MINUTES OF SPECIAL BOARD MEETING

OF THE BOARD OF COMMISSIONERS

OF THE ORLEANS LEVEE DISTRICT

FEBRUARY 3, 1993

THE BOARD OF COMMISSIONERS

OF THE ORLEANS LEVEE DISTRICT

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THE BOARD OF COMMISSIONERS

OF THE ORLEANS LEVEE DISTRICT

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FEBRUARY 3, 1993

The Special Board Meeting of the Board of Commissioners of the Orleans Levee District was held on Wednesday, February 3, 1993, at 3:37 p.m., in Room 228, Administration Building, New Orleans Lakefront Airport, after due legal notice of the meeting was sent to each Board member, the news media, and a copy of the call was posted.

The meeting was called to order by President Harvey.

President Harvey led the group in the pledge of allegiance to the flag.

Secretary Lansden called the roll and stated that a quorum was present.

PRESENT:

The Honorable Robert G. Harvey, Sr., President
The Honorable Patricia W. Harris, Vice President
The Honorable Lambert C. Boissiere, Jr., Commissioner
The Honorable James P. Huey, Commissioner
The Honorable Robert C. Ramelli, Commissioner
The Honorable Richard D. Sackett, Commissioner
The Honorable Darrel J. Saizan, Jr., Commissioner

ABSENT:

The Honorable Roy J. Rodney, Jr., Commissioner

ALSO PRESENT:

Bill Giardina, Burk-Kleinpeter
R. Bourgeois
Gary Authement
Bill Allerton, Capitol Communications
Thomas M. Smith, Design Engineering, Inc.
Terral Boussard, Corps of Engineers
Walter D. Judlin, Corps of Engineers
John Holtgreve, Design Engineering, Inc.
Dennis A. Snyder, Design Engineering, Inc.
Kenneth Dupuis, Pepper & Associates
R. Masson, WWL
Joe Schwartz, Hattier, Sanford, Reynoir
Gary Longanecker, Caudle Aviation
Robert Inglisor
Roy Hyer, Sr.

THE BOARD OF COMMISSIONERS

OF THE ORLEANS LEVEE DISTRICT

MINUTES OF SPECIAL BOARD MEETING

FEBRUARY 3, 1993

J. Michael Johnson, Galloway, Johnson
Walter Baudier, Design Engineering, Inc.
Robert Hutchins, Lighthouse Harbor
Cletis Wagahoff, Corps of Engineers
Robert J. Fairless, Corps of Engineers
Victor A. Landry, Corps of Engineers
William W. Gwyn, Eustis Engineering

OLB STAFF:

H. B. Lansden, OLB Director
Richard J. McGinity, General Counsel
Frank Mineo, Acting Chief Engineer
Pam Zeringue, Purchasing Department
Bill Sickinger, Safety-Risk
C. A. Wethern, Engineering Department
Ted Field, OLB Police
Ted Lange, Comptroller
Gerry Gillen, Engineering Department
E. Spiers, OLB Police
Rich Leyer, Orleans Marina
Linda Leyer, Finance Department
Mary E. Herbert, Finance Department
Audrey Carr-Jackson, OLB Director's Office
Glenda Boudreaux, OLB Director's Office

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I. OPENING REMARKS AND PRESENTATIONS BY PRESIDENT OR COMMISSIONERS:

None.

II. MOTIONS:

A. To consider the contractual performance, or lack thereof, of Design Engineering, Inc., consulting engineer, in connection with various Levee Board projects and to take appropriate action in connection therewith.

President Harvey read the agenda item for the special Board meeting. A note was placed at the Board table stating at that time Mr. Michael Johnson wished to address the Board.

Mr. Michael Johnson stated he represents Design Engineering, Inc. He stated the agenda item raises the issue of potential litigation, and before the meeting proceeded, he suggested that it may be in order to have an

executive session to discuss that issue.

President Harvey referred Mr. Johnson's statement to General Counsel.

Mr. Richard McGinity, General Counsel, stated the mere threat of litigation is not sufficient cause for the executive session; it must be a formal written threat, which he did not think the Board had received. However, if the person of whom professional competency is in question desires an executive session, by two-thirds vote of the Board it can be granted.

President Harvey asked Mr. Johnson whether this was agreeable to his client.

Mr. Johnson indicated they suggested it.

Commissioner Huey offered a motion that the Board go into executive session. The motion was seconded by Commissioner Sackett.

Commissioner Boissiere asked the purpose of the executive session--whether it was because of the competency question or the legal question.

Mr. McGinity replied, there is no legal question.

Commissioner Boissiere questioned, was the client asking for the confidentiality?

President Harvey replied, yes.

The Board then voted on the motion to go into executive session, with Commissioners Harris, Boissiere, Huey, Sackett and Saizan voting yea, and Commissioner Ramelli voting nay.

The Board went into executive session at 3:40 p.m.

The Board reconvened at 4:15 p.m., and President Harvey called the meeting back to order.

President Harvey asked General Counsel to make a statement on behalf of the Board.

Mr. McGinity stated the executive session had been concluded; there were no votes taken and the only matter

discussed in the executive session was the professional competency of the individual who requested the executive session, in accordance with the statutes. He added, the Board was delivered a formal written notice of intent to litigate, which is also a reason for an executive session, which was delivered before the Board went into executive session.

President Harvey repeated, the agenda item is to consider the contractual performance, or lack thereof, of Design Engineering, Inc., consulting engineer, in connection with various Levee Board projects and to take appropriate action in connection therewith.

President Harvey continued, Design Engineering is under contract with the Orleans Levee District for eight separate projects including Hurricane Protection projects and their coordination, South Shore Harbor Development, New Orleans Lakefront Airport and Public Works projects. These contracts were executed between 1985 and 1987 with the consultant by the then Board. Since execution of the documents to date the consultant has been paid a total of $9,562,349, for professional engineering services, a sum which includes fees for preparation of supporting documentation for Bond issues. The purpose and current status of these contracts is provided in attachments, which were furnished in the agenda for this meeting. A contract of major significance is for "Coordination of Flood Protection Projects" dated October 21, 1987. The Scope of this project provides that, "...this project shall consist of providing all necessary coordination of planning and design, arithmetic verification of projects or construction cost estimates, reviewing with the Board's staff, the scope of services to be provided by Architects, Engineers and Construction Contractors as required to assist the Board in implementing the project..." The consultant also is to

provide progress schedules showing anticipated completion dates and actual progress, revised cash flows, draw down schedules and description of alterations. The consultant shall prepare and present to the Board a semiannual progress report in bound form. Interim reports may be forthcoming as the project progresses. The most recent compensation schedule prepared by the consultant and details of performance were furnished in the agenda for this meeting. The Orleans Avenue Canal Flood Protection Improvement Project is part of the Lake Pontchartrain and Vicinity Hurricane Protection Project. This project has been the subject of recent delays as addressed in a letter of January 15, 1993, from Colonel Michael Diffley, District Engineer, U.S. Army Corps of Engineers. His letter states that the District is reassigning $5.5 million of the $12 million appropriated by Congress for FY 1993 in view of the delays in receipt of final plans and specifications from the Orleans Levee District. A copy of that letter was also furnished with the agenda. The effort to make sustained uninterrupted progress towards completion of the Lake Pontchartrain and Vicinity Hurricane Protection Plan transcends more than current delays in those portions of the Orleans Avenue Canal project addressed in Colonel Diffley's letter. The concerted effort by the Orleans Levee District with the U.S. Army Corps of Engineers goes back to 1984 when the Board established plans for interim protection to bridge the time gap until the permanent project storm protection could be completed by the U.S. Army Corps of Engineers and the Orleans Levee District to the Corps' standards. The objective always has been to provide New Orleans with improved hurricane protection; albeit less than the optimum, until such time as the required standard protection could be funded and constructed. At that time plans were to have better protection than existed in certain specific locations

