

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting October 21, 2010

A meeting of the Legislative Audit Advisory Council (LAAC) was held on Thursday, October 21, 2010, in Senate Committee Room E of the State Capitol.

CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 2:00 p.m. A quorum was present with the following members in attendance:

Members Present

Senator Nick Gautreaux
Senator Edwin Murray, Chairman
Senator John Smith
Representative Noble Ellington, Vice Chairman
Representative Cameron Henry
Representative Charles Kleckley
Representative Anthony Ligi

Members Absent

Senator Willie Mount
Senator Ben Nevers
Representative Cedric Richmond

HOUSING AUTHORITY OF SLIDELL

Mayor Freddy Drennan for the City of Slidell reported to the council that he dismissed the entire board for the Housing Authority of Slidell the prior Tuesday, and was in the process of appointing a new board. Mayor Drennan said he had no authority to dismiss Marvin Butler, Executive Director of the Housing Authority, but only by board action, and after the new board is in place they will decide how to proceed. Lionel Hicks, President of the Slidell City Council, agreed with Mayor Drennan's actions, and stated he was aware of the problems going on at the Housing Authority.

Senator Murray mentioned that he called Senator Donahue to assist in the resolving of the problems. Mayor Drennan said they were careful to be sure that it was handled correctly. Mr. Purpera said they hope that new board will get an auditor scheduled to do the audit quickly. Mayor Drennan and Mr. Hicks left the meeting.

Midway through the discussion of Extension Requests, Mr. Marvin Butler, Executive Director of the Housing Authority of Slidell, arrived and offered to respond to any questions relative to their audit process and findings. Senator Murray provided a brief summary of the Mayor of Slidell's comments given earlier, and recommended to Mr. Butler to do anything he can to get the audit done. Mr. Butler said he was committed to doing that, and he said he would be contacting the prior auditor Bruno & Tervalon to get things moving.

EXTENSION REQUESTS

Joy Irwin, Director of Advisory Services asked the council to ratify the nonemergency extension requests for less than 90 days. Ms. Irwin pointed out the nonemergency extension request list for greater than 90 days.

Cameron Parish Ambulance Service District No. 2

Mr. Mike Elliott, CPA, auditor for the Service District stated that the documentation was in the possession of the FBI who seized the documents through a search warrant. They cannot fully complete the audit until all documents are returned, and requested an extension until January 14, 2011. Mr. Chris Stanley, Interim Director for the Ambulance District, said the documents were taken by a search warrant served in the spur of the moment, explaining to Senator Murray why no copies were made.

Family Service of Greater Baton Rouge

Ms. Rene' Taylor, Executive Director, requested additional time until October 29, 2010, as per her auditor for their 2009 external audit due to employee turnover issues.

Housing Authority of Leesville

Barbara Kaveski, Executive Director, explained that they moved their accounting from a fee accountant who went out of business to in house accounting services. She said they expect the audit to be completed by November 10th, but requested an extension until November 30th.

Innocence Project of New Orleans

Emily Maw, Director, and Sherina Lewis, CPA with Bruno & Tervalon, LLP testified. Ms. Maw requested an extension until November 30, 2010, due to expansions and additional income required more auditing. Their financial manager was out for a significant time due to a family emergency, as well as being lent out to another entity to assist them. Ms. Lewis stated they have the preliminary documentation and their finance manager was out of town for a mission trip, but committed to have it all to Bruno & Tervalon by November 1st.

Livingston Parish Council

Parish President Mike Grimmer requested an extension until November 1st, and stated it was ready, but not turned in yet. Fernand P. Genre, CPA, with Hannis T. Bourgeois LLP, said he was in charge of the engagement and that they were in the process of completing the report and providing it to the parish council the following week. Then it would be submitted to the Census Bureau and to the Legislative Auditor by November 1st. Senator Murray questioned why their audits have been late five times in the past five years. Mr. Grimmer explained they had a new treasurer, and then changed out auditors in 2009, but planned to be on time in 2011.

Ogden Museum of Southern Art

Lisa McCaffety, Co-Director and COO, stated that their audit and findings have been submitted to their board with the exception of two issues related to the complex cooperative endeavor relationship that Ogden Museum with the UNO Foundation. She explained the turnover of administration at the Museum and the auditor was tasked with review of a year that had minimal professional oversight, and wanted to have the audit done correctly. Ms. McCaffety requested an extension until October 31, 2010.

Trinity Christian Community

Earl F. Williams, Chief Financial Officer, explained the CDBG grant with the city required changes in how the information was to be presented. He explained that he was a one person business and was subjected to a workman's compensation audit, and also that his CPA had serious health problems which caused the audit to be delayed. He requested an extension for an additional 90 days from the October 31st date. Ms. Irwin said Trinity's auditor told her that a list was given to Mr. Williams, and they have received some of the documentation but still substantial work to be done. Senator Murray suggested an extension until November 30th, and then at the next meeting find out how much cooperation has been given to the auditor, and told Mr. Williams to stay in touch with the auditor's office.

