR INVOICE REVIEW ASSISTANCE**

Mr. Taylor advised the board of the need for assistance in processing the large volume of invoices and backup materials that are anticipated as the demolition program ramps up. He is discussing an agreement with the legislative auditor to provide personnel for that assistance. The engagement would last about a year. The fee would be \$95 per hour. A formal engagement would be delayed until consultation with other stakeholders. Mr. Leger asked Mr. Taylor to report back to board on the matter at the appropriate time.

## **CSS UPDATE**

Deputy Director Raymond Allen reported a favorable update on CSS. LLT has had 297 cases of illegal entry since last report, which is an increase, but none of these resulted in police assistance.

Mr. Robert Halliday, Project Manager for CSS reported that 95% of the illegal entries were in Orleans Parish, which is where CSS is now focusing all of its patrolling.

Mr. Vallee commented that CSS is doing a good job.

## **TASK FORCE UPDATE**

Mr. Allen commented that LLT's maintenance contractor, Task Force, is to be commended. 97% of LLT properties are now in routine maintenance. Two recently acquired properties have pools which have not yet been mitigated, although secure and drained. As of today, LLT still has five properties occupied by former residents.

## **TRANSFER UPDATE AND STATUS**

LLT's Real Estate Manager, Cathleen Carney, reported on transfers. LLT has received 102 requests for closings in Orleans Parish, but 19 of those have been cancelled., 27 have been completed. Title work is done on the remaining 56 properties, and 14 of those are scheduled for closings by Wednesday of this week.

Mr. Carney provided an overview of the "Growing Home" program whereby a lot next door purchaser can credit up to \$10,000 of the purchase price from expenditures on greening the space, fencing, planting, and similar enhancements.

Mr. Vallee expressed his opposition to the “Growing Home” credit for Lot Next Door purchase. He felt that the program provided preferential treatment for purchasers from LLT, and that others – whether next door or down the street – would not get the same consideration. While he recognized that Paul Rainwater and others in state government have approved the program, he felt it was still a bad practice.

Mr. Leger stated that he thought the Growing Home Program was a good idea.

In Jefferson, LLT has requests for transferring 21 properties to the housing authority, and appraisals are in process. Additionally, LLT has started the process for auctioning 91 properties in Jefferson, and the action will probably be in mid August.

In St. Bernard Parish, LLT has requests for 15 transactions, but none can go forward until the completion of environmental reviews by the state. In St. Bernard all but 117 structures have been demolished.

## **DEMOLITION UPDATE AND STATUS**

Mr. Taylor introduced Robert Batherson, CDM’s Principal and Project Manager for the demolition program management contract. Mr. Batherson provided the board with and extensive presentation of the demolition process, including all of its regulatory steps. He showed how the various approvals required at the state and local level interact. He described the demolition fail safes and the steps taken to insure that the paperwork is correct, and that all utilities are safely disconnected prior to demolition. He provided a slide presentation showing how the demolition contracts will be staged in different parishes over an 18-month period.

The board had a general discussion concerning the bid and contract award process, and discussed the asbestos abatement issues and costs for the demolitions. Mr. Batherson presented comparative costs of demolition, and pointed out that LLT’s cost of roughly \$7,000 per house is significantly lower than the historical costs for post-Katrina FEMA demolitions, which have run as high as the \$20,000 to \$30,000 range. Further, LLT’s demolitions include the slab, whereas the FEMA demolitions do not.

Following Mr. Batherson’s presentation, Mr. Taylor presented the bid results for Demolition Bid Package No. 2, removal of 250 slabs in St. Bernard Parish, CDM Project No. 79998-69262, and recommended awarding the contract for \$507,857.13 base bid to the low bidder, Durr Heavy Construction, LLC.

Mr. Vallee moved to approve the recommendation of Mr. Taylor to award Demolition Bid Package No. 2 to Durr Heavy Construction, LLC. The motion was seconded by Mr. Williams, and approved without objection.

The board took up consideration of Demolition Bid Package No. 4, which consists of approximately 100 utility disconnections in Jefferson Parish, CDM Project No. 79998-69262. Mr. Taylor recommended awarding the contract to the low bidder, New Orleans Demolition Services, LLC, in the base amount of \$111,850.00.