in place within five years. Underlying this interim objective was to construct the protection in such a way that it would contribute to or become an integral part of the Corps' final approved plan. A few of these individual projects were achieved in a timely manner, while others are still in the design phase. The Orleans Levee District entered into contracts with several consulting engineers including a coordination contract with Design Engineering, Inc., as early as 1984. This coordination contract was to provide an extra effort through a professional firm to work with all parties concerned to identify obstacles and problem areas and coordinate with responsible parties so that the project could be completed as soon as possible. In the case of the Orleans Avenue Canal, Design Engineering, Inc., is under contract to perform the design engineering for the project as well as the overall coordination of this effort in accordance with the coordination contract which states he will provide all necessary coordination. More recently the Board has expended a major effort to gain acceptance of parallel protection for the Orleans and London Avenue Canals. This would gain authority for proportionate Federal funding for the entire project. The Board gained support for this funding through our Congressional delegation, and a united effort of this Board and all of its friends, and $12 million was appropriated in FY 1993 to accelerate construction of the project. When this effort was initiated and progressed through the Federal budget process in 1992, prudence would dictate that we proceed with the project design such that those scheduled first had plans completed and ready for bid, in essence "on the shelf", prior to the time funding was made available. Funding and other essentials were provided to enable these plans to be used to proceed with construction as soon as possible. The need required steady progress so as to maintain the schedule to

meet this goal. If there were any problems in the design process, which would require resolution with the various parties, it was the responsibility of the Coordinating Engineer to address them and to bring the parties together to resolve them. At no time during this past year has Design Engineering, Inc., informed the Orleans Levee Board staff or President that there was any problem requiring resolution which would arise. It must be born in mind that the responsibility for performance on these projects now that they are approved and funded by the Federal government is delegated to the U.S. Army Corps of Engineers. In planning with the New Orleans District, early in 1992, the Orleans Levee District asked that they allow the Orleans Levee District to perform certain design work through the Orleans Levee District's own consulting engineers. They agreed, reminding the Orleans Levee District, however, that the accelerated schedules and budgets must be met. The Orleans Levee Board and Design Engineering, Inc., in coordination agreed to meet these requirements in meetings at the offices of the Corps of Engineers, particularly on February 19, 1992. An additional problem area where prolonged delay is causing acute problems is with the design of South Shore Harbor Boulevard. This contract was entered into in 1985 to design and provide all basic services to complete the project. When it appeared possible that a gaming riverboat might operate from South Shore Harbor, it became apparent that the completion of this road improvement was of vital importance to handle the traffic expected at the marina. Design Engineering, Inc., was directed by himself (President Harvey) in February, 1992, to proceed with all due diligence to complete South Shore Harbor Boulevard Phase I and to proceed with the design memorandum for Phase II of the boulevard. Due to a dispute over a payment of $14,000, Design Engineering, Inc. has held up

work on the project. This delay may result in a severe impact on commencement of the gaming boat operation. A contract for improvements on Lakeshore Drive was executed on November 18, 1987. The project was divided into five reaches along Lakeshore Drive. The May, 1992, semi-annual progress report from Design Engineering, Inc., projected construction to start for Reach I to begin in August, 1992. In November, 1992, the Board, based on recommendations of the consultant, elected to separate Reach I into two parts in order to expedite flood protection construction along Lakeshore Drive. Resolution 6-111892, passed by this Board on November 18, 1992, states in part: "WHEREAS, the Board desires to have Reach IB advertised for bids by February 1, 1993, to expedite flood protection along Lakeshore Drive." This has not been done and the Board has not received an explanation for failure to meet this date. In summary, Design Engineering, Inc., has been under several contracts to the Board for project design and engineering services since 1984. The Board has paid DEI $9,562,349, most of which has been for design engineering work. To date the only tangible facility completed is an automotive fueling facility and a parking ramp at the Board's Franklin Avenue Maintenance site. A breakdown by project and year was provided in the packet and also will be provided today.
As a result of the financial audit, the Board in 1991 and 1992 was advised by the Legislative Auditor that internal control procedures were deficient: "The Levee Board has entered into a contract with an engineering firm for coordinating services that at the inception did not provide a complete description of the scope of the project, a provision specifying the completion date of the project, and a clear definition of what constitutes costs. In addition, on several of the individual contracts that are included in the project, this same firm serves not only as the

coordinating engineer, but also as the project engineer." The auditor further noted in both years such a combination does not give management reasonable assurance that the assets are safeguarded against losses. The Auditor recommended that the contracts be renegotiated to segregate the functions. This has not been done.

President Harvey stated the news of Colonel Diffley's letter spread alarm and shock to members of this Board and was its first notice of any delays in this project, and has spread concern throughout the community. Members of the Congressional delegation, State legislators and City officials expressed concern to Governor Edwards. At the request of Governor Edwards, President Harvey directed the staff to begin an immediate investigation to discern the facts relative to the status of the parallel protection project and all projects under DEI's supervision. The Board's staff investigation, after extensive research and review, concurred with the findings of the U.S. Army Corps of Engineers that DEI failed to meet the required schedules and failed to submit a satisfactory work product. The Board's staff investigation further found that DEI failed to meet the required completion schedules on other Levee Board projects. As President of the Orleans Levee District Board of Commissioners, and with the authority of Governor Edwin Edwards, President Harvey stated, he hereby suggested to the members of this Commission that all contracts between DEI and the Orleans Levee Board be terminated, and that a request for proposals for these contracts be advertised so that these projects may proceed expeditiously to successful completion, so as to assure the protection of the lives and property of the citizens of New Orleans, which is the Board's primary function. He stated his recommendation was only a recommendation, and he suggested the Commissioners vote their conscience.

President Harvey explained the plan for this afternoon. The Orleans Levee District's engineers have prepared a presentation of the results of their investigation. Representatives of the Corps of Engineers and representatives of Design Engineering, Inc., were present at the meeting. He stated this is not a trial, but merely a presentation of the information that has been developed. After the Board has made a comment, the Corps of Engineers will be invited to make a comment, and then representatives of Design Engineering, Inc., will be invited to make a comment, so there is at least some public expression of either a suggestion or an answer.

Commissioner Boissiere stated, in President Harvey's comments, he said Governor Edwards was contacted by people of New Orleans in regards to the letter from the Corps.

President Harvey replied, yes.

Commissioner Boissiere asked whether the Governor said who contacted him.

Mr. Lansden indicated he had one of the letters, which was a form letter, apparently a part of a new administrative process that asked that the Board respond, which was sent to the Commissioners in their packet. In essence the form stated information was received, with a note being written on a copy of the Times Picayune article from a person in New Orleans saying he lives one block from the Orleans Canal, saying please don't hire this engineer any more, or words to that effect.

Commissioner Boissiere asked, so the Governor responds to one letter nowadays?

Mr. Lansden replied the Governor asked the Levee Board to respond to the letter.

Commissioner Boissiere asked, how did the Governor instruct the Board to perform in this matter?

President Harvey replied, the Governor asked him to investigate and find out who is responsible.

Commissioner Boissiere asked President Harvey whether the Governor asked him, as President of the Levee Board?

President Harvey replied, yes; he asked the President of the Levee Board.

Commissioner Boissiere asked, did the Governor make this a directive of the Commission to do this?

President Harvey replied, the Governor made a directive of himself.

Commissioner Boissiere asked, was this verbal.

President Harvey replied, it was in his presence in his office.

Commissioner Boissiere asked whether the Governor did anything in writing.

President Harvey replied, no, he did not do it in writing.

Commissioner Boissiere asked whether the Governor just asked President Harvey to look into it.

President Harvey replied, that was correct.

Commissioner Boissiere asked whether the Governor asked that DEI be terminated?

President Harvey replied, the Governor indicated to him that if the evidence revealed that the fault for the contracts was that of DEI, that it was with his full authority that the Board could terminate the contracts.

Commissioner Boissiere stated, therefore, the decision is up to the Board as to whether or not DEI is at fault.

President Harvey replied, Commissioner Boissiere was correct.

President Harvey asked the Secretary to read the motion.

