

PROCEEDINGS OF THE PORT COMMISSION OF THE PARISH OF WEST FELICIANA, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD ON MONDAY, MAY 18, 2015.

The Port Commission of the Parish of West Feliciana, State of Louisiana, met in regular session in the Conference room of the Parish Council Governmental Building, 5934 Commerce Street, St. Francisville, Louisiana on Monday, May 18, 2015 at Five-Thirty (5:30) o'clock p.m.

The following members were present: Commissioners Paul A. Lambert, Jr., Z. David DeLoach, Robert B. Fisher, Jr., David Duvic, Greg Farris, Andrew A. Grezaffi, III, Alan L. Kirkpatrick, David Opperman, and Nolan Percy.

Also present were: Sam D'Aquila, District Attorney, and Mr. Leonard Kilgore, counsel for the Lambert family.

The Port Commission of the Parish of West Feliciana, State of Louisiana, was duly convened by the President, Paul A. Lambert, Jr., who then stated that the Commission was ready for the transaction of business.

Upon the motion of Mr. Grezaffi, seconded by Mr. Fisher, the minutes of the previous meeting were approved.

The Commission, upon a motion of Mr. Opperman, seconded by Mr. DeLoach, approved the agenda items for consideration and action.

President Lambert relinquished the floor as Chair and Vice-President DeLoach continued the meeting.

The first item of business was a report by Mr. DeLoach to the Commission regarding the Parish plans to acquire a riverboat landing. By way of background, Mr. DeLoach had been designated by the Commission at the meeting of April 20, 2015 to discuss the acquisition of riverfront property with Parish President Kevin Couhig. Mr. DeLoach read his report into the

record, a copy of which is attached. Thereafter, the floor was opened to discussion on Mr. DeLoach's report and related issues.

At the outset, Mr. D'Aquila, District Attorney, as legal counsel of the Port Commission, suggested that under the Parish Home Rule Charter, the Port Commission may be prohibited from expropriating property without obtaining an approval from the Attorney General, pursuant to Article III, Section A(d)(8). Mr. DeLoach responded, stating that the Port Commission has expropriation powers, both under its enabling statute, as well as the Home Rule Charter, suggesting that the provision cited by Mr. D'Aquila was not applicable.

A question was raised by Commissioner Duvic, as to whether the Port Commission is "paid up" on its errors and omissions insurance. The E&O insurance certificate or declaration was not available; it was then agreed to take this up with Ms. Robinson upon her return to the office.

District Attorney D'Aquila, was asked, the Home Rule Charter provision notwithstanding, may the Port Commission expropriate property, assuming there is no legal impediment to doing so? Also, are there any legal restrictions on a possible expropriation action, particularly if the owner of the property is unknown?

Mr. D'Aquila stated that it could be done even with an unknown owner, with the procedure being for the court to appoint a curator who would represent the owner of the property.

A motion was then made by Commissioner DeLoach, seconded by Mr. Fisher, for the Commission to discuss acquisition of riverfront property.

[Commissioner Lambert abstained, motion passes.]

A motion was then made by Mr. Opperman, seconded by Mr. Grezaffi, to discuss, pursuant to Agenda Item 5, the various means of acquisition of riverfront property to accommodate cruise vessels, and/or take action deemed necessary. At this point Mr. Kilgore requested permission to speak. Mr. Opperman then made a motion, seconded by Mr. Duvic, to suspend Robert's Rules of Order with respect to the agenda, to allow this to be done, and the motion passed.

Thereafter, Mr. Kilgore made several remarks, principally relating to the Lambert's ownership of the property, and also suggesting that the Lamberts would be willing to provide a docking facility to the riverboats, since a "private individual can contract with riverboats." The Acting Chair, Mr. DeLoach, objected at this point on the basis that Mr. Kilgore was either offering legal opinions or advice regarding the Lambert lawsuit or other business not associated with the subject at hand

The discussion then turned to the possible ways to acquire the property, including purchase, lease, rent, donation, or expropriation. A question was raised by Mr. D'Aquila regarding "clear title", suggesting that an example of "clear title" would be to go all the way back to the original Spanish land grants. If there is an unbroken chain of owners to the present, that might be indicative of "clear title." Mr. DeLoach and Mr. D'Aquila then had a discussion regarding the definition of "clear title" and determined that there may be different standards of "clear title" based on the need, such as the requirement or standard for borrowing from a lending institution, which would have a high standard to prove "clear title" before lending of money. It was ultimately determined through discussion, that "clear title" would be needed in order to purchase the subject property or it would be done so at risk to the Port Commission. Mr. DeLoach then stated that would be when we would possibly need the E&O coverage.

Commissioner Duvic then raised the question as to whether or not property could be acquired by acquisitive prescription of 30 years. Mr. Kilgore then suggested that one cannot prescribe against the state, but what about a “political subdivision”, such as the Port Commission?

The discussion next turned to the question of how many dockings the present three riverboats are projected to do during the next year, followed by the question of whether Viking Cruise Lines would build their own docking facility. Mr. DeLoach raised the question, “What do we plan to do”? Build a facility now for the riverboats? Or, just continue to land/dock vessels for now? The economic impact of the riverboats was also discussed.

