

BOARD OF COMMISSIONERS

Special Meeting of Monday, March 20, 2017

**MINUTES**

(As approved by the Board of Commissioners May 1, 2017)

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| **Commissioners Present:** |  |  |
| Jeremy DeBilieux  | Dennis Pearse | Robert Watters |
| Brian Furness (lv 12:50) | Kimberly Rosenberg | Ted Young |
| Jim Oliver | David Speights |  |
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 Absent: Darryl Berger, Steve Caputo, Duke LoCicero, Nicholas Musso

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| **Committee Co-Chairs and Staff:** |  |  |
| Bob Simms, Security and Enforcement Committee | Emily Remington, Executive Director |
| Gail Cavett, Infrastructure Committee |  |  |

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| **Guests[[1]](#footnote-1) (Affiliation if listed)** |  |
| Meg Lousteau, VCPORA | Beverly McGovern, FQ Business Association |
| Susan Guillot, French Quarter Citizens | Albin Guillot, French Quarter Citizens |
| Jenna Burke, VCPORA |  |
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# Call to Order, Roll Call

Chair Jim Oliver called the meeting to order at 1:05 pm (Agenda at Att 1).

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

# Public Comment

The Chair noted that a sign-up sheet was circulated asking guests wishing to address particular items to record their interest.

# Motion to approve the FQMD-CVB-City Cooperative Endeavor Agreement (CEA) (Action Item)

Chair Oliver thanked the CEA negotiating group and opened by distributing FQC President Guillot’s March 18 email “Most recent CEA to be voted on Monday” (Att. 2). He invited comments on Ms. Guillot’s concerns regarding potential FQMD, individual Board member, and appointing organization liability resulting from FQMD’s possible assumption of supervisory responsibilities. She referred particularly to Sec. 12(2) and 12(10) (see Att. 3) and to Agenda items 4a and 4b.

 Commissioner Rosenberg disagreed with the conclusions, pointing out that Sec. 12(2) was simply a description of what the FQMD is expected to provide, and that it is essentially the same as in the previous CEA. Ms. Guillot stressed that, as a general principle, any contract ambiguity could be exploited to come back against the drafter (i.e., FQMD). It was pointed out that the FQMD is insulated from potential contract liability because the “contract” is with the OPSE, and that only the NOPD supervisor can change or override the provisions. Ms. Rosenberg reiterated that the FQMD Patrol Plan only provides general guidance regarding the areas to be patrolled and the intensity/frequency; the patrol officer performs duties as required by the NOPD. Chair Oliver underlined that Sec. 12(2) detailed the scope of work setting out the services required but did not provide for FQMD control or supervision.

It was suggested that deleting “… with the exception …” in Sec. 12(10) could address possible confusion regarding supervisory responsibilities. Ms. Guillot stated that this change was insufficient to address potential supervisory responsibility liabilities on the part of FQC (and other appointing entities), the FQMD, and individual commissioners. Commissioner Watters demurred, pointing out that (1) FQC (and other appointing organizations) appointed Commissioners, not representatives; (2) State law specifically provided that Board members were not individually liable; (3) FQMD provided directors insurance; and (4) contractor G4S’s lawyers would also be available to ensure against liability. FQMD, he stated, is thus amply protected against vicarious tort challenges, including under “borrowed liability” principles. Ms. Guillot questioned whether Agenda 4a, if approved, didn’t imply supervisory responsibility.

Commissioner Speights moved deletion of “… with the exception …” in Sec. 12(10) (Motion 1). The Motion was approved unanimously.

FQC President Guillot intervened to state that FQC is opposed to any vote being taken on the CEA at this time and that FQC cannot, and will not, support the CEA as it is drafted. Acknowledging that the FQC only appoints Commissioners, she stated that she had “directed” that the FQC appointee (Commissioner Furness) vote “no” on any form of the draft and to oppose approval of the CEA. She further stated that FQC disagrees with the vote of its appointee, and that the appointee is not representing FQC on this issue and has no support from FQC.

Commissioner Speights stated that outside legal review of the CEA could help ensure protection from liability issues, and that such review need not delay the CEA.

Infrastructure Committee Chair Cavett noted possible liability issues stemming from use of the words “… and supervisory …” in the final line of Sec. 12(10). Commissioner Furness moved (Motion 2) that these words be deleted. The motion failed on a tie vote.

