

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting July 22, 2011

A meeting of the Legislative Audit Advisory Council was held on Friday, July 22, 2011, in Senate Committee Room A-B of the State Capitol.

CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 10:13 a.m. A quorum was present with the following members in attendance:

Members Present

Senator Edwin Murray, Chairman
Senator Karen Carter Peterson
Representative Noble Ellington, Vice Chairman
Representative Cameron Henry
Representative Anthony Ligi
Representative Ledricka Thierry

Members Absent

Senator Willie Mount
Senator Ben Nevers
Senator John Smith
Representative Charles Kleckley

TOWN OF JONESBORO

Ms. Joy Irwin, Director of Advisory Services with the Louisiana Legislative Auditor (LLA), presented the background on the Town of Jonesboro regarding the disclaimers on their audits due to the record keeping and missing documentation. After continued monitoring, to bring accountability to the financial records and organized their accounting system, the LLA and the Town of Jonesboro entered into an agreement for the appointing of the Chief Financial Officer.

Ms. Tonya Wade, Chief Financial Officer of the Town of Jonesboro, listed the accomplishments in the Town since she assumed this position in April 15, 2011. Ms. Wade also outlined the work still to be done, including reconciling with grantor agencies. She also mentioned recommendations regarding collection processes; for them to input bills daily; to consider changing to biweekly payroll; for the town to stop so many withdrawals; and to update the personnel files. Ms. Wade said that the Town is solvent.

Representative Ellington asked if the Town had sufficient funds to pay its bills. Ms. Wade said all the accounts were positive as of the day before. Ms. Wade said there were some NSF charges because of changing from a master bank account to separate accounts, and the employee forgot to transfer the funds for payroll. Representative Ellington asked her to check into any NSF charges on the payroll accounts and on police retirement account payments. Ms. Wade mentioned she saw checks had been written, but not cleared the account, and will check further into the situation.

Mr. Daryl Purpera, Legislative Auditor, pointed out that the Fiscal Review Committee became involved because of the disarray in the Town's accounts and has seen improvements, but pointed out more items that need to be addressed so that the Town will be able to continue its operations once the CFO has left.

Representative Ellington questioned Mayor Leslie Thompson about late payments to the police retirement system and if enough money was incoming to pay all the bills. Mayor Thompson said he appreciated all that has been accomplished since last year, and would check on the retirement payments. He said there were some kinks as they transferred to the new system, but it has been very helpful.

Senator Murray asked Mayor Thompson to give the answer to Ms. Tonya Wade and the Legislative Auditor who will forward the information to the council. He said he hopes that the Town will continue to see progress, and will call him back in several months for another update.

Ms. Renee Stringer, Council Member for the Town of Jonesboro, commended the LLA staff for their excellent job and said she is grateful for the progress seen in Jonesboro. She said for the first time in over four years, the town council received a profit and loss statement, and very thankful for this. Ms. Stringer inquired about the CFO's responsibility to reporting to the Town Council, and that it would be helpful if Ms. Wade could explain the financial reports to them, and clarify any issues.

Mr. Purpera said Ms. Wade reports to the Mayor daily and biweekly to himself, and his office communicates with her constantly about the Town.

Senator Murray suggested the Town Council ask the Mayor to request Ms. Wade be present at the meeting, and let her know which items to address. He also pointed out the assistance of the Attorney General's office and the State Treasurer's office in making the agreement to put the Town back on track. Ms. Stringer asked about the unaccounted for money and what the next step would be, but that it is unfair for taxpayers to pay for the compliance audit. Mr. Purpera said the report has been provided to the Sheriff, the District Attorney, and Attorney General, and those are the appropriate parties to take that forward.

Mayor Thompson said he never prohibited or prevented Ms. Wade from attending the Council meetings, and believes that she only missed one meeting. He said that because of the cost to have Ms. Wade at the meeting, he wants to be sure it is necessary for her to be present. Mayor Thompson said the council can always override the Mayor by motion. The audit had been sent to the Sheriff and there is an ongoing criminal investigation for the \$385,000 which was not missing but because of no supporting documents they are investigating it.

Representative Ellington asked about the cost for the CFO to attend the meetings. Mayor Thompson said they must pay Ms. Wade by the hour, and felt Ms. Wade was present at the Town Council meetings when needed. Mr. Purpera stated there is value in Ms. Wade attending the meetings and would ask her to attend them. He commented that when supporting documents are missing it is difficult to verify town business.

Mayor Thompson said that he is personally tracking down each check that is missing supporting documentation. He said that the previous town clerk was poor at record keeping, and not sure if any charges would be brought against her.

APPROVAL OF MINUTES

Representative Ellington moved to approve the minutes for November 18, 2010; December 16, 2010; and June 22, 2011 meetings. With no objections, Senator Murray said the motion has been approved.

EXTENSION REQUESTS

Ms. Joy Irwin, Director of Advisory Services, recommended that the council confirm the 15 page list of extension requests less than 90 days that had been administratively approved by the Legislative Auditor. Senator Peterson moved to approve extension requests less than 90 days and with no objections the motion passed.

Senator Murray inquired about the entities with expired extension dates. Ms. Irwin said the five entities with expired extension dates, but for various reasons renewed extension requests have not been received, and those are being monitored. She provided reasons why they are not requesting new extensions, including: no longer doing business, cannot pay their auditor, or charter schools which have lost their charter.

Ms. Irwin presented the greater than 90 day extension requests which was divided into several sections. The extension requests over 90 days that were administratively approved by Senator Murray until the next meeting, was the first section brought before the council for affirmation. Senator Peterson moved to confirm those extension requests which had administratively approved and the reports had been received. With no objections, the motion had passed.

Ms. Irwin said the second section with contained entities whose extension dates have passed, and the report has not been received. A representative for each of these entities was invited to speak before the council.

Crestworth Learning Academy

Mr. Tommy Cain, Business Manager, for the Crestworth Learning Academy, and Mr. Sean Bruno, accountant for Crestworth, addressed the council. Mr. Bruno stated that the charter school was asked to take over the school a year earlier than expected. Mr. Cain said the school is located in North Baton Rouge. Mr. Bruno said due to the timing issue, the charter school did not have the controls in place to result in an effective accounting system. Mr. Bruno said in November he was asked to help, which they then cleaned up the general ledger and ensured supporting documentation was present. In March, they engaged a firm to conduct an audit, which they have prepared an audit report that was provided to Mr. Cain the day before but had some questions to discuss with the firm. Mr. Cain said that they should have it completed and turned in to the Legislative Auditor by July 29, 2011. Senator Peterson moved to grant the extension request for Crestworth Learning Academy until July 29, 2011, and with no objections, that motion passed.