Secretary Lansden then read the motion, to-wit:

MOTION: S1-020393

BY: Robert G. Harvey, Sr.
President

R E S O L U T I O N

WHEREAS, in order to expedite the construction of the Lake Pontchartrain and Vicinity Hurricane Protection Plan, a project of the Federal Government for which the Levee District is the local sponsor, the Orleans Levee Board undertook measures beginning in 1983 to include funding and engineering design of projects, and

WHEREAS, such efforts were for interim protection for the City of New Orleans and were intended to be integrated into the project plans (high level) under preparation by the U.S. Army Corps of Engineers when the latter were approved for implementation by the U.S. Congress, and

WHEREAS, the Board sold bonds for financial support of the project, the principal sum of which initially was $50,000,000, and

WHEREAS, the Board identified specific projects, selected various engineering consulting firms and entered into contracts with them, and determined that an engineering firm should be retained for overall coordination of the projects. The firm selected for this purpose was Design Engineering, Inc., with which the Board executed a contract for "all necessary coordination" in 1984, which contract was replaced with a revised contract dated 1987, and

WHEREAS, the Board also executed the following contracts with Design Engineering:

Orleans Avenue Canal Flood Protection
Lakeshore Drive and Improvements
Highway 11 and 90 Roadway Crossings, South Point to GIWW
Field Yard Administration and Operations Building
New Orleans Lakefront Airport Retaining Wall
South Shore Harbor Boulevard
South Shore Harbor Phase II
Citrus Lakefront Encroachments - Hayne Boulevard Right-of-way
Agreement for Professional Services for South Shore Harbor Phase I and Phase II, and Hurricane Protection and Capital Improvement Projects, and

WHEREAS, for four of the above projects, Design Engineering is both design engineer and project coordinator, and

WHEREAS, in carrying out its responsibilities for design and coordination of most of the above projects there have been significant delays which are found to be attributable to the lack of performance by Design Engineering, and

WHEREAS, of particular note, the delay in project design for the Orleans Avenue Canal has resulted in an

inability to effectively commit approximately one half of the $12 million appropriated by the Congress for fiscal year 1993, such that these unused construction funds will be lost to the project for this fiscal year, and

WHEREAS, delays in the design for many of the other projects, namely, Lakeshore Drive Improvements, Highway 11 and 90 Roadway Crossings, and South Shore Boulevard improvements have significant impact on the Board's finances and operations, and

WHEREAS, it has been stated by the Legislative Auditor in his reports to the Board for FY 1991 and 1992 that in his opinion coordination of engineering projects and design of the projects should be segregated and not performed by the same engineering consultant in order to prevent loss of assets.

BE IT THEREFORE RESOLVED, That the Board of Commissioners of the Orleans levee District does hereby find that Design Engineering, Inc., has failed to comply with the provisions and failed to perform their responsibilities under their contracts to prepare design plans and specifications on a timely schedule causing delays which jeopardize the lives and property of the citizens of New Orleans, and has been paid over $9 million in approximately an eight year period for which the Orleans Levee District has received inadequate engineering services.

BE IT FURTHER RESOLVED, That based upon said finding and for other causes as may be appropriate, the Board does hereby terminate immediately all of the above stated contracts with Design Engineering, Inc., and authorizes the President, Director and General Counsel to take any action as may be necessary to carry out the above.

The motion, which was offered by President Harvey, was seconded by Commissioner Ramelli.

Commissioner Boissiere asked to go back to the statements about the Governor's influence. He stated President Harvey said something about Congressional persons making inquiries on this also?

President Harvey replied, members of the Congressional delegation.

Commissioner Boissiere asked, who were they?

President Harvey replied, Mr. LaPlace, who is on staff.

Commissioner Boissiere stated, Mr. LaPlace is a public relations person. He asked whether Congressman Jefferson made an inquiry?

President Harvey stated he had not personally spoken to Congressman Jefferson.

Commissioner Boissiere asked whether any other Congressional people made any inquiries?

President Harvey replied, not to his knowledge.

Commissioner Boissiere stated, just the public relations person from one office, and one letter was received.

President Harvey pointed out, he does not receive every call and has been quite busy lately.

Commissioner Boissiere stated his only concern is that President Harvey made public statements to suggest that a lot of attention has been drawn to one letter, and he felt the Board should know more about who is concerned. He stated he receives a thousand letters from constituents, but he does not always over react, he tries to respond. He stated, to him, if one constituent sends one letter that causes this, this is over reaction to him, and, if one public relations person calls from one Congressional staff for information, this appeared to be over reaction to him.

President Harvey asked Commissioner Boissiere whether he was concerned about the loss of $5.5 million.

Commissioner Boissiere replied, yes; if the Board really lost it. However, he was also concerned to go get it, and both the Levee Board he served on and the staff of the Corps of Engineers, and some of the Board's own staff people, didn't want to apply for the additional monies, and the Board went out of its way to do so. He stated the Board employs the services of John Mack, with Colex, in Washington, and asked whether the Board consulted with him about assisting the Board is retaining the $5.5 million.

President Harvey replied, there were representatives of the Corps of Engineers present who could answer that question. Mr. Mack is aware the Board has lost the $5.5 million, however, he is not in a position to respond.

Commissioner Boissiere stated the Board has hired him to help it get money, couldn't the Board hire him to help the Board keep money?

President Harvey pointed out Commissioner Boissiere could call Mr. Mack.

Commissioner Boissiere stated he did not think he had the prerogative to do so.

Commissioner Huey stated in February of 1992 he went to Washington and personally met with Senator Jefferson and Jean LaPlace, the Congressional delegation, and they went before the House Appropriations Committee, and there was $4.3 million that was carried over from the previous year that couldn't be utilized. They requested $7.7 million to bring the total to $12 million, which was what they felt they could spend in this fiscal year. He stated it was common practice that money is carried over, there are contract delays, construction delays, rain and weather, and a lot of different things keep you from expending these dollars and cents. He stated the question is, did the Board loose this money, and if it did, why is the Board paying a firm a substantial sum to protect that interest for the Board in Washington, D.C.

President Harvey asked Commissioner Huey whether he was suggesting Mr. Mack lost the money, or the failure was his?

Commissioner Huey replied, he is supposed to be protecting the Board's interest, and this is what the Board brought him in for.

President Harvey suggested to Commissioner Huey, if he feels this is misplaced, he should write a letter to the Times Picayune and talk to the news media and express why he thinks the gentleman in Washington who got the money has to hold on to it when he has no control over what any consulting engineer and coordinating engineer does with the

project. He stated he did not feel this was appropriate for this meeting, and he would like to go forward with the presentation of evidence or findings.

Commissioner Harris asked whether Colonel Diffley was present at the meeting, and would he be making a presentation?

A Corps of Engineers' representative replied, no.

Commissioner Harris stated Colonel Diffley's letter was very strong and was referred to by President Harvey. Colonel Diffley stated in his letter, "The basic responsibility for performance on this Federal project is mine. Without marked improvement in producing the designs and documents to go to construction, I may be forced into reconsidering our design-construction agreements so I can have more control over meeting our goals on this Federal project." She stated she had questions regarding this statement. Also, Colonel Diffley stated it is, "...most distressing, we endanger the lives and property of the people in New Orleans", and she wished Colonel Diffley to be here to explain this to the Board.

Commissioner Huey indicated Colonel Diffley also stated in his letter, "I wish I knew what the problem is, then I could try to fix it." Commissioner Huey stated he would like to ask what his involvement is, to go this far down the line and not know there was a problem, and what the problem is, so that he could fix it.

Commissioner Saizan stated he has been involved in Federal programs in City government for some time, and when a contract official makes an accusation, they like to see that person to see what his problems are. He stated he would like to talk to the Colonel about his problems specifically, since he signed the letter. He stated it distressed him greatly that he was not present today. He added, he meant no disrespect to the members of the

Colonel's staff who were present, however, he would like to see the Colonel, since he is the District Engineer and hear what he has to say.

Commissioner Sackett asked if any of the representatives from the Corps of Engineers had been designated by the Colonel to speak for Corps.

Mr. Cletis Wagahoff, Deputy District Engineer for Project Management of the Corps of Engineers, replied, no, not directly. He explained Colonel Diffley had prior arrangements and would be out of town from the middle of January to the middle of February and had no prior knowledge of the Board's meeting.