Commissioner Watters moved to approve the CEA as amended. The motion (Motion 3) was approved with 7 yeas and 1 nay.

(The departure of Commissioner Furness at 12:50 pm to attend another meeting deprived the meeting of a quorum.)

Commissioner Speights reiterated that outside legal review could help address liability concerns. Chair Oliver asked if he had the authority to have an outside legal team review the CEA. Some attendees agreed that outside legal review was a good idea. Treasurer DeBlieux and Chair Oliver agreed that Chair Oliver had previously been granted the authority to expend up to $5000 in legal fees to review CEA-related issues. Commissioner Watters said that ratification of the CEA would cure any legal issue within it. SEC Co-Chair Simms believed a legal review was a good idea and stated that G4S still has improvements to make in their performance.

Chair Oliver outlined the legal process for the CEA: it will be introduced at the City Council meeting on March 20 and approved at the City Council meeting two weeks thereafter. If approved, the Mayor will sign it followed by the CVB and FQMD.

Chair Oliver stated that he would seek counsel and sign the CEA if legal review determined there was no liability. Ms. Rosenberg suggested Attorney Sharonda Williams as legal counsel.

1. Discuss all matters ancillary to the implementation and operation of the CEA
2. Authorize the Executive Director to take executive actions as necessary to ensure the operation of the French Quarter Task Force (FQTF) (action item)
3. Authorize the Executive Director to receive and control administrative access to the FQTF app (action item)

Not discussed because of a lack of quorum.

1. Future Meetings: May 1, 2017 at the Ritz Carlton
2. Adjournment

Adjournment was approved at ­­­­­­12:57 pm.

Respectfully submitted

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Brian R. Furness, Secretary

Annex 1: Motions approved at the Special Meeting of March 20, 2017

Annex 2: List of Attachments

**ANNEX 1: Motions[[2]](#footnote-2) – Special Meeting of March 20, 2017**

1. *Amendment 1 to the CEA (Agenda III).* David Speights: “… that Section 12(10) of the draft Cooperative Endeavor Agreement circulated March 17 be amended to delete “…with the exception that …” so that the relevant portion reads as follows (language deleted ~~struck through~~, language added underlined):

(10) FQMD representatives, including the FQMD’s Administrator, the FQMD Agreement Monitor and the Officers of the Security and Enforcement Committee, shall not have any supervision or authority over the manner in which the Detail Officers perform their police or Detail Officer duties ~~with the exception that~~. ~~t~~The FQMD’s Administrator shall monitor the work performance …

Second: Rosenberg. Approved unanimously.

1. *Amendment 2 to the CEA.* Brian Furness: “… that Section 12(10) of the draft Cooperative Endeavor Agreement circulated March 17 be amended to delete “…and supervisory …” that the relevant portion reads as follows (language deleted ~~struck through~~, language added underlined):

(10) “… The FQMD Executive Director and FQMD Administrator are to work with the 8th District Commander regarding deployment ~~and supervisory~~ decisions.”

Second: Speights. Yeas-4 (Furness, Oliver, Pearse, Speights); Nays-4 (Deblieux, Rosenberg, Watters, Young). Absent-4 (Berger, Caputo, LoCicero, Musso). Motion fails on a tie vote.

1. *Approval of the CEA (Agenda III).* Robert Watters: “…that the Cooperative Endeavor Agreement circulated March 17, as amended (see Motion 1), be approved.” Second: Rosenberg. Yeas-7 (Deblieux, Furness, Oliver, Rosenberg, Speights, Watters, Young). Nays-1 (Pearse). Absent-4 (Berger, Caputo, LoCicero, Musso). Motion approved.
2. *Adjournment.* “… That the meeting be adjourned.” Approved by acclamation at 12:57 PM.

**ANNEX 2: Attachments – Special Meeting of March 20, 2017**

1. Agenda — Special Meeting of March 20, 2017
2. Guillot, Susan. “Most recent CEA to be voted on Monday.” Email communication. March 18, 2017 at 5:53 pm.
3. Excerpts from the FQMD-CVB-City Cooperative Endeavor Agreement
1. From sign-in sheets. Undecipherable names not included. [↑](#footnote-ref-1)
2. “Approved unanimously” means the Motion was approved by all Commissioners present. [↑](#footnote-ref-2)