

# NEW ORLEANS MUNICIPAL YACHT HARBOR MANAGEMENT CORPORATION

## FEMA CLAIM UPDATE (December 11, 2009)

### Report No. 1

#### **Control of the Process**

The City is the FEMA claimant and will continue to be the FEMA claimant to the end. MYHMC has no direct control over FEMA claim decisions.

#### **MYHMC's Role in the FEMA Claim Process**

A substantial number of communications from stakeholders in the West End area provoked inquiries from Senator Landrieu's office. John Manard was called by her office and went to meet with Senator Landrieu and her staff in Washington on November 18, 2009.

Within City government the final authority on FEMA claim issues is the Mayor. The person on the Mayor's staff who makes many of the decisions and advises him on decisions he makes is the Deputy CAO, Cynthia Sylvain Lear. The person who actually has day to day command of the interaction with FEMA, aided by various staff and consultants, and who reports directly to the Deputy CAO, is Marty Altman.

On December 2, 2009, John Manard met with Marty Altman and Cynthia Sylvain Lear to review where things stand on the FEMA claims. This is the most detailed information MYHMC has had to date with regard to the FEMA claim. John Manard was assured that he would continue to be included within the process so that MYHMC will have an avenue to express its views in an informed fashion.

#### **Initial Bundling of the Claims**

FEMA set the mechanics of the process in place early on by creating seven Project Worksheets ("PWs"): (1) Piers and Basin; (2) Piers – Electrical; (3) East Bulkhead; (4) Administration Building; (5) Fishing Pier and Boat Launch; (6) Breakwater Drive Shoreline; and (7) Boathouses #31 and #93. The City's approach from the outset was to handle all of these claims at the same time in a bundle. That remained the case until mid Summer, 2009. It became apparent that resolving dredging issues would slow down some of the other projects. So, some of the PWs have now been broken out and acted on separately.

#### **Harbor PWs**

There are two primary PWs associated with the harbor and the piers (Piers & Basin and Piers – Electrical). Both are held up by ongoing discussions with FEMA concerning how much FEMA should pay. The City submitted the Comprehensive Damage Report saying FEMA should pay to dredge the harbor. FEMA raised questions on that point. The City is gathering further information to support that position. So, FEMA has never formally responded saying how much they agree they should pay. Accordingly, FEMA has not said whether it agrees (as the City has contended) that the cost of repairs would be more than 50% of the cost of replacement (a floating dock system). They are, therefore, at Step #4 on the attached chart.

The timing on resolving this is not predictable. But, the City's team is actively working on its further submission, MYHMC is helping and that should be to FEMA shortly.

### **The Other PWs**

FEMA has agreed to the City's position on cost as to: (1) East bulkhead – contracting steps await decision on dredging [Step #5 on the attached chart]; (2) administration building – bids solicited [Step #8 on the attached chart]; (3) fishing pier and boat launch – in preliminary stages of design as basis for bid packages [Step #7 on the attached chart]; (4) boathouses – in preliminary stages of design as basis for bid packages [Step #7 on the attached chart] (see more below as to fireboat boathouse).

Additionally, FEMA has agreed to some of the City's costs with regard to Breakwater Drive shoreline. What FEMA will pay for and what will be done on the North/South run of Breakwater Drive remains to be seen. [Step #4 on the attached chart]

Unrelated to the FEMA process, a substantial amount of work has been done on developing a linear park and constructed wetlands along that area, utilizing dredged spoil from the harbor. How any FEMA money will fit into that and how all of that will be drawn together remains a work in progress. There will be a public meeting on this topic to solicit stakeholder input once that is far enough along that such a meeting will make sense.

Boathouse #93 houses the fireboat and is particularly important. There is the possibility that a new fireboat will be acquired pursuant to a Homeland Security grant. Coordinating that and the rebuilding of the boathouse with NOFD also remains a work in progress.

### **The West End Park PW**

This got started later than the other PWs and the City is working to get it on a faster track with FEMA. At present the City is finalizing the Comprehensive Damage Report (“CDR”) to submit to FEMA [Step #3 on the attached chart]. That represents the first substantive step. Hopefully, the issues are not particularly controversial and this can be moved through the process with FEMA relatively rapidly. However, only time will tell.

### **Where the Money Will Come From**

Having FEMA agree to pay (in their terminology “obligate”) is merely the start of the financial part of this process. The principal financial steps are: (i) FEMA agrees on the amount and “obligates” the money; (ii) the City enters into a construction contract and begins to make payments to the contractor; (iii) the City begins sending copies of those contractor invoices to FEMA for reimbursement; (iv) FEMA (at some point after this – timing being something of a rub) starts sending money to the City reimbursing it for those invoices; and (v) at the end of the project FEMA makes an inspection to make sure that everything that was done fell within what it agreed to be “obligated” for and makes a final adjustment as to final reimbursement. As you can see, the viability of that entire process turns on (a) the City having the money to get any particular project started and (b) FEMA reimbursing promptly enough so that the City does not have to pay for the entire project before getting any of the money back.

Each one of these West End PWs will, at some point, become “obligated” and must, thereafter be funded and put into the process outlined above. In addition to these West End PWs, the City has hundreds of other projects involving City property like fire stations, police stations, schools, playgrounds, public buildings, etc. Consequently, working through how the City will fund each West End project and get the FEMA reimbursement cycle moving has its own complexities. That is particularly true where a project is, by its very nature, expensive (such as the basin and piers – whether repaired or replaced). More on that as we see how it develops.

Note: The rumor that \$27 Million has been set aside by FEMA for harbor restoration is false and always has been.

### **Conclusion**

Obviously, the most important issues here are (i) when the will City and FEMA will get across the finish line on the basin and the piers and (ii) where the money will come from.

Resolution of those issues has a number of implications. First, it is important to the stakeholders who have a direct interest in the utilization of the harbor (both slip tenants and boathouse tenants). Second, those slip rentals form a substantial part of the gross revenues of MYHMC and make that public benefit corporation financially viable. MYHMC is responsible for improving, maintaining and operating all of the City’s property at West End, not just the harbor. The City contributes nothing to that – it must be self sustaining. Presently the corporation is eroding cash reserves in order to meet operational expenses. As anyone knows, that cannot go on forever.

Some steps reported on here will go faster than others. This report will be updated as significant developments occur or every 60 days, whichever comes first. It will be posted on the MYHMC website. Additionally, it is the current plan that this topic will be on the Agenda of every public meeting of the MYHMC Board until such time as all of the facilities are fully restored and the FEMA process is concluded.