Commissioner Huey asked, did Colonel Diffley not write this letter which is dated the same day he left for thirty days, and asked why would someone dump a letter on the public like this and then leave town for thirty days, which is disturbing to him, and leaving the Board in this position.

President Harvey stated the basic issue at this meeting is, were the plans for the Orleans Canal Reach IA, IIB and IID delivered timely to the Corps of Engineers?

Mr. Dan Judlin, the Corps of Engineers' project manager, replied, no, they were not. He reminded the Board on his visit on November 18th, he described it as any delay beyond that point, he thought they would be in trouble maintaining the funds. In the meeting on November 24th, there was a delay reported. He responded to the staff of the Levee Board. Mr. Judlin stated he did not think the Corps of Engineers wants to get into a standpoint of dealing with consultants; the Corps of Engineers' deal is with the Orleans Levee Board. The Corps talked to representatives of the Levee Board at that meeting and it looked like to the Corps that perhaps they would fall short by $2 million on the 24th of November. At a meeting on January 12th, when

the delays increased over the meeting in November, then just making a projection, he stated at the meeting it looked like it would be somewhere between $5 and $6 million. When Mr. Judlin brought that back to Colonel Diffley, Colonel Diffley stated he must correspond with President Harvey about that, and, in fact, Colonel Diffley had expressed some concern about the $2 million and said, let's wait for the meeting to see what it looks like, whether it would firm up at $2 million or go higher, and waited for the results of the meeting to correspond with President Harvey. Therefore, in that meeting it looked like it would fall short about $5 to $6 million, and he told representatives of the Levee Board of his opinion at that time, and he said mostly probably Colonel Diffley would like to correspond with President Harvey about this. Mr. Judlin stated he went back to the office and did a little more detailed analysis, and it came out right between the two numbers, about $5.5 million.

Commissioner Huey stated he also made a statement at one of the previous meetings, that he certainly appreciated the cooperation between the Corps of Engineers and the Board's staff and consulting engineer. He stated when he was first appointed to the Orleans Levee Board in January, they started meeting and wanted to have an opportunity to select private sector firms for the London Avenue Project for the 300 year flood protection program. During the meetings the Colonel had indicated certain parameters in which his decision would be made on whether he would allow the Board to do this. He asked whether this was correct?

Mr. Judlin replied, yes.

Commissioner Huey continued, they went through several meetings and everything was boiled down as to the type of job that Design Engineering was doing on the Orleans Avenue Canal side of it, and if he could produce those

things in a quality, timely manner, and meet schedules. He asked whether these were the parameters?

Mr. Judlin replied, yes.

Commissioner Huey continued, then in a follow up meeting several months later, in about the August time frame, they met with the Colonel, and the Colonel stated that because of the quality of the jobs, meeting the time schedules and so forth he was very pleased to announce the fact that the Board would be able to select the individuals for the London Avenue Canal Project, which the Board did. He asked whether this was correct?

Mr. Judlin replied, generally speaking, yes.

Commissioner Huey continued, therefore, the Board proceeded with that; now this is all the way up until the meeting where this Board got concerned with time delays in conjunction with an arts program with the New Orleans Arts Council which Commissioner Rodney, who was not present today, was very concerned that the Board cooperate with the community and so forth, and this Board passed a resolution that it wanted to do this, but it wanted to do it only if it doesn't affect the flood protection scheduling and so forth, and since then he has gone to several meetings with the Arts Council and several people from that standpoint. He stated it is mind boggling to him that something as substantial as questioning the creditability and competency of an individual would come out just a month or so later when up until this point no one questioned the quality, timeliness and so forth of this situation, and he did not think it was the Corps' intent to pin point the Board's consulting engineer with the overall project, which he felt, given the proper time and review could certainly prove that there was a lot of extenuating circumstances that have led to particular delays. He asked whether this was a correct statement to make?

Mr. Judlin stated the Corps does not want to put its finger on anybody. It was a discussion between Colonel Diffley and President Harvey.

Commissioner Huey stated, because the consulting engineer of the Orleans Levee Board was specifically mentioned in the letter, all of a sudden, all of the attention has gone to one particular firm and one particular individual.

President Harvey pointed out DEI was not mentioned in the letter. At the request of the Colonel, in his letter of January 15th, it is up to the Board to find out what the problem is. He added, if the Board would allow him to go on with the agenda, he would demonstrate the problem, and then if the Corps of Engineers has a particular comment, it could be made. He stated it would be unfair to take one comment out of context without looking at the evidence.

Commissioner Huey stated he wanted to make a point, if the Board is worried about public perception, he has been asked to vote to fire a man because the Board is concerned about what the news media is going to say or what the public is going to think, not whether the man is guilty or not.

President Harvey stated Commissioner Huey will have the opportunity in the agenda to ask his questions, but not to grandstand and take all of time of this meeting.

Commissioner Huey stated he just asked the sequence of events for people to understand.

President Harvey stated he would like to have presented the invoice analysis and asked that the chart prepared by the Board be unfolded. He stated Mr. Collins, a former Chief Engineer of the Board, has been brought in to help in this investigative process to determine why these delays have occurred. (See note)

Mr. Johnson asked whether it was all right for

them to ask questions.

President Harvey stated the way he has proposed this is, Mr. Collins will make his presentation, and he indicated if the parties would sit up front, it might be easier, the Corps will be asked if they would like to make a comment, then Design Engineering will be asked if they would like to make a comment, and he asked that the comments be kept to a couple of minutes, and then they will move to the next phase.

Mr. Johnson stated his question is simply, are they prohibited from asking questions.

President Harvey replied, at this time, until Mr. Collins at least makes his presentation, and then Mr. Johnson could ask questions. He added, if Mr. Collins does not explain his presentation, then how could Mr. Johnson develop a question. He asked whether Mr. Johnson had any questions at that point.

Mr. Johnson replied, yes, and asked when was the chart prepared, because they were never provided any of these documents.

President Harvey stated this is an analysis and would be available to him and he could ask some questions. He pointed out all of the information contained in the chart came from Design Engineering's invoices.

Mr. Johnson asked, when was the chart prepared?

Mr. Collins replied, the chart was completed today.

Mr. Johnson asked whether there are any other charts?

Commissioner Boissiere questioned, could the Board put this kind of information out publicly, accusing someone of performing or not performing, and they don't even have a chance to even review information before it is submitted publicly. He stated he felt this was like a public

lynching. He stated the Board is actually putting on trial the performance of a professional and producing information that has just been completed.

President Harvey stated he realized that Commissioner Boissiere may not want to hear it, but he felt the public would like to hear it.

Commissioner Boissiere asked President Harvey, who told him the public wants to hear it? He stated he gets a lot of calls on a lot of issues, but he hasn't gotten any calls about this, and he would like to hear from his constituents about it.

Mr. Johnson asked that this meeting be postponed until the time when they could prepare adequately. He stated they asked for certain documents, including documents prepared by the Corps of Engineers, as late as yesterday evening and they still do not have those documents. He felt it was truly unfair to the parties involved in this situation to proceed like this, and there is no opportunity to respond. He stated President Harvey suggested this is not a trial, but he felt this is exactly what this is; it is a one-sided effort to present the case he wants presented. He did not feel it was fair and an opportunity needs to be given.

Commissioner Ramelli stated the question which is the issue at this point is, did Design Engineering turn in the design memorandums and the prints needed? The Corps has said no, the consultant has not done things as scheduled. This is the problem and what the Board is here today to fix.

Commissioner Boissiere reiterated he felt this was a public lynching and the Board is taking all of the consultant's life's efforts and putting it on trial with information the Board is producing right now, and asking the Board to vote on a resolution to terminate someone's contract based on information being shown right now.

Commissioner Ramelli pointed out it is not on information the Board is seeing right now, it is based on information that the Board and Corps of Engineers should have received on a timely basis and did not receive.

Commissioner Huey stated the Board is pinpointing an individual's responsibility.

President Harvey stated each Commissioner and Design Engineering were furnished all of the support documents.

Commissioner Boissiere indicated they just had 24 to 48 hours to read all the information presented.