Senator Murray commented that the Crestworth School was a Recovery School District (RSD) school and wanted to discuss the issue that there are generally more problems with performance and finances in charter schools, such as the Abramson Charter School in New Orleans. Ms. Irwin said that Abramson was current with their report, but the charter school issue recently in Baton Rouge has been regarding administration and access to records. Ms. Irwin said that when the charter schools are administered by a third party and when they leave, it is difficult to get access to the records and hinders the audit. Ms. Irwin said that she has been in the process of setting up meetings with at least one charter school to find out what the LLA can do to help them with maintenance of their records.

Senator Murray said he would like on the agenda for the next meeting Charter schools because of financial and performance issues, because it appears that RSD, Department of Education (DOE) or Board of Elementary and Secondary Education (BESE) lacks the resources or the will to step in until things are really bad.

Martin Luther King Association

Mr. Leonard Wilmer with the Martin Luther King Neighborhood Association (MLK) said it was a charter school, but they were controlled by Edison Learning, which the state department required that they brought Edison in to run the school. He said Edison maintained all the records, wrote all the checks, and with no notification Edison dropped his school on June 21st. Mr. Wilmer said they hired attorney Carl Franklin to get financial records from Edison Learning, so that the audit can be done. Mr. Wilmer stated they paid Edison \$440,000 per year for the management fee, but still wants more money because of how successful the school was and the improvement in test scores. Mr. Wilmer said the school is in the Recovery School District and is called Linear Leadership Academy. Mr. Wilmer said they had to turn the charter back in because they were unable to find a company to run the program and the MLK Neighborhood Association was not allowed by RSD to run the program.

Senator Peterson asked who required him to hire an administration company. Mr. Wilmer said the State Department told the school that they had to use Edison to get their charter. He said that the school's checking account was swept by Edison to their account, including payroll and everything, but Edison did not pay all of the bills, and MLK had to pay some of the bills. Senator Peterson said the charter was awarded to MLK Neighborhood Association, and Edison was supposed to be the management company. Mr. Wilmer said the state required that Edison receive all the money and handle all the finances.

Sean Bruno, CPA, said that he has several clients that use the management company Edison, and had seen the contracts proposed two different ways. Unfortunately for MLK Neighborhood Association, the contract was written that all funds received by MLK would be swept into an account maintained by Edison Learning. Then Edison would be responsible for all financial obligations.

Senator Peterson asked what was the value of having a charter board, if it was only for the name. Mr. Bruno said the charter school is required to have a sponsoring agency, which was the MLK Neighborhood Association, and they created a board to oversee the operations of the school. The board entered the agreement with Edison Learning. Mr. Bruno said that MLK was required to have a management company and would not be allowed to operate without one, but was not sure if it was mandated by the state that Edison had to be that management company. But prior to the initial contract being signed, Edison was part of the arrangement based on his discussions with the attorney involved in this case.

Senator Peterson asked how long the school has been in operation. Mr. Bruno said one year. Mr. Wilmer said they lost the charter when Edison pulled out. On June 21, MLK was given 30 more days to locate a management company, but when unable to hire anyone, then the state required that MLK surrender the charter.

Senator Peterson asked who drafted the contract between the board and Edison. Mr. Wilmer said that MLK had a board, but was then required to create an additional board and applied with the Internal Revenue Service for a 501C3 non-profit, but this had to be terminated because they were unable to find a management company that the state would allow. Mr. Bruno said that the contract was created by Edison Learning, and if the agency does not ask for any changes, they will sign it. Mr. Bruno said his other client asked to change the contract so that the money is not automatically swept, and the school transferred the funds to Edison.

Senator Peterson asked what other schools are operated by Edison. Mr. Bruno said Edison has five schools including 100 Black Men. Senator Murray stated that was just approved for an extension request, asking if Edison still managed that school. Mr. Bruno said Edison dropped the school chartered by 100 Black Men, and was in the process of turning it over to RSD.

Mr. Bruno said the other schools managed by Edison included Linear Learning Academy and Broadmoor Wilson. Ms. Irwin said that they would prepare the list of schools for the council. Senator Peterson requested that Edison Learning be on the next meeting's agenda. Mr. Bruno said only one school (Broadmoor) is still currently managed by Edison, and all the others have cut ties with them.

Representative Henry questioned the process of Edison sweeping all the funds from MLK Neighborhood Association to pay all of the bills, but because the financial responsibility with the state still rests on MLK. Mr. Bruno said that from Edison's standpoint, sweeping the funds ensure that they will have all the funds to pay the bills. Representative Henry stated that the contract is written to benefit Edison, but does not seem right to sweep all the funds.

Mr. Wilmer said they argued the point with Edison, who then became displeased with MLK for trying to prevent it. Representative Henry stated that MLK is responsible for the money, and by contract legally Edison takes all the funds, not allowing MLK to even know the funds were there. Mr. Bruno said that the funds went into the New Learning Academy, which MLK was the signature on the account, so ultimately they do have total responsibility for all the funds that went into their account. Senator Murray stated the reason MLK was present and not Edison was that the state funds went to MLK, and required to have the audit, and Edison is not. Mr. Wilmer said the gentleman that arranged all this had passed away three months ago because of the stress on him. Mr. Wilmer said his board had heated arguments with Edison, who probably realized MLK was about to cancel with them, so Edison pulled out first and it is not a good situation.

Senator Murray stated that he wanted Edison, the RSD and the DOE to be at the next meeting. The DOE is mandating charter schools to hire a third party operator from their list of approved operators who charge a substantial amount of money before giving the charter schools approval to open. Senator Murray said he has spoken with other charter schools that are forced into this situation.

Sean Bruno said he tells his clients to ask for accountability from the management companies on how the money is spent. Representative Henry asked if the management companies were held responsible to prove how the funds were spent. Mr. Bruno said they should be, but not required to for every cent taken. He said the problem with the 100 Black Men's charter was he was not able to see how the money was spent by Edison.

Representative Ellington asked what the management firm did. Mr. Wilmer said the firm wanted to add their experience for running the school in terms of hiring teachers, choose the curriculum to use, and supposedly Edison had all those things in their favor, and was the reason chosen to run the schools.