Representative Ellington moved to approve the extension requests less than 90 days, and the motion was approved. Senator Murray said that all entities requesting over 90 days have been heard except the City of Grambling. Representative Ellington moved to approve all extension requests for greater than 90 days excluding the City of Grambling, and the motion passed with no objections.

City of Grambling

Senator Murray asked the Mayor of Grambling if the audit could be completed by November 15, 2010, or if it would take longer. Mayor Andrus said she hoped to have it completed by then. Senator Murray explained that Mayor Andrus requested to go into Executive Session because some issues may be subject of litigation, and not sure if necessary to do so if the November 15th date will work. Senator Murray suggested it may be better if she would talk to the auditor's office and then if she needed to speak to the council to return to the next meeting. Mayor Andrus agreed. Representative Ellington moved to grant the extension until November 15, 2010, and the motion passed with no objections.

APPROVAL OF MINUTES

Senator Smith moved to approve the minutes of September 16, 2010 meeting, and with no objections, the motion was approved.

OIL SPILL UPDATE

Mr. Purpera said he had been urging the Division of Administration (DOA) or some faction of the state to collect data related to the oil spill including the claims filed with British Petroleum (BP) and the payments being received at both the state and local level.

John Morehead, Director of Recovery Audit Services, provided a list compiled with information from DOA with amounts received and expended from the BP Oil Spill. He reviewed the data provided shown by the state recipient of funds from BP: Department of Culture, Recreation and Tourism (CRT);

Department of Health and Hospitals (DHH); Department of Public Safety (DPS); Department of Wildlife and Fisheries (DWF); Office of Coastal Protection and Restoration (OCPR); and VOAD-Catholic Charities. Mr. Morehead explained that a \$15 million grant was split giving approximately \$8.25 million to DHH, and \$6.7 million to VOAD-Catholic Charities for behavioral health issues.

Mark A. Brady, Deputy Commissioner of Administration, stated that Department of Health and Hospitals (DHH) could give a detailed response and rationalization of why money had been give to the Catholic Charities. He understood that the best way to get the program on the ground was to give \$6.7 to the Catholic Charities to support the people. He said not that DHH was satisfied with just \$8.25 million. Senator Murray said just in New Orleans alone, they could spend \$15 million easily on behavioral health. Mr. Brady said originally they expected \$30-\$40 million for behavioral health. Senator Murray asked for DHH or someone in DOA to explain who decided that the \$6.7 million was not needed. Mr. Brady said he would be sure to get that information.

Representative Henry questioned the advertising expenses shown and questioned what exactly the money was spent on. Mr. Brady said he could have CRT to tell him exactly how the funds are being used, and that they are coordinated to not have duplication. Senator Gautreaux asked for more details on how the money was spend for advertisements, and said it is important to advertise to Louisiana as well.

Mr. Morehead explained the funding mechanism for DPS under the Pollution Removal Funding Act (PRFA) for the removal of oil, and the funds flowing through the Natural Resource Damage Assessment (NRDA). Mr. Brady explained the funds were received in the midsummer and can provide the exact date on when the \$10 million was received, and will see more expenses as the oil removal is completed. Mr. Morehead explained the \$25 million from the Responsible Party Grant, of which \$10 million went to the Attorney General (AG) to cover legal expenses of the state. Senator Murray questioned if the balance was given to the parishes. Mr. Morehead said the rest was given to state agencies, and those costs flowing through as a result of the oil spill but not covered by any previous funds provided to the state, there is a decision being made to take this out of the \$25 million. DWF will receive \$13.2 million. Mr. Brady said this is a reimbursable program and part of the agreement is that BP would put the money in an escrow account, and the money will be put in on a monthly basis and drawn out. Senator Gautreaux asked if cash or will be assets. Mr. Brady said he would confirm if the \$13.2 million is actually out of the \$20 million.

Mr. Morehead explained the construction of sand berms is shown to cost \$240 million, but is expected to be closer to \$360 million if they complete that project through the OCPR. Senator Murray asked if the National Guard is still involved or private contracts. Mr. Morehead said it was in contracts with Shaw and it's myriad of subs and OCPR. Senator Murray asked if the National Guard was paid out of these funds for building the berms. Mr. Brady said that they were paid under Title 32 and he would provide that figure to him and a few weeks prior the National Guard was paid approximately \$35-40 million.

Mr. Morehead explained that it is part of the \$15 million given in part to DHH and part to VOAD. Senator Murray asked if they were doing work all across South Louisiana or a particular region. Mr. Brady said he would get that information for him.

Senator Gautreaux requested information on the subcontractors under Shaw Contracts, as to whether they were in state or out of state contractors. Mr. Morehead said his office is reviewing all of those expenditures, but do not have the information on hand. Senator Gautreaux asked that he provide the information to him for Senate Natural Resource Committee meeting on November 5, 2010.