President Harvey pointed out Commissioner Boissiere has served on the Board a number of years.

Commissioner Boissiere stated he had never heard a complaint about DEI from the Corps of Engineers or his constituents or anyone else. The only person he had heard a complaint from about DEI's performance was the President or perhaps one other person. He stated DEI's contracts were in place before he came to the Board, and reiterated he felt this was a public lynching, and the Board is taking someone's professional life and putting it on line with statements without giving him a chance for a fair response.

President Harvey reiterated this was not going to be a trial, but evidence would be presented based on information in this Levee Board, which he felt Commissioner Boissiere does not want presented under the guise it is a public lynching. Further, he stated, it could be narrowed down to a single issue, and the question simply asked of DEI, were the plans late or were they not late?

Commissioner Boissiere asked, why didn't the President just ask that question.

President Harvey stated, it seemed to him, if the Board is going to cancel a man's lifetime work, as Commissioner Boissiere put it, and equate that to the lives

and property of the citizens of New Orleans, as referred to in the letter by Colonel Diffley, then the equation does not work out.

Commissioner Huey stated Colonel Diffley was not present to make the statement as to what lives are being jeopardized, and he was appalled by this because the Board has an interim protection program and the 300 year flood protection program was a battle this Board fought up until just this year when it was finally approved to enhance that protection of the people. The Board does know there are some weak spots, and if it can stop this type of thing from happening on this Board, then the Board may get the projects built.

Commissioner Ramelli pointed out, if the plans are received on time, the Board could also get the projects built.

Commissioner Saizan stated the resolution states Mr. Baudier has been employed over an eight year period, which predates this Board, and he has been paid a large amount of money for services that he was under the impression that the Corps felt were adequate engineering services. He asked if this is the first time in eight years that the Corps has had a problem with Mr. Baudier.

Commissioner Ramelli stated he did not feel the Corps has anything to do with what the Board pays Design Engineering for in the coordination contract. The Corps' only concern is the cost of construction of the project.

Commissioner Saizan stated the resolution states the Board has received inadequate engineering services from Mr. Baudier over an eight year period.

President Harvey indicated this is exactly what he was trying to have presented today.

Commissioner Saizan asked whether this was the first time in the eight year period Mr. Baudier has been

accused of this.

President Harvey replied, no; he did when he first came on the Board.

Commissioner Boissiere again stated the Board has a consultant retained in Washington to be a watch dog.

President Harvey responded that an immediate inquiry was made whether the money was available.

Commissioner Boissiere offered a substitute motion to take all the facts ready to present to the Board publicly, submit it to the firm of DEI and his attorney for review and comment, just as the Board has had chance and opportunity to do so with the Corps of Engineers, and report back to the Board within thirty days for a decision.

Commissioner Saizan seconded the substitute motion.

President Harvey asked the representatives from DEI what have they not been provided with prior to this meeting, other than the chart.

Mr. Johnson stated they did not receive the schedule the Board had from the Corps of Engineers; it was shown to them, and they were allowed to look at it, but they do not have that, and they would like to be able to respond to it.

President Harvey asked Mr. Johnson, didn't he suggest to Mr. Baudier that he go over to the Corps and look at their schedule.

Mr. Johnson responded, President Harvey was correct.

President Harvey asked, did he do that?

Mr. Johnson replied, he did. He stated while he was there he asked the Corps for that schedule and they went to the telephone and called President Harvey's office and asked could they give it to him, and the Corps reported President Harvey said, no, he may not have it. He stated

President Harvey told them yesterday that he told the Corps to give it to him if they want to give it to him, and Mr. Johnson stated he did not know who was right.

President Harvey stated he said to the Corps, they may show Mr. Baudier the schedule, but because of possible pending litigation, the Board has been cautious in exactly what it is throwing out in the street. Obviously, the Corps has a position to protect, too. President Harvey stated he did not hide anything and, in fact, he personally met with Mr. Johnson and Mr. Baudier and showed them the schedule and told them they could copy it.

Mr. Johnson replied, no, President Harvey did not say they could copy it, and it is a long schedule.

President Harvey asked Mr. Johnson, did he not sit there and write out on his pad the dates on the schedule.

Mr. Johnson stated he made a note of seven dates.

President Harvey reiterated the question, what didn't Design Engineering get before this meeting?

Mr. Johnson asked President Harvey whether he recalled him asking for the schedule yesterday, and he never got it.

President Harvey asked, did he not request a response from Design Engineering relative to the letter from Colonel Diffley.

Mr. Johnson replied, yes, and President Harvey received two responses. The first was turned over to the press, as he understood it, and the second, he did not believe he did, although they asked that it be turned over.

President Harvey stated Mr. Johnson was welcomed to send to the press anything he wanted.

Mr. Johnson stated they thought it would be inappropriate, and they requested that President Harvey do it, and as far as he knew, it had never been done.

President Harvey reiterated he wanted to find out

what information the engineer had not received in preparation for coming here.

Mr. Johnson indicated he did not know what was in the Board's packets.

Mr. Lansden stated Design Engineering received everything in the packet sent to the Commissioners, except the contracts, which Mr. Baudier and his attorney should have in hand.

President Harvey pointed out the chart was mainly for the Board's presentation. Design Engineering could also have prepared charts, and President Harvey asked Mr. Johnson whether anyone had told them not to prepare a presentation.

Mr. Johnson replied, no, and no one told them to prepare a presentation. They were told the Board would give them ground rules and let them know whether they cold ask questions and give answers, and he felt they could not.

President Harvey reiterated that they could, however, first a presentation was to be made to present what the Board had discovered, the Corps would be asked to comment on it, and if they wanted to make corrections they could do so, and then Design Engineering could do so also.

Mr. Johnson stated all that has been presented and all that will be presented is a one sided picture of the situation. He stated they raised a number of issues in their letters which have been totally ignored. There has been no effort to meet with the Corps, to his knowledge, to ask for an explanation of those things. He stated they pointed out it is not really an issue of loosing the money, because they believe the Board's consultants in Washington can, indeed, get the money. He stated they think that the overall money that is allocated to this project will ultimately be paid. The real question is, are those projects, IA and IIB, not going to be built this year, and, in fact, they are told that the Army Corps of Engineers is

going on February 11th to bid IA, which is one of the projects at issue here, therefore, it will be constructed. He stated, as he understood it, it is scheduled to take nine months, and he said the Corps could correct him if he was wrong. That project will probably be built this year, according to the Corps of Engineers. Whether that money comes from this year's budget or next year's budget is irrelevant, and that is what bothers him, and he felt this is a false issue.

President Harvey stated he has been accused of a one sided program today, and so far he has heard no evidence on behalf of the Orleans Levee Board as to why it wants to cancel these contracts.

Commissioner Sackett pointed out there is a substitute motion on the floor, which is designed to postpone this meeting, or not, based on what information has been supplied. He asked for a ruling that the Board continue its discussion on that motion and not on the merit of the engineering at this point.

President Harvey pointed out the purpose for the thirty day delay was to allow Design Engineering to obtain certain information, and he was trying to find out what Design Engineering does not have, since Design Engineering is the coordinator and the project engineer, and Mr. Baudier is someone who has met with the Corps constantly, and Design Engineering sends the Board invoices supposedly supported by documentation. He again asked what doesn't Design Engineering have that they cannot come here and tell the Board why they were late.

Mr. Johnson stated they would also like to talk to Colonel Diffley.

Commissioner Harris stated she would like to amend the substitute motion to assure that Colonel Diffley is here as well when this is discussed further.

Commissioner Boissiere stated he would accept this as a friendly amendment. He asked the Corps of Engineers, why did they have to check with President Harvey before they released public information.

Mr. Judlin replied that President Harvey had asked them not to release the information since the information was put together for his use. It was a synopsis of information that had been put together about monthly meetings with the coordinator and staff of the Orleans Levee Board. President Harvey had asked them not to release it, and the Corps honored that request; they understand it is public information.