Ms. Irwin said that LLA's general counsel provided to Mr. Purpera a memo on the various responsibilities when charter schools are run by nonprofit associations, as in this case the MLK Neighborhood Association, and can make that available to the council. Senator Murray said that would be great.

Representative Ellington asked if Edison was only paying the bills or actually doing the running of the schools, so they handle all of the responsibilities except collecting the money. He asked if the management companies have to balance the budget. Mr. Bruno said that was one of the issues that Edison was not providing to the Board a complete financial statement on a monthly basis, but only a schedule of revenues and expenses, but without a balance sheet to go along with it, difficult to rely on that information. Mr. Bruno said the board did continually request that Edison provide a better financial statement.

Representative Ellington said then MLK had not authority at all if Edison was managing it. Mr. Bruno said ultimately the burden totally relies on MLK, and at some point they could have fired Edison, but then would have had issues with DOE because they were told without a management company they could not continue to operate. The new charter school was required to engage an auditor and he tried to impress the need for financial reports and accountability from Edison, based on his experience with 100 Black Men. Mr. Bruno said when the board started asking all the questions, he believed that Edison decided to just quit with MLK.

Senator Peterson asked if the contract with the MLK Neighborhood Association allowed Edison to pull out at any time. Mr. Bruno said he believed the contract stated that certain notice had to be given, but not exactly sure. Senator Peterson asked if MLK would have the ability to sue Edison. Mr. Bruno said MLK has engaged an attorney to work with Edison to try to resolve the matter. Mr. Bruno stated Edison was terminated by 100 Black Men.

Senator Peterson asked if the council could subpoena the records. Senator Murray said typically the council would invite them to bring the records first, and if they do not, then proceed with the subpoena.

Mr. Bruno said Edison did receive an email from the state that Edison is not allowed back on school grounds, so their defense was they could not return to get the documentation for the audit. The Linear Leadership Academy is now an RSD direct run school. Mr. Wilmer pointed out that since August 15 of last year RSD took over their school. Mr. Bruno said that Edison pulled out on June 21, 2010, and the board attempted to engage another manager, and did not have enough time to find another operator.

Senator Peterson stated that RSD does not have a policy that deals with emergency agencies, and discussed this at a committee meeting a few days before with RSD Superintendent John White. She said this is becoming a weekly story of problems and it is affecting children's education. Senator Peterson stated that she would like to invite to the next meeting the Superintendent of RSD and anyone involved with charter school management or contracts with the DOE.

Representative Ligi asked if all the money that was swept was public funds, and if there were any funds remaining when Edison pulled out. Mr. Wilmer said that Edison pulled out in June and was paid through June 30 for their fees of \$440,000 per year and wanted another \$200,000.

Mr. Bruno said it is difficult to audit the books to confirm they are charging the school for appropriate expenses and they could not provide supporting documentation. They only provided a general ledger based on journal entries, which cannot be audited without seeing the transactions that make up the numbers, and he informed Edison that he needed more detailed information.

Representative Ligi asked how bills were paid. Mr. Wilmer said the school had an operation manager, and the bills came to the school but were picked up by an employee of Edison. Mr. Wilmer said the school did see the bills, but did not write any checks, and when the board began to ask questions it became very tense. Mr. Bruno said some bills went directly to Edison because they purchased in bulk at a national level for better prices. Representative Ligi said the school needs to see the bills to know if it is really receiving a good deal, and a good explanation would be needed at the next meeting.

Senator Murray said we probably need to change the handling of charter schools. He asked Mr. Bruno and Mr. Wilmer to provide to Ms. Irwin the names of all with Edison who need to be invited, and to bring the records. Senator Murray asked if Ms. Irwin could suggest a date for the extension request, and then have MLK return if still unable to do the audit. Ms. Irwin suggested September 30, to hopefully allow sufficient time for the attorney to make contact with Edison to get records and to give Mr. Bruno time to get documentation needed to do the audit.

Senator Murray asked if they should also pursue Edison for the other schools it is operating in the state, maybe do something to put them on notice that some of those dollars may not be flowing until they comply with this request. Ms. Irwin said she would do that. Senator Murray asked if Edison had not paid the FICA taxes on behalf of the employees. Mr. Wilmer said a lot had not been paid that the IRS and state had sent bills to the school and the association paid them. Senator Murray asked if it had been paid out of the money that was swept, and Mr. Wilmer answered no.

Mr. Bruno said these bills may have been paid twice, because pretty certain that Edison uses a payroll company to handle payroll. He believes that payments were posted to the incorrect school, which he pointed out to Edison and was created, but MLK paid the bills so probably paid twice. Mr. Bruno said he sent MLK's attorney the email that he had sent to Edison of the notices of payroll taxes due, but has not received any further notice yet.

Senator Peterson moved to grant the extension for the MLK Neighborhood Association to September 30, 2011, and with no objections, the motion passed. Senator Peterson requested financials for all the other schools run by Edison to be submitted to this Council.

Housing Authority of Leesville

Ms. Barbara Kaveski, Director for the Housing Authority of Leesville, sent out the RFP's late for fiscal year ending on September 30, 2010. She said the only audit firm willing to complete the audit was the same as the previous year, William Hulsey, but has sent out the RFP again. She said they have sent out the RFP for their 2011 audit already to get a better response. Ms. Kaveski said they sent all to HUD and are waiting for the auditing firm to complete the audit.

Ms. Irwin said she would contact Mr. Hulsey this week. Senator Murray asked if the firm is on the approved list. Ms. Irwin said the auditor is on the approved list and reminded the council of the issues with the housing authorities' audits because of the HUD website and delays in the approvals. Senator Murray said the CPA must complete the audit if he wants to continue doing work for other public agencies. Representative Ellington moved to grant the extension for the Housing Authority of Leesville to September 30, 2011, and with no objections, the motion passed.

Housing Authority of Washington Parish

Ms. Felicia Spikes-Jefferson, Director of the Housing Authority of Washington Parish, stated that the auditor was brought in March 2011, and because he is very detailed and thorough, it requires more information and time. She said her agency is in complete compliance with the auditor's requests. Representative Ellington moved to grant the extension request until September 30, 2011, and with no objections the motion was approved.