Representative Ligi said that the advertising expenses were discussed during the Joint Budget meeting the month prior and asked if any change in plans. Mr. Brady said not as far are he knew.

Mr. Morehead briefly reviewed the provided information on the funding received by five of the most impacted parishes including advances from BP, liquidation of advances, claims to BP and payments from BP, and brief descriptions. The parishes discussed included Jefferson Parish, Orleans Parish, Plaquemines Parish, St. Bernard Parish and Terrebonne Parish.

Senator Murray questioned about the state collecting information. Mr. Purpera said that he continues to urge the state to have a system of collection of data. Mr. Brady said they cannot force the parishes to participate and do double entry. Mr. Brady stated that BP chose to use their own system rather than DOA's web EOC and do not see the inherit value to ask the locals to sent DOA all their documents too. He said the reporting on the parishes on a macro level, and BP said they will provide that information to them. They require more interaction with parishes in a more direct way so they can get more information to file claims for loss of state revenue.

Senator Murray questioned the reliability of the information received from BP. Mr. Brady said he agreed, but the information received from BP is still valuable. Representative Henry asked if BP is still in control of all of the information. Mr. Brady said the Division is not just waiting for BP to provide the

information, but will have to go directly to the parishes to get their claim information and payments received, and also calculate the state's losses of revenue. Mr. Brady said the following Friday is the Parish President's meeting, and more can be discussed. Representative Henry questioned if there could be a coordination of plans and collection of data from the parishes.

Mr. Steve J. Theriot, former Interim Parish President for Jefferson Parish, was currently assisting the Attorney General's office with the BP claims. He said from April 20th until recently, working with BP was quite dysfunctional, and had to spend more time and effort in meetings to try to get coordination between parish presidents and BP. Mr. Theriot said there was not uniformity between the parishes, and looking for the state to take the lead and be the collector of information. He said the data collected not just for the direct recovery, but also indirect costs because the future may bring cancer caused by the oil or disbursements. He pointed out the costs and effects of the moratorium, as well as the mixed message of advertisements about safe seafood and oil is continually coming up. He encouraged the state to capture reimbursements and how beneficial for the state to get all the data from each parish and entity effected by a reduction of revenue.

Allen Usry, Attorney at Law, representing the Assistant Attorney General, assured the council that the AG's office had met with DOA numerous times to try to coordinate efforts. Mr. Usry explained the Roadshow Meetings by Mr. Purpera and special counsel from the AG's office to explain assessment procedures, and claims forms and integration of the parish losses. He said they have retained Mr. Theriot to assist the AG's office because of his expertise and encourage cooperation so not spin off into separate litigation tracks.

Henry Dart, Special Counsel for the Attorney General's office, traveled with the Auditor for the Roadshows because the AG's office recognized early on that it is critical for the state's claim as well as parishes' to collect information and do not want the parishes using different criteria for estimating the damages. The package presented in the Roadshows for the coastal parishes was very efficient for the parishes' to itemize and categorize their damages in a uniform method, but once reached the point of implementation it fell by the wayside. Senator Murray asked where the difficulty occurred. Mr. Dart said the AG's office does not believe it best to give the information to BP for them to manipulate the data, but that the state should collect and prepare its own data to prepare a unified presentation to BP.

Senator Murray questioned the timetable for trials, and gathering information, and when it is too late to be productive. Mr. Usry said as soon as possible to collect the facts while fresh in everyone's minds. He stated that the AG's office meets with the DOA weekly and all cooperating. Mr. Theriot pointed out the financial perspective about the \$20 billion with \$5 billion per year, questioning what if that money is not enough for the entire gulf coast region. Mr. Dart pointed out as per the Oil Pollution Act is the concept of presentment that the responsible party does not have to pay a claim until it is formally presented to the responsible party. The legal interest begins running on that claim 30 days after presentment.

Mr. Brady said he knew that BP wants to divide and conquer, and the Administration knows that and the state is at the top. He commented that it is daily task to ask Mr. Feinberg to move quicker and be more transparent on his valuation models. Mr. Brady said this uncharted water, and the situation will drive them to interact with the parishes. Senator Murray said he hopes for coordination to help make this happen, and that a plan would be in place by the next month's meeting.

TOWN OF JONESBORO

Mayor Leslie Thompson for the Town of Jonesboro explained that he was unable to attend the previous Audit Advisory Council meeting on September 16th due to a deposition in Shreveport. He said that if it would have been a little stiffer on the front end, he probably would have cancelled on the other side. Senator Murray said they invite first, and if do not attend, then a subpoena is served.

Senator Murray stated that the Town of Jonesboro had many findings over several years that repeated, and the concern is why the Town cannot keep its finances in order and when they will be corrected. Mayor Thompson discussed his intentions for corrective action for the eight findings in the 2008 and the nine findings in the 2009 audit findings. He said they have received advisements from the LLA and he had done all that they knew to make corrections, and have hired an outside auditing firm.