President Harvey stated he believed what was requested was that the form of the project not be given; he stated he never objected to the dates or the information being released, and he, in fact, sent Mr. Baudier to the Corps to get it. He simply said that the actual form itself, the Board wanted to keep for its records in case litigation arose out of this entire matter. He asked Mr. Judlin whether he was told he could tell Mr. Baudier any dates or information in there, but that the form itself he did not want released.

Commissioner Boissiere stated he just wanted to know who was running the Corps.

Commissioner Sackett stated he would like to amend the motion to read that the Board ask the Lord to stop the rains and floods for thirty days while it postpones the vote on the issue before the Board.

Commissioner Boissiere felt this was out of order because it will send a false message to the public. He felt the safety and security of the City is not in jeopardy with a thirty day delay on the discussion before the Board. What is in jeopardy is that the Board could incur litigation that could cost tax payers a lot more money than that.

Commissioner Ramelli recommended an amendment to bring the matter to the next regular Board meeting.

Mr. McGinity stated he thought the motion on the floor was that this matter be continued until Mr. Baudier had time to respond and at a time when Colonel Diffley could be present, whenever that is.

Mr. Wagahoff indicated Colonel Diffley would be back in the office on February 16.

President Harvey reminded the Board that it is dealing with flood protection, and although the comment was made here today that this is not of major importance, he urged the Board to respond as soon as possible.

Commissioner Boissiere stated February 17th was a little close, especially if the Board would like the Colonel to attend, however, he could go less than thirty days in the motion.

President Harvey asked, didn't the back up information that Design Engineering had contain the Corps of Engineers' schedule dates, and whether Design Engineering already had the schedule dates.

Mr. Baudier replied, he did not have the schedule the Corps provided the Board with.

President Harvey asked Mr. Baudier, when he looked at the document he was shown, whether or not those dates agreed with the dates Mr. Baudier had.

Mr. Baudier replied, they have seen some, but they have not seen them all, and obviously they would have had to hand copy them, and they have not had that opportunity, and, in fact, he stated, they did not know everything that is in that schedule. He stated he was only able to, when he was there yesterday, write down one little paragraph, as to what President Harvey said, and all he could do was hand write it. Therefore, they would like the opportunity to see the schedule prepared by the Corps of Engineers that President

Harvey had requested.

President Harvey stated he felt Mr. Baudier had seen it, but the Board would release the information given to it by the Corps as to the schedule of dates, but he would assume as the coordinator, Mr. Baudier would have had all those dates anyway.

Commissioner Boissiere asked how much time would Colonel Diffley need to prepare to attend a meeting like this?

Mr. Wagahoff replied, it would be difficult to say, as he has some familiarity with it, but is not involved in all the details, and suggested a week minimum.

President Harvey recommended the first available date that Colonel Diffley could be in attendance, after fifteen days.

Commissioner Boissiere indicated he would accept the recommendation as a friendly amendment. This would give fifteen days to respond, and it would be the next earliest date after fifteen days on which Colonel Diffley could be available.

Commissioner Sackett stated he would like to let the Commissioners know that what they do today, whether they agree with each other or not, the Board will all be known by it. If the Board votes to put this off, and some of the Commissioners dissent, that dissent will not be heard, and if the Board votes not to put this off, those that dissent to that probably will not be heard. The Board has been enmeshed in this for a couple of weeks now, and he did not believe that Design Engineering or the Corps is going to generate an absolute argument for or against their case, and it will ultimately be settled in the courts, but what will not be settled in the courts is whether or not the City is protected. If the Board puts this off, the Board will be known as the one who continued to put off the hard

decisions. This is not a fair decision; it is not fair to the winner or the loser. He recommended that the Commissioners take the bull by the horns and deal with the issue today and let the judges and the lawyers deal with the contracts later.

President Harvey stated he shared Commissioner Sackett's sentiments.

The Board then voted on the substitute motion to continue this matter fifteen days until the next available date that Colonel Diffley could attend.

Commissioner Harris stated she took very seriously her responsibility to ensure the Board goes about those activities to assure the public's concern is first and there is flood protection, and from her review of all the facts, she felt there is flood protection.

Commissioner Boissiere stated he wanted the public to be aware of the fact that all the safety measures are in place and no one would be in jeopardy during the next fifteen days while this matter is aired.

Commissioner Saizan stated this Board deserves to hear what Colonel Diffley has to say since he started the problem by writing the letter.

The substitute motion was adopted, with Commissioners Harris, Boissiere, Huey and Saizan voting yea, and Commissioners Ramelli and Sackett voting nay.

President Harvey stated the meeting is postponed, however, the letter of the Colonel speaks for itself; the issue is that the plans were delayed and flood protection is delayed, and this may not affect the Board in fifteen days, but God help us if a hurricane hits at the wrong time.

Commissioner Huey then read his statement, as follows: Since his appointment as Chairman of the Engineering Committee in February, 1992, he has been aware of numerous occasions and deliberate attempts in strategy to

undermine and discredit DEI and Mr. Baudier. He has diligently attempted to correct this problem and has met with tremendous resistance. Numerous meetings between the Orleans Levee Board staff and the Corps of Engineers have taken place without his knowledge and without inviting DEI. How can DEI and/or Mr. Baudier perform their duties without being included in all of the meetings and discussions concerning these vital projects. The minutes of the public meetings of the Orleans Levee Board over the period of time clearly show his efforts to solve this problem and to get all parties working together. This Board unanimously adopted a resolution instructing that all projects between the Corps of Engineers and the Orleans Levee Board be coordinated by the Chairman of the Engineering Committee and this resolution has been ignored. This continuous disruption, lack of cooperation and communication has caused delays and misunderstandings which has caused him to dedicate substantially more of his personal time than necessary. Now because of another misunderstanding, the Board is being asked to terminate DEI, not because it believes they are at fault, but because of the news media and what the public perception may be. He cannot vote to terminate DEI under these circumstances until this situation is thoroughly and completely reviewed.

Commissioner Ramelli announced he had called an Engineering Committee meeting for 3:30 p.m., however, that meeting is cancelled.

III. ADJOURNMENT:

There were no further discussions, nor was there anyone who wished to bring any more business before the Board; therefore, the meeting was adjourned at 5:15 p.m.

Respectfully submitted,

H. B. LANSDEN
SECRETARY

I, H. B. LANSDEN, Secretary of the Board of Commissioners of the Orleans Levee District do hereby certify that the foregoing is a true and correct copy of the minutes of the Special Board Meeting of February 3, 1993.

H. B. LANSDEN, SECRETARY

The following note is appended to clarify the reason Mr. Harry Collins is currently employed by the Board:

Mr. Harry Collins was employed by the Board on November 9, 1992, to assist the Engineering Department in determining past and future fees due the Consultant under the Coordination Contract for Flood Protection in response to the Consultant's letter of October 23, 1992. The information compiled has been used in preparation of the chart to show projected schedules.

Board of Commissioners
Orleans Levee Board

OFFICE MEMO

March 16, 1993

TO: Mr. Robert G. Harvey
President

FROM: H. B. Lansden
OLB Director

RE: Information concerning approval of minutes for Special Board Meeting on February 3, 1993

-- At the February 17th Board meeting, Commissioner Boissiere and Commissioner Huey primarily challenged the correctness of the minutes for the Special Board Meeting on February 3, 1993. Commissioner Boissiere stated that a person representing the Corps of Engineers indicated President Harvey met with the Corps prior to the drafting of the letter dated January 15, 1993. Commissioner Boissiere stated that allegedly President Harvey had met with Col. Diffley. Commissioner Boissiere later corrected his statement to state that President Harvey met with the staff of the Corps. Commissioner Boissiere went on to state that he wanted the minutes to reflect that the President did meet with the staff of the Corps of Engineers as stated by a representative of the Corps.

-- Commissioner Huey supported Commissioner Boissiere's statement.

-- Commissioner Huey stated that the tape stops and they changed the tape at the point where this issue was discussed.

-- Commissioner Boissiere stated that is coincidental.

-- Commissioner Huey stated and reiterated that this statement was made by the Corps' representative right at the point where the tapes were changed.