Elam Subdivision Sewerage District No. 2

Ms. Sam Wiggins, Treasurer for the Franklin Parish Police Jury, was representing the Elam Subdivision Sewerage Board. She was not aware that 2009 statements had not been sent in and the attorney was going through the process of getting the receipts and payment books from the bookkeeper. Ms. Wiggins said that all the Sewer Board members had resigned and the parish took over the sewer system in mid-2010, which was the reason for the extension request because they have not provided any statements. Ms. Irwin stated the district just hired a bookkeeper. Ms. Wiggins said the 2010 audit would be included in the parish audit. Ms. Irwin said they were working with the District Attorney to get records to complete the 2009 audit. Representative Ellington moved to grant the extension until August 31, 2011, and with no objections the motion passed.

GOHSEP and OCD HAZARD MITIGATION PROGRAMS AUDIT

Mr. Purpera gave an overview of the July 13, 2011, audit report which stated that OCD did not effectively manage the HGMP project. He said the method of processing and tracking the applications lacked structure, guidance and monitoring. He referred to page 5 of the audit report which listed the findings. Another finding was that GOHSEP was not always ensuring that the sub grantees were submitting complete and accurate information and documentation related to this.

Mr. Patrick Goldsmith, Director of Performance Audit and Actuarial Services, reviewed the four main points of legislative concern regarding HGMP as their first objective: process lacked structure, guidance & monitoring, and no criteria for each stage. There were over 100 stages and impossible to determine where people were stuck at in the stages. GOHSEP was also implementing a new data system and only a few reports were available so unable to find historical data when finished the report in December. Mr. Goldsmith said there were problems with the payment data, and the OCD-DRU staff responded that they were working on correcting that. He said OCD-DRU gave inaccurate guidance to several applicants prior to 2009, and these are referred to as the V9 applicants. In February 2008 guidance changed from FEMA, and OCD-DRU did not update their guidance until September 2009, which resulted in some individuals elevated to the wrong levels, and not high enough so not eligible for the program. Since that time, OCD-DRU is working with those applicants to pay them through the typical Road Home funds. At the time of the report, there was potential of 540, but only 32 came forward, but OCD and GOHSEP do not anticipate many more to come forward, but that is a risk out there.

Mr. Goldsmith said the second objective was GOHSEP, as the grantee, had a responsibility for monitoring the actions of OCD-DRU and were doing financial monitoring, but not doing monthly performance evaluations, where they may have caught some of the problems. GOHSEP did provide weekly meetings with OCD, giving quarterly reports, providing verbal feedback and meeting with FEMA regularly.

John Morehead, Director of Recovery Assistance Services, stated that his normal engagement with GOHSEP is to review all HGMP mixed payments or packages which go through GOHSEP. For this period, his staff reviewed 185 packets totally just under \$22 million, and found potential questioned cost of \$2 million of error, that gave them the ability to correct. GOHSEP already rectified about \$900,000 of this error. He said also found was 20 reviews totaling approximately \$1.1 million where actual questioned cost. GOHSEP changed the process for a short period of time, creating questioned costs, meaning his staff was doing reviews after the payment went out the door, which meant they were unable to correct before paid. GOHSEP is working to correct their problems.

Mr. Morehead said LLA reviews OCD as part of the GOHSEP engagement because of HGMP. During this period, LLA reviewed in the new ATF system 22 packets totaling \$933,000, and found four that had errors, totaling \$187,000, which can be fixed by GOHSEP.

Senator Julie Quinn, representing Orleans Shoring in Harahan, presented the issues with bottlenecks and the HGMP Elevation Program, suggesting the need to speak with those who are working in the process. Orleans Shoring does approximately 25% of the HGMP elevation work, so they know the system better than anyone. At the beginning of the year, this company was owed \$14 million, and costing them \$2,500 per day in interest because of the delayed payments. This relates to 600 employees sent home when no job to do, causing trucks and equipment sitting idle, and not

any problem with contractor capacity. Senator Quinn said the purpose is not to point fingers, but to discuss the problems.

Ms. Vickie Holmes, Mitigation Grant Specialist with Orleans Shoring, handles processing all paperwork to the state for payment. Ms. Holmes described the problems with policy changes from OCD being retroactive and causing all files and contracts to be redone. Ms. Holmes explained the effects of changes on the price cap on line items and all contracts must be returned and resigned by the homeowners, and this applies to about 100 files. This applies to files that were under review by the HGMP analyst, and approved originally. The change on the price cap also affects final payments on jobs already completed.

Senator Quinn said after the contract has been signed and the work is done, and the home owner is on the hook on prices changes because GOHSEP changes prices in the elevation cost guidance (ECG). The change in costs can cause litigation because of the changes after the contract was signed.

Representative Ellington asked if the state or federal government is changing the rules in the middle of the process, and saying that it is retroactive. Senator Quinn said the state office is making the changes. Ms. Holmes said the policy changes are told to the contractors at meetings put on by OCD-DRU. Representative Ellington asked if the federal government is requiring the changes, but Senator Quinn said it is not from the federal government. She said that OCD, GOHSEP and now the LLA all have a part in the process and make efforts to improve the program, but it should not be retroactive and only have changes moving forward.

Mr. Christopher Finnan, Chief Financial Officer with Orleans Shoring, said his office enters into a contract with the state, and provides a breakdown of that contract to the HGMP office, who then reviews the contract, and reviews the line items. There is an agreement that the homeowner enters into with the HMGP that states this is my duplication of benefits, the money received from Road Home, money from flood insurance, and the dollar amount in the contract equates to the exact dollar amount they will receive from HMGP. This is signed by the homeowner and notarized at the HGMP office, and filed. As part of the process, when issuing the first payment to the homeowner before the project starts, and Orleans Shoring organizes everything with the homeowner, collect all the money which is put into an escrow account. No work is started until all is collected, and set forth, so complete the project, get the certificate of occupancy, and send the paperwork to the HMGP. Mr. Finnan understood that GOHSEP had not audited the file before the first payment went out, so now they are requesting final payment, the file is finally being reviewed and audited by GOHSEP, and recommendations are being made by the LLA as far as eligible or ineligible items and certain things are being deducted from that breakdown that was initially disclosed and the work was completed on this particular project. The recommendations as per FEMA guidelines certain things do not qualify, and then GOHSEP makes the decisions to deduct from the final payment several thousand dollars. The final payment is sent to the homeowner in the form of a two-party check made payable to the homeowner and the contractor. This leaves a final balance due to the contractor, but there is a contract between the contractor and the homeowner, and the homeowner has a contract with the state. But the alternative payment option agreement details and lists the exact dollar amount that should be paid to the homeowner and the contractor through the process, which is done up front before the first payment is made. This is why the work has been done as per the breakdown on the contract. After the work is done we are being penalized for items that GOHSEP is now saying some of the items are now ineligible.