Senator Murray and Representative Ellington questioned some of the issues including lack of training for personnel, purchasing a car without following the state bid law, an employee who had not paid a utility bill since 2006, and other issues. Mayor Leslie Thompson responded to their questions and said there has been implementation of new policies.

Ms. Irwin said her staff has monitored the Town of Jonesboro for quite some time, and the auditor could not opine on the financials because the records were not adequate to perform the procedures. She said advisors have also gone to the town twice to meet with the Mayor and some council members to review their findings and do recognize some progress but still serious deficiencies to be addressed as

outlined in the document provided by the Legislative Auditor. Senator Murray told the mayor to be sure that audits can be performed and the proper bookkeeping is done. Mayor Thompson said they are on it.

Randy Layfield, Council Member, presented a document titled "Concerns of the Jonesboro Town Council" which detailed eight areas of concern including misappropriation of funds, mayor withholding access to monthly bills and removal of the council from signing checks, and the mayor threw a birthday party and hosted gospel concerts financed by town's funds. Mr. Layfield said they have had concerns for the past three years and sought help from the District Attorney (DA), legislators and others to no avail, and appreciates the opportunity to address the problems of the town. He explained the budget approved by the council was ignored by the mayor, and currently operating some offices with no appropriated funds. Mr. Layfield said that the Town of Jonesboro does not know the exact financial situation of the Town of Jonesboro, and in the last audit an adjustment to the beginning balance of a \$250,000 downward had been done, and the funds were not accounted for. He expressed concerns with the District Attorney Jonathan Stuart not taking any action even though he stated it to be malfeasance. Senator Murray explained that the council has no authority over the District Attorney.

Mr. Layfield requested the council to use whatever authority they have to pressing the District Attorney to act on the allegations that he was elected to uphold, and if he will not to please recuse himself. Senator Murray suggested they petition the Attorney General's Office or the U.S. Attorney, but the council has no prosecutorial authority at all. Senator Murray said the council wants to help get the town's finances in order and to be sure it happens, but cannot tell the DA to prosecute.

Senator Gautreaux asked Mr. Purpera if any notification had been sent to the AG's office, and asked if he could assist Mr. Layfield in bringing it to them. Mr. Purpera said that report completed by the CPA goes to the District Attorney. Senator Murray said as per the Constitution the DA is in charge of his jurisdiction, and the AG can only step in if the DA recuses himself.

Mr. Purpera explained that the level of proof for the auditor to write a finding is based on the evidence they see and many times there is no documentation for support, and the DA is reliant on the documentation and the intentions. Senator Gautreaux asked if there is any proof, and any access to bank accounts. Mr. Layfield said they are not given access to any accounts and bank statements, but they did hire an outside accounting firm separate from the auditor to get the books reconciled and prepared. He said over \$100,000 was spent the previous year on an audit, and do not have a budget to afford that, and it is wasteful of taxpayer's money. Mr. Layfield expressed his frustrations with the situation, and said the mayor will not abide by the budget approved by the council. Senator Murray suggested they go to the U.S. Attorney, or FBI, and said they are sorry that they are unable to help any further.

Mr. Purpera said that Jonesboro was not on the noncompliance list. He said at the previous meeting they discussed how a disclaimer on the audit is basically an auditor saying they cannot do an audit. The discussion to make the declaration that they were noncompliant was not done, so he suggested that a disclaimer of opinion is not an audit and the entity should be put on the noncompliant list, so that no funds from HB1 and HB2 could flow to the entity. Senator Murray said before going down the road, it was not on the agenda to decide that.

Representative Kleckley said he is interested in who is on the noncompliance list and if they are receiving money from the state treasurer, and wanted to know why if any entity were receiving funds. Mr. Purpera said over 50 entities are on the noncompliance list which is available on his website, and have not met their audit requirements, and only if extensions are granted by himself in the first 90 days, or must come to the council for greater 90 days extensions. Representative Kleckley requested at the next meeting to receive the noncompliance list and who is receiving funds from the State Treasurer, because there may be a breakdown somewhere. Mr. Purpera said the list is on the internet and updated daily and available to anyone. Representative Kleckley said he would like to go deeper and find out if anyone on the noncompliance list is receiving funds from the State Treasurer. Mr. Purpera said he works closely with the State Treasurer's office, and found in the past that they have very good procedures to examine that list continually and not making payments to any entities that are on the list.

Representative Ellington asked if all the Town of Jonesboro would receive through HB1 and HB2, or if any other funds they would receive. Mr. Purpera said there are other appropriations. Senator Murray said there are grants, and other funds, but the statute only reads HB1 and HB2. Mr. Purpera said if money is appropriated by OCD, they cannot give funds to any entities on the noncompliance list.