-- Below are listed facts pertaining to the taping of Board meetings:

1. The tape recorder used provides for continuous taping without interruption. Two tapes are used; at the end of one tape the second tape automatically continues to record without interruption.

VERBATIM PORTION OF SPECIAL BOARD MEETING
OF FEBRUARY 3, 1993

Middle of Page 17 to Middle of Page 20

Pres. Harvey: Mr. Wagahoff, could I ask you a question.

Mr. Wagahoff: Of course.

Pres. Harvey: The basic issue here at this meeting, were the plans for the Orleans Canal Reach IA, IIB and IID delivered timely to the Corps?

Mr. Wagahoff: I'll let my project manager answer that. Can you answer that?

Mr. Judlin: Yes, sir. No, sir, there weren't. You remember on my visit on November 18 I described it as any delay beyond that point, I think we were going to be in trouble maintaining our funds. On the meeting of the 24th of November, following that meeting, there was a delay reported. I responded to the staff of the Levee Board, and again, I don't want to get into, I don't think the Corps of Engineers would want to get into a standpoint of dealing with consultants. Our deal is with the Orleans Levee Board. We talked with representatives of the Levee Board at that meeting and it looked like to us we were maybe going to fall short by $2 million on the 24th of November. In a meeting on the 12th of January, when the delays increased over the meeting of November, then just making a projection, I stated in the meeting that it looked like it would be somewhere between $5 and $6 million. When I brought that back to Colonel Diffley, he said, I must correspond with Representative Harvey about that. In fact, he had expressed some concern about the $2 million, and said, let's wait for the meeting to see what it looks like, if it's going to firm up at $2 million, is it going to go higher, no, just wait for the out of that meeting, and maybe I'll like to talk to him--(correcting himself)--correspond with Mr. Harvey. So, in that meeting, I projected Well, in the meeting it looked like maybe it was going to fall short about $5 to $6 million. I told the representatives of the Levee Board of my opinion at that time and I said that most probably Colonel Diffley would like to correspond with Mr. Harvey about this thing. I went back to the office to do a little more detailed analysis, and it came out right in the middle of the two numbers, about $5-1/2 million of short fall.

A few words garbled.

Pres. Harvey: Thank you, Mr. Judlin.

Com. Huey: Can I ask you a question, Mr. Judlin? And, I also made a statement in one of the previous meetings that I certainly appreciated the cooperation between the Corps of Engineers and our staff and our consulting engineer. When I first was appointed to the Orleans Levee Board in January, we started meeting and we wanted to have the opportunity to select private sector firms for the Orleans Avenue and London Avenue--I mean the London Avenue project, for the 300 year flood protection program. During the meetings the Colonel had indicated certain parameters in which his decision would be made on whether he would allow us to do this. Is that correct?

Mr. Judlin: Yes, sir.

Com. Huey: And, we went through several meetings and so forth and everything was boiled down as to the type of job that Design Engineering was doing on the Orleans Avenue Canal side of it, and if he could produce those things in a quality, timely manner and meet schedules. Is it correct that was the parameters.

Mr. Judlin: Yes.

Com. Huey: Then in a follow up meeting several months later, I believe, around the August time frame we met with the Colonel and the Colonel stated that because of the quality of the jobs, meeting the time schedules, and so forth, he was very pleased to announce the fact that we would be able to select the individuals for this London Avenue Canal project, which we did. Correct?

Mr. Judlin: Yes, generally, yes.

Com. Huey: Okay, so we proceeded with that. Now, this is all the way up until the meeting where this Board got concerned with time delays was in conjunction with an arts program with the New Orleans Arts Council which Commissioner Rodney, who is not here today, was very concerned that we cooperate with the community and so forth, and this Board passed a resolution that we want to do this, but we want to do it only if it doesn't affect the flood protection scheduling and so forth. I think Commissioner Sackett offered that resolution, and since then I've gone to several meetings with the Arts Council and several people from that standpoint. It's mind boggling to me that something as substantial as questioning the credibility and competency of an individual would come out just a month or so later when none of this--up until this point no one questioned the quality, the timeliness and so forth of this situation, and I don't think it was the Corps' intent to pin point our consulting engineer, but the overall project, which, I say given the proper timely review, could certainly prove that there was a lot of extenuating circumstances that have led to particular delays. Is that a correct statement to make?

Mr. Judlin: We did not want to put our finger on anybody. It was a discussion between the partners Colonel Diffley and President Harvey.

Com. Huey: Okay, but because the consulting engineer was specifically--of the Orleans Levee Board, was mentioned in the letter, all of a sudden all of the attention has gone down to one particular firm and one particular individual

Pres. Harvey: Excuse me, Mr. Commissioner, just so we don't place Mr. Judlin in an unusual position. DEI was not mentioned in the letter.

Com. Huey: Well, consulting engineer, you don't mention

Pres. Harvey: I understand, but still you're placing That is for our engineering department to do, at the request of the Colonel, in his letter of January 15th to find out what the problem is. Now, if you will let me go on with my agenda, I'll demonstrate the problem and then if the Corps has a particular comment It is certainly unfair to take him and take one comment out of context without looking at the evidence.

-End of verbatim-

Colonel's staff who were present, however, he would like to see the Colonel, since he is the District Engineer and hear what he has to say.

Commissioner Sackett asked if any of the representatives from the Corps of Engineers had been designated by the Colonel to speak for Corps.

427 Mr. Cletis Wagahoff, Deputy District Engineer for Project Management of the Corps of Engineers, replied, no, not directly. He explained Colonel Diffley had prior arrangements and would be out of town from the middle of January to the middle of February and had no prior knowledge of the Board's meeting.

Commissioner Huey asked, did Colonel Diffley not write this letter which is dated the same day he left for thirty days, and asked why would someone dump a letter on the public like this and then leave town for thirty days, which is disturbing to him, and leaving the Board in this position.

945 President Harvey stated the basic issue at this meeting is, were the plans for the Orleans Canal Reach IA, IIB and IID delivered timely to the Corps of Engineers?

Mr. Dan Judlin, the Corps of Engineers' project manager, replied, no, they were not. He reminded the Board on his visit on November 18th, he described it as any delay beyond that point, he thought they would be in trouble maintaining the funds. In the meeting on November 24th, there was a delay reported. He responded to the staff of the Levee Board. Mr. Judlin stated he did not think the Corps of Engineers wants to get into a standpoint of dealing with consultants; the Corps of Engineers' deal is with the Orleans Levee Board. The Corps talked to representatives of the Levee Board at that meeting and it looked like to the Corps that perhaps they would fall short by $2 million on the 24th of November. At a meeting on January 12th, when

the delays increased over the meeting in November, then just making a projection, he stated at the meeting it looked like it would be somewhere between $5 and $6 million. When Mr. Judlin brought that back to Colonel Diffley, Colonel Diffley stated he must correspond with President Harvey about that, and, in fact, Colonel Diffley had expressed some concern about the $2 million and said, let's wait for the meeting to see what it looks like, whether it would firm up at $2 million or go higher, and waited for the results of the meeting to correspond with President Harvey. Therefore, in that meeting it looked like it would fall short about $5 to $6 million, and he told representatives of the Levee Board of his opinion at that time, and he said mostly probably Colonel Diffley would like to correspond with President Harvey about this. Mr. Judlin stated he went back to the office and did a little more detailed analysis, and it came out right between the two numbers, about $5.5 million.

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Commissioner Huey stated he also made a statement at one of the previous meetings, that he certainly appreciated the cooperation between the Corps of Engineers and the Board's staff and consulting engineer. He stated when he was first appointed to the Orleans Levee Board in January, they started meeting and wanted to have an opportunity to select private sector firms for the London Avenue Project for the 300 year flood protection program. During the meetings the Colonel had indicated certain parameters in which his decision would be made on whether he would allow the Board to do this. He asked whether this was correct?

Mr. Judlin replied, yes.

Commissioner Huey continued, they went through several meetings and everything was boiled down as to the type of job that Design Engineering was doing on the Orleans Avenue Canal side of it, and if he could produce those

things in a quality, timely manner, and meet schedules. He asked whether these were the parameters?

Mr. Judlin replied, yes.