Senator Quinn said if the contractor was to do the work at a lesser cost or substandard, they would be held accountable for doing so. Mr. Finnan said he understands that GOHSEP is now reviewing the contracts before the first payment has been issued, but has 166 final payments that he is waiting on payment from the HMGP program worth about \$6 million. Mr. Finnan said that 688 days is the oldest contract based on the date the paperwork was turned into the HGMP after all the job is complete. Senator Quinn said if they went from when the homeowner first expressed interest, it may be four years.

Mr. Finnan said there were over 400 contractors in this program which is a lot of people to deal with and many contractors are not following the rules and making issues for those that do follow the rules. Senator Quinn said the homeowners are allowed to move in but are obligated for the money. Representative Ellington wanted to confirm that the homeowners are allowed to live in the homes. Most are allowed to move in even before work has begun as per Mr. Finnan; however, a lien is put on every homeowner for the balance owed. Mr. Finnan provided an example of the problems with the lien on the homeowners and they discussed the tidal wave effects on their credit, jobs, etc.

Senator Peterson stated that the homeowners and contractors continue to take risks, because the homeowners are the ones affected. Mr. Finnan said when he requests a status update from GOHSEP, he is told they are trying to make final payment, but cost reasonableness is being questioned.

Senator Murray asked who was questioning the costs. Mr. Finnan said he understands that either GOHSEP or the LLA is making recommendations to GOHSEP. Senator Quinn said she understands the same through various meetings and is the impetus for being here today. Senator Quinn invited the council to tour the Orleans Shoring facilities in New Orleans.

Mr. Purpera said to remind the council that his office is auditors and not the management and do not make management decisions. After Hurricane Katrina, LLA was asked to do certain continuous audit procedures to ensure that the vast amount of money spent by the state is not requested to be repaying the funds later. Mr. Purpera said they developed audit procedures throughout the process both with the Individual Assistance Program, Public Assistance Process, and the HMGP process, but all along our procedures have been to not hold up the process. If a particular situation gets to the payment being paid, and the auditor realizes there is not proper documentation, then certainly the agency will get the necessary documents before making the payment to ensure issuing a proper payment. Mr. Purpera said he does not make policy decisions, but makes recommendations to management.

Senator Murray said it has been said at some Hurricane Recovery Committee meetings over the last year that the Auditor's office has caused some delays. In speaking with Mr. Purpera, he was told that they are only reviewing documents to be sure the agencies are following FEMA rules and policies. Mr. Purpera said the audit report being discussed points out the bottlenecks in the tracking system, and throughout the process, we are continuously making recommendations and the agency is taking and applying some of those. It may have been different if they had been applied earlier on.

Senator Murray said those in southeast Louisiana have lived with this for six years, but along the process, changes have been made, and rather than moving forward from today, they have made retroactive for years ago.

Representative Ellington asked if they should change in midstream. Mr. Purpera stated that the agency sets up the process which they believe will deliver the money to the correct individuals in accordance with the federal rules and regulations. Then sometimes during the process the Feds change the rules, or discover the process will not meet their requirements. Representative Ellington asked if federal rules changed or did the process from the beginning with the contract and then the state decides that we made a mistake.

Mr. Purpera said referenced earlier is the Vermilion 9, and in that situation guidance was given out from OCD. Representative Ellington asked if the Auditor's office was involved in checking if these were the proper guidelines to follow. Mr. Purpera said his office looks at the overall process, but when the audit was done was after all had been done.

Senator Murray asked if the auditor's office was involved in the establishment of the rules in the front end for the Vermilion 9, but actually you only audited the rules that were put in place by OCD. Representative Ellington asked if the auditor suggested changes to the OCD of all that they agreed to. Mr. Purpera said the issue is that the individuals relied on a particular set of rules and regulations put out, but if FEMA will not accept it and those dollars can only be used in accordance with the FEMA rules, then the agencies are forced to go back and make changes retroactively.

Senator Murray said the pilot reconstruction program was contracts between the homeowners and OCD of the State of Louisiana. It said to proceed and build that house, and pay a specific price, of which half the money was given. Later FEMA told the state was wrong and cannot give the rest of the money to the homeowners. So every meeting, the homeowners come back with their signed contract by OCD for their money, because they relied on the OCD for the money.

Representative Ellington said that if the state makes a contract with the owners, then the state be responsible. Commissioner Paul Rainwater said there are different groups of folks, and this group is regarding those who completed their work. In some cases, there is duplication of benefit issues or issues of the interpretation of the role. The state made advance payments in this case, and they will keep what they have, but just cannot make any more payments.

Mr. Rainwater said most of these were able to rebuild their homes, but would try to reimburse them for all the eligible costs, but in this case FEMA told the state that we interpreted the rule, and we pushed hard on behalf of the homeowners, but there is no obligation on a contractual perspective. He said lawyers have looked at it, and have worked hard to fix those cases but FEMA has said no further payments could be made in that case.

Senator Murray said he appreciates the Legislative Auditor and his team that has helped his staff, and this particular report has helped identify issues in the program. The auditors' job is to make sure OCD is making payments based on guidance from the federal agency. If we approve something upfront, and in this case Orleans Shoring is about \$3 million, we need to mitigate that risk as best we can. If we approve costs up front, we need to honor that, and we need to prove our point with FEMA that those costs are reasonable.

Representative Ellington asked if the state should be obligated to pay, and then go back to FEMA to get all back possible. Commissioner Rainwater said he does not always agree with the Legislative Auditor, but it is not Mr. Purpera's job to set the policies and we have to make reasonable adjustments and manage the risks. He said in this situation trying to get people back in their homes for the past 3 ½ years, we will sit down this afternoon with Orleans Shoring and work through this.

Commissioner Rainwater said in 2008, OCD received \$750 million and they started quickly without the systems in place, and was still receiving adjustments from FEMA. He said they have had to learn to push back with the FEMA when reasonable, and to prove that the numbers make sense to the auditors. He said the report was done last year, and a lot of progress has been made, but still more to do. He accepted responsibility for the problems and made major leadership changes in the program, which Pat Forbes is the new Executive Director of the Disaster Recovery Unit, and continue to move forward.