Mr. Wyman moved to approve the recommendation of Mr. Taylor to award Demolition Bid Package No. 4 to New Orleans Demolition Services, LLC. The motion was seconded by Mr. Vallee, and approved unanimously.

The next demolition project addressed by Mr. Taylor was Demolition Bid Package No. 3, for structures in New Orleans, CDM Project No. 79998-69262. The low bidder is Ferguson's Enterprises, Inc. of Michigan.

Mr. Batherson and Mr. Franckiewicz briefed the board on their findings regarding Ferguson's qualifications and background. Ferguson's is based in Detroit, Michigan. Unlike the low bidders for other LLT contracts, Ferguson's is locally unknown. It has the proper licenses in Louisiana, as does its designated asbestos subcontractor. However, in the process of performing due diligence on Ferguson's, it was discovered that the company (and its principal, Bobby Ferguson) have been the subject of considerable press coverage and controversy in Detroit. News articles indicate that Ferguson's has been accused of "pay to play" contracting schemes with the City of Detroit during the administration of former Detroit Mayor Kwame Kilpatrick, with whom Bobby Ferguson is reported to be a close associate.

Federal regulations prohibit the use of CDBG funds to contract with debarred or suspended contractors. The federal Excluded Persons List System (EPLS) was checked. A "Bobby Ferguson" and a "Ferguson Construction" were both listed by the Veterans Administration. Mr. Franckiewicz reported that he was unable to determine whether the parties on the EPLS were the same as (or related to) the Ferguson interests at hand. He contacted the Veterans Administration, which had no backup records on the listing, and which advised that these names were put on the list in 1997, and should have been removed from the EPLS in 2000 in the normal course of business. (Names are routinely removed after three years.) The Veterans Administration indicated that the names were in the process of being removed, now that the error was discovered. Consequently, Ferguson's is not disqualified by the EPLS.

Bobby Ferguson's business dealings in Detroit are under investigation by federal authorities, including the HUD Inspector General. Mr. Franckiewicz contacted the U.S. Attorney's office in Detroit, but that office was prohibited from providing information regarding an ongoing investigation. Published news reports revealed that a federal

subpoena was executed to secure Ferguson's records from the same location listed as the address for his company in the bid to LLT. However, no indictments have been issued.

Public records disclose that Bobby Ferguson was convicted of felony assault in 2005, and was recently convicted of drunk driving in April 2009.

Mr. Franckiewicz noted that none of these issues bear directly on Ferguson's ability to demolish houses, but they do reflect on his personal conduct and business practices. Mr. Franckiewicz advised that his legal opinion was that it was within the board's discretion to either award the contract to Ferguson, or to determine that he is not sufficiently responsible to be awarded the contract. He further advised that even though a decision to reject awarding the contract to Ferguson was within the board's discretion, it was at the outer limits of that discretion, whereas a decision to award the contract to Ferguson would be comfortably within the limits of that discretion.

Mr. Taylor recommended that the contract be awarded to Ferguson. He informed the board that he and LLT's consultants had carefully weighed the pros and cons of such an award, and concluded that it was in the best interest of LLT to make the award, but closely monitor performance, in light of reports on Ferguson's background. Mr. Taylor was of the opinion that managing the contract with Ferguson's was less of a risk to LLT than not awarding the contract.

Mr. Vallee moved to approve the recommendation of Mr. Taylor to award Demolition Bid Package No. 3 to Ferguson's Enterprises, Inc. of Michigan. The motion was seconded by Mr. Williams. The motion carried.