Commissioner Huey continued, then in a follow up meeting several months later, in about the August time frame, they met with the Colonel, and the Colonel stated that because of the quality of the jobs, meeting the time schedules and so forth he was very pleased to announce the fact that the Board would be able to select the individuals for the London Avenue Canal Project, which the Board did. He asked whether this was correct?

Mr. Judlin replied, generally speaking, yes.

Commissioner Huey continued, therefore, the Board proceeded with that; now this is all the way up until the meeting where this Board got concerned with time delays in conjunction with an arts program with the New Orleans Arts Council which Commissioner Rodney, who was not present today, was very concerned that the Board cooperate with the community and so forth, and this Board passed a resolution that it wanted to do this, but it wanted to do it only if it doesn't affect the flood protection scheduling and so forth, and since then he has gone to several meetings with the Arts Council and several people from that standpoint. He stated it is mind boggling to him that something as substantial as questioning the creditability and competency of an individual would come out just a month or so later when up until this point no one questioned the quality, timeliness and so forth of this situation, and he did not think it was the Corps' intent to pin point the Board's consulting engineer with the overall project, which he felt, given the proper time and review could certainly prove that there was a lot of extenuating circumstances that have led to particular delays. He asked whether this was a correct statement to make?

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Mr. Judlin stated the Corps does not want to put its finger on anybody. It was a discussion between Colonel Diffley and President Harvey.

Commissioner Huey stated, because the consulting engineer of the Orleans Levee Board was specifically mentioned in the letter, all of a sudden, all of the attention has gone to one particular firm and one particular individual.

President Harvey pointed out DEI was not mentioned in the letter. At the request of the Colonel, in his letter of January 15th, it is up to the Board to find out what the problem is. He added, if the Board would allow him to go on with the agenda, he would demonstrate the problem, and then if the Corps of Engineers has a particular comment, it could be made. He stated it would be unfair to take one comment out of context without looking at the evidence.

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Commissioner Huey stated he wanted to make a point, if the Board is worried about public perception, he has been asked to vote to fire a man because the Board is concerned about what the news media is going to say or what the public is going to think, not whether the man is guilty or not.

President Harvey stated Commissioner Huey will have the opportunity in the agenda to ask his questions, but not to grandstand and take all of time of this meeting.

Commissioner Huey stated he just asked the sequence of events for people to understand.

President Harvey stated he would like to have presented the invoice analysis and asked that the chart prepared by the Board be unfolded. He stated Mr. Collins, a former Chief Engineer of the Board, has been brought in to help in this investigative process to determine why these delays have occurred. (See note)

Mr. Johnson asked whether it was all right for

THE BOARD OF COMMISSIONERS

OF THE ORLEANS LEVEE DISTRICT

MINUTES OF MONTHLY BOARD MEETING

FEBRUARY 17, 1993

I. OPENING REMARKS AND PRESENTATIONS BY PRESIDENT OR COMMISSIONERS:

A. Approval of appointment of Chief Engineer by President Harvey.

President Harvey announced Item A under Opening Remarks and Presentations would be removed temporarily.

II. APPROVAL OF MINUTES:

Commissioner Boissiere stated he had a question on the minutes of the Special Board Meeting held on February 3, 1993, in that he stated the minutes did not show that one of the persons representing the Corps of Engineers indicated that the President of the Commission had met with the Corps prior to the drafting of the letter that had questioned the work by Design Engineering. He stated the Corps of Engineers' representative commented to the fact that the President of the Commission had met with the Corps of Engineers staff prior to the drafting of the letter suggesting that there were some problems with the scheduling of the work done by Design Engineering, and he felt the minutes should reflect that statement.

President Harvey asked whether it was stated he meet with him (the Colonel).

Commissioner Boissiere replied, yes.

President Harvey stated that statement would be incorrect as he did not; however, the tape of the minutes could be replayed.

Commissioner Boissiere stated he did not want to vote to approve minutes that may not be correct.

President Harvey stated to Commissioner Boissiere that he would not want him to. He added, he did not meet

with the Colonel before the drafting of the letter.

Commissioner Boissiere stated he did not say the Colonel, he said the staff people of the Corps of Engineers.

President Harvey stated he did not meet with the staff either.

Commissioner Boissiere stated he did not say that President did, only that the representative from the Corps of Engineers stated that he did, and the minutes should reflect that.

President Harvey stated he did not remember him stating that.

Commissioner Boissiere asked whether any other Board member remembered hearing the statement.

Commissioner Huey commented that Commissioner Boissiere was referring to the conversation on how the letter was written.

Commissioner Boissiere indicated Commissioner Huey was correct.

Commissioner Huey stated that the tape stops on that point and they changed the tape at that point.

Commissioner Boissiere stated that is coincidental. He asked would this month's meeting's minutes reflect the fact that he questioned the minutes of the February 3, 1993 Special Board Meeting, and that his question was raised about the comment coming from the Corps of Engineers' staff indicating that the President of this Commission met with them prior to the drafting of the letter suggesting that there were some problems in the work done by Design Engineering. He stated if today's minutes would contain that, he would be satisfied to vote on the acceptance of the minutes of that February 3, 1993 Special Board Meeting.

President Harvey asked what was wrong with the tape.

Mr. Lansden stated he did not know that there was

anything wrong with the tape, but that Commissioner Huey made the statement that they were changing tapes.

Commissioner Huey replied, yes, and it was omitted.

President Harvey asked whether it was right at that point that they changed the tape.

Commissioner Huey replied, yes; right when they were making that statement.

President Harvey asked Commissioner Boissiere whether he called Mr. Judlin of the Corps of Engineers to ask him whether that was stated.

Commissioner Boissiere responded that he did not think he had to and thought that the minutes would reflect the statement.

President Harvey stated he did not hear Mr. Judlin make that statement, and asked whether anyone else had heard him make that statement.

Mr. Lansden suggested that the Board not approve the minutes of the Special Board Meeting held on February 3, 1993, and he would contact Mr. Judlin to ask him what he said.

President Harvey recommended the Board ratify the minutes of the Special Board Meeting held on January 14, 1993, and the minutes of the Regular Board Meeting held on January 20, 1993, and that the Board not ratify the minutes of the Special Board Meeting held on February 3, 1993, until Commissioner Boissiere's question has been clarified.

Commissioner Boissiere stated he could vote on acceptance of the minutes of the February 3, 1993 Special Board Meeting, as long as today's meeting minutes reflect the fact that he raised the question about those minutes, and added he hoped the tape was working. He reiterated he could accept the minutes with the understanding that today's record would indicate his question on those minutes. He stated all he wanted to do was raise the question, and he

wanted it reflected that he raised the question about the comment.

President Harvey stated Commissioner Boissiere's question should be clarified before the minutes of that meeting are ratified, so it will be clear in his mind.

Commissioner Boissiere stated it was clear in his mind and he heard it.

President Harvey stated it was not clear in his mind and obviously not clear in the minds of some of the other Commissioners; therefore, President Harvey withdrew Item II C under APPROVAL OF MINUTES until the question could be clarified.

There were no corrections, additions or deletions to the minutes of the Special Board Meeting held on January 14, 1993, or the Regular Board Meeting held on January 20, 1993, therefore, the minutes of the Special Board Meeting held on January 14, 1993, and the Regular Board Meeting held on January 20, 1993, were approved as submitted.

III. MOTIONS:

A. To authorize and direct that action as may be appropriate and within the laws of the State of Louisiana to terminate the contract of October 2, 1985, with Design Engineering, Inc., be taken, including any and all other contracts and agreements for services for South Shore Harbor which may pre-date this resolution, as soon as possible, except for services currently on-going authorized under Resolution 3-032190 for coordination of the construction of a new North Bulkhead for protection of the existing calm water basin, said services to be deemed completed at such time as the dredge and fill construction contract is complete as determined by the Board, and to authorize and direct the President to implement any and all actions to accomplish the above as may best serve the interests of the Board.

Commissioner Ramelli asked that Motion 1-021793 be withdrawn at this time.

President Harvey asked that Item K, Motion No. 11-021793, be taken next.