Senator Peterson asked for the distinction between the pilot reconstruction program and their contract versus honoring the obligations with the New Orleans Shore contracts. She said if contracts were signed and if partial payments were made then why not honor the final payment on all the contracts, what is the distinction.

Mr. Bill Haygood, Hazard Mitigation Grant Program Manager, stated that the pilot reconstruction affected by the uniform cost guides, had already completed their work before our project began. We reimbursed those homeowners based on our interpretation on the ECG, and were not relying on their funding to do the work, because they already completed the project before our program began, and had the money to do the work.

Senator Murray said you should not say that they were not relying on the money because some were and borrowed money to build the home and rely on receiving the money back. Mr. Haygood said they had already completed the work, and then we made the determination that we made the error in calculating their awards.

Commissioner Rainwater said the distinction is that this is not a contract - it is a grant application to the State of Louisiana, and the difference with New Orleans Shoring, again we are talking about retroactive, these were costs that were already done and completed. He said it was very frustrating; we had started the first jaunt at \$850 million of community block to help people get out there and be very aggressive. He believes that people made decisions based on what they heard in the news, but we never had a chance to review those costs before people had gone forward, and that is the distinction, we are reviewing costs now.

Senator Murray said that it was up to a cap, not for every dollar, and these were contracts that OCD signed with the homeowners. Mr. Haygood said it was grant agreements, and there are other homeowners that are affected by the situation and if we did that, then we would have to make payments to those homeowners as well. Senator Peterson said you have just given us a different basis for not paying right now. Mr. Haygood said we would be continuing to make the same error.

Commissioner Rainwater said the Legislative Auditor would not allow us to do that and we would be here again talking about a mistake that we would make, and that is the distinction. We are in between FEMA and the LLA. What we will do, we have not stopped pushing back with FEMA trying to figure out a way to help the homeowners that we hear from.

Senator Peterson said if we make a mistake in the interpretation of federal law and we have homeowners that we rely on that; you are suggesting the homeowner is up the creek. Commissioner Rainwater said we used all their means, Community Block Grant money to fix other problems, and he continues to look at other ways to fix the issues.

Senator Peterson asked for the estimate of cost. Mr. Haygood asked if she referred to the Vermilion 9 that are being interpreted by the Legislative Auditor as sent incorrectly. Senator Peterson asked what is being done regarding the prohibition by FEMA to make the final payment to the homeowners. Mr. Haygood said they are sending a letter to FEMA that argues we believe the Uniform Cost Guidance was inaccurate. Once FEMA comes out with a final decision, we will create an unmet need program with HUD and look for a way to pay the homeowners, and the cost is estimated to be \$16 million if ECG were entirely removed from the program.

Commissioner Rainwater said he appreciates the work of the LLA, and in reality it has been a poorly run program and the leadership lacked focus, but have made leadership changes. He said they will continue to make improvements, and appreciate all the involvement. He said that Pat Forbes is the new director of GOHSEP, not interim any longer.

Senator Quinn said this is the first time that she has heard that it is FEMA guidelines that are the problem. Senator Murray clarified that the pilot reconstruction was a different program, and not

the same. Senator Quinn said the guidelines changed in midstream, and asked where those cost guidelines came from, and understood there are no FEMA guidelines for this elevation program. She said she believed OCD looked at data and in their wisdom created some, and everybody followed it.

Senator Quinn pointed out that it is a contract between the state and the homeowner. It was at the end of the game that OCD changed their mind about the cost guidelines. Senator Quinn asked Mr. Purpera where they are coming from to say that ECG is not reasonable, because that is where the rubber hits the road.

Mr. Morehead said that when OCD created the ECG, it was not being used heavily at the time. He had recommended to OCD when they developed the ECG that they bring in a firm which specialized in this, but that did not happen. He said as they track through time, ECG became the guideline created by OCD. He said as an auditor he did not believe that is a sound practice, and requested to see the inputs for the ECG so they could evaluate that it is solid guidance

Mr. Morehead said no one is kicking back other than simply asking OCD and GOHSEP what are the inputs into it and to show the build ups to be sure that it made sense. Mr. Morehead said that he noticed OCD's costs are typically higher than costs in the traditional program. He said he has continued to make this recommendation to OCD and GOHSEP. He said GOHSEP can address their steps to fix it.

Senator Peterson asked if the LLA's office was holding up any payments. Mr. Morehead said the auditors only review payments and compare it to FEMA regulations and the current policy is if LLA writes a finding and gives it to GOHSEP. Then GOHSEP has the ability to either pay or hold it, and their current policy is that if the auditor is looking at it and taken the time to write the finding, they should at least address it before making the payment.

Senator Peterson asked what the next step was after a finding by the auditor was received by GOHSEP. Mr. Mark Riley, Chief of Staff with GOHSEP, stated that LLA's role is a check and balance to help manage the risk of the program. His office asked LLA to look at the payment process and advise if any issues. He said the issues may be programmatic issues and they set policies.

Mr. Riley said Mr. Morehead was right to object to the tool of ECG because they were not given the data for review. Mr. Riley said through the combined efforts of OCD and GOHSEP's employees with expertise, they put together the ECG in December 2009. Recently he requested that the data be provided to the LLA for review, and apparently the data was not available so they will ask RS Means, who is the gold standard for cost estimating in the construction business, to review the ECG for accuracy.

Senator Peterson stated that no one should blame the auditor for questioning the ECG when he made a recommendation to you, and if you are unable to draw down the data for the auditor, then cannot for the contractor either.

Mr. Riley said as the payments come through, the auditor makes recommendations identifying a problem, then our office makes policy, and may have to work through changes over time because determining if the state is taking a reasonable risk. He will ask an outside expert to review the process, and be sure the costs are reasonable. Mr. Riley pointed out that in the Pilot Reconstruction Program, they have specific unified cost guidance, and there is no such thing in the Elevation program. But FEMA does still require that GOHSEP determines that costs are reasonable, which was the reason for the development of the ECG.

Senator Peterson asked who developed the ECG. Mr. Riley named the employees that created the ECG but cannot produce the data well enough today for the auditor. Senator Peterson asked why they did not hire a professional in the beginning to be sure it was right. Mr. Riley said the ECG was developed and brought to the management for approval, and as things developed, Mr. Morehead compared costs with other similar programs and found some discrepancies and stated that it seemed to be unreasonable costs and only needed to validate the costs. Mr. Riley said they had made reasonable efforts to have reasonable costs. Senator Peterson said that RS Means could say that it is unreasonable and relies on them to decide if make final payments to people, and asked why wait to pay.