Randy Shows, Alderman at Large for the Town of Jonesboro, addressed the areas of financial concerns regarding internal controls, contracts signed without approval of the council, very late notice of the budget to the council causing the approval to be delayed, and other issues such as mileage reports not completed. He said the town attorney had also told the Mayor that the town concerts are not approved.

Renee Stringer, Town Council Member, stated that she personally had seen the manipulation of data to receive federal funding repeatedly, and that the town is mired in corruption and illegal activity. She read off the minutes of the town council meeting, and that there was a letter from the attorney handling the deposition stating that the Mayor was in Baton Rouge on September 16th. Senator Murray said the reason they have been invited was because of concern for the town, but do not have the authority to initiate prosecution except to stress to get the books in order. He said if this issue comes up at the next meeting, whatever state moneys the town receives through appropriations or for capital outlay will cease to flow until the audit is clean. That is the only enforcement the council has to cut off the flow of state funds.

Ms. Stringer said the town council does not have access to public information, and had to file freedom of information act requests to get public information. She said she has begged and pleaded with everyone that could have authority to do something, and thanked the council for allowing them to speak. Representative Ellington asked if the council could request the AG to step in. Senator Murray said the AG can step in to do his own investigation if reason to believe something happening but cannot take the place of the local DA. Ms. Stringer said their council signed a letter to the AG as well as a letter to the Troup F of the LA State Police when one of the thefts occurred to do an investigation, but no assistance was received, but told to allow the local sheriff handle it, who said the local police would take care of it.

Representative Ligi asked what the recourse would be if any evidence of untruthful under oath, and if that person is signed testifying under oath. Senator Murray discussed the recourse if someone has not been truthful in testimony, and that he would find out that out. Representative Ligi said he believed a criminal law that states consequences when swearing under oath before a public body. Senator Murray said it would be the District Attorney to proceed with any prosecuting.

Mayor Thompson said he came to let the council know he would do all they could to have a clean audit, and previous discussion borders on slander. He said if the councilwoman had any truth to what she was saying because the only thing that has allowed him to survive as the first African American mayor was operating according to the law. He said he and his wife were in route to a 2:00 p.m. deposition on September 16th and received a call 10 minutes outside of the City of Natchitoches from Mr. Stanley's secretary and told him that someone taking too much time, and would have to reschedule it. He said maybe Ms. Stringer had proof that he was not there, but must be careful what is heard and making assumptions that what she said was true. Senator Gautreaux asked if he would allow the council members to see the bank records, and Mayor Thompson said they can submit and have 72 hours to make any public record available and they get it anytime. He said someone's lying, and he does allow full public access, and stated the FBI and attorneys would have already handled him if a problem.

Representative Ligi stated that he was not assuming that the Mayor lied, but want to ensure that all testimony was honest and truthful, but would like proof if anyone lied. He said they will research the criminal statutes and may be a matter to bring to the parish attorney for East Baton Rouge (EBR) if someone lied under oath. Mayor Thompson said he would really like to know the consequences for that action. Representative Ligi asked if everyone signed the card and asked that they understand that they are under the oath as set under the card.

Mayor Thompson said the council members said he would not operate under the budget and a hard person to deal with, but according to the Lawson Act it requires the mayor to submit the budget and the council submitted and adopted their own budget. He said that he will continue to operate under what the law allows him to operate, 50% of what budgeted last year, and the only protection he has is to operate within the confines of the law. Senator Murray said courts are for deciding that issue.

HORSEMEN'S BENEVOLENT PROTECTIVE ASSOCIATION

Mr. Purpera stated that he has received all the documents requested, but at times during the audit the documents were not received very quickly, and the council asked that members of Horsemen's Benevolent Protection Association (HBPA) come to discuss that.

Mr. Dan Daigle, Director of Compliance Audit Services, said HBPA is in the process of providing a handful of documents. Mr. Purpera said this first time audit of all of the entities under HBPA as ordered by this committee in January, so attribute the delays to the new relationship. Mr. Daigle said during an ongoing audit, he cannot discuss particulars and provide the council with details.

Senator Smith asked regarding the legislation passed the previous session, and that the Horsemen's agreed and cooperated. Senator Murray said he just wanted to be sure that HBPA did not become like LDOI with an issue of getting documents. Representative Ellington asked if the legislation passed provided for September to begin the audit, but HBPA allowed early starting. Mr. Purpera confirmed that prior to the legislation being finalized they had many conversations with HBPA's leadership and they did allow the audit to begin early.

Representative Ligi asked if there was any timeframe or deadline. Mr. Purpera said this is not the annual audit due within six months of the year end, because this audit was the result of the council's request for an audit. Mr. Purpera stated that when performing audits they appreciate unfettered access and the documents provided timely, and because that relationship had not always been there and some delays, thus brought it before the council.