## **CONSIDERATION OF PROCUREMENT POLICY AMENDMENT (RESUMED)**

Mr. Franckiewicz presented a revised version of the procurement policy amendment addressing a streamlined demolition contract award procedure, incorporating a number of concepts articulated by the board earlier in the meeting. Mr. Williams, who previously moved the adoption of the amended procurement policy, accepted the amendment, as did the second, for the following new section as an amendment to LLT's procurement policy:

### **VI. DEMOLITION CONTRACT AWARD PROCEDURE**

#### **A. AUTHORITY OF EXECUTIVE DIRECTOR**

For demolition contracts procured by competitive sealed bids, the Executive Director is authorized to award contracts without prior board approval, provided the following conditions are met:

1. The award is to the low bidder, based on the bid items and quantities stated in the solicitation.
2. Notice of the apparent low bidder and intent to award shall be posted on LLT's website, and distributed to the LLT board at least seven days in advance of the contract award date. The information distributed to the board shall include a bid tabulation showing all bidders and unit prices for each bid item, along with additional information pertinent to the award. This seven-day period is intended to provide time for due diligence by the LLT staff, LLT's demolition management contractor, and other advisors; to coordinate with local, state, and federal entities, if necessary; and to afford board members the opportunity to review the proposed award.
3. The Executive Director shall advise the board and coordinate with the Chairman regarding matters raised by board members during their review of the proposed award. Any board member may request that the contract award be deferred for board action. In that case, the award shall be held in abeyance for consideration by the full board.
4. After the seven-day period, the Executive Director may award a contract and execute appropriate contract documents, unless the Executive director determines that the information developed during the seven-day period merits full board consideration.

***B. OTHER PROCUREMENT POLICY PROVISIONS  
UNCHANGED***

Except as expressly provided herein, nothing in this Section VI shall be construed to authorize the Executive Director or anyone on behalf of LLT to deviate from other provisions of this procurement policy, nor eliminate alternative methods of procurement and contract award provided in this policy. The intent of this Section VI is to provide administrative flexibility and facilitate the process of procuring and awarding the significant number of demolition contracts required to support LLT's mission in the near term.

Mr. Leger called for a vote, and the amendment to the procurement policy was adopted without opposition. Mr. Leger noted that the amendment would go into effect immediately with respect to demolition contracts coming up for bid.

## **FINANCIAL REPORT**

Mr. Vallee moved to receive the financial report “as is” for review, but requested that reports in the future be provided more timely.

Mr. Franckiewicz called the board’s attention to a technicality regarding the agenda: by mistake, the financial report item was omitted from the agenda posted 24 hours prior to the board meeting. Accordingly, to comply with the Open Meetings Law, the board would have to amend the agenda by a unanimous vote before considering the financial report.

The motion was made to amend the agenda. It received a second, and all four board members then present voted to amend the agenda.

Mr. Vallee’s motion to receive the financial report was seconded by Mr. Williams. The motion was adopted.

## **PUBLIC COMMENT**

Mr. Leger opened the floor for the public comment. Barbara McArd asked if property is being tested for contamination, and asked whether concrete from LLT’s demolition activities could be used to help control shoreline erosion. Mr. Vallee suggested putting Ms. McArd in touch with CDM to pursue the matter.

Another audience member urged the board to insure that properties to be demolished are checked first by a “walk through” to make sure no one is occupying a structure that is slated for demolition.

## **LEGAL STATUS REPORT**

Mr. Williams moved that the board enter executive session to hear a report on the pending legal matters listed by case name and docket number on the agenda. The motion was seconded by Mr. Wyman. The following, constituting all of the board members then present, voted in favor of going into executive session: Mr. Leger, Mr. Williams, Mr. Vallee, and Mr. Wyman. (by this time, Dr. Burckel and Mr. Guillory had left the meeting). The vote satisfied the two-thirds requirement of La. R.S. 42:6, and the board retired into executive session along with Executive Director Mike Taylor and General Counsel Victor Franckiewicz.

The board returned from executive session on motion by Mr. Vallee and a second by Mr. Wyman, which was approved. Mr. Franckiewicz noted for the record that no action was taken during the executive session.

## **ADJOURNMENT**

Mr. Wyman moved to adjourn, which was seconded by Mr. Vallee and approved. The meeting was concluded at 3:52 p.m.

## **CERTIFICATION**

I certify that the foregoing are the minutes of the May 15, 2009 meeting of the Road Home Corporation Board of Directors, and that these minutes were approved by the board on the 25th day of June, 2009.

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Certifying Board Member

Date