Mr. Riley said they could decide to ignore LLA and decide that the costs are reasonable. But he would like to have as much information to make the decision if the costs are reasonable, and if there is a difference between the ECG and what RS Means comes up with, they would make it retroactive and would have a good case with FEMA. Senator Peterson asked why not pay today if not going to be retroactive.

Senator Murray asked if RS Means finds the cost should be higher, would OCD reimburse more to the homeowners. Mr. Riley said the cap is \$100,000, and expects RS Means to substantiate

the line items, but if they do find large discrepancies in any line items and that the costs are not reasonable, FEMA will hold us to the standard of what was known today.

Senator Murray asked what if as per RS Means the cost should have been more than what the ECG was used, will the additional costs be paid to the homeowner. Mr. Riley said he believes RS Means will substantiate the ECG as reasonable costs, which will make the Legislative Auditor comfortable that the costs are reasonable.

Senator Murray said that it is 2½ - 3 years later, not showing any proof of how the calculations were done, and hoping that no one would question it. Mr. Riley said this is the largest and first of its kind ever, and the rules change daily in interpretations.

Senator Murray said it is not fair to hold the homeowners to the contract, but allow the state to change the rules arbitrarily. Mr. Riley said he agreed that if he knew then what he knows today, it would have been put all in writing for the cost development.

Senator Murray said thousands of people's lives and homes are based on two people's creations of ECG but unable to point to what they based the numbers on. Mr. Riley explained that two people built a database and supported what they did, and trying to do better every day. Senator Murray suggested they put a policy in place that would apply to everybody, and not just resolve the issues for the ones that complain.

Senator Peterson asked if all contractors know about the ECG issues. Mr. Riley stated they are not clear on the number of payments held up because the LLA determined the ECG application was unreasonable, but would identify that number and provide it to Senator Peterson.

Senator Peterson suggested they notify interested stakeholders of the finding and GOHSEP's action on it via their website. Mr. Riley stated it is an OCD issue and not GOHSEP, and not blaming the auditor, but using the audit to determine guidelines and policy. Senator Peterson said there was over 100 stages and need the definite of each stage, and how many are in each stage. Mr. Riley said that is an OCD question.

Senator Quinn pointed out that for the first couple of years, the program had no cost guidelines, so they implemented \$68.05 cost guidelines with subcategories. As per Vicky with Orleans Shoring, Jefferson Parish has a \$72 cost guideline per square foot, with no itemization, and the program is moving smoothly. She suggested one price per square foot, and not breaking it all down by line items.

Mr. Haygood said the LLA reviews all GOHSEP traditional files, and saw our ECG is lower than Jefferson's, but do not know if there is a finding on the traditional side for ECG. He said this was the first ECG developed in the country, based on FEMA guidance documents and the only data missing that cannot be produced at this point, was some individual homeowner backup data, which we do not have a copy of it.

Senator Peterson asked why the need to hire RS Means. Mr. Purpera said there is no support data for how the ECG was calculated. Mr. Pat Forbes, OCD Executive Director, said there is no reason to believe the ECG to be wrong, and by hiring RS Means they hope to give comfort that the ECG is accurate. Senator Peterson asked the point of hiring RS Means.

Mr. Haygood said that RS Means will calculate independently, and compare to OCD's and verify if it was valid. If RS Means calculates a different ECG, it will be used ongoing forward but not going to retroactively affect homeowners.

Mr. Forbes said that if ECG comes back higher, OCD can pay more, and will not do retroactive to the detriment of the homeowners. Senator Peterson said that if OCD does not pay the homeowners what is already in the contract- that is to their detriment already. Mr. Forbes said as long as reasonable costs which will be confirmed with RS Means.

Mr. Purpera pointed out that auditors doing the work based on auditing standards and do not set policy, but look at the expenditures and question the support and documentation. It is management's decision to pay the contracts, but there is the chance that FEMA will kick it back to the state.

Senator Peterson asked if any penalties in the Shaw contract for not performing effectively and efficiently. Mr. Haygood provided some of the details on the infractions and the penalties imposed on Shaw. Senator Peterson requested a report on the status on the Shaw contracts from Mr. Haygood.

TOWN OF WASHINGTON

Mr. Purpera received in his office a few minutes before this meeting began a fax from the Mayor of Washington, which he provided to the council members. The fax pointed out the Mayor's concern of a conflict of interest for Representative Thierry since he is running against her for state representative.

Mr. Allen Brown, Assistant Legislative Auditor for Local Audit Services, provided some background on the issue of traffic fines being collected by the Town of Washington that was due to the Treasury as per the law, but the Mayor refused to follow the law based on a LACE agreement. Mr. Brown said that he asked the Chief Administrative Officer in the District Attorney's office, as well as the Chief Civil Deputy in the Sheriff's office if there was a cooperative LACE agreement, and both responded that they were unaware of any such agreements.

Senator Murray said he wished that he would have received the fax prior to the day of the meeting since the Mayor requested that this issue be put off until after the elections because he is a candidate for representative against Representative Thierry. Senator Murray said that in the last meeting he had requested proof of the LACE agreement with the District Attorney and Sheriff.

Mayor Joseph Pitre for the Town of Washington asked if Representative Thierry would be recused from the meeting. Senator Murray said that the council cannot recuse her, but each must do so themselves.

Mayor Pitre said he received from the District Attorney and the town attorney, Don Cravins, Jr. in a public hearing the LACE agreement, and had approval of the council to participate in this program. He asked to defer further discussion until the parties that gave approval to participate in this program could be present, so it would not be a misjustice to make a decision on the matter. He said as this is a hearing, he wanted to also have legal representation for the Town of Washington to defend the position of why given the money to the various agencies. Mayor Pitre stated that the relationships for the LACE program were established prior to 2003 when he went into office. He said the town attorney and the town clerk who are now deceased when they passed the ordinances and operating under the auspices that they were doing something legal, and if there is some documentation that you have to that affect, he would like to take his chances in front of a judge and let him determine the legality of that because that goes beyond the scope of what he is able to represent to the council.

Senator Murray said the council does not make the decision to go to court. At the previous LAAC meeting, it was discussed the Town's owing to the state over \$200,000. Senator Murray said that Mayor Pitre had stated there was an agreement between the DA and Sheriff, but now hears from the auditor that there is no such LACE agreement. Mayor Pitre asked if the other towns in Louisiana had a cooperative endeavor and dispersing the money as per it. He would not allow the auditor to answer and told Senator Murray he did not need a response.