Senator Gautreaux asked what the typical delays were and how many entities have the same problems with delays. Mr. Purpera said approximately 14 days and there have been other entities. Senator Gautreaux asked that he provided to the council a list of entities with delays on providing information, and then the members could choose some of those entities to come before the council. Senator Murray said he made the motion to bring them before the council which passed unanimously. Senator Gautreaux asked for the same comments on any entities that are 14 days or longer delayed in providing information, since that is the new standard. Mr. Purpera said he would provide that information because it would assist the auditor's office.

Mr. Sean Alfortish, President of the Louisiana Horsemen's Benevolent and Protective Association, stated that he was not aware of what exactly he was there for today as Senator Smith had brought up before the committee, and was somewhat surprised to hear there was any issue with regard to non-compliance. He commented that he thought Daryl does a fantastic job, and that they have a wonderful legislative auditor at the helm of the leadership. Mr. Alfortish stated HBPA still maintains their private status, and that not a government agency, or quasi-government agency. He stated as a compromise went before this legislation and agreed to allow the legislative auditor perform them. He stated that 94% of their money was always audited and 1% of the money was audited by the Department of Insurance for their workers' comp, and the other remaining 5% for medical trust and pension trust which was also audited by the legislative auditor's private auditee. Those reports were just not made public. He said once the law was passed through joint efforts they allowed the auditor to begin the audit in June rather than start in September when the law went into effect. In the beginning, because they had never audited the organization in this manner before, a tutorial was provided to the auditors and told them everything about how the business works to give them every available tool and resource to understand how the purses are calculated, the medical trusts work, the pensions, etc.

Mr. Alfortish stated there were only two episodes that could be considered delays: when minutes of the board meetings were requested and the secretary treasurer forgot about it and when asked again, he brought the auditor directly to the minutes. The second request was for a personnel file which happened to be contentious, so the labor attorneys in Jones Walker had to review the folder prior to providing to the Legislative Auditor. He said they have not heard anything to the contrary and somewhat surprised to hear an innuendo that they are not being compliant, especially when we boil it down to these two issues. He stated to the council that they are there to comply with any and everything because they would love to quash the ridiculous rumors that have precipitated themselves and caused the state to spend unnecessary money to audit HBPA, and look forward to the conclusion of it.

Senator Gautreaux asked who pays for the audit. Mr. Purpera said it is performed by the Compliance Division and paid for by the Legislative Auditor. Senator Gautreaux asked Mr. Purpera that the total cost for the audit be provided at the next meeting, and asked Mr. Alfortish for the total litigation cost to the members of the HBPA for the lawsuits. Mr. Alfortish said he is not sure, but it was in the six figures. Senator Murray encouraged them to continue working with the auditor to get this complete.

LOUISIANA HIGH SCHOOL ATHLETIC ASSOCIATION (LHSAA)

Mr. Daigle discussed the findings of the audit issued on September 22, 2010, by the Compliance Audit Services which were relative to the former executive director Mr. Thomas Henry's improper credit card use and duplicate expense reports, as well as the shortage of deposits of ticket collections at sporting events. Mr. Daigle pointed out the expenses of Mr. Henry that were personal in nature, and not for public purpose, and the necessary methods of collecting data.

Senator Smith asked if any limitations on the spending of money of the \$1.4 million. Mr. Daigle said it was collected and put into one account which is co-mingled with any private funds, which according to the audit law and AG's opinion, it should be treated as public funds at that point because co-mingled.

Representative Kleckley asked who paid for the audit and the total cost, and Mr. Daigle explained the auditor's office paid for the compliance audit. Representative Kleckley asked if it is done by sampling and only dig further if necessary. Mr. Daigle estimated about 500 hours spent on the audit in approximately three months. Mr. Daigle said they sample because difficult to review all of the 2,355 transactions when no documentation to support the transactions, so take the largest sample as practical to do. He explained that due to statutes to retain records for three years and because no records attached to the credit card used by Mr. Henry, they had to go to third parties to ask for itemized receipts.

Kenneth W. Henderson, Executive Director for LHSAA, stated he took office in October 2007, and thanked the legislative auditor for performing the audit and the professionalism displayed. The LHSAA readily admitted there was a lack of internal checks and balances prior to October 2007. Mr. Henderson said prior to the audit, the LHSAA implemented several policies and procedures to ensure the association not fall victim to any misappropriation of association funds and guarantee these are used for intended purposes as approved by the executive committee. He further outlined the policies put into place, and the association's resolve to adhere to best accounting practices and procedures, and pledge to be good stewards of the association funds. The LHSAA had submitted a state approved audit report conducted by the approved audit list for the past six years. Mr. Henderson said they would cooperate with any other requests from government agencies regarding the former commissioner, and that the Executive Committee is exploring their options regarding legal action that may be forthcoming.