Another question raised by Mr. DeLoach, as to a “private enterprise” providing a “docking facility”, could the Commission also do an expropriation action? At this point, the discussion returned to the question of whether or not expropriation could be done under the HRC with Mr. D’Aquila, again suggesting that the Attorney General would need to provide an opinion.

After this, there followed a discussion of “finances”, which must go through the Parish. Would the Parish lend money to the Port Commission, which would then charge it back to the Parish? Mr. DeLoach mentioned that the money to start this project would be coming from the Economic Development Council of West Feliciana, which is funded, by ad valorem taxes.

Mr. Kilgore then raised the question of the possibility of wrongful expropriation, which would generate damages and attorney’s fees, if the landowner prevails.

Commissioner Opperman then asked what “other purposes” could the riverfront property in question have, besides docking riverboats? A discussion followed as to the “highest and best use” of the property including a possible cargo transfer facility. It was then pointed out by

Commissioner DeLoach that we must first establish a definite public need. How much river frontage would be required to dock three riverboats simultaneously? It would probably take at least between 1200 feet to 1500 feet. Mr. Lambert suggested that the property south of the ferry landing had a 1700 foot river frontage while the upstream portion of the property had a 900 foot river frontage.

Mr. D'Aquila mentioned that it would also be possible to expropriate a servitude.

Mr. DeLoach reiterated that the main options, short of expropriation, would be 1) purchase, or 2) lease the property; but the only way to get "clear title" would be to expropriate.

A motion was made by Commissioner DeLoach, and seconded by Mr. Fisher, that the Port Commission accept monies from the Economic Development Board. It was then pointed out by Commissioners Lambert and Duvic that this item was not on the agenda since the agenda does not mention "accepting monies." Mr. DeLoach pointed out that the Commission would need money to hire an attorney, and appraiser, which was the subject of Item 6 i. Mr. D'Aquila recommended that we should make a motion to accept the money. A vote was called and the motion passed with no objection and one abstention. Next a motion was offered by Mr. DeLoach to hire an attorney and was seconded by Mr. Opperman. A discussion followed, led by Commissioner Andrew Grezaffi, who objected to the hiring of an attorney to advise with any acquisition of riverfront property, pursuant to agenda item 6(i), stating that before doing this, we should sit down and discuss the acquisition of riverfront property with the Lambert family.

At the same time, it was mentioned that someone should be designated to talk with the Lamberts and that this should be a committee. District Attorney D'Aquila then stated that this committee might be subject to the open meeting law, depending upon how many members it might have, etc.

A motion was then made by Commissioner Andrew Grezaffi, seconded by Commissioner Opperman, to form a committee of three members and to include a representative of the Lambert family, to sit down with the Lamberts and discuss a way to acquire the riverfront property in question and report back to the Commission before the next meeting agenda is published.

[Commissioner Lambert abstains, motion passes.]

Commissioner Z. David DeLoach then withdrew his motion to hire an attorney.

It was pointed out that June 15, 2015 would be the next regular meeting date. Mr. DeLoach then suggested that it would also be necessary, pursuant to agenda item 6(i) to hire an appraiser, who should be instructed to appraise the property before the next regular meeting.

On advice of Mr. D'Aquila, a motion was made by Mr. DeLoach, seconded by Mr. Opperman, to amend the agenda to change the wording of agenda item 6(i) to "hire an appraiser", instead of "engage the services of an appraiser."

[Commissioner Lambert abstains, motion passes.]

A motion was made by acting Chair Z. David DeLoach to appoint a committee of three member of the Commission for the purpose of identifying and hiring an appraiser.

[Commissioner Lambert abstains, motion passes.]

A motion was made by Commissioner DeLoach, seconded by Mr. Fisher, to appoint a committee of two West Feliciana Port Commission members to be assigned to meet with the Lamberts and their legal representative to discuss acquisition of riverfront property and the use of the riverfront property as per the survey of Toby Ford. Commissioner DeLoach will be the ex-officio member, which makes a total of three members to negotiate.

[Commissioner Lambert abstains, motion passes.]

Commissioners Andrew Grezaffi and David Opperman were appointed to this new committee.

A motion was made by Mr. DeLoach, seconded by Mr. Fisher, for the new committee to present a complete report on the meeting with the Lamberts and their legal representative, before the next meeting agenda for the meeting of June 15th, is published.

[Commissioner Lambert abstains, motion passes.]

With the regular agenda items completed regarding the acquisition of riverfront property, Acting Chair DeLoach handed the meeting back over to President Lambert, who opened the floor to a discussion of any “other business.” Commissioner Opperman reported that the bill recently introduced by Representative Kenny Havard, on the subject of allowing the West Feliciana parish Port Commission to meet at any time the Commission so designates, rather than the regular monthly meetings, had passed.

There being no further business, the meeting was adjourned at 7:20 p.m.

Minutes taken by:
Robert B. Fisher, Jr.
Secretary-Treasurer, West Feliciana Parish Port Commission