Representative Thierry addressed the fax from Mayor Pitre and pointed out that she did not display any reasons for recusing herself, and just requested an explanation from Mayor Pitre for the money due to the state. Senator Murray said that the Mayor can come to a later meeting if necessary, and what options are available for the Mayor.

Mr. Purpera explained that the audit has been issued, and provided the finding to the Attorney General's office, and discussed it with the Treasurer, so one of those parties can step in to take action, but their decision to do so. He said the AG could file on behalf of the state, or the State Treasurer could hold funds that are due to the Town in exchange for the funds due to the Treasurer.

Senator Murray said since the Town of Washington is a Home Rule Charter now, no other fees would apply for the traffic fines since becoming a Home Rule town. He asked Mr. Purpera to send a letter to the Treasurer and AG asking them what action if any would be taken, and to copy the letter to the Mayor and the council. If those two offices ask, then the Town could come before the council again, but do not see any need to since the council is unable to prosecute them. Mayor Pitre said he guessed that is a slam dunk. Senator Murray said he does not understand what that means, but do not see that this needs to be on the agenda again.

Mayor Pitre said he would like to know from LLA what recourse he has to get the money back from the crime lab and other agencies that they sent LACE money to. Mr. Allen said he believes the CPA had set up receivables already. Mr. Brown said the head of the District Attorney's Association stated that he is unaware of any such agreement between a DA and the municipalities.

Senator Murray said the council is not making the determination that the money was sent erroneously to the agencies, because that is not our place to determine that.

Mayor Pitre said he has asked the state how should he determine where the money is sent, and no one has been willing to put anything in writing. He said he knows of several other municipalities that are doing the identical same as the Town of Washington, and they have asked if these moneys do not belong to the municipalities or these agencies that have submitted to, because the sheriff's department requested this money be sent to the crime lab, etc. If that is not the case, then this money is probably due back to the Town of Washington because all operating under the auspices of LACE, and have the receipts to show the monthly submittal all of the funds. He asked the auditor's perspective on the recourse that the Town can take to clear up the matter because the money cannot be spent twice.

Senator Murray said the statute on the book is legal and constitutional, and your town must follow it. He asked Mr. Purpera for a list of the 37 other municipalities that the law affects, and call a meeting to bring all of those folks here because if the statute is on the books, you must follow the law. He said that if the Mayor did not like the law, then he should try to repeal it, or have a court declare it invalid or unconstitutional. He said the auditor must follow the law, and do his job, and that is why he asked the Treasurer or AG what action they will take to get these dollars. Senator Murray said he would like to call a meeting and invite all municipalities to the meeting.

Mayor Pitre asked if Senator Murray was aware that the clerks receive from agencies a bill for tickets written. He said no one did due diligence when the law was written. He said they need the District Attorneys and Sheriff's department, and local Mayors and Chiefs of Police together to determine how all of this came about before anyone points the finger and say we owe the state money.

Senator Murray had asked the Mayor at the previous meeting to bring the agreement, and to bring in the Sheriff and District Attorney's office to verify this agreement that predated the statute and that you were following their instructions to send the money to those respective agencies. Today the auditor stated that there is no such cooperative agreement, and if you believe that the law is counter to some other law only a court can decide that.

Mayor Pitre brought up Representative Thierry's presence and discussion at a local town council meeting in reference to this law. He said that he had put in a request to meet with the DA as well as the Sheriff to get a statement, but did not have an opportunity to meet with them in person to get a statement on how this existed and how it came about, and how it continues to exist. But when he has the opportunity and is given a meeting, then he would provide that information to the council.

Senator Murray said if he has a problem getting this meeting to ask the auditor and offered the council's assistance to get the meeting. But as long as the law is on the books, it must be followed and you can feel assured that other jurisdictions that fall under this law will be before this council before the year is over.

LLA ANNUAL REPORT TO THE LEGISLATURE

The annual report to the Legislature is required by law as per Mr. Purpera, and available for viewing on the Legislative Auditor's website. He gave an overview of the purpose and content of the annual report. Senator Murray said the document is very good and valuable to share with local governments.

ACT 367 of the 2011 SESSION

Mr. Purpera said there is important work to be done as per Act 367, known as the GRAD Act to verify that the Board of Regents is receiving valid data. He explained the costs and billing, and that these costs were additional to his budget, so he would be getting an audience with the Budgetary Control to discuss budget issues. Mr. Purpera stated he also brought on an expert to review Recovery School District construction spending and assist his auditors. Mr. Purpera had met with Recovery School District Superintendent John White and Inspector General Ed Quatraveaux regarding the auditing of the construction work. Senator Murray said to be sure to explain to the new RSD Superintendent how important this work is.

LEGISLATION UPDATE

A spreadsheet was provided showing the Acts from the 2011 Legislative Session that most affected the Legislative Auditor's office or Legislative Audit Advisory Council. Senator Murray asked that it be shown the impact on the auditor's office, and a timetable for each Act of the time necessary to get the work done.

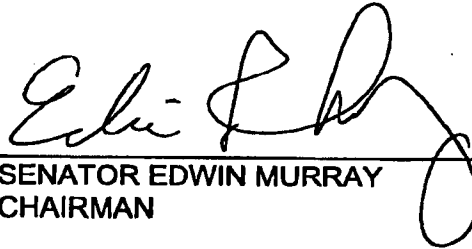
PERSONNEL ISSUE

Senator Murray stated that the council must review the Legislative Auditor's work and performance for an annual review. Mr. Purpera pointed out some accomplishments in the past year and his hopes for continued success. Senator Murray said the council evaluates the Auditor and recommends to the Budgetary Control Committee his salary.

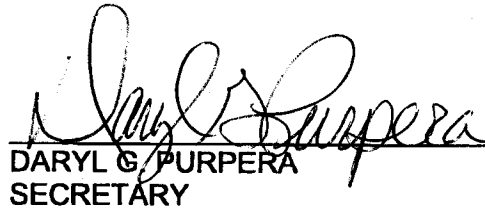
ADJOURNMENT

Senator Peterson made the motion to adjourn, and with no objections, Senator Murray adjourned the meeting at 1:50 p.m.

APPROVED BY:



SENATOR EDWIN MURRAY
CHAIRMAN



DARYL G. PURPERA
SECRETARY

9/20/11

DATE