Senator Murray asked why these spending issues and lack of fiscal controls were not found in previous audits done by the independent auditors. Mr. Henderson said no findings were in those audits. Mr. Henderson gave a brief history and explanation of their creation and how the rules and procedures are approved by the principals of the 389 schools that are members of the association who pay dues.

Mr. Purpera explained that the previous audits have been in accordance with general accepted auditing standards, not government auditing standards. The government auditing standards which will be for future audits require that a government auditor look at the internal control system in a different way and compliance with laws differently. Representative Ellington asked when it changed.

Ms. Jenifer Schaye, General Counsel for LLA, said initially the audit law excluded the LHSAA because it said a quasi-public who paid membership dues would not be audited. Then in the Spain case, which was against the LHSAA, the Louisiana Supreme Court called them public for the purposes of open meetings and public records. Then about six years ago the Louisiana Legislature said under R.S. 24:513 the LHSAA should be audited. At that time, the auditor's office attempted to audit them, and she performed a deposition of Mr. Henry because he refused the audit. Prior to settling the suit, the LHSAA called a suit for declaratory judgment challenging that legislation, but before settling that the legislature said not to have an audit by the LLA, but have an independent CPA audit them and not according to Governmental Auditing Standards. Then the legislature changed the legislation again and said they should be auditing according to Governmental Auditing Standards and with due cause be audited by LLA. It was based on the fact that the court in the Spain case said these are schools in Louisiana and the funds paid into the dues are public funds from the schools, and an entirely public activity.

Representative Ellington said they may have started private, but are quasi-public now, and asked how much is paid in dues by the schools. Mr. Henderson said the largest due paid is \$1,000 paid by the largest school, and of the total budget the dues account for approximately 6%. The remainder of the funds came from state championship hosted and corporate sponsors.

Senator Gautreaux questioned Mr. Henderson's term and their audit by the IRS. Mr. Henderson said between January – October 2007 he was not sure what he did there, but took office and implemented new policies in October 2007. Mr. Henderson said the IRS audited them in June 2007.

Senator Gautreaux mentioned a new Supreme Court case law that members of a teachers' retirement system that they would be a public entity. Ms. Schaye said also the matter is discussed in AG Opinion 10-0023, but Senator Gautreaux said opinions can be decided any way in the courts as seen in the Citizens Insurance. Senator Gautreaux asked if recent audits have been reviewed for any problems with credit card expenditures. Mr. Daigle said there were receipts for recent purchases and a dramatic difference from the audit period to now. Senator Gautreaux asked for a percentage disallowed. Mr. Henderson said basically thumbed \$600,000, and not sure, whereas the state legislative auditor mentioned 35% that should not have been allowed. He said the IRS did not do such a breakdown because with no records everything counts.

Senator Gautreaux asked if they record in-kind contributions on their tax returns. Mr. Henderson said they do not do tax returns. Senator Gautreaux said such as facilities allowed for them to use for free since it should be relevant. Mr. Henderson said they do not record as a monetary donation. Mr. Daigle said he is not sure if that should be reported for tax purposes, but would like to know those in-kind contributions are for audit purposes.

Kenneth Delcambre, Principle of South Terrebonne High School and President of the LHSAA, stated the previous presidents, and gave his history on the board. Senator Gautreaux asked if they were aware of the allegations or lead them to investigate. Mr. Delcambre said he heard rumor, but never investigated.

Representative Kleckley complimented them on their resolution of the issues and asked if he would consider the activities from 2005-2007 to be a misappropriation of funds by Mr. Henry. Mr. Henderson said personally based on the steps to be sure it would not happen again he did disagree with how it

was being run. He said they have not taken any action to recover the money yet and it will be the board decision, and on the agenda for the next meeting. He stated the IRS issue has not been resolved yet.

Representative Kleckley asked if the auditor's office turns this over to the DA's office. Mr. Purpera said if any hint of misappropriation, it is given to the DA, and every audit report is provided to the AG's office. Mr. Purpera said he last heard that the DA was that he was not taking any action. Representative Kleckley asked if the grand jury gets involved in this. Senator Murray said only the DA can convene the Grand Jury.

Representative Kleckley questioned if their board may request Mr. Henry to repay the money. Mr. Delcambre said he is a member school and paid the dues for the past 10 years, and upset about his funds being misappropriated. He said it will be brought before the board, and would guess that some sort of action will be taken, but it is the board's final decision.

Mr. Henderson said their next board meeting would be October 27th. Representative Kleckley requested Mr. Purpera provide an update at the next LAAC meeting on the results of their board meeting regarding the recovery of funds. Mr. Delcambre said they are receiving quarterly statements to understand and see where the funds are going.

Senator Gautreaux asked if a bill by Butch Gautreaux passed for a constitutional amendment that if a member of a state retirement was found to breach the public trust and commit a misappropriation, that a garnishment could be filed. Senator Murray clarified that he must be convicted of a crime.

Mr. Delcambre thanked the committee and legislative auditor for identifying where their funds went and beneficial for the members for all to be laid out on the table. Senator Gautreaux said previously there was a special provision in law to exempt LHSAA from audit, and he requested the audit because of documentation from constituents that were very concerned about the issues. He pointed out findings in previous years including a no interest loan to sports writers association for \$5,000, and other things.

NEW ORLEANS PUBLIC BELT RAILROAD (NOPB)

Mr. Daigle summarized the findings from the audit report issued on September 22, 2010, as management and the board of commissioners did not adequately safeguard public assets correctly. The four basic categories: donated assets, used assets for personal purposes, violated the Public Bid Law, and had questionable management practices. He provided brief details on the nine findings as outlined in the audit report. Basically there was \$500,000 in the audit period that consisted of about 4,200 different transactions, and being as no documentation had to go to the third parties and emails, etc. to piece together to determine purpose of the expenses. Senator Murray stated that the entire board has been replaced at the urging of Mayor Landrieu, and not sure if they will have a new Executive Director.

John Morrow, Interim General Manager since August 26th, when Mr. Bridger was suspended and subsequently resigned. He provided a handout titled "At the directive of the Mayor of the City of New Orleans and upon the recommendations of the Louisiana Legislative Auditor, following is the New Orleans Public Belt Railroad's Corrective Action Plan in response to Louisiana Legislative Auditor's compliance audit issued September 22, 2010". He stated that the corrective action plan was presented to the board meeting the prior week at the New Orleans City Council chambers, and the regular monthly meeting with the new commission would be the following week. Mr. Morrow said they have around 12-14 board members, and expect the other two at the upcoming meeting. Mr. Morrow said that every item outlined by the legislative auditor had been responded to as outlined in the corrective action plan. He said commitments had been made to 43 charities previously for use of the cars to raise money for the charities. Mr. Morrow said the Inspector General's opinion that if the cost for the utilization of the cars were charged to the charities, that those commitments can be honored. He said they also are considering selling the 1927 antique Pullman cars, and will put them on public bid, because it was a distraction to the railroad.

Mr. Morrow proceeded to explain the findings and corrective actions for each as outlined the handout he provided to the council. Also attending the meeting from NOPB was Rachel Zimmerle, Accounts Manager and CPA, and R. Kollmar, Chief Engineer. Mr. Morrow pointed out that when they need an attorney they must go to the City of New Orleans, and get the information to hire an attorney. He said for the cases ongoing he must get approval to use the lawyers, but for new cases put out for public bid.

Senator Murray said when this document was released it was very embarrassing to the city, and the mayor took strong action quickly asking the board members to resign and for them to take corrective actions. Senator Smith questioned their annual revenue. Mr. Morrow said this year's revenues will be about \$15-17 million, and in 2008 it was around \$21 million, with business picking up. He shared their leasing income and FEMA reimbursements to repair after the storm.

OTHER BUSINESS

Mayor Andrus requested to make a statement to the council explaining that the City of Grambling had been in a similar turmoil to the City of Jonesboro for the past three years. Mayor Andrus provided a stack of documents to each council member and expressed her concerns for the City of Grambling. Mayor Andrus requested a forensic audit from the Legislative Auditor, and had appealed to every office in the state but not received any assistance. She shared some of her history with the city and wanted to leave office in December with a clean audit.

Senator Murray asked if the extension granted was sufficient for them to complete the audit, and asked if Mr. Purpera could send advisors to the City and give guidance to the Council. Mr. Purpera stated that the Mayor requested work related to potential fraud, and he called District Attorney Robert Levy who told him that both the DA's office and the state police were actively investigating, and did not want the auditor to go into the city. Mr. Purpera said he did respond to the Mayor that he could not come.

Mayor Andrus said the state police still had her records which had not been returned to her. Senator Murray asked once clearance for LLA to go there, if they could send assistance. Mr. Purpera said they would send advisory services to look at controls.

Senator Murray pointed out the updates on the Katrina Cottages included in their packages, and requested the council review the document by Ms. Schaye on the powers of the council to discuss further at the next meeting. Senator Murray requested for the next meeting to have the District Attorney Association explain how the jurisdiction works and explain their role. Mr. Purpera said he would invite Mr. Pete Adams. Ms. Schaye pointed out in the Powers and Duties memo that she prepared for the Council to note R.S. 24:519 discusses that when LLA reports a fraud audit to the DA, that the council can ask the DA to come to the meeting and explain what his prosecutorial decisions are based on.

Senator Smith commended the Legislative Auditor and staff on the work done putting together the meeting and every day for the extensive work on the various issues.


ADJOURNMENT

There being no further business, Senator Gautreaux made the motion to adjourn. Senator Murray adjourned the meeting at 6:15 p.m.

APPROVED BY:



SENATOR EDWIN MURRAY
CHAIRMAN



DARYL G. PURPERA
SECRETARY

10/18/2